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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

March 18, 1975

DECISION

MEMORANDUM FOR: THE PRESIDENT  
FROM: JAMES R. LYNN  
SUBJECT: REFORM OF SURFACE TRANSPORTATION REGULATION

Issue

The Administration is committed to introducing legislation this session to reform economic regulation of the transportation industry. Over the past few weeks, there has been increasing Congressional interest in having the Administration submit rail reform legislation as soon as possible. Hearings are tentatively scheduled in the House in early May. Accordingly, your decision is required on whether to introduce this legislation as but one part of your program to achieve fundamental regulatory reform in all modes of transportation--rail, motor, and air carriers.

Background

For the past few months, an Executive Branch task force comprised of representatives from the Departments of Transportation and Justice, the Council of Economic Advisers, the Council on Wage and Price Stability, and OMB have been working to develop specific reform proposals for rail, truck, and air carrier regulation. In the rail area, substantial groundwork for reform was laid in the 93rd Congress. In fact, a modified version of the Administration's Transportation Improvement Act was overwhelmingly passed by the House. While the Senate took no action, rail regulatory reform was the subject of considerable discussion. Using these and earlier proposals as a base, the task force has completed drafting of a Rail Transportation Improvement Act. Development of both motor carrier and air legislation will be completed within the next four to six weeks.

Discussion

The reform measures to be requested in the air, rail, and truck areas represent a fundamental set of proposals which could be viewed as the most comprehensive approach to reform in the long history of economic regulation of the industry. Each bill will deal with three

basic regulatory activities which in the current economic environment serve to raise prices and protect the industry rather than the public interest. These include: (1) the regulation of pricing practices which is designed to reduce price competition at the expense of shippers and consumers, (2) market entry, exit, and licensing restrictions which unduly limit who can provide transportation services for which commodities and over what routes, and (3) certain antitrust immunities which permit the industry to engage in anticompetitive activities such as price-fixing, capacity agreements, etc.

The approach taken by the task force has been to propose implementation of these reform measures on a gradual basis. The recommended 3-4 year phasing allows the industries to adjust gradually to the effects of increased competition and helps to forestall criticism from the opponents of reform who contend that removal of regulation will result in cutthroat competition and market chaos.

Finally, the packaging of this initiative is an important aspect to consider. In order to be able to generate consumer interest and public attention to the problems of transportation regulation, the task force believes that the rail bill should be introduced in the context of a comprehensive program for transportation regulatory reform. This will demonstrate a consistent Administration approach to economic regulation and diffuse the ability of the special interest groups to successfully oppose individual pieces of the program. For example, the provisions for increased rail pricing flexibility will be opposed by the truckers as giving the railroads an undue advantage. Such opposition will be mitigated, however, if it is clear that complementary adjustments will be sought for motor carrier regulation.

#### Summary of the Rail Transportation Improvement Act

The rail bill proposes a number of amendments to the Interstate Commerce Act. It calls for increased pricing flexibility which will permit over a period of three years rate increases or decreases of up to 40 percent without ICC intervention. Thereafter, the ICC may not suspend rate decreases for being too low, and rate increases may not be suspended if limited to 15 percent or less. It restricts certain anti-competitive industry rate bureau activities which are presently immune from antitrust prosecution. The bill also improves procedures for rail abandonments, mergers, and intrastate ratemaking and prohibits discriminatory State and local taxation of interstate carriers. Finally, it provides \$2 billion in loan guarantees to improve the rail infrastructure. In essence, it is an improved and broader version of last year's Transportation Improvement Act.

Other Considerations

Although the legislation contains a \$2 billion loan guarantee program as did the Administration's previous bill, I do not believe it should be or will be viewed as a new spending program. There will be no outlay effects in the near term, and it has been our announced intention as stated in the fact sheet accompanying the State of the Union to reintroduce a reform bill which includes some financial assistance. Finally, for your information an assessment of the political situation and the prospects for enactment appear in the attached "climate statement."

Recommendation

I recommend that:

- (1) we submit a rail reform bill to Congress before the Easter recess,
- (2) we use a Presidential message to re-emphasize regulatory reform as a key Presidential initiative, (see attached draft) and
- (3) we commit the Administration to having motor carrier and air bills ready for submission within 30-45 days.

Strong Presidential leadership on these proposals is essential if they are to receive the kind of broad-based public and consumer group attention needed to achieve enactment of significant reform. Such support is critical to balance the opposition expected from some special interest groups.

Decision

Agree NR7 Supported by: Departments of Transportation and Justice, CEA, CWPS, OMB

Disagree \_\_\_\_\_ Supported by:

See Me \_\_\_\_\_

## Attachments

## CLIMATE STATEMENT

### 1. Background

Rail regulatory reform legislation has been before the Congress in one form or another for the last four years. Therefore, considerable spade work has been completed and it is relatively easy to determine who will be the supporters and opponents of legislation. A number of agreements and arrangements have been made in the past that will assure support both in the committees, on the floor, and from the interest groups.

### 2. The Congress

The new committee jurisdiction assignments have moved all transportation issues to the Public Works Committee from the Interstate and Foreign Commerce Committee except for rail matters. This is the principal reason that this legislation is being forwarded separately. The House Commerce Committee has already tentatively scheduled hearings, and we expect broad-scale committee support for a major rail regulatory reform and financial assistance bill. It is expected that Chairman Staggers and Subcommittee Chairman Rooney, as well as Minority Members Skubitz and Hastings will co-sponsor the Administration bill. DOT has received from Staggers a commitment to achieve House passage of a rail bill this session.

The view in the Senate is somewhat more cloudy. The Senate Commerce Committee staff is generally supportive of a major bill and would like to see action this year. It is possible, therefore, to receive Senator Magnuson's support as well as Senator Pearson's sponsorship. Senator Hartke, the Subcommittee Chairman, would like to do a 4-6 month study prior to holding hearings. However, it is likely that strong Presidential support coupled with the growing public interest group and media attention could accelerate this schedule. Prospects for enactment this year are good.

### 3. Interest Groups

The railroad industry will provide lukewarm support. Some elements of the bill will be very appealing, others less so. In general, the stronger railroads will be the more active supporters. DOT has had a number of meetings with rail labor

groups and expect that they will be strong supporters of the legislation. This support is heightened by the fact that there is a labor protection clause in the bill. Big shippers will be largely supportive as they have been in the past. However, the National Industrial Traffic League will be neutral. The major opposition to the legislation will come from the water carriers. The truckers may be opposed, but they will be focusing their attention less on rail reform and more on motor carrier reform. Finally, it is expected that consumer groups such as Congress Watch and the Public Information Economic Center will wholeheartedly endorse the legislation as will some environmentalists such as the Sierra Club.

Finally, it is important to note that the ability to elicit broad-scale public interest support is contingent upon proposing reform legislation across-the-board in the transportation area. This not only adds political drama but permits consumer groups to educate their constituents as to the costs of government regulation in a way that is less technical and more easily understood.

DRAFT PRESIDENTIAL STATEMENT  
ON THE  
RAIL TRANSPORTATION IMPROVEMENT ACT OF 1975

I am today sending to the Congress the Rail Transportation Improvement Act. This legislation is the result of several years of effort. It builds on the Surface Transportation Act which was overwhelmingly passed by the House of Representatives last December. In view of the prior work in the 93rd Congress and the serious needs of the Nation's railroads, I am confident that the Congress can and will act quickly. I urge them to do so.

Submission of this bill is the first piece of my overall program to seek fundamental reform of the regulatory practices which govern the economics of the entire transportation industry. Such regulation, established long ago, in many instances no longer serves to meet America's transportation or economic needs. Consumers too often bear the costs of inefficient regulation in the form of either inadequate service or excessive cost. Therefore, in addition to a rail bill, I will soon be submitting proposed legislative reforms for both motor carrier and airline regulation. Taken together these proposals, when enacted, could save consumers billions of dollars annually while conserving substantial amounts of scarce energy resources.

While the health of our entire transportation system needs treatment, the Nation's railroads are in a crisis. For this reason, I urge the Congress to act on the rail bill quickly and decisively.

The largest railroad in the Nation--the Penn Central--and most of the other railroads in the Northeast are bankrupt. But this is not simply an isolated or regional problem. Bankruptcy is spreading. Even those roads which still remain solvent often earn so little that they are unable to adequately maintain their track or replace badly-needed equipment. The result is a rapid and progressive deterioration of the Nation's rail system. The causes of this woeful situation are complex, numerous, and longstanding. The legislation I am proposing today will help railroads deal with many of their most pressing problems. This legislation is urgently needed if we are to prevent the Nation's rail system from slipping further toward the morass of nationalization.

One of the problems faced by the railroad industry is an overabundance of Federal regulation. Much Federal regulation, originally imposed to prevent monopoly abuses, has long since outlived its original purposes. Indeed, Federal regulation has grown so cumbersome that it retards technical innovation, and has generally stifled an industry which should be both healthy and competitive. The legislation I am proposing is designed to significantly improve the regulatory climate under which all railroads operate. Removal of unnecessary and excessive regulatory constraints

will enable this low cost and energy efficient form of transportation to operate more efficiently, provide better service, and to more fully realize its great potential.

The proposed bill addresses these problems by amending the interstate Commerce Act to permit increased pricing flexibility, to expedite rate-making procedures, to outlaw anticompetitive rate bureau practices, and to improve the procedures for dealing with intrastate rail rates.

In addition to improving the regulatory environment in which the Nation's rail system functions, the legislation I am proposing will financially help the railroads to improve their facilities. This assistance is provided in two forms. First, the bill will outlaw discriminatory taxation of the rail industry. This provision will give the railroads the same opportunity afforded other commercial enterprises. Second, the bill will provide \$2 billion of loan guarantees so that the Nation's railroads can obtain badly-needed equipment and repair their deteriorating roadways at reasonable financing costs.

In view of the role of our rail system in our Nation's economy, I am urging the Congress to give this measure immediate consideration. The importance of regulatory reform to the efficiency of our transportation system cannot be overemphasized. While special interests may resist these proposed changes, I am confident that the benefits to the

American people are so great and so clear that the Congress will act quickly. The legislation I shall be submitting for air, truck, and rail will encourage the least costly and most efficient use of each type of transportation service. I stand ready to work closely with the Congress to secure the passage of strong, effective, and long overdue legislation to improve the Nation's transportation system.

THE WHITE HOUSE

WASHINGTON

March 21, 1975

Mr. President:

The attached memo has been staffed and has generated the following comments:

Buchen: No objection

Cannon: Agree

Marsh: Agree

Seidman: Agree

A revised Presidential message will be drafted over the weekend to reflect the guidance you gave Secretary Coleman in Thursday's meeting.

Don



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: March 19, 1975

Time:

FOR ACTION: Phil Buchen *in*  
Jim Cannon *in*  
Jack Marsh *in*  
Bill Seidman *in*

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Friday, March 21, 1975

Time: ~~cab~~ Noon

SUBJECT:

Lynn memo (3/18/75) re: Reform of  
Surface Transportation Regulation

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

3/20 Marsh - agree  
 3/20 Buder - no objection  
 3/20 Cannon - per Cathy Corcoran - agree by phone  
 3/21 (9<sup>30</sup>) Seidman - agree by phone  
 Called Cannon & Seidman to  
 move up due date 3/20 645pm

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

OFFICE OF MANAGEMENT AND BUDGET  
ROUTE SLIP

TO ~~Walter Scott~~ SM  
~~Deputy Director~~  
~~Director~~  
Ms Jones  
  
FROM Stan Morris

- Take necessary action [ ]
- Approval or signature [ ]
- Comment [ ]
- Prepare reply [ ]
- Discuss with me [ ]
- For your information [ ]
- See remarks below [ ]

DATE 3-17-75

REMARKS

The attached Presidential message has been cleared by Paul Theis. The White House Council and the Domestic Council are concurrently reviewing the proposed rail bill. We expect to receive their concurrences tomorrow morning at the latest.

If you concur, we hope to have the legislation forwarded to Congress before they recess as DOT wants very badly to have this bill in the hands of the Interstate Foreign Commerce Committee as soon as possible.

due 3/21  
cob

ACTION MEMORANDUM

WASHINGTON

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Jim Cannon  
~~Jack Marsh~~  
Bill Seidman

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Recommendation

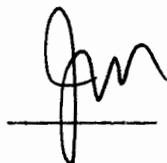
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Decision

Agree \_\_\_\_\_



Supported by: Departments of Transportation and Justice, CEA, CWPS, OMB

Disagree \_\_\_\_\_

Supported by:

See Me \_\_\_\_\_

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## CLIMATE STATEMENT

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REMARKS:

On the basis of my review today, I see no basis to object.

R.H.

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Jerry H. Jones  
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### Decision

Agree \_\_\_\_\_ Supported by: Departments of Transportation and  
Justice, CEA, CWPS, OMB

Disagree \_\_\_\_\_ Supported by:

See Me \_\_\_\_\_

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### 2. The Congress

The new committee jurisdiction assignments have moved all transportation issues to the Public Works Committee from the Interstate and Foreign Commerce Committee except for rail matters. This is the principal reason that this legislation is being forwarded separately. The House Commerce Committee has already tentatively scheduled hearings, and we expect broad-scale committee support for a major rail regulatory reform and financial assistance bill. It is expected that Chairman Staggers and Subcommittee Chairman Rooney, as well as Minority Members Skubitz and Hastings will co-sponsor the Administration bill. DOT has received from Staggers a commitment to achieve House passage of a rail bill this session.

The view in the Senate is somewhat more cloudy. The Senate Commerce Committee staff is generally supportive of a major bill and would like to see action this year. It is possible, therefore, to receive Senator Magnuson's support as well as Senator Pearson's sponsorship. Senator Hartke, the Subcommittee Chairman, would like to do a 4-6 month study prior to holding hearings. However, it is likely that strong Presidential support coupled with the growing public interest group and media attention could accelerate this schedule. Prospects for enactment this year are good.

### 3. Interest Groups

The railroad industry will provide lukewarm support. Some elements of the bill will be very appealing, others less so. In general, the stronger railroads will be the more active supporters. DOT has had a number of meetings with rail labor

groups and expect that they will be strong supporters of the legislation. This support is heightened by the fact that there is a labor protection clause in the bill. Big shippers will be largely supportive as they have been in the past. However, the National Industrial Traffic League will be neutral. The major opposition to the legislation will come from the water carriers. The truckers may be opposed, but they will be focusing their attention less on rail reform and more on motor carrier reform. Finally, it is expected that consumer groups such as Congress Watch and the Public Information Economic Center will wholeheartedly endorse the legislation as will some environmentalists such as the Sierra Club.

Finally, it is important to note that the ability to elicit broad-scale public interest support is contingent upon proposing reform legislation across-the-board in the transportation area. This not only adds political drama but permits consumer groups to educate their constituents as to the costs of government regulation in a way that is less technical and more easily understood.

DRAFT PRESIDENTIAL STATEMENT

ON THE

RAIL TRANSPORTATION IMPROVEMENT ACT OF 1975

I am today sending to the Congress the Rail Transportation Improvement Act. This legislation is the result of several years of effort. It builds on the Surface Transportation Act which was overwhelmingly passed by the House of Representatives last December. In view of the prior work in the 93rd Congress and the serious needs of the Nation's railroads, I am confident that the Congress can and will act quickly. I urge them to do so.

Submission of this bill is the first piece of my overall program to seek fundamental reform of the regulatory practices which govern the economics of the entire transportation industry. Such regulation, established long ago, in many instances no longer serves to meet America's transportation or economic needs. Consumers too often bear the costs of inefficient regulation, in the form of either inadequate service or excessive cost. Therefore, in addition to a rail bill, I will soon be submitting proposed legislative reforms for both motor carrier and airline regulation. Taken together these proposals, when enacted, could save consumers billions of dollars annually while conserving substantial amounts of scarce energy resources.

While the health of our entire transportation system needs treatment, the Nation's railroads are in a crisis. For this reason, I urge the Congress to act on the rail bill quickly and decisively.

The largest railroad in the Nation--the Penn Central--and most of the other railroads in the Northeast are bankrupt. But this is not simply an isolated or regional problem. Bankruptcy is spreading. Even those roads which still remain solvent often earn so little that they are unable to adequately maintain their track or replace badly-needed equipment. The result is a rapid and progressive deterioration of the Nation's rail system. The causes of this woeful situation are complex, numerous, and longstanding. The legislation I am proposing today will help railroads deal with many of their most pressing problems. This legislation is urgently needed if we are to prevent the Nation's rail system from slipping further toward the morass of nationalization.

One of the problems faced by the railroad industry is an overabundance of Federal regulation. Much Federal regulation, originally imposed to prevent monopoly abuses, has long since outlived its original purposes. Indeed, Federal regulation has grown so cumbersome that it retards technical innovation, and has generally stifled an industry which should be both healthy and competitive. The legislation I am proposing is designed to significantly improve the regulatory climate under which all railroads operate. Removal of unnecessary and excessive regulatory constraints

will enable this low cost and energy efficient form of transportation to operate more efficiently, provide better service, and to more fully realize its great potential.

The proposed bill addresses these problems by amending the interstate Commerce Act to permit increased pricing flexibility, to expedite rate-making procedures, to outlaw anticompetitive rate bureau practices, and to improve the procedures for dealing with intrastate rail rates.

In addition to improving the regulatory environment in which the Nation's rail system functions, the legislation I am proposing will financially help the railroads to improve their facilities. This assistance is provided in two forms. First, the bill will outlaw discriminatory taxation of the rail industry. This provision will give the railroads the same opportunity afforded other commercial enterprises. Second, the bill will provide \$2 billion of loan guarantees so that the Nation's railroads can obtain badly-needed equipment and repair their deteriorating roadways at reasonable financing costs.

In view of the role of our rail system in our Nation's economy, I am urging the Congress to give this measure immediate consideration. The importance of regulatory reform to the efficiency of our transportation system cannot be overemphasized. While special interests may resist these proposed changes, I am confident that the benefits to the

American people are so great and so clear that the Congress will act quickly. The legislation I shall be submitting for air, truck, and rail will encourage the least costly and most efficient use of each type of transportation service. I stand ready to work closely with the Congress to secure the passage of strong, effective, and long overdue legislation to improve the Nation's transportation system.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: March 19, 1975

Time:

FOR ACTION: Phil Buchen  
Jim Cannon  
Jack Marsh  
~~Bill Seidman~~

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Friday, March 21, 1975

Time: cob

SUBJECT:

Lynn memo (3/18/75) re: Reform of  
Surface Transportation Regulation

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

*Agree*

*called 9:20 am 3/21*

*JWS*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry D. Jones  
Staff Secretary

THE WHITE HOUSE  
WASHINGTON

March 22, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM LYNN  
FROM: JERRY H. ~~ONES~~   
SUBJECT: Reform of Surface Transportation Regulation

Your memorandum to the President of March 18 on the above subject has been reviewed and the recommendation contained in your memorandum -- submit a rail reform bill to Congress before the Easter recess, use a Presidential message to re-emphasize regulatory reform as a key Presidential initiative, commit the Administration to having motor carrier and air bills ready for submission within 30-45 days -- was approved.

Please follow-up with the appropriate action.

Thank you.

cc: Don Rumsfeld  
Phil Buchen  
Jim Cannon  
Jack Marsh  
Bill Seidman