The original documents are located in Box 28, folder "Railroad Revitalization and Regulatory Reform Act" of the John Marsh Files at the Gerald R. Ford Presidential Library.

DECISION

MEMORANDUM FOR

FROM:

SUBJECT: RAILROADS

I. PURPOSE

At your economic meeting tomorrow, Secretary Coleman will seek your decisions on proposed administration legislation designed to help the railroads.

The general issues are:

- Should you submit railroad legislation limited to

  1) regulatory reform; and,
  2) $2 billion in loan guarantee;

  Or, should all or any of the following be included

  A) ICC by-pass authority;
  B) interest subsidy;
  C) additional $1.2 billion in emergency aid?

- What additional legislation and programs will be required to solve the overall railroad problem?

II. BACKGROUND

The Nation's economy depends on a functioning U.S. railroad system. Unfortunately, over one-half of the trackage in the country is unfit for high-speed operations and accidents and derailments have nearly doubled since 1967.

Eight Northeast and Midwest railroads are bankrupt (including the Penn Central), the so-called Granger roads in the Plain States are in precarious condition; average rates of return are extremely low; and, we just had the largest quarterly deficit in rail history.

This very serious financial condition has led to a nationwide deferred maintenance problem which will cost between $5 and $10 billion to remedy.

and proposed
Current/Federal activity is concentrated in four general areas:

- efforts to help the bankrupt railroads of the Northeast and Midwest through the Regional Rail Reorganizational Act of 1973;
- financial assistance for all railroads to buy rolling stock and to improve the roadbeds and other capital investments (through direct grants and loan guarantees);
- regulatory reform; and,
- emergency programs of grants and loans for specific railroads (including those in bankruptcy) to overcome the current unemployment, energy and cash flow problems.

There is a strong sense in Congress that something needs to be done to help the railroads, but that there is a danger that the government will end up pouring massive Federal funds into the railroads without solving the problems.

See Tab A for additional background information and Congressional situation.

III. <u>ISSUES AND ALTERNATIVES</u>

You are already committed to sending Congress your Railroad Revitalization and Energy Transportation Act consisting of regulatory reform and $2 billion for loan guarantees. Secretary Coleman has asked you to add interest subsidy, ICC by-pass authority and $1.2 billion in additional aid (which he calls the "Emergency Railroad Rehabilitation Program").

There is pressure to send the regulatory reform and loan guarantee bill up soon because hearings begin on the railroad rehabilitation issue in the Senate Commerce Committee on May 1.

Other very significant issues are coming to you for decision which relate to the railroad problems. For example, the financial problems of the utilities may require some form of government refinancing for certain energy-related industries. You may wish to consider additional railroad aid in this context. Also, many in Congress want to attack our current unemployment problem by creating railroad jobs with Federal grants. This concept is the genesis of the $1.2 billion Emergency Rehabilitation proposal. Finally, the railroads are a critical element in achieving your energy goals.

See Tab B for a memorandum from Secretary Coleman on the issues presented.

The following are the specific decisions required at this time:

FIRST ISSUE - ICC By-Pass Authority for Railroad Restructuring (and Interest Subsidy).

There is general agreement within the Executive Branch that the railroads are in serious need of restructuring which would eliminate excess capacity. One problem is the cumbersome regulatory procedures administrated by the ICC. Efforts to restructure through merger or various cooperative agreements in the past have failed, in part, due to the length of time involved in getting ICC approval.

Your advisers did not include the ICC by-pass provisions in the regulatory reform provisions of the proposed railroad bill because such a proposal may cause more harm than good. In their opinion, if this kind of reform was included in the regulatory package, Congress would add on labor protection provisions and other special interest language that could end up making the existing ICC law even worse.

The proposal being presented here for your decision is that the necessary restructuring (ICC by-pass) should best be accomplished by asking Congress for separate authority to by-pass the ICC and tie it to the loan guarantee program. That is, the by-pass provisions would only apply to those railroads requesting loans from DOT, it would not change the basic ICC statute. The Secretary could impose the special restructuring requirements as a condition for the loan. Secretary Coleman feels strongly that for such a reform to work there will have to be some additional funds provided, such as interest subsidy which is taken up following this section.

ALTERNATIVES

1. Should you propose ICC by-pass procedures?

   Pro: This represents the least risky approach to Congress to get authority to by-pass the cumbersome ICC procedures. It would significantly strengthen the hand of the Executive in solving the railroad problem.

   Con: It would set a very bad precedent of increasing the power of the Federal Government over private business decisions. Third-party (i.e., not loan applicants) railroad companies, users and competitors might be adversely affected without having the opportunity to adequately present their case and have it adjudicated. Raises substantial anti-competitive and anti-trust problems.

2. If a by-pass provision is desirable, what method should be proposed?

   A. Vest the restructuring authority in the Secretary of Transporation. As a condition for granting a loan guarantee (and, perhaps, interest subsidy) the Secretary could require the applicant railroads to enter into agreements resulting in merger or other restructuring. The agreement would not be subject to ICC approval but the Secretary would be required to consult with the Attorney General to determine the anti-competitive impacts of such action. Public hearings would be required and the Secretary would have to make formal findings similar to normal rulemaking.

   Pro: Provides the greatest control in the Executive Branch to make speedy decisions designed to improve the financial condition of the railroads.

   Con: Provides the minimum protection for other interested parties. May result in serious anti-competitive and due process problems.

B. Require concurrent approval between the Secretary of Transportation and the Attorney General with the President arbitrating any impasse.

Pro: Avoids some anti-trust and due process problems.

Con: Does not come to grips with all the third-party problems and potentially involves the President in controversial decisions involving highly complex and specific issues not of national concern.

C. [Insert Justice Department two-track proposal]

3. Should an interest subsidy be added to the loan guarantee program?

As a method of encouraging railroads to take advantage of the ICC by-pass provision, Secretary Coleman recommends that an interest subsidy be included. Under this proposal the Secretary could agree to pay up to half of the interest costs on the loans. This program would cost up to $80 million a year or up to $1.6 billion over 20 years.

Pro: This is a small price to pay for a program which, when tied to the ICC by-pass provision, permits the Executive wide latitude in restructuring the railroads of loan applicants.

Con: This involves a very dangerous precendent because there are other Federal loan guarantee programs which have proponents arguing for interest subsidy. It involves a new spending program.

SECOND ISSUE - Additional (not in your FY '76 budget) Railroad Aid to Provide Emergency Rehabilitation.

Secretary Coleman has recommended a $1.2 billion, 15-month program to help stabilize the deteriorating rail roadbed, as well as generate employment in productive tasks. The proposal involves $ million for additional loan guarantees and $ million in direct grants. All railroads would be eligible to participate. The program is in addition to the $2 billion loan guarantee program described above.

No one in your Administration questions the need for additional Federal support for the railroads beyond the $2 billion loan guarantee, regulatory reform and efforts to salvage the bankrupt railroads in the Northeast and Midwest. The issue is whether this $1.2 billion proposal (the amount really isn't critical) is the proper response at this time and in this form.

We do not have any firm analysis on the extent to which the railroad problem is impacting our energy objectives. Therefore, we do not have a firm recommendation at this time on the extent to which the Federal Government should assist the railroads primarily for energy reasons.

ALTERNATIVES

1. Include additional funding (approximately $1.2 billion) over and above the $2 billion loan guarantee.

   Pro: This will help prevent deterioration of the railroad roadbeds and make your railroad bill a major new initiative thus establishing your leadership in this area. Also, this will tend to preempt other legislation being proposed in Congress to link the railroad and unemployment problems by providing emergency grants for railroad jobs.

   Con: We should not send up legislation beyond that to which we are already committed until we have a better understanding of the total railroad problem and how such additional grant and loan authority relates to other railroad initiatives such as the preliminary system plan for the bankrupt railroads in the Northeast and Midwest. Such a grant program will not really help unemployment -- the funds will generally be available in calender '76 -- and there are difficult issues involved in giving tax payers funds to solvent railroads.

2. If you decide in favor of the new railroad proposal (for other than energy reasons), should you propose that your fiscal '76 highway budget be reduced by a like amount?

Pro: This solves the $60 million Federal deficit limit problem and involves an honest reappraisal of transportation spending prioritites.

Con: This is likely to raise a hornet's nest of opposition in Congress on the part of the highway proponents and may jeopardize your highway bill.

IV. DECISIONS

FIRST ISSUE - ICC By-Pass and Interest Subsidy.

1) Propose ICC By-Pass Authority.

Favor: Coleman

Oppose:

Approve ______________ Disapprove ______________

2) If agree, what method?

- Vest in DOT Secretary with Attorney General consultations.

Favor: Coleman

Oppose:

Approve ______________ Disapprove ______________

- Vest in DOT Secretary and Attorney General with the President arbitrating inpasses.

Favor:

Oppose:

Approve ______________ Disapprove ______________

- [Other Option]

3) Propose Interest Subsidy Program

(Note: If you decide against the ICC by-pass, there is no need to consider the proposed interest subsidy issue.)

Favor: Coleman

Oppose:

Approve__________________ Disapprove_______________

SECOND ISSUE - Additional Program ($1.2 billion) for Railroad Emergency Rehabilitation.

1) Propose additional funding for emergency railroad rehabilitation (approximately $1.2 billion).

Favor: Coleman

Oppose:

Approve__________________ Disapprove_______________

2) If new program, propose that highway funds be reduced by a like amount.

Favor:

Oppose:

Approve__________________ Disapprove_______________

Tab A

BACKGROUND

1. Condition of the Railroads and Statement of the Problem

The American railroads are essential to the nation's economy and are in danger of collapsing. Most freight is transported by the railroads (38% of ton-miles transported) and many basic products and commodities rely nearly exclusively on the railroads. For example, they transport 70% of the coal produced, utilizing 81% of the nation's mainline tracks.

Over one-half of the trackage in the country is unfit for highspeed operations. For safety reasons, trains are operating under Federal "slow orders" on nearly 50% of their tracks and at speed under 10 miles per hour for 20% of the tracks. Accidents and derailments have nearly doubled since 1967. Because of inefficient equipment and operating methods, a typical freight car moves loaded only 23 days a year.

The railroads are in very poor financial condition. Eight Northeast and Midwest railroads are bankrupt (including Penn Central), the so-called Granger roads in the Plains States are in precarious financial condition; average, industry-wide rates of return are 3% or less; and, they just had the largest quarterly deficit in rail history. Among the principal factors that have caused this dismal financial condition are:

A) Outdated government regulation,
B) Archaic work rules,
C) Government subsidies to competing modes (such as barges and motor carriers).

These difficulties have resulted in the critical problem of redundant rail facilities and excess competition. The magnitude of this problem is most clearly demonstrated by the severe physical deterioration in the rail industry. Recently, expenditures on track maintenance have fallen short of the amount needed by $1 billion per year.

This has led to a deferred maintenance problem which will cost between $5 - 10 billion to remedy. There is widespread sentiment in the rail industry and Congress that the Federal government should pay for a major part of this expense. The deferred maintenance problem is concentrated mostly in the Northeast and Granger states. Thus, a sound solution to the Northeast bankruptcy problem should go a long way toward achieving a nationwide solution.

2. Current Situation

Based on the history of government involvement in the railroad problem over the last several years, it is perhaps easiest to view the current situation in four categories of existing or proposed Federal involvement:

A) Efforts to help the seven bankrupt railroads in the Northeast and Midwest -- through the Rail Reorganizational Act of 1973 and the attempts to create Conrail;

B) Financial assistance for all railroads to buy rolling stock and to improve the roadbeds and other capital investments (through direct grants and loan guarantees);

C) Regulatory reform; and,

D) Emergency programs of grants and loans for specific railroads (including those in bankruptcy) to overcome the current unemployment, energy and cash flow problems.

These efforts and this memorandum do not consider the Federal involvement in rail passenger service. Essentially, AMTRAK and the Federal efforts to upgrade the Northeast corridor are being dealt with separately.

Briefly, the following is a snapshot of where we are in each of the above categories.

-- Bankrupt Railroads. For the past year, the U. S. Railway Association (USRA) has been designing a new rail system for the Northeast, to be owned and run by a new private corporation, the Consolidated Rail Corporation (ConRail). Two months ago, USRA published its preliminary plan, indicating that ConRail would require $3 billion in Federal financing and would be federally controlled for at least 10 years. The Administration is aiming to develop a position on this plan by early May. An interagency task group has been established by the Economic Policy Board, under Secretary Coleman's leadership, to explore various alternatives to USRA's plan. This should result in an Administration legislative proposal, including both financing provisions and technical amendments to the Regional Rail Reorganization Act. USRA will submit its final plan to Congress by July 26.

-- Capital Assistance. There have been a host of proposals ranging from Federal purchase of the railroad rights-of-way to modest loans for the railroads designed to permit all the railroads to upgrade their capital plants. The Administration approach has been to offer $2 billion loan guarantee program which we attached to our regulatory reform proposal several years ago. These loans would be used by any U. S. railroad wherever located and regardless of their financial condition.

-- Regulatory Reform. The proposed bill will: permit increased pricing flexibility; expedite rate-making procedures; outlaw anti-competitive rate bureau practices; and improve the procedures for dealing with interstate rail rates. In addition, the bill will outlaw discriminatory taxation of the rail industry.

-- Emergency Programs. Most of the one-shot emergency railroad programs have been designed to cope with the unemployment problem. There are a host of specific proposals before Congress, including a $700 million railroad employment proposal that has been agreed to by the senior members of the Senate Appropriations Committee. Most of these bills are ad hoc and provide grants and loans to be used by the railroads as a means of putting more track maintenance people to work. They are not designed to deal comprehensively with the overall railroad problem and it is not clear how they fit into other pieces of the solution.

3. Congressional Response

As indicated in the foregoing section, Congress is groping with the overall railroad problem. There is a strong sense in Congress that something needs to be done and that there is a great danger that the government will end up pouring massive Federal funds into the railroads without satisfactory protection of its investment or ever coming to grips with the root causes of the railroad problem. The range of solutions which have been suggested cover the whole spectrum from nationalization to doing nothing. For example, Senators Hartke and Weicker have introduced legislation to nationalize the railroads rights-of-way and Senator Randolph has submitted a bill to provide $ billion to upgrade the tracks.

Senate Appropriations Committee has included $700M for Railroad Improvement and Employment in the $6B Emergency Unemployment Supplemental which will be reported out of committee April 23. The Senate Commerce Committee is expected to have authorization hearings on the rail improvement proposal the week of May 1 and Senate action is expected by mid May. Similar rapid action by the House is expected. Senators McClellan, Bayh, Randolph and Hartke strongly support the $700M proposed ($600M in grants and $100M in loans).

It is clear that Congress has not yet taken a look at the entire railroad problem comprehensively covering the near-term employment and cash flow problems along with the long-term bankruptcy and rights-of-way maintenance issues. More distressingly, there is a strong likelihood that Congress will pass ad hoc emergency grant and loan programs without the necessary regulatory reform.

APR 1 1975

THE WHITE HOUSE

WASHINGTON

For 11:45 MEETING - RE: RAILROAD REVITALIZATION

INFORMATION

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE VICE PRESIDENT

FROM : JIM CANNON

SUBJECT : RAILROAD MEETING

Attached is a decision memorandum, prepared by the Office of Management and Budget, on the proposals by Secretary Coleman for a major railroad initiative. The memorandum was completed on Thursday, March 27, for use at a meeting with the President last Friday on economic matters. However, because of the absence of Secretary Coleman, the President did not take up the substantive issues involved, and instead, asked the Domestic Council to follow up on them with Secretary Coleman, Secretary Simon, Jim Lynn, Frank Zarb, and Bill Seidman.

The OMB memo, which was written in coordination with Secretary Coleman, takes up three major issues:

1. Should the Federal Government pay for payments incurred by railroads borrowing the $2 billion of guaranteed loans, which will be provided under legislation soon to be submitted by the Administration?

2. Should the Administration propose legislation to bypass the ICC in certain cases involving joint use of track, mergers, etc., and require DOT approval instead?

3. Should the Administration propose a major program to reduce unemployment and help the rail industry, consisting of $3 billion over two years?

We have already agreed on two elements of railroad legislation:

a) reform of the economic regulation of railroads, and

b) $2 billion in loan guarantees to revitalize the capital assets of all the Nation's railroads.

Attachment

MEMORANDUM FOR: The President

From: James T. Lynn

Subject: Revitalization and Job Stimulation Proposals for the Nation's Rail Freight System

Background

- The problems of the U.S. rail freight system are serious, and growing worse as a result of the recent economic slump. Current estimates indicate that the industry will show that the first quarter 1975 loss will be the largest in its history. Roughly 50% of rail track is restricted to below-normal speeds due to poor maintenance. On 15-20% of mainline track speeds are restricted to 10 miles per hour.

- Nevertheless, the rail system remains an essential national asset. It carries 38% of all freight (in ton-miles) and over 75% of all coal shipments.

- For this reason, several proposals are now being considered by the Administration which would help the freight railroads through financial assistance, reorganization, and regulatory reform. In addition to the rail passenger service programs (AMTRAK and Northeast Corridor), the freight related programs include:

  - Restructuring of Northeast bankrupt railroads (primarily Penn Central)

    ...U.S. Railway Association has completed preliminary plans; final submission to Congress by July 26.

    ...Federal cost estimated at more than $4 billion over 10 years, of which $2.6 billion is already authorized.

    ...Administration position being developed by late April.

- This plan, the Rail Employment proposal, and the Rail Revitalization Act, will each have a major track rehabilitation component.
- They should therefore be designed to complement each other, and avoid duplication, especially on a geographic basis.

RAIL REVITALIZATION ACT OF 1975

On March 22 you agreed to send to Congress the Administration's rail regulatory reform bill, including a $2 billion loan guarantee financial assistance package. Subsequently, DOT has concluded that two additional provisions should be included in the bill. We request your decision on whether to include these provisions, as described below.

Issue #1: Interest Subsidies

The Act would authorize the Secretary of Transportation to pay (i.e., subsidize) some or all of the interest payments incurred by railroads in borrowing $2 billion of guaranteed loans under the Act. Provides up to $650 million through 1978. The Secretary may require applicants to use tracks and other facilities jointly or to acquire or sell assets to achieve greater system efficiency as one of the conditions for providing financial assistance. (See issue #2),

Should the provision of $650 million for interest payments be included in the Rail Revitalization Act of 1975?

Pros

- DOT believes that these funds, and associated conditions, will enable the Federal government to bring about a more rational geographic structure for the rail freight system. This would, in turn, improve the financial viability of the railroads.
- Without the $650 million interest provision, DOT anticipates that very few railroads would have sufficient incentive to participate in the loan program. This would tend to undermine the value of the loan program as a sweetener to the regulatory reform package.
- DOT believes the subsidy is necessary to deal with the railroads' serious cash flow problem.

Cons

- This would set a potentially costly precedent for other Federal loan programs, and particularly for the new rail program.

- It is not clear that this is the best way to create the desired incentive for participation. An alternative might be to relax the criteria for use of the $2 billion in loan guarantees. For instance, a portion of the funds could be made available to help pay interest during the first few years.

- By staying within the $2 billion funding level in this way, there would be no violation of your "no new spending program" policy, whereas a $650 million add-on would require an exemption from this policy.

- The guarantee itself would provide a significant savings in the interest cost, which should in itself be an incentive for participation.

Decision

Option A: Provide interest subsidy grants ________________
(supported by DOT)

Option B: Allow loan guarantees to pay interest during first few years ____________
(supported by OMB)

Issue #2: Mergers

Permits "by-pass" of ICC authority for joint use of track, purchase/sale of assets, and mergers. Opportunity for informal public hearings provided, before DOT approval. "Least anticompetitive" options must be approved. Such joint use and mergers may be required, to qualify for financial assistance in the bill.

Pros

- Would avoid onerous and drawn out merger procedures currently imposed by ICC, and thereby permit streamlining of the rail system.

- DOT sees this as an integral feature of the financial package in the bill.

Cons

- This provision would inject DOT into a very controversial role, without a clear understanding of how it would exercise its authority, in terms of procedures or criteria for analyzing merger applications.

- Although DOT indicates labor support for this provision, shippers and local communities would oppose it because of the downgrading of service on certain lines which would result. This could jeopardize passage of the bill.

- An interagency working group is presently developing a more thorough proposal to reform rail merger laws and standards. Pending their recommendations, this proposal appears to be premature.

Decision

Option C: Permit "by-pass" of ICC merger authority _____
(supported by Coleman)

Option D: Further study to develop more complete merger laws and standards ___________
(supported by Lynn)

RAIL REHABILITATION AND EMPLOYMENT PROGRAM

Issue #3: Whether to support such a proposal immediately, not at all, or subject it to further comparison with employment proposals in other areas.

DOT proposes a two-year program to assist the rail industry in expanding its maintenance program. Total $3 billion two-year authorization ($1 billion in grants, $2 billion in loans). Direct employment impact over life of program optimistically estimated at 60,000 man-years; indirect employment estimated at 105,000 man-years. Federal government would provide grants for labor cost, and income debentures for material and equipment cost. (see Attachments II and III for details).

Pros

- Aimed at two major problems: unemployment and rail deterioration. DOT believes the proposal would have a significant impact on each area. Improved roadbed is considered critical to a viable rail system.

- Funding package designed to insure maximum railroad participation. Without labor grants, DOT believes that railroads could not afford to take advantage of the program.

- Strong support for this program by rail management, labor, and Congress.

Cons

- Not in accord with your policy of "no new spending programs".

- If considered, should be compared with other job creating programs to determine relative employment impact.

- Need more analysis of relationship to other pending rail assistance programs, to insure coordinated approach. Need to further assess overall impact on Federal involvement with railroads.

- Direct payroll subsidy for private firms is an unprecedented practice in the U.S.; to violate this boundary between the private and public sectors could open up a host of similar proposals from other financially troubled industries.

Decision

Option E: Support DOT concept. Direct Secretary to prepare legislation for Executive Branch clearance. (supported by DOT) ________

Option F: Consider later in relation to other actions to stimulate the economy, and in the framework of overall approach to railroad industry. (supported by OMB) ________

Option G: Basically disagree with this proposal, and so inform the Secretary. Do not pursue further. ________

Attachments

cc: DO Records, Director, Director's Chron, Deputy Director, Mr. Scott, Mr. Bray, Return to Mr. Johanson

EGD AJohanson:vt 3/27/75

Attachment I

Breakout of Federal Funds for Pending Rail Freight Proposals

	($ millions) Authorized	Under Consideration	Total
I. Northeast Rail			
• Planning and interim cash assistance	340	-	340
• Interim maintenance and improvement of plant	300	-	300
• Labor protection and branch line subsidies	430	-	430
• Financial assistance to new rail system, AMTRAK, and other connecting railroads	1,500	2,000	3,500
	2,570	2,000	4,570
II. Rail Revitalization Act*			
• Loan guarantees	-	2,000	2,000
• Interest subsidies	-	650	650
	-	2,650	2,650
III. Rail Employment*			
• Grants	-	1,000	1,000
• Loan Guarantees	-	2,000	2,000
	-	3,000	3,000
Totals	2,570	7,650	10,220

* Expected to substitute for some of Northeast rail funding requirement.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

March 21, 1975

MEMORANDUM FOR HONORABLE JAMES T. LYNN
Director of Management and Budget

SUBJECT: Stimulating Employment Through a Federally Supported Rail Rehabilitation Program

During the current economic downturn, railroad industry revenues have declined sharply as car loadings (level of freight traffic) dropped 15 percent below last year's level. This, in turn, has forced the industry to reduce substantially its maintenance efforts. The result is that the industry is experiencing both a high rate of unemployment and a more rapid deterioration of its physical plant.

The total amount of deferred maintenance in the industry is not known exactly but conservative estimates put the figure in the range of $5.5 to $7.5 billion. Even at the 1974 level of maintenance, effort, which involved the employment of 92,000 workers, the backlog of deferred maintenance was increasing annually. It is estimated that 10,000 maintenance-of-way workers have already been laid off this year and that an additional 20,000 workers may be furloughed by June 1975.

Rail's rapidly eroding physical plant may soon result in a situation where it would become a positive drag on the whole economy. The only alternatives then would be massive amounts of direct Federal assistance or Federal ownership.

We believe that the present situation constitutes a unique opportunity to undertake a Federally-assisted but industry managed effort to provide more jobs while raising the industry's currently planned level of maintenance. Such an effort would not only produce additional jobs in the railroad industry, it would also have a substantial indirect job creating effect in the supporting industries (e.g., steel, lumber, equipment, etc.). Such a program will meet urgent national needs in a vital industry while stimulating employment, and this would be far more productive than the public sector job programs. This is a view that seems to be shared by many in the Congress, as evidenced by the several bills introduced by Senator Buckley, Congressman Heinz, and others to authorize such a program. We strongly urge that the Administration develop a better program of its own as a response to Congressional initiative.

ached to this memorandum are the specifications for such a program. In summary, this Department recommends the following:

1. A two-year program to assist the industry in expanding its planned maintenance program;

2. For railroads in reorganization under the Regional Rail Reorganization Act, Federal financial assistance would be in the form of a grant for the costs of labor, material, and equipment with a proviso that the benefits must accrue to ConRail. These funds then would simply substitute for funds which the Federal Government would be providing later to ConRail anyway;

3. For all other railroads grants would be available for the labor portion of the costs associated with the Federal assisted incremental maintenance program with loans available for the related materials and equipment;

4. The loan provisions would be in the form of income related debentures and would provide a flexible repayment scheme for both interest and principal, based on the earnings performance of the individual railroads during the repayment period;

5. The program anticipates a total authorization of $3 billion for both the grant and the loan elements, with a $1 billion effort in the first year and with $2 billion in the second year,

6. In order to ensure that the program is truly additive, i. e., over and above that which the railroads would do with their own resources, a maintenance of effort provision would be required for participation.

7. To emphasize that the program is geared basically to the current unemployment situation and is not a permanent assumption by the Federal Government of a role in normal program maintenance, a "trigger" is employed which would keep the program in effect only during periods when the national unemployment rate exceeds 6% (or some other appropriate figure);

8. Two-thirds of the funds would be apportioned among the railroads on a formula basis and one-third would be left to the discretion of the Secretary; and

9. The program envisions project approval by the Secretary.

In addition, the proposal includes $95 million to accelerate efforts to maintain and improve current passenger service on the Northeast Corridor. This effort is envisioned as a continuation of the program recently authorized as part of the Penn Central emergency legislation. The additional $95 million will not in any way preempt decisions related to the long term improvements required in the Northeast Corridor.

In total, this program should create 20,000 additional jobs in the railroad industry and 35,000 jobs in related industries during the first year. The second year job effect would be roughly double that of the first year.

I recognize that this program will have an effect on the budget but the total impact over the long run will be significantly smaller than the total dollar amount because of loan repayment and the substitution of ConRail assistance. Moreover, it is my judgment that the social dividends resulting from whatever net cost is involved will be worth the cost. It will help avert further layoffs and, indeed, should increase the employment within the industry. It will foster much needed rehabilitation and improvement in the physical facilities of the industry and ensure that the nation's rail transportation system will not deteriorate further during this economic downturn.

A viable rail transportation system is fuel efficient and is needed to ensure that the transport of bulk commodities and other resources can be efficiently executed. The program should improve the safety record of the industry. The program, itself, is temporary, but it also sets the stage for and dovetails well with the financial assistance program included in the Administration's proposed Railroad Transportation Improvement Act. Finally, we sense a great deal of interest for such a program in the Congress and, in the absence of an Administration proposal, we will undoubtedly be forced into a reactive posture.

My staff and I are prepared to discuss this proposal with you in greater detail as soon as possible.

William T. Coleman, Jr.

William T. Coleman, Jr.

Attachment

ATTACHMENT III

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

March 24, 1975

MEMORANDUM FOR HONORABLE JAMES T. LYNN
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Subject: Stimulating Employment Through a Federally Supported Rail Rehabilitation Program: Rationale for Grants to Solvent Railroads

In a memorandum of March 21 outlining the above program, we recommended that the funding of the entire program for bankrupt railroads and the labor portion of the program for solvent railroads be effected through Federal grants. The bankrupt railroads account for approximately 16% of the track miles that would be eligible for rehabilitation. The labor element of the program would be approximately one-third of the total program. Thus, in a $3 billion program, the bankrupts might be expected to receive approximately $500 million in grants and the solvent carriers approximately $800 million in grants.

In the attached memorandum we give the reasons why, in our judgment, it is desirable to fund the labor portion of the program for solvent railroads with Federal grants, rather than loans.

William T. Coleman, Jr.

Attachment

cc: Honorable L. William Seidman
Honorable James M. Cannon

The Critical Role of Grants in a Federally Supported Rail Maintenance and Rehabilitation Program

The Department of Transportation has proposed for consideration a temporary program to stimulate employment in the railroad industry, specifically in the vital areas of track and plant maintenance and rehabilitation. This program would cover the entire industry, i.e., both solvent and bankrupt companies, and would employ a combination of Federal grant and loan financial assistance. The program's underlying rationale and specifics have been covered in another paper. This paper addresses the critical role of grants for the labor cost component in ensuring the program's acceptance and success.

Summary

Powerful arguments can be made that any Federal financial assistance designed to stimulate employment could be directed to no better purpose than the maintenance and rehabilitation of the nation's railroads. To realize the full potential of this opportunity, especially in light of the current state of railroad finances, a grant component (for the direct labor costs involved) in the Federal financial assistance program would be essential.

-- Federal grant assistance for at least the labor component of such a program appears critical to obtaining the participation of "solvent", albeit current money losing, railroads which constitute the bulk of the nation's rail system.

-- A Federal program of financial assistance to the railroads must treat both "solvent" and "financially distressed" (including bankrupt) railroads equitably, lest it unfairly disadvantage the former.

-- The truly vital nature of the work to be supported by this program -- affecting directly the economic efficiency of the nation's rail system as well as the safety of its operation -- must be given appropriate weight in any consideration of this proposal's merit.

-- Any "grant" assistance given in this program would be truly "additive" in terms of its ultimate economic impact, providing a significant multiplier effect.

Discussion

Central to an understanding of this real nature of the rail maintenance and rehabilitation problem is a recognition that: (1) it is pervasive, affecting all parts of the rail industry -- both solvent and bankrupt companies -- albeit in somewhat different ways and degrees; and (2) the costs of a rundown, inefficient national rail plant will be paid for by society one way or the other. It will be paid:

> either in terms of increasing accidents and derailments, more "slow orders" and train delays and the higher freight rates and impaired service inherent in the foregoing,
>
> or in terms of a positive effort to arrest the deterioration of the rail plant, to rebuild and rehabilitate that plant (especially the vital mainline links), and to put presently furloughed maintenance-of-way employees (now receiving Federal unemployment pay) and other idle workers back into truly productive employment in an industry vital to the nation's economic health.

The reality for rail industry finances of the recent sharp drop in revenues stemming from the depressed economy and the poor prospects for an early revenue recovery means that virtually no railroad, solvent or bankrupt, will earn a profit this year and few, if any, will do so in 1976. Across the industry, rail managements have almost uniformly cut back sharply on maintenance activities in an effort to husband cash. In this situation, the management imperatives to curb deferable expenditures are as real and sharp for the normally "healthy", solvent railroad as they are for the financially shaky or bankrupt company.

Given the foregoing, several powerful arguments can be advanced for including a strong grant component in any Federal employment support program oriented to the national rail maintenance and rehabilitation problem.

1. Encourage Maximum Participation

As noted above, any railroad facing the prospect of depressed revenues and an uncertain traffic outlook will be very reluctant to take on additional indebtedness for the materials, supplies and equipment needed for maintenance and rehabilitation unless there is a strong financial incentive for them to do so. Federal grant financing for the labor component of the maintenance and rehabilitation projects approved under this program will ensure that all major railroads will participate. A pure loan program would almost certainly be shunned by most, if not all of the solvent roads under present circumstances.

2. Provide a Measure of Equity As Between the Solvent and Bankrupt Railroads

Within the overall national railroad system, carriers -- solvent carriers, financially periled carriers, and bankrupt carriers -- compete with one another not simply for traffic but for profit, and, in a very real sense, for economic advantage and even survival. While acknowledging government's responsibility for ensuring the provision of vital transport services, including substantial direct financial assistance, government's programs and policies should not work to penalize the well-managed, relatively efficient, "successful" carrier vis-a-vis his bankrupt competitors. The effects of the present recession, which gives rise to both the unemployment and rail maintenance problems, fall equally heavily on all parts of the industry. In a program such as the one being considered here, Federal financial assistance should be provided evenhandedly across the entire industry.

3. The Vital Nature of the Work To Be Supported

The physical condition of the rail network bears directly on the system's overall economic effectiveness and on the safety of those who work in railroading and those who ride on trains. It is the principal determinant of the real value of a vital national transportation asset and one of the most important factors in the overall efficiency and productivity of the national economy. To put it bluntly, rail maintenance employment is about as far from "leaf raking" as you can get in terms of true social and economic value to the country.

4. The Incremental Nature of the Federally Assisted Program

The Federally assisted program will be a true net addition to what would otherwise be invested in maintaining and improving the nation's rail system. Safeguards are built into the program to ensure this. Thus, Federal grant assistance for the employment component of the program will not only reduce unemployment payments and add to the employed rolls in the railroad industry, it will also leverage very significant additional employment and economic activity among suppliers and vendors of materials and equipment.

5. The Threat of Disruptive Litigation . The Program Is Confined to the Bankrupts or Discriminates Against the Solvents in a Way to Affect the Competitive Balance

If a Federally assisted program were to benefit solely the bankrupts or were to discriminate against the solvents, the latter would almost certainly bring suit on the grounds that they were being unfairly disadvantaged vis-a-vis their competitors. While it is believed that such suits would not ultimately prevail, in light of the clear public interest objectives involved, the hurt to the solvents would be real. Being real, they would likely elicit much sympathy from the Congress, and, perhaps, from the courts.

* * * * *

TPI-30
March 23, 1975

THE WHITE HOUSE

WASHINGTON

May 14, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM LYNN

FROM: JERRY H. JONES

SUBJECT: Railroad Revitalization Act

Your memorandum to the President of May 9 on the above subject has been reviewed and Option 2 -- include in the legislation a provision limiting the use of general rate increases to increased labor and fuel costs only -- was approved.

Please follow-up with the appropriate action.

Thank you.

cc: Don Rumsfeld
Jim Cannon
Rod Hills
Alan Greenspan
Jack Marsh
Max Friedersdorf

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: May 16 Time: 630pm

FOR ACTION: Mike Duval
Max Friedersdorf
Ken Lazarus
Bill Seidman
Paul Theis

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: May 17 Time: noon

SUBJECT:

Submission of Administration's Railroad Regulatory Reform Legislation

ACTION REQUESTED:

____ For Necessary Action

x For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

x For Your Comments

____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

MAX - shouldn't we get 5'79 Fact Sheet to Key people on Hill?

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.

Jim Cavanaugh
For the President

EMBARGOED FOR RELEASE
UNTIL 3:00 P.M. (EDT)

MAY 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

I am today sending to the Congress the Railroad Revitalization Act. This legislation is the result of several years of study and consultation with industry and Congressional authorities. 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.

The purpose of this legislation is threefold: (1) To improve the regulations under which the railroads operate and promote economic efficiency and competition, (2) to provide necessary financial assistance to improve and modernize rail facilities, and (3) to encourage rational restructuring of the Nation's railroads and improve their long-term viability. To achieve these objectives, the legislation proposes specific amendments to the Interstate Commerce Act to permit increased pricing flexibility, to expedite ratemaking procedures, to outlaw anticompetitive rate bureau practices and to improve and expedite merger and other restructuring actions. In addition, the bill will make available $2 billion in loan guarantees.

Submission of this bill is part of my Administration's overall program to revitalize our entire free enterprise system. It is the first of several legislative proposals seeking fundamental reform of the regulatory practices which govern the economics of the 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 this railroad bill, I will soon submit proposed legislative reforms for both trucking and airline regulation. Taken together, these proposals, when enacted, could save consumers billions of dollars annually and conserve substantial amounts of scarce energy resources.

While I recognize the state of our entire transportation system needs treatment, I am well aware that the Nation's railroads are in a crisis. Large parts of the rail system are in a state of physical deterioration. Some railroads are in bankruptcy and others are on the brink of financial collapse. For this reason, I am sending to the Congress railroad reform proposals first, and I urge action without delay.

The rail problem has been neglected too long and the desperate condition of the industry is indicative of this neglect. We must begin at once a major and massive initiative to restore the vitality of this essential industry. I have established for this Administration a goal that calls for the complete revitalization of the Nation's railroad system so it can serve the needs of modern America. We are moving

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forward with a program to assure a healthy, progressive rail system. The Railroad Revitalization Act is a critical part of this program. I have directed the Secretary of Transportation to lead this effort and to make its achievement one of his prime concerns.

A major problem faced by the railroad industry is outdated and excessive Federal regulation. Much regulation, originally imposed to prevent monopoly abuses and promote development in the western States, has long since outlived its original purposes. Indeed, Federal regulation has grown so cumbersome that it retards technical innovation, economic growth, and improved consumer services. The legislation I propose will improve significantly the regulatory climate in which all railroads operate. Removal of unnecessary and excessive regulatory constraints will enable this low-cost, energy-efficient form of transportation to operate more effectively, to provide better service, and to more fully realize its great potential. The increased efficiencies resulting from these reforms will produce energy savings on the order of 70,000 barrels of oil per day.

In addition to improving the regulatory environment in which the Nation's rail system functions, this legislation will make available to the rail industry financial assistance which it must have to accomplish necessary modernization of outdated plant and equipment. This assistance will be in the form of $2 billion in long-term loan guarantees so that the Nation's railroads can repair deteriorating roadways and obtain badly needed modern equipment and facilities at reasonable costs. In addition, discriminatory State taxation of the rail industry will be outlawed.

The legislation will also provide special procedures to hasten major restructuring of the rail industry by enabling the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. These actions will be governed by expedited merger procedures under which the Secretary and the ICC can facilitate the desired restructuring. I have directed Secretary Coleman to take all steps necessary to cooperate with the Congress so that this important and vital legislation can become law in the very near future.

In view of the rail system's role in our Nation's economy, I urge the Congress to give this measure immediate consideration. The importance of regulatory reform to the efficiency of our transportation system cannot be over-emphasized. While special interests may resist these necessary changes, I am confident that the benefits to the American people will be so great and so clear that the Congress will act quickly.

GERALD R. FORD

THE WHITE HOUSE,

May 19, 1975.

# # # # # #

EMBARGOED UNTIL 3:00 P.M., EDT, MONDAY, MAY 19, 1975

May 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

THE RAILROAD REVITALIZATION ACT

The President is transmitting to Congress today the Railroad Revitalization Act (RRA) which will eliminate excessive and antiquated regulatory restrictions, increase competition in the railroad industry, improve customer services, strengthen the ability of the railroads to adjust to changing economic conditions, and provide financial assistance in the form of loan guarantees to help the railroads make needed improvements in their facilities.

This is the first piece of the President's overall program to achieve fundamental reform of transportation regulation. Similar reform measures for truck and airline regulation will follow shortly. Taken together, these proposals, representing the most comprehensive approach to reform in the long history of economic regulation of the transportation industry, will substantially benefit consumers annually and conserve scarce energy resources.

BACKGROUND

This legislation builds on the Transportation Improvement Act (TIA) which was introduced in the 93rd Congress. A Surface Transportation Act, incorporating many features of the TIA, was passed by the House, but final action was not taken by the Senate. This legislation proposes a number of fundamental changes designed to significantly reduce government intervention in the day-to-day business of the railroads and their customers.

PRINCIPAL OBJECTIVES OF THE LEGISLATION

1. To provide for more efficient, more competitive, and thus less costly rail transportation. This Act will substantially increase reliance on normal competitive market forces to set shipping rates. It is specifically designed to cause a reduction in rates which are too high and are inequitable to shippers and consumers. For the first time, railroads will be able within reasonable limits to adjust rates without ICC interference. In addition, the regulatory decision making process will be simplified, thereby eliminating the high costs involved in lengthy litigation.

2. To increase competition between various kinds of transportation and encourage a better utilization of resources by assuring that goods are transported by the most efficient means of transportation. The present regulatory process enables the ICC to hold railroad rates at unreasonably high levels in order to protect other modes of transportation from the effects of competition. As a result, traffic which can most economically be moved by rail is

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often diverted by the rate structure to other forms of transportation. This results in higher shipping costs and consumer prices. By providing for greater pricing flexibility, shippers will be able to take greater advantage of low cost, energy efficient rail transportation. Substantial fuel savings will also result from these reforms.

3. To eliminate certain antitrust immunities which permit carriers to set and hold rates at unreasonably high levels. At present rate bureaus or carrier association sanctioned by the ICC are permitted to act collectively to establish rates and charges for transportation services. Their actions are now immune from Federal antitrust laws to which nearly every other business in the country is subject. The proposed legislation seeks to prohibit rate bureaus from engaging in certain specified rate making activities which serve to stifle competition and discourage new service innovation. For example, it will prohibit rate bureaus from discussing and agreeing on rates involving only one railroad and it will limit the use of general rate increases to increases in labor and fuel costs only. The legislation will make anticompetitive rate bureau activities subject to normal antitrust prosecution, while preserving their legitimate service functions.

4. To assure that regulation provides adequate protection to consumer interests. The Administration does not seek to eliminate all regulation. For example, the protection of shippers and carriers from predatory pricing practices is a proper function of government. This legislation carefully preserves regulation which acts to serve the public interest. The user of rail transportation services is assured an appropriate right of redress for what he considers to be an unfair or illegal rate and the legitimate interests of competing carriers are protected as well.

5. To provide needed financial assistance to the railroad industry. An efficient, financially sound rail system is a great national asset. The legislation would provide up to $2 billion in Federal loan guarantee authority to finance improvements in rights of way, terminals, rail plant facilities, and rolling stock. Naturally, these loans will be subject to specific conditions in order to assure that the capital improvements being financed will contribute to the overall efficiency of railroad operations.

6. To encourage speedy and rational restructuring of the railroads which will improve their economic health. At present, our railroads are in serious need of restructuring. Basically, the problem is one of excess capacity in some areas, including, for example, excessive duplication of parallel mainlines, and inadequate capacity in other areas. This contributes significantly to the uneconomic and inefficient operation of the railroads. In the past, efforts to restructure the system through merger or various cooperative agreements between railroads have been thwarted by cumbersome regulatory procedures.

   This legislation establishes a new procedure which will enable the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. This provision will permit the Secretary and the ICC to expedite many merger proceedings and facilitate some of the restructuring necessary to preserve a viable private sector rail industry.

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SECTION-BY-SECTION ANALYSIS

1. Railroad Ratemaking and Abandonment. This section more clearly defines the principles of ICC ratemaking powers in terms of particular actions that may or may not be taken. For example, the ICC may not find rates too low if they cover a carrier's costs, the ICC is prohibited from protecting one carrier against competition from a carrier of another mode; the ICC is instructed to consider the effect of rates on transportation efficiency in exercising its decision making authority, etc.

   The RRA also establishes new procedures to ensure adequate prior notice of proposed rail abandonment actions.

2. Anticompetitive Practices of Rate Bureaus. This portion of the bill provides for the removal of antitrust immunities from certain anticompetitive rate bureau practices. Such action will prohibit collusion on rates for single-line freight movements; limit participation in rate actions to those carriers actually involved, and prohibit joint actions to protest or request suspension of rates.

   In addition, the bill requires rate bureaus to maintain voting records on each of their members which are open to public inspection, and requires bureaus to act within 120 days on any rule, rate, or charge appearing on its docket.

3. Intrastate Railroad Rate Proceedings. The Act gives the Interstate Commerce Commission authority to determine an intrastate rate which is the counterpart of an already approved interstate rate in the event that the appropriate State agency has failed to take final action on a rate change within 120 days from the time it was filed by a carrier.

4. Suspension of Railroad Rates. One of the basic purposes of the RRA is to provide increased pricing flexibility for the railroads. Section 5 of the Act establishes a phased approach to providing the necessary flexibility and specifically limits ICC suspension powers. It permits railroads to adjust rates up or down without fear of ICC suspension so long as the change is within certain percentage limits: 7 percent in the first year; an additional 12 percent in the second year; and another 15 percent in the third year. Such an approach will result in the creation of a control-free "zone of reasonableness" of approximately 40 percent during a three-year phase-in period. Following the third year, the ICC may not suspend a rate decrease for being too low, so long as a carrier's costs are covered. Similarly, rate increases of 15 percent or less will not be subject to ICC suspension. In cases where the ICC retains the power to suspend rates, they will be required to make findings such as a court does when it issues a temporary restraining order -- that the action will result in immediate and irreparable damages.

   In addition, the bill sets a 7-10 month time period for completion of hearing procedures in rate cases. In cases involving large capital expenditures ($1,000,000 or more), the ICC will be required to act within 180 days after the filing of the notice of proposed tariff. To encourage investment and provide a period of stability, such rates may not be suspended or set aside for a period of 5 years.

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5. Railroad Revenue Levels. The Act provides that the ICC shall prescribe uniform criteria for determining the financial condition of a railroad, including such things as estimating the rate of return on capital and adequacy of cash flow.

6. Discriminatory Taxation. Section 7 of the RRA adds a new provision to the Interstate Commerce Act prohibiting the levying of discriminatory State or local property taxes on common carriers, thus eliminating excess taxes on railroads of approximately $55 million annually.

7. Uniform Cost and Revenue Accounting. This section requires the ICC and the Department of Transportation to study and recommend uniform cost accounting and revenue accounting methods for rail carriers. Present accounting systems are outmoded and inadequate to resolve the complex cost accounting problems of modern transportation firms.

8. Financial Assistance. The Act authorizes the Secretary of Transportation to issue loan guarantees of up to $2 billion for the purpose of financing improvements in rights of way, terminals, rolling stock, and other operational facilities. These loan guarantees will be based on (a) the contribution the proposed improvement will make to the betterment of our nation's rail system, (b) the ability of the recipient to repay the loan, and (c) the recipient's ongoing program to upgrade his physical plant. Loans guaranteed by the Secretary may be financed through the Federal Financing Bank. As a condition for granting the assistance, the Secretary may require the applicants to undertake specific restructuring actions. This section establishes a new procedure by which the Secretary, the Attorney General, and the ICC can expedite approval of restructuring activities and assure a proper balance between competitive interests and transportation needs.

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EMBARGOED UNTIL 3:00 P.M., EDT, MONDAY, MAY 19, 1975

May 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

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3. To eliminate certain antitrust immunities which permit carriers to set and hold rates at unreasonably high levels. At present rate bureaus or carrier association sanctioned by the ICC are permitted to act collectively to establish rates and charges for transportation services. Their actions are now immune from Federal antitrust laws to which nearly every other business in the country is subject. The proposed legislation seeks to prohibit rate bureaus from engaging in certain specified rate making activities which serve to stifle competition and discourage new service innovation. For example, it will prohibit rate bureaus from discussing and agreeing on rates involving only one railroad and it will limit the use of general rate increases to increases in labor and fuel costs only. The legislation will make anticompetitive rate bureau activities subject to normal antitrust prosecution, while preserving their legitimate service functions.

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5. To provide needed financial assistance to the railroad industry. An efficient, financially sound rail system is a great national asset. The legislation would provide up to $2 billion in Federal loan guarantee authority to finance improvements in rights of way, terminals, rail plant facilities, and rolling stock. Naturally, these loans will be subject to specific conditions in order to assure that the capital improvements being financed will contribute to the overall efficiency of railroad operations.

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   This legislation establishes a new procedure which will enable the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. This provision will permit the Secretary and the ICC to expedite many merger proceedings and facilitate some of the restructuring necessary to preserve a viable private sector rail industry.

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   The RRA also establishes new procedures to ensure adequate prior notice of proposed rail abandonment actions.

2. Anticompetitive Practices of Rate Bureaus. This portion of the bill provides for the removal of antitrust immunities from certain anticompetitive rate bureau practices. Such action will prohibit collusion on rates for single-line freight movements; limit participation in rate actions to those carriers actually involved, and prohibit joint actions to protest or request suspension of rates.

   In addition, the bill requires rate bureaus to maintain voting records on each of their members which are open to public inspection, and requires bureaus to act within 120 days on any rule, rate, or charge appearing on its docket.

3. Intrastate Railroad Rate Proceedings. The Act gives the Interstate Commerce Commission authority to determine an intrastate rate which is the counterpart of an already approved interstate rate in the event that the appropriate State agency has failed to take final action on a rate change within 120 days from the time it was filed by a carrier.

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   In addition, the bill sets a 7-10 month time period for completion of hearing procedures in rate cases. In cases involving large capital expenditures ($1,000,000 or more), the ICC will be required to act within 180 days after the filing of the notice of proposed tariff. To encourage investment and provide a period of stability, such rates may not be suspended or set aside for a period of 5 years.

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6. Discriminatory Taxation. Section 7 of the RRA adds a new provision to the Interstate Commerce Act prohibiting the levying of discriminatory State or local property taxes on common carriers, thus eliminating excess taxes on railroads of approximately $55 million annually.

7. Uniform Cost and Revenue Accounting. This section requires the ICC and the Department of Transportation to study and recommend uniform cost accounting and revenue accounting methods for rail carriers. Present accounting systems are outmoded and inadequate to resolve the complex cost accounting problems of modern transportation firms.

8. Financial Assistance. The Act authorizes the Secretary of Transportation to issue loan guarantees of up to $2 billion for the purpose of financing improvements in rights of way, terminals, rolling stock, and other operational facilities. These loan guarantees will be based on (a) the contribution the proposed improvement will make to the betterment of our nation's rail system, (b) the ability of the recipient to repay the loan, and (c) the recipient's ongoing program to upgrade his physical plant. Loans guaranteed by the Secretary may be financed through the Federal Financing Bank. As a condition for granting the assistance, the Secretary may require the applicants to undertake specific restructuring actions. This section establishes a new procedure by which the Secretary, the Attorney General, and the ICC can expedite approval of restructuring activities and assure a proper balance between competitive interests and transportation needs.

# # # #

JAN 9 1976

THE WHITE HOUSE

WASHINGTON

January 9, 1976

MEMORANDUM FOR: JACK MARSH

FROM: BOB WOLTHUIS RKW

SUBJECT: Rail Bill

The negotiations on the Rail Bill are being conducted by UnderSecretary Barnum with the staff of the Senate Commerce Committee. Apparently Barnum is negotiating for the department because Senator Hartke does not want to deal with Secretary Coleman.

On the dollar figures they have reached agreement at about $6 billion. This is about $500 million below what the Administration said was its bottom figure and about $200 million over our original recommendation. They have reached compromise on practically all other issues and the one big remaining issue is the funding control mechanism. The committee staff is insisting that the funding control mechanism be lodged in the USRA Board. This, in essence, would be a private board and, therefore, would eliminate Executive Branch control over the funding process and the ultimate status of the entire program. DOT has offered a compromise calling for three Executive Branch members and two private.

This remains a very big problem but Secretary Coleman is still of the opinion that it can be resolved by the time Congress returns.

In talking to Ed Schmults this morning he feels that the difference is so serious and the issue so important that if it is not resolved along administration lines the bill would have to be vetoed. The other side of that issue is that the dollar figure is well within administration parameters and do you veto over the control mechanism?

The Transportation sources I am talking to are quite convinced that Secretary Coleman will not recommend a veto of the bill on the control mechanism alone.

The next meeting between Barnum and the Congressional staff takes place Monday.

The actual legislative mechanism surrounding the bill is complicated and I do not yet have all the answers. The original Rail Bill has been to conference and both the Senate and the House agreed to the conference report. On December 19 the Congress passed a concurrent resolution that amended the conference agreement. Under the rules of the Senate and the House an enrolled bill can be corrected by a concurrent resolution. Furthermore, a concurrent resolution amending a bill can also be amended. Thus the funding control mechanism could be added to the conference agreement by another concurrent resolution which would require a unanimous consent.

Organization	Year Established	Primary Regulatory Functions
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
Federal Housing Authority	1934	Sets and enforces standards for Federally insured residential and commercial properties.
Federal Insurance Administration	1968	Sets standards for all insurance programs related to natural disasters and similar occurrences.
Interstate Land Sales Administrator	1968	Requires disclosure and regulation for interstate sales of land in quantities of over 50 lots.
DEPARTMENT OF THE INTERIOR		
Mining Enforcement and Safety Administration	1973	Sets and enforces mine safety standards.
Bureau of Land Management	1946	Classifies, manages use of, and disposes of all public lands.
Bureau of Reclamation	1902	Establishes criteria for use, development, and pricing of resources obtained from reclamation projects.
Ocean Mining Administration	1975	Supervises leasing of ocean resources and regulates ocean mining.
DEPARTMENT OF JUSTICE		
Antitrust Division	1903	Reviews and prosecutes most proceedings under antitrust statutes.
Drug Enforcement Administration	1973	Regulates legal trade in narcotics and dangerous drugs.
Immigration and Naturalization Service	1891	Determines eligibility of aliens to enter U.S. and obtain certification for employment.
DEPARTMENT OF LABOR		
Employment Standards Administration	1933	Sets and administers standards under laws relating to minimum wages, overtime, nondiscrimination, etc.
Occupational Safety and Health Administration	1973	Develops and enforces worker safety and health regulations.
Labor-Management Services Administration	1963	Determines (with Treasury) eligibility of employee welfare and pension plans and sets standards for financial disclosure.
DEPARTMENT OF TRANSPORTATION		
Coast Guard	1915	Sets and enforces safety standards for merchant vessels and navigable waterways.
Federal Aviation Administration	1958	Certifies airworthiness of aircraft, licenses pilots and operates air traffic control system.
Federal Highway Administration	1966	Determines highway safety standards and administers Federally funded highway construction programs.

January 15, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH

SUBJECT: Rail Bill Negotiations

I thought you would find of interest the attached summary prepared by Bob Wolthuis on the status of negotiations on the Rail Bill.

Attachment

JOM/dl

THE WHITE HOUSE

WASHINGTON

January 14, 1976

MEMORANDUM FOR: JACK MARSH

FROM: BOB WOLTHUIS RKW

SUBJECT: Rail Bill Negotiations

I have had discussions this morning with Ray Warner, and John Barnum at DOT. Part I of this memorandum is financial or monetary provisions. Part II is the Non-Monetary portion, and Part III is political.

The items agreed upon in the bill are as follows:

I. Monetary Provisions

1. The total dollar figure is $6.1 billion.

2. There is a nationwide abandonment subsidy program funded at $360 million. Under the abandonment program, after a railroad has decided to drop a particular line and has ICC permission to do so, the lines would be subsidized at 100% for six months and then a declining percentage thereafter. Once this process is under way state and local governments will then have the option to operate the line or find alternative transportation systems.

3. $180 million for branch line subsidies in the northeast region.

4. $1 billion in loan guarantees.

5. $600 million for railroad rehabilitation.

6. $125 million for commuter subsidies in the northeast region.

7. $2.1 billion for Conrail.

8. $1.6 billion for the northeast quarter high speed rail construction.

9. $150 million in grants for rehabilitation. This is a 50-50 state-federal arrangement.

II. Key Non-Monetary Provisions

1. The Finance Committee which had been a major issue in the negotiations, will consist of the Secretary of the Treasury, the Secretary of Transportation, and the USRA president. The actions of the Finance Committee will be subject to a one house Congressional veto. However, the only vote to be taken by the Congress would be on a Finance Committee decision to terminate investment in conrail.

2. There is a provision for supplementary transactions. This would allow the reorganization of railroads to continue and also allow the Secretary of Transportation to petition courts for the sale of portions of conrail.

   The DOT people stress that these are staff negotiations. The staff must now take it to the principals of their committees for approval. They do not want anything leaked because the railroads and unions are not in agreement on many of the provisions negotiated thus far.

III. Political

1. John Barnun informed me that Senator Hartke may well press for a meeting with the President before the Rail Bill is finalized. It would not be a negotiating session, but rather a face-saving move for Hartke or a celebration. Barnum feels this may not be acceptable to Senator Pearson. Hartke's purpose is to help himself politically in Indiana. An option to this would be a signing ceremony because the bill itself is a major piece of legislation.

   The means of getting the agreements incorporated into the bill have not yet been resolved. There is some danger of going back and offering a clean bill because this opens it up to the critics and to amendments. They can pass another concurrent resolution on top of the one already passed.