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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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