



DEPARTMENT OF
TRANSPORTATION

NEWS

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20590

OPENING STATEMENT BY SECRETARY OF TRANSPORTATION, CLAUDE S. BRINEGAR, FOR BRIEFING ON NORTHEAST RAIL ACT, JANUARY 2, 1974.

I'm pleased to report that President Nixon is starting the New Year by signing H.R. 9142, the Regional Rail Reorganization Act of 1973. This signing sets in motion a 21-month process to restructure and refinance the several bankrupt rail lines, including Penn Central, that serve the northeast and midwest sections of the country.

It is my hope that this Act marks the beginning of a rail "turnaround"--the beginning of a new era of growth for this vital link in our National transportation system.

I wish to stress that I view this Act not as a step toward nationalization, with all its evils, but rather a step away from it. The procedures provided in this Act will, in

time, strengthen the private-sector role of the Nation's rail freight system. Without such strengthening we could well find ourselves driven toward Federal ownership as a last ditch way of preserving essential operations. This Act gives us a far better option.

While this Act affects only the rail lines serving the northeast and midwest sections of the country, including the giant Penn Central, we will soon propose legislation designed to improve the quality and financial health of the entire National rail system. This is an urgent matter, for rail represents one of the most energy-efficient and environmentally protective means of transportation.

I wish to commend the fine work of the House and Senate Commerce Committees and their staffs in drafting and enacting H.R. 9142. They gave full consideration to every recommendation we made. In its final action, the joint conference committee produced a compromise version which provides the means for averting a transportation and economic crisis of major proportions. Also, there was noteworthy cooperation between rail industry and labor in working out this solution. From this fine start we now must take the tools provided by this Act and quickly and cooperatively put them to work.

The signing of this important transportation bill gives me an occasion to note that the Nixon Administration and Congress have, in fact, worked closely together to produce a number of important pieces of transportation legislation. The major ones of recent years include:

- The Airport and Airways Development Act, which attacked problems of air traffic congestion and safety.
- The Rail Passenger Service Act, which organized AMTRAK and started a renewal of rail passenger service.
- Amendments to the Urban Mass Transportation Act, which brought into existence a multi-billion dollar Federal grant program to help rebuild and expand the Nation's urban mass transit systems.
- Amendments to the Federal-Aid Highway Act, which, while continuing construction of the vital Interstate Highway System, also permitted urban highway dollars to be flexibly used for a variety of transportation investments, including mass transit.

These and other programs are doing much to address the Nation's serious transportation problems. Taken together with other legislation we will shortly propose, we believe that these programs are permitting us to make significant progress in seeing that the Nation has the "fast, safe, efficient, and convenient transportation" that Congress called for when it established the Department of Transportation just a little over seven years ago.

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BASIC PROVISIONS

OF

H. R. 9142

"REGIONAL RAIL REORGANIZATION ACT OF 1973"

GENERAL

The purpose of H.R. 9142 is to establish special procedures for restructuring the rail system in the Northeast. At present, seven Class I railroads and one Class II railroad which operate in the Northeast are in bankruptcy, and some of those railroads, including the Penn-Central, are in danger of being liquidated. The bill was developed on the premise that existing laws for the reorganization of railroads were inadequate to the task of providing a satisfactory way out of the dilemma presented by these bankruptcies. The need was clear for the establishment on a one-time basis of a process whereby these bankruptcies could be dealt with as a group.

The railroad industry in the Northeast is afflicted by many special problems stemming in large part from the overcapacity of the rail system in that area and certain fundamental changes that have occurred over the years in the economy of the region. By establishing special procedures for planning and financing a new rail system, for abandoning unnecessary service, and for providing court review of the impact that the transfer of rail properties would have on the creditors of the estates of bankrupt railroads, H.R. 9142 provides a way to deal with many of these problems and to preserve in the Northeast rail transportation service vital to the economy of all regions of the nation.

ORGANIZATIONAL PROVISIONS

The bill establishes two new major organizations to carry out the purposes of the legislation. First, it establishes the United States Railway Association, a nonprofit Government corporation, which is given broad powers to plan and and finance a new rail system for the Northeast. Based upon a preliminary Core system report formulated by the Department and subsequent inputs by a new planning office to be established in the Interstate Commerce Commission, the Association would first issue a preliminary system plan and later a final system plan designating (1) the rail properties to be transferred to the Corporation or offered for sale to profitable railroads operating in the Northeast, (2) the rail properties to be purchased, leased, or otherwise acquired from the Corporation by Amtrak, (3) the value of all rail properties to be transferred under the final system plan, and (4) the value of securities and other benefits to be offered for the transfer of those rail properties to the Corporation under the plan. Once approved by the Board of Directors of the Association, the plan would be submitted to both Houses of Congress for review and, if rejected by either House within 60 days, revised by the Association and resubmitted for Congressional review.

The second new major organization established by the bill is the Consolidated Rail Corporation. The purpose of the Corporation is to operate all of the new rail systems designed by the Association, except those rail properties which the final system plan designates for sale to profitable railroads operating in the Northeast. The earliest that the Corporation could start rail operations would be approximately 21 months after the date of enactment of the bill.

COURT ACTIONS

Within 120 days after the date of enactment of the bill, the United States district courts or other courts having jurisdiction over railroads in reorganization in the Northeast would decide whether those railroads are reorganizable independently under section 77 of the Bankruptcy Act and whether the public interest would be better served by such a reorganization than by the conveyance of some of their rail properties to the Corporation under the bill. Within 180 days after the date of enactment, those courts would decide whether those railroads should be reorganized by means of transferring some of their rail properties to the Corporation pursuant to the provisions of the bill.

Subsequent to the approval of the final system plan by the Congress, and following the deposit with the court of the compensation designated in the final system plan, a special three-judge district court selected by the judicial panel on multi-district litigation would order railroads in reorganization to convey to the Corporation and profitable railroads operating in the Northeast the rail properties designated for such transfer in the final system plan. Subsequent to that transfer, the court would review the transfers from the standpoint of whether they are in the public interest and fair and equitable to the estate of each railroad in reorganization. If the special court finds these tests are not met, it may order a reallocation of the securities deposited as compensation for the rail properties or a judgment against the Corporation or other acquiring railroads which would make the transfers fair and equitable.

AUTHORIZATIONS

The bill authorizes the Association to issue up to \$1.5 billion in Government guaranteed obligations to implement the final system plan. Of that amount, not to exceed \$1 billion could be issued to the Corporation. Of the aggregate amount to the Corporation, at least \$500 million would be devoted to the modernization of the rail properties acquired by the Corporation. It also authorizes the Secretary to commit up to \$150 million in obligations of the Association for upgrading of plant and equipment before rail properties are transferred to the Corporation. The \$500 million not available to the Corporation will be available to: (1) other railroads in the region for assisting in the implementation of the final system plan, (2) Amtrak for improvement of the Northeast Corridor rail

passenger service, and (3) State or local or regional transportation authorities for purchase and rehabilitation of rail lines not in the final system plan, and (4) other railroads connecting with the bankrupt carriers and in need of financial assistance to avoid reorganization proceedings. Any increase in the obligational authority limitation would be by joint resolution of the Congress.

Other authorizations are: \$12.5 million to the Department for expenses incurred in carrying out its general responsibilities under the bill; \$5 million to the ICC for similar purposes; \$26 million to the Association for its expenses; \$85 million to the Department to be made available to bankrupt railroads to ensure the continued provision of essential transportation services pending implementation of the final system plan; \$90 million for each of the two fiscal years including and following the effective date of the final system plan for the subsidization of local rail services in the Northeast; and \$250 million to a separate account in the Treasury to reimburse the Corporation, the Association, and acquiring railroads for amounts paid to protected employees under the labor protection provisions of the bill.

ABANDONMENT OF SERVICE; RAIL SUBSIDIES

Provision is made under the bill for the abandonment of rail service according to simple notice procedures if the service is not included in the final system plan and if the bankrupt railroads which operate it transfer rail properties to the Corporation in accordance with the final system plan. To help reduce the impact the restructuring will have on shippers and communities, provision also is made for the subsidization of rail service in the Northeast which otherwise would be discontinued under the final system plan. The bill authorizes \$90 million for each of the two fiscal years including and following the effective date of the plan. Funds would be made available to States and local governments in the region on a 70/30 Federal/State cost sharing basis. Fifty percent of the funds authorized would be made available according to an allocation formula based primarily on track mileage in each eligible State and fifty percent would be made at the discretion of the Secretary.

EMPLOYEE PROTECTION

The bill contains detailed provisions respecting the protection of railroad employees dislocated as a result of the implementation of the final system plan. Such employees who are deprived of employment or adversely affected with respect to their compensation would be provided monthly displacement allowances based upon their former earnings, except that allowances could not exceed \$2,500 per month. Unemployment compensation and fifty percent of non-railroad earnings would be deducted from such allowances. In the case of employees with more than five years of service upon the date of enactment of the bill, the displacement allowances would continue until the employee reaches age 65 or dies, retires, resigns, is dismissed for cause, or refuses to transfer to a new job offered by the Corporation. A protected employee with less than five years service upon the date of enactment will receive such monthly allowances for a period equal to his total prior years of service.

The protection provisions also allows lump sum separation payments not exceeding \$20,000 in lieu of all other benefits at the option of the employee, and allows the Corporation to terminate any employee with less than three years service on date of enactment with the payment of a scaled down separation allowance.

The Corporation, the Association (where applicable), and the acquiring railroads would be responsible for the actual payment of the displacement and separation allowances. Those organizations would then be reimbursed by the Railroad Retirement Board from a new Regional Rail Transportation Protective Account maintained in the Treasury. Not more than \$250 million is authorized to be appropriated into that account.

DOT DUTIES AND FUNCTIONS UNDER H.R. 9142

- § 201 1. The Secretary serves as an incorporator of USRA for a period of not more than 45 days after the USRA incorporators file the articles of incorporation for the Association.
- § 201 2. The Secretary serves as a Director of USRA and as a member of the USRA Executive Committee.
- § 204 3. The Secretary must prepare and publish within 30 days after enactment a report containing his recommendations with respect to the geographic zones in the region in and between which rail service should be provided.
- § 210 (c) 4. The Secretary must guarantee all obligations issued by USRA if requested to do so by USRA.
- § 213 5. The Secretary administers the \$85 million program for ensuring the continuation of essential rail services pending implementation of the final system plan.
- § 215 6. The Secretary may commit up to \$150 million in USRA bonds for the maintenance and improvement prior to their conveyance to the Corporation of rail facilities and equipment of bankrupt railroads that will be in the final system plan.
- § 301 7. The Secretary serves as an incorporator of the Corporation. The incorporators must establish the Corporation within 300 days after enactment and adopt its bylaws. They act as the Board of Directors until the stock of the Corporation is distributed to the bankrupt estates under section 303(c) (sometime after 620 days after enactment). The Secretary continues as a Board member as long as at least 50% of the outstanding indebtedness of the Corporation consists of obligations of USRA or other debts owing to or guaranteed by the U.S.
- Title IV 8. The Secretary administers the subsidy program for local rail services under sections 402 and 403 of the Act.
- § 601 (d) (3) 9. The Secretary is responsible for beginning the necessary engineering and improvements to the Northeast Corridor upon enactment of the Act. The Conference Committee expressed the expectation that corridor improvements would be completed within five years after enactment.
- § 602 10. The Secretary as part of his annual report each year must submit to Congress a comprehensive report on the effectiveness of USRA and the Corporation in implementing the purposes of the Act.

11. A number of studies and reports required by the Senate bill were dropped in Conference. However, the Conference Committee expressed the belief that the Secretary should undertake as soon as possible a comprehensive study with respect to essential rail services outside of the region and with respect to the feasibility and desirability of expanding service by Amtrak.
- § 202 12. The Secretary is directed to establish conflict of interest regulations applicable to USRA.
(a) (5)

UPCOMING FREIGHT CAR HEARINGS

The Conference Committee omitted from H.R. 9142 the Freight Car title in the Senate bill. However, the House Conferees agreed that the first order of business for the House Subcommittee on Transportation and Aeronautics would be to hold hearings and report legislation dealing with the rolling stock problem.