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

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 17849 - Rail Passenger Service Act of 1970
Sponsor - Rep. Tiernan (D) Rhode Island

Last Day for Action

November 2, 1970 - Monday

Purpose

The bill would provide for: (1) the designation of a basic national rail passenger system, (2) the creation of and financial assistance to a National Railroad Passenger Corporation, authorized to own, manage and operate intercity trains, (3) the establishment of a financial investment advisory panel to advise the Corporation.

Agency Recommendations

Office of Management and Budget	Disapproval
Council of Economic Advisers	Disapproval
Department of Transportation	Approval
Interstate Commerce Commission	Approval
National Transportation Safety Board	Approval
Department of the Treasury	Approval (Informally)
Department of Labor	No objection
General Services Administration	No objection
Post Office Department	Defers to DOT
Department of Justice	Defers to DOT (Informally)

Discussion

H.R. 17849 originated from a joint effort of the Senate Commerce Committee and the Department of Transportation to develop a comprehensive rail passenger service bill. A version passed the Senate on May 6, 1970, with the support of DOT. The subsequently passed House bill, which the Senate then accepted, amended the original Senate version in several respects, the most important of which was to increase the loan and loan guarantee amounts in the bill. The grant provisions of the bill are in the same amounts as those endorsed by DOT.

The following is a summary of the major provisions of the enrolled bill with the important differences from the Senate-passed/DOT-supported bill:

(1) Title I states the congressional finding that a modern, efficient intercity railroad passenger service is a necessary part of a balanced transportation system; that the public requires the continuance of such service; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation; and that Federal financial assistance as well as investment capital from the private sector is needed.

(2) Title II - Basic national rail passenger system - The Secretary of Transportation, acting in cooperation with other interested agencies, would be required to submit to the ICC and to the Congress within 30 days his preliminary recommendations for the basic system. These recommendations would specify: those points between which intercity passenger trains shall be operated, all routes over which service may be provided, and the service characteristics of operations to be provided within the basic system.

Within 30 days after receipt of the preliminary report, the ICC, State commissions, and representatives of railroads and labor unions are to provide the Secretary with their comments on the report. The original Senate bill provided for a review by the ICC only; the House added the State commissions, railroads and unions.

The Secretary would then within 90 days after enactment submit his final report designating the basic system to the Congress. This report must include the recommendations of the ICC, the State commissions, railroads and labor unions together with reasons for failing to adopt any such recommendations. The basic system would become effective upon its submission to the Congress.

(3) Title III - Creation of a rail passenger corporation - The bill would authorize a National Railroad Passenger Corporation, which would be a "for profit" corporation and which would not be an agency of the U.S. Government. The purpose of the corporation would be to provide interstate rail passenger service.

Incorporation - The President would appoint at least 3 incorporators, with Senate advice and consent, who would also serve as the Board of Directors for the first 180 days.

Directors and Officers - The Corporation would have 15 directors, with 8 appointed by the President with the advice and consent of the Senate for 4-year terms, 3 elected annually by common shareholders, and 4 elected annually by preferred shareholders. The president and other officers of the Corporation would be appointed by the Board of Directors.

Financing - Two issues of stock are authorized, common and preferred, each of which carries voting and dividend rights. Common stock may be initially issued only to a railroad; and preferred may be issued and held only by a "person" other than a railroad or someone controlling a railroad. The bill further specifies par values, dividend arrangements, maximum allowable holdings for railroads, and other items.

General powers of the Corporation - The Corporation is authorized to own, manage, operate or contract for the operation of intercity trains; to conduct research and development; and to acquire or construct facilities and equipment necessary for railroad operation.

ICC and State regulation - The Corporation would be deemed a common carrier by railroad and subject to some ICC regulations but not those pertaining to fares, abandonment or extension of lines, and routes and service provided. Similarly, the Corporation would not be subject to any State laws relating to rates, routes or service.

Antitrust exemption - Persons contracting with the Corporation for joint operations of facilities and equipment would be exempted from the antitrust laws.

Reports to Congress - The Corporation would transmit a report annually to the President and the Congress. DOT and the ICC would also transmit reports to the President and the Congress, one year after enactment and then biennially, on the state of rail passenger service and the effectiveness of the Act.

(4) Title IV - Provision of rail passenger services - The Corporation is authorized to contract with a railroad (after a written request from the railroad) to relieve it of its entire responsibility for the provision of intercity rail passenger service under Federal or State laws. Such contracts would be offered to the railroads on or before May 1, 1971 and again during the period of March 1, 1973 through January 1, 1975. Upon entering into such a contract, the railroad would be allowed to discontinue all other passenger trains upon 30-day notice to the ICC. The Corporation would begin service between points in the basic system on May 1, 1971.

Payments to the Corporation - In consideration of being relieved of passenger service, a railroad would pay the Corporation whichever of the following three amounts is most favorable to the railroad:

(a) 50 percent of the fully distributed passenger deficit of the railroad for the calendar year 1969;

(b) 100 percent of the avoidable loss of all intercity rail passenger service operated by the railroad during the calendar year 1969;

(c) 200 percent of the avoidable loss of the intercity rail passenger service operated by the railroad over routes between points within the basic system during the calendar year 1969.

In return, the railroad would receive common stock in an amount equivalent in par value to the payment made. A five-year moratorium would be established on discontinuance of services by any railroad which has not contracted with the Corporation.

Corporation service responsibility - The Corporation would be required to provide the service included within the basic system until July 1, 1973, to the extent it has assumed responsibility for such service by a contract with a railroad to relieve that railroad of its responsibility.

Anytime after July 1, 1973, the Corporation could, subject to ICC procedures, jurisdiction, and authority under Section 13(a) of the Interstate Commerce Act, discontinue such train or trains in the basic system which it determines are not required in whole or in part by public convenience and necessity or will impair its ability to provide other services. The enrolled bill also requires that 30-days' notice of intention to discontinue any service must be given to the Governor of each State in which the train in question is operating and through public postings.

If during this period a State, regional or local agency requests continuation of the service and agrees within 90 days to reimburse the Corporation for at least two-thirds of losses associated with the continued service, the Corporation could not change or discontinue the service. Any disagreement as to the reasonable apportionment of such losses between the Corporation and the other public agencies would be resolved by the Secretary of Transportation taking into account the purposes of this Act.

Labor protection provisions - The bill provides protection for the interests of railroad employees affected by the discontinuance of intercity services. No contract between the Corporation and any railway for the assumption of passenger service by the former could be made unless the Secretary of Labor has certified to the Corporation that the labor protective provisions of the contract afford affected employees fair and equitable protection by the railroad.

The provisions of the Davis-Bacon Act are made applicable to laborers and mechanics employed by contractors and subcontractors of the Corporation in the performance of construction work. However, wage rates and collective bargaining agreements under the Railway Labor Act are to be considered as being in compliance with the Davis-Bacon Act. Health and safety standards promulgated by the Secretary of Labor under the Contract Work Hours and Safety Standards Act are made applicable to all construction work under contracts made by the Corporation.

(5) Title V - Establishment of a financial investment advisory panel - Within 30 days after enactment, the President would be required to appoint a fifteen-member panel to advise the Corporation on ways and means of increasing the capitalization of the Corporation. On or before January 1, 1971, the panel would submit a report to Congress evaluating the Corporation's initial capitalization and the prospects for increasing it.

(6) Title VI and Title VII - Federal financial assistance - The Federal Government would be authorized to provide the following financial assistance to the Corporation and the railroads:

(a) The Secretary of Transportation could make grants up to $40 million to the Corporation to assist it in organizing and conducting its affairs.

(b) The Secretary would be authorized to guarantee loans to the Corporation totaling $100 million to acquire new rolling stock, to upgrade roadbeds, or for other corporate purposes.

(c) The Secretary would be authorized to make loans or loan guarantees totaling $200 million outstanding at any one time to railroads for the purpose of enabling them to perform contracts entered into under this legislation.

This was the major change to the original DOT supported bill, which included amounts for the categories above of: $40 million, $60 million, and $75 million respectively.

(7) Title VIII - Miscellaneous provisions - Includes technical provisions on separability, auditing, etc.

(8) Title IX - Tax deduction - The provision, which was added in the House and was not in the DOT supported bill, would allow a railroad to take a tax deduction for any payment (in cash, equipment or services) made to the Corporation so long as the railroad does not in return receive stock in the Corporation. The deduction is to be disallowed if during a 36-month period following the last payment to the Corporation the railroad acquires any stock in the Corporation.

George P. Shultz

Director

Enclosures

ADDENDUM TO THE MEMORANDUM FOR THE PRESIDENT ON ENROLLED BILL H.R. 17849 RAIL PASSENGER SERVICE ACT OF 1970

Historical Development

Congressional interest and concern for railroad passenger service started in the summer of 1969 and serious activity began in September 1969, and centered around S. 2750 sponsored by Senators Hartke and Tydings and the American Association of Railroads. The bill provided for operating and equipment subsidies of $435M over 5 years. DOT testified in September and November and said they were studying the problem and would come up with recommendations by late December 1969. The Federal Railroad Administration of DOT favored direct subsidies to railroads, but Assistant Secretary of DOT Cherington proposed RAILPAX--a joint public-private corporation which would own and operate rail passenger service over a selected network of "potentially profitable" routes.

DOT submitted its basic proposal to the Bureau of the Budget on December 1, and requested clearance by December 2, since the Senate Commerce Committee was to be in executive session on that date to consider the committee print bill (S. 2750). DOT further stated that if the Administration did not take a strong position, the committee would report out its own bill that week. This threat (of a much more generous scheme of operating and capital subsidies) hung over all of the following negotiations. Substantially modified letters were sent to the committees by Secretary Volpe on December 8 and 11, which opposed operating subsidies and promised an Administration proposal by the start of the new session.

An interagency task force (WH, BOB, CEA, DOT) was established to develop and consider alternative approaches to the problem, including RAILPAX, and to develop a proposal. Although DOT participated in the interagency task force, it stood by its RAILPAX proposal and did not consider any alternatives as plausible. DOT submitted its legislative proposal for RAILPAX on December 23 and it was informally circulated to CEA, Commerce and Treasury.

On January 12, 1970, a White House meeting with Messrs. Baker and Cherington-DOT, Mr. Moore-CEA, Mr. Mann-BOB and Messrs. Cashen and Colson-WH, decided to submit a RAILPAX bill to Congress and a second draft of the bill was circulated for formal comments to the agencies. CEA, Commerce, Treasury, Labor, ICC and Justice all had serious problems with the DOT proposal which they felt should have been resolved before transmittal of an Administration draft.

Mr. Mayo met with Mr. Ehrlichman on January 17, 1970. Both were opposed to RAILPAX, and it was agreed that Mr. Ehrlichman would explore two alternatives:

1. Have a Congressman introduce the RAILPAX bill, or

2. DOT submit a bill to Congress authorizing liberal train discontinuance.

On February 12, 1970, Messrs. Ehrlichman, Cashen, Beggs, Baker and Mayo met and DOT was told to seriously consider 4 or 5 alternatives. DOT presented a paper discussing alternatives to Mr. Ehrlichman on February 18.

On February 23, 1970, in a letter to Mr. Ehrlichman, Mr. Mayo (1) raised the basic question of whether there is a need to save inter-city railroad passenger service; (2) challenged the economic viability of the DOT proposal; (3) predicted that RAILPAX would be a precedent for "continued and increasing Federal subsidy;" and (4) stated that RAILPAX would be subsidized competition for other modes of inter-city transportation and so might retard the substitution of other, more economic, techniques. The BOB letter concluded by recommending a "free market approach" to allow train discontinuances or an all private RAILPAX -- in that order.

On March 12, Senate Commerce Committee ordered reported a bill to establish and federally subsidize a national network of passenger trains. On May 1, a compromise amendment was introduced on the Senate floor by Senator Mansfield on behalf of Senators Magnuson, Cotton, Hartke, and Prouty which brought the bill essentially in line with the original DOT RAILPAX proposal.

On May 1, Secretary Volpe wrote Senator Magnuson strongly endorsing the bill (S. 3706, as amended) on behalf of the Administration. Formal clearance of this letter was never requested. On June 2, Secretary Volpe, in testimony before the House Interstate and Foreign Commerce Committee, said "On behalf of the Administration, I strongly urge early and favorable consideration of S. 3706 by this Committee and the Congress."

On June 17, BOB responded by letter to a request for views by the House Interstate and Foreign Commerce Committee and recommended that the "... Committee give favorable consideration to S. 3706 rather than H.R. 17428."

The bill was passed by the Senate on May 6, by a vote of 78 to 3.

On June 19, in another related action, DOT transmitted a draft bill (now S. 4011--sponsored by Senator Cotton) which was cleared as being "in accord with the President's program". That bill, which has not been reported out in either House, would authorize $750 million loan guarantees to all railroads.

On September 23, the House Interstate and Foreign Commerce Committee reported an amended version of the Senate-passed S. 3706 but raised the dollar authorization from $175M to $340M. Mr. Weinberger, in a memorandum to Secretary Volpe and Mr. Timmons, urged that the Administration strongly oppose the House committee bill as being extravagant and support the Senate-passed bill.

On October 14, when the bill was finally approved by the Senate and by a voice vote in the House, Secretary Volpe issued a public statement of praise for the Congressional action.

Pros and Cons

The pros and cons of the RAILPAX proposal as contained in H.R. 17849 can be addressed on 3 separate levels: 1. Should any effort be made to keep inter-city rail passenger service in existence? 2. Should the Federal Government provide financial assistance and/or become directly involved in the operation? 3. Is the bill as passed by Congress the best way to provide the Federal assistance?

1. Should any effort be made to keep inter-city rail passenger in existence?

Pro

1. Rail passenger service is or will again become an important alternative mode of inter-city transportation especially as population increases and congestion becomes even greater.

2. Existing rail passenger facilities (especially roadbeds) should be saved now so that if new rail systems come along, the land and right-of-ways will be available for later use.

3. Rail passenger service can reduce congestion, reduce pollution and provide mobility for those who do not or cannot drive or fly.

4. There should be one intensive experiment to see if rail passenger service can be profitable if operated with modern business techniques and with modern facilities.

Con

1. If the market economy supports other modes of inter-city transportation but not the railroads, public demand is not present, and railroads should go out of business until demand recurs.

2. Freight service will save the right-of-ways and basic roadbeds to be available for future possible needs.

3. Only 1-1/2% of inter-city passenger traffic is carried by railroads now and this is not likely to increase enough to meaningfully contribute to reduced congestion and pollution, or to economic support for increased capacity. In fact, the DOT proposal under the enrolled bill would reduce the present 17 million annual rail passenger trips to 4 million.

4. Number of riders is increasing on the modern Washington-New York Metroliner experiment but the profitability is inconclusive--this test should be carried further before a full scale program is undertaken.

5. The DOT proposal under the enrolled bill is not to save the presently operating inter-city rail passenger service but rather to reduce the roughly 420 trains now operating to some 200 "potentially profitable" trains in the basic system.

6. About 95% (all but 23) of towns with over 2,500 population now served by rail passenger trains also have inter-city bus service. All eleven of the inter-city corridors planned to be served by the "basic" rail passenger system have local service air lines.

2. Should the Federal Government provide financial assistance to and/or become directly involved in the operation of the rail passenger system?

Pro

1. There is no way under present law for the railroads to salvage that part of their passenger service which is economically viable or capable of being self-supporting--this is because there is much public pressure against "train-off" allowances by the ICC and the Congress would not permit it to happen.

2. Historical data indicate that after heavy "train-off" allowances in the early 1960's there was some initial improvement but in recent years the deficit has worsened as service has declined.

3. Government assistance is necessary to show Government concern for railroad transportation and create a positive attitude and that measure of necessary financing which the railroads cannot afford.

4. Railroad management is almost universally opposed to remaining in the passenger business, with or without subsidy.

5. Allowing a reduction in the deficits of the railroads through trainoffs would not result in improved service on the residual "paying" trains due to the present attitude of railroad management.

6. The Administration has already indicated its willingness to become directly involved in financial assistance to the nation's railroads by proposing (in June 1970), as part of the President's program, the Emergency Transportation Assistance Act (S. 4011) which would authorize $750 million in Government loan guarantees for loans to railroads.

<u>Con</u> 1. Direct financial and operating involvement by the Federal Government is not necessary and is perhaps far more assistance than is needed to "save" just the "potentially profitable" passenger trains. Through legislation, the ICC could be given a new statutory criterion to allow "train-offs" where other modes of transportation are available on a basis which would permit railroads to retain "profitable routes". This is the stated objective under the RAILPAX proposal. If this proposal is not economically sound without subsidy, it probably will not be after subsidy. If some form of financial relief is needed to upgrade service and facilities on the remaining routes, legislation could provide for allowing pooled resources by the railroads possibly with Federal loan guarantees.

2. Direct Government intervention in inter-city rail passenger service in a form other than regulation is likely to lead to larger government subsidies or to a commitment to much greater aid to the railroads. The present financial crisis of the Penn-Central Railroad (which has 150 of the roughly 420 remaining passenger trains) may indicate that the difficulties of the railroads generally are so serious and systemic to general railroad operations that a remedy limited to the passenger train portion of the industry will not be adequate to meet the problem.

3. To make inter-city rail passenger service more competitive with other modes through subsidies and the elimination of marginal trains may divert passengers and worsen the economic viability, or even threaten the existence of other modes such as bus lines or local service airlines. The latter now serve all eleven of the inter-city corridors slated for improved rail service and they receive Federal subsidy.

4. As a precedent, the financial and operational assistance offered to the railroads under the RAILPAX proposal in the enrolled bill could be a basis for: (a) increased subsidies to local service airlines and (b) a claim by bus companies that they should have the same type of relief.

5. Subsidy to railroads runs counter to the Administration's approach to financing transportation programs--that beneficiaries of the service should pay their fair share of the Federal costs. Underlying the new airways/airports legislation is a commensurate increase in user taxes. The Federal-aid highway program is fully funded through gasoline and other use-related taxes. The heavy special overhead and lack of viable alternatives made user charges inappropriate for the new mass transit program. However, similar conditions do not exist for rail passenger service. The RAILPAX system, as authorized in the enrolled bill, could be criticized as a case of: benefits for few - taxation for all. A rational case could be made (if the new basic rail system is effective) that motorists should share the costs of decongesting the highways by using the Highway Trust Fund to support RAILPAX.

3. <u>Is the enrolled bill as passed by the Congress the best way to provide Federal assistance to support rail passenger service?</u>

<u>Pro</u> 1. The Government will be indicating "moral" and financial commitment to railroads.

2. The Corporation has substantial flexibility in managing the rail network and can run railroads for profit.

3. Under the Corporation, a single coherent management and planning of the "basic" system can be substituted for the present fragmented private railroad management structure.

4. The Corporation board has broad representation and technical expertise from government and private individuals.

5. The enrolled bill provides the Corporation with only modest capital. $340M from government and another estimated $200M from railroads to start Corporation. This is the minimum feasible participation by the Government to show good faith.

6. The enrolled bill avoids the threat of a far greater Federal financial involvement through operating subsidies to <u>all</u> passenger service.

<u>Con</u> 1. DOT's proposed reduction of the basic network to 200 trains is very optimistic. Because the basic network is not designated in advance there will be strong political pressure to create a basic system that is from the beginning very uneconomical due to the addition of non-self-supporting trains.

2. The potential for profitable operation, even if the planned reduction is achieved, is highly questionable. DOT's own data shows an overall deficit of $16 million in the fourth year. It is greater in earlier years. By the fourth year it is estimated that only 4 trains will operate at a profit.

3. The corporation can be forced to continue trains even after the first two years of operation because train discontinuances will have to be approved by ICC under the present law (Section 13(a) of the Interstate Commerce Act). Also, if a State or local body is willing to pay part of costs of operating the train, the corporation has to continue to run the train.

4. The establishment of a board of 15 directors, selected from different bodies, could lead to conflicting viewpoints and a weak management system.

5. The Secretary of Transportation must designate within 30 days of enactment of the bill the basic national systems and provide 30 days for State Commerce Commissions, labor unions and the ICC to comment. This time limit is probably too short to permit a thorough review of alternative basic system routes and to explore the viewpoints of other interested groups.

6. The Interstate Commerce Commission still has substantial powers over the corporation. ICC adjudicates differences as to the amount a carrier is obligated to pay the corporation; fixes compensation due carriers for use of tracks and other facilities; and prescribes regulations regarding adequate rail passenger service. This last provision (Section 801 of the enrolled bill) is almost open-ended and could inject ICC into many policy aspects of the corporation.

7. The President's role of appointing eight members of the corporation board means that the Federal government will continue to bear at least some "moral" responsibility for the corporation, thus increasing pressure for more Federal financial assistance if the corporation runs a deficit.

8. The Federal Government contributes $40M in direct grants, $100M for loan guarantees to help corporation acquire facilities, and $200M for direct loans or loan guarantees to help railroads enter into the basic network. Yet, corporation is semi-private, for-profit operation and government can have little impact on mode of operations except through the eight Presidential appointees.

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

MEMORANDUM FOR THE PRESIDENT

Subject: Railpax

Attached is a memorandum describing the enrolled bill and recording agency views. This memorandum discusses the reasons why we recommend a Presidential veto.

The Railpax corporation starts with a severe handicap. It will own rail passenger trains which are proven losers. After discontinuance of half of the trains and the injection of $340 million of Federal assistance in the form of grants, loans, and loan guarantees, the theory is the corporation will become profitable. Some railroad executives privately admit that this is impossible. Rather they expect annual operating deficits of $50 million or more. I realize that DOT has projected deficits declining until the corporation is profitable, which they estimate will be within four years. Their estimates appear unduly optimistic, and are not supported by adequate evidence.

The likelihood of deficits is reinforced since DOT plans to use as the criterion for the proposed grid, that a number of people equal to those now served will have access to service under Railpax. This allows only a <u>reduction</u> in the frequency of service, and not the <u>discontinuance</u> of long-haul service to population centers, the residents of which have long since shown their preference for other transportation modes. I realize that the criterion can be modified but political pressures may require such a grid anyway.

I understand that the estimates of a profitable Railpax are based on revenues declining only modestly or not declining at all, or even rising. This is in marked contrast to the forty percent decline in intercity passenger rail revenues during the last three years. I have seen no basis to expect a change in this trend. Moreover, the prospects for Railpax to be operating in the red are reinforced by a provision in the act which allows State or local authority to insist that an unprofitable train continue if the public body is willing to pay for two-thirds of the deficit.

The discontinuance of trains after the initial grid is determined, must be approved by the ICC in the same way that railroad companies request discontinuance now. The tie of Railpax to the Government and the intent of Congress to assist passenger service can be construed as nullifying the current emphasis on an economic reason for discontinuance. The result may be a larger operating deficit for the Federal Government to pay. Also, in five years this feature may result in more unprofitable trains in operation than if Railpax were not passed at all. Confidentially, some railroad executives have stated that discontinuance of trains would likely reduce the number to the level envisioned for Railpax within two or three years. The only advantage of Railpax would be to accomplish the same thing two years earlier. The use of Railpax to handle deficits could provide resistance for further discontinuance based on economic grounds.

The problems in identifying a viable grid are monumental. To do it in 30 days appears to risk selecting poor routes and being burdened with an unnecessarily large annual deficit.

The bill requires use of the Davis-Bacon Act, thereby assuring high labor cost for construction. By providing financial support, the Government will indirectly relieve pressures on unions and management to reduce high cost practices. This would occur at a time when management and unions are awakening to the gains from removing these practices.

Railpax, with its majority of directors appointed by the President, would inevitably have its deficits, its service problems, and its other headaches laid at the feet of the President. The Government would be charged with "running the railroads," without the necessary authority to improve any of the problems and with all the factors which led to the present plight built into their future operation.

A veto message should stress the unnecessarily high costs and limited benefits of the bill. This bill is nearly twice as expensive as the House version which was endorsed by the Administration.

In spite of the public position of the Secretary of Transportation in favor of the bill, I feel the bill is bad enough to veto.

Attachment

COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

October 27, 1970

Dear Mr. Rommel:

This is in reply to your request for our views on enrolled bill, ~~H. R. 17849~~, an act "To provide financial assistance for and establishment of a national rail passenger system, to provide for the modernization of railroad passenger equipment, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13a of the Interstate Commerce Act, and for other pruposes."

This bill would extend Federal involvement and financial assistance to an area of highly dubious value. Intercity rail passenger service has declined markedly over the years for clear economic reasons. The largest markets for rail passenger service have been lost to the speed of the airplane and the convenience and low cost of cars and buses. Only one percent of intercity passenger traffic goes by train. With the possible exception of high speed service in densely populated compact areas such as the Washington - New York - Boston corridor, rail passenger trains cannot compete with airplanes, cars or buses either on price or on travel time. Outside such areas, the rail passenger market is confined to those who have not become accustomed to the airplane, e.g., the elderly, or who place a low value on their time. This market is bound to shrink steadily in the future. The requirement of Section 201 to establish a nationwide rail system (including Hawaii, Alaska and Puerto Rico) flies in the face of all serious analyses of the demand for rail passenger service.

1%

The decline of the rail passenger market has been reflected in mounting losses. This bill would essentially relieve the railroads of these losses upon payment of half of last year's passenger deficit. Subsequent deficits, which are very likely to mount if any substantial intercity passenger train network is maintained, will have to come from the Federal treasury. The use of Federal funds to perpetuate an increasingly uneconomic service is extremely difficult to justify, especially when national budget priorities require the closest scrutiny. This is especially true in light of the substantial size of the initial Federal commitment and the prospect that it may grow in the future. We should point out that the original version of this bill provided Federal grants and loan guarantees of $175 million while the present bill provides $340 million.

Crux

Apart from the dubious merits of Federal subsidies for rail passenger service, this bill raises substantial issues of responsible fiscal management. The intercity rail passenger deficit is currently well over $100 million per year. This deficit, most of which will be shifted to the National Railroad Passenger Corporation, is likely to grow over the years. The total railroad and Federal contribution to the Corporation's capital even at the increased level in this bill has every prospect of being exhausted in 3 to 5 years. In spite of this, the bill has no provision to deal with the likely bankruptcy of the Corporation. This clearly visible problem is left for some future budget to deal with. This both evades a problem that ought to be dealt with now and promises to shift future decisions on rail passenger service from its economic merits to the merits of bankruptcy of a federally sponsored corporation. To avoid the loss of prestige involved in such a bankruptcy, future rail passenger deficits may get an open-ended claim on the Treasury, whether or not such a claim can be economically justified. To so shift the consequences of undercapitalization of the Corporation to future budgets is irresponsible fiscal management. We should not evade our responsibility by relying on value hopes that the underlying forces which produce rail passenger deficits will disappear. There are several other serious objections to this bill which I cannot discuss in detail. Particularly disturbing are the "feather bedding" provisions of Section 405, and the new obstacles to discontinuance of service in Section 404.

URGE RN VETO.

In summary, this bill appropriates substantial funds for an enterprise with little economic justification. The funds appropriated are already almost twice as large as those in the original bill. However, even at this higher funding level, there is the real prospect that future budgets will be saddled with commitments which it ought to be our responsibility to spell out now. For these reasons we strongly urge the President to veto this bill. If, however, he is not prepared to do this, his signing message should contain a clear commitment that the Federal capital contribution to the Corporation will be limited to the amount specified in this bill, that rail passenger service will have to stand or fall on its economic merits, and that this bill implies no claim on future budgets.

Goes to minimum REQS if signing.

Sincerely,

Paul W. McCracken

Mr. Wilfred H. Rommel
Office of Management and Budget
Washington, D. C.