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UNITED STATES SENATE
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Good afternoon. Thank you for the opportunity to speak to you today on the proposed Railroad Deregulation Act of 1979, and particularly on how it will affect the transportation of agricultural commodities.

The last ten years have been a period of tremendous growth and change in the agricultural sector of the United States economy. The growth in grain exports has been especially impressive. Exports in 1978 were 16 percent greater than in 1973, despite the fact that the 1973 level included a large part of the historic Rusian grain movement. A second important development has been the tremendous increase in on-farm storage capacity, which has given the farmer far greater control over the timing of the shipment of his crops. Last year, when the Department of Agriculture did its initial survey of on-farm and off-farm grain storage capacity, South Dakota capacity on farms was 5 times greater than commercial storage off-farm. This year's report indicates that farm storage for corn exploded again: corn storage on the farm now is eight times the off-farm commercial storage.

Unfortunately, adjustments in the transportation system, especially regarding railroads, have failed to keep pace with these changes. While other portions of the system have been free from most regulatory restraints in their ability to adjust, the railroads have not.

Plains to the West Coast, is ample evidence that conditions have changed drastically since the 19th century, when the unrestrained market power of the railroads created the need for regulatory controls. As the railroads have become progressively weaker, we have tried to modify the existing regulatory framework in specific areas, but these efforts have had disappointingly limited success.

We believe that additional piecemeal modifications also would fail. Therefore, our bill is a comprehensive measure designed to make fundamental changes in Federal regulation of the rail industry -- moving us away from governmental control and towards reliance on competition in the marketplace. I would stress that our bill, as as whole, is a system of checks and balances. Its pieces are designed to work together. We believe a comprehensive approach is essential if we are to develop an improved, rational, efficient transportation system. Now, I would like to describe the major sections of our proposed Railroad Deregulation Act of 1979 that are of particular interest to shippers of agricultural commodities.

Ratemaking

We are proposing to phase out maximum rate regulation over a five-year transition period. During the five-year transition, there will be a yearly 7-percent zone of reasonableness, on top of inflation, in which carriers will be free to raise their rates as long as they are not discriminatory. For rates outside the zone, the ICC will retain its ability to reduce rate increases, if a shipper can prove -- with real evidence based on real situations -- that essential terms of contract rates will also be made public so that shippers in similar circumstances can avail themselves of the same rate and service terms.

Notwithstanding this rate freedom, railroads will be required to cooperate with one another to provide nationwide connecting service. Through routes are basic to a national rail network, and the ICC will retain its power to require them. We will, however, eliminate the ICC's power to mandate a joint rate to apply for the entire movement. Railroads will be allowed to set their own joint rates and divide the revenues as they see fit. If the carriers cannot agree on a joint rate, or a division, the rates on individual portions can be added together to get a total so that shippers will have the continued convenience of single factor rates, and not have to deal separately with several carriers for a joint line movement. The elimination of mandatory joint rates is essential to allow each carrier in a through movement to set the rate for the service it provides without having to obtain the concurrence of its connecting carriers. Our proposal will eliminate the long and expensive divisions cases that have characterized ICC joint rate setting in the past. To accommodate efficient and prompt joint ratemaking, we will maintain antitrust immunity for discussions of joint line rates, but that immunity will be granted only to those carriers actually participating, or offering to participate, in the movement.

Greater rate flexibility is essential for a healthier and more responsive railroad industry. We believe our proposals will lead to rates more carefully tailored to the needs of individual shippers. We expect to see more rate/service options and more peak-load, seasonal, and contract rates. Some rates will go up and others down -- particularly during the off-peak -- but, in general, we anticipate that shippers and railroads will talk to one transportation costs, as is done with barges now. A contract could be made far in advance, or with little notice, with the assurance that, once the railroad accepted the offer, it would be legally bound to provide service. Volume, frequency and shipping dates will be negotiated by the parties involved.

While this system will be new to rail transportation, it has been used very successfully by the trucks and barges -- and grain shippers have shown their ability and their willingness to market grain using the non-rail modes. As long as the level of rail rates is fixed, the railroads will be unable to provide service on demand during peak periods. Allowing rates to fluctuate with demand will make it possible for the railroads to provide service during peak periods to those who value it most. The fixed rail rate level, which makes pricing grain so convenient, makes the marketing of grain exceedingly difficult during peak demand periods, as it too often results in a loss of service availability.

Industry Structure

Improving the railroads' financial health is not just a matter of raising their revenues. They must also cut their costs. We believe restructuring of the railroads' physical properties is an essential element in improving industry finances. We recognize that this means there will be more abandonments, and that this prospect is disturbing to shippers and communities served by lines that may be abandoned. Our approach is to address the problem of excess rail capacity without denying shippers and communities the right to rail

Under the bill, the ICC will still review proposed abandonment applications, pursuant to a public convenience and necessity test, but its investigation will be subject to strict standards and time limits. The application must be granted if the railroad can show that operating the line is non-compensatory, or that the benefits of abandonment exceeded its costs to the public. However, service will be continued on a line if an interested party offers to subsidize operations or purchase the line and the ICC finds that the subsidy or purchase price is, according to statutory standards, adequate.

Many people are concerned that increased abandonment will injure small towns and will necessitate additional trucking — using more fuel and damaging roads. Studies of abandonments in Iowa and Minnesota have found the impacts of abandonments on rural communities to be relatively minor. Commercial operations are adjusted to allow the communities to maintain a healthy economic base. With regard to rural roads and bridges, many will need to be upgraded even if no rail lines are abandoned, to move larger farm trucks and equipment, school buses, and many delivery trucks. Most of the non-farming traffic to and from rural communities shifted from rail soon after trucks were developed, and growth of this traffic continues. Fuel consumption could actually be reduced by some abandonments, as low-density branchline operations are among the least fuel efficient of all rail operations. Also, the abandonment of some lines and the use of rail subterminal train-loading elevators could reduce the need for long-distance trucking, saving fuel and reducing wear on the highways.

These changes in local economies and in local rail and highway needs have made the reevaluation of public transportation investments essential. The State of South Dakota is about to undertake such a major, in-depth study of its current and future needs. It will regard. We are confident, however, that our bill will lead to improved service, by providing the carriers the opportunity to earn a reasonable profit on existing traffic and allowing them the rate and service flexibility to attract new traffic. We are confident that the carriers will earn more by providing efficient, dependable service -- at appropriate rates -- than by running trains at restricted speeds on deteriorated tracks.

Other Issues

Some feel that our bill would give the railroads a free hand to take advantage of the shipper who is dependent on rail service, the so-called "captive shipper." We disagree, because we have concluded that in most cases there is adequate competition to limit the potential for monopolistic abuses by the railroads. The ability to truck grain to another railroad, a barge terminal, a local market or even to a distant market severely limits the railroads' market power. Vast amounts of grain are already moving in such patterns. We hope that the effective use of the rate flexibility provided by our bill will allow the railroads to recapture some of this traffic -- something they can do only by offering attractive rates and dependable service. Combined truck-barge movements are now used from areas formerly thought captive to rail. Additionally, the fact that grain from one area must compete with grain from other areas, and even from other countries, limits the extent to which railroads can raise their rates. Nevertheless, we recognize that many shippers are concerned about rail rate freedom and the 5-year transition period is intended to insure that there will be no abrupt shocks and that there will be time for Congressional action to provide protection should it be required in some situations.