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Folder Title:
Transportation Communications International - AFL-CIO [1]

Stack:	Row:	Section:	Shelf:	Position:
S	22	5	5	2

File
Labor - Transportation Unions

U. S. Department of Transportation
Office of Public Affairs

Room 10414
400 Seventh Street, S.W.
Washington, D.C. 20590

(202) 366-4570

Date 9/27

From: Scott Dykema

To: Jennifer O'Connor

Fax: 456-7929

Pages: 6 following this cover sheet

Comments: Final version of ~~Pena~~ Pena remarks to TTD department.

This fax originated at (202) 366-6337. Please call Constance Gray at (202) 366-4570 if there were any problems in transmission.

U.S. Department of Transportation

News:

Office of the Assistant Secretary for Public Affairs
Washington, D.C. 20590

REMARKS PREPARED FOR DELIVERY
SECRETARY OF TRANSPORTATION FEDERICO PEÑA
TRANSPORTATION TRADES DEPARTMENT - AFL-CIO
SEPTEMBER 27, 1995
WASHINGTON, D.C.

Thank you, George Kourpias (International President, Machinists Union) for those generous remarks. I'm very proud of our record.

And you should be, too. We've been lucky to have a leader like George. He's been a key player as we've toiled to rebuild the airline industry over the last few years.

Ron Cary (President, TTD), Ed Wytkind (executive director, TTD) it's good to see you both again. And good to see so many familiar faces from all the affiliated organizations.

Yes, a lot has changed in the industry, as you say George, and in the American economy over the last few years.

The Cold War is over. We're no longer responding to outside enemies but preparing for a global economy. We have more and more competition, more and more technology. And we face, you face, who represent many of the people who make up the backbone of our working families -- more opportunities and more challenges.

I'm here today to tell you we can, together, work to meet the economic challenges of our time. We've been doing that over the last 2 1/2 years and will keep working to make sure America is the leader in the global economy. And I know it can't be done alone, which is why we've been actively involved in addressing labor union issues unlike prior administrations.

This Administration -- President Clinton and I -- came to office with a different view of labor relations. What we believe is that the key to America's competitiveness is the performance and productivity of our workforce, and central to that is skilled union labor.

- more -

Instead of simply letting management and labor engage in serious disputes, we supported a notion of more constructive labor-management dialogue.

Take the case of United Airlines. That was the first one we tackled. When I got involved, the company was laying off workers, losing buckets of money like many other carriers, bankruptcy was just around the corner. We encouraged the unions and management to sit down and work out their differences. They did and, in the process, crafted the biggest employee buyout in corporate history.

Today, United is profitable and not a casualty as many at the time thought would happen. I fly United often, and you can just see the difference in employee attitudes. They're not just happy and more productive workers; they're stockholders with a stake in the company's future.

The United deal has set the tone for this Administration. I think the approach is effective, benefiting workers, corporate America, and the overall economy.

I know there's more to be done. My friend Bob Reich, I understand, will be talking with you tomorrow and he can bring you up to date with our efforts to raise the minimum wage -- it is plain wrong to expect people to work for $4.25 an hour -- and to channel more federal resources into worker retraining.

Like President Clinton, I want a high-wage, high-growth, high-opportunity country for all Americans. These are and must be our top priorities. A vibrant economy like ours today is better than any remedy we can cook up here in Washington.

Since day one, this Administration has worked overtime to bring the economy back from recession. Had you held this convention 2 1/2 years ago and I told you there would soon be over 7 million new jobs, the lowest unemployment and inflation rates in years, 2.5 million new homeowners, 1.5 million new small businesses, a record-breaking bull market on Wall Street and a cut in the deficit to $160 billion, you'd probably have asked who my joke writer was. But we had a major impact in all these changes.

Now, what about transportation? Virtually every market -- aviation, trucking, railroads -- by almost any measure is doing well. All are operating in the black. Profitable companies don't lay off workers; they usually hire more workers and can afford to pay them better.

- more -

I worked with union and management leaders in every one of these industries.

Just last week, I met with bus manufacturers to see what could be done to help turn things around in their industry. Look at shipbuilding. In 1993, U.S. shipyards had exactly one order for a commercial ship. The President helped shipyards up-grade technology, put and end to unfair foreign subsidies and made loan guarantees possible. And for the first time since I was in high school, we're building ships to export. I also hope we can persuade the Congress to support our Maritime Security Act.

Is anyone here from the flight attendants association (Association of Flight Attendants). I met with some of you in July. We talked about a lot things, including those new flight duty rules. I'm especially proud of what we did. You asked for an end to those 18-hour work days some 15 years ago. I put it on my radar screen, and the problem is now fixed.

You also mentioned what we did for American Airlines. Remember the 1993 strike against American Airlines, the year many travelling Americans nearly missed their Thanksgiving Day dinners? I sure do. It was five days from hell. President Clinton and I actively got involved to help settle the dispute. The end result: American is profitable, and the strike was settled.

Is anyone here from the pilots union? Any machinists? (IAM) Transport workers? (TWU).

Remember that late night meeting in my office two summers ago (July 1993) when we worked out a plan to keep Northwest Airlines from going broke? Management, the unions, and government officials as facilitators all put our heads together and came up with a better answer than bankruptcy.

These are the kinds of things I'm talking about when I say we can and must work together to fix our economic problems and prepare for the challenges ahead.

What about our Teamster friends. Any of you here today? Remember a year ago last April? Some 70,000 Teamster truck drivers and dock workers went on strike for 17 days. Secretary Reich and I worked with you. We listened to your problems and helped moved the dispute into mediation. That's cooperation, the kind we need to build an American economy for the future. A massive strike -- no matter how valid the reasons behind it -- makes havoc with the rest of this complex, integrated economy of ours.

- more -

I also want to thank the Teamsters for the strong position you have taken against provisions in the House National Highway System bill which would weaken federal safety standards.

I say the focus has to be on the broader economy. Without the engine of growth generating new jobs, and protecting existing ones, there is very little the government can do in a $6 trillion economy. Yes, we as a government must remain committed to worker friendly policies. I won't step away from the American worker. But no one benefits if the overall economy goes in the tank, or if a sector or particular region is in trouble. No one.

That's why we -- worker, manager, government policymaker -- must come together and craft forward-looking solutions to problems. To understand the reality and move ahead accordingly.

For one, we need free and fair trade. That's what the fight over Japanese autos and auto parts was all about.

Another way to make certain our workers and businesses benefit from expanding world trade is to pry open new markets. That's what I'll be doing in November when I visit some of Asia's hottest emerging markets; looking for new opportunities to sell American know-how and to make certain our workers can compete there fairly.

Now I know we've had our differences over the North American Free Trade Agreement (NAFTA). The important thing now is to make sure the agreement is working properly. In the area of trucking, one of my main concerns is safety.

Our safety standards under NAFTA won't be compromised. We want to attain the highest mutual safety standard with our Canadian and Mexican partners, not a least common denominator. We agreed, for example, that drivers of trucks and buses must have comparable safety and operating knowledge and skills in order to be licensed -- and that is working well.

Beginning in mid-December, when the cross-border markets open, a host of driver and equipment safety standards take effect requiring foreign drivers to comply with federal rules, such as financial responsibility, equipment specifications, and hours-of-service.

We'll be working hard, in concert with the states, to enforce these tough new standards. It's going to take some time, some getting used. But enforcing these standards is a top priority.

- more -

Now, there is one exception some of you may have heard about: driver drug and alcohol testing. The same tough testing rules that domestic carriers must follow also will be the rule of law for foreign truckers, but on a phased basis. Since the decision to impose drug and alcohol testing on them was made just this summer, it seems fair that foreign-based trucking firms be given as much time to comply as our own U.S. industry.

Our "open skies" aviation policy will generate billions of dollars in new economic activity and create tens of thousands of new jobs. An agreement reached earlier this year with Canada, our most open and biggest market, is a net job creator for America and alone will spur more than $15 billion in cross-border activity. In the first six months of the year, U.S. (goods) exports to Canada jumped 16 percent.

We've also just completed my program to win new aviation agreements with 9 European nations. We signed the ninth, and final, agreement earlier this month with Belgium. These open skies agreements will make the U.S. airline industry more competitive in the global marketplace which translates into more jobs for American workers.

Now I've been talking quite a bit about the Administration's accomplishments.

Despite what some have said about organized labor being on the ropes, you've had your own share of victories, especially in preserving worker protection.

I know we worked closely with you on preserving the rights of workers to bargain collectively. We've also worked with you in streamlining the 13(c) process, which is a key labor protection program.

The transportation trades deserve much of the credit in blocking the effort to repeal this labor protection program for transit workers. When the Coleman Amendment to the House appropriations bill was introduced to remove language which repealed 13(c), you won by a vote of 244-186.

Despite the sea change in Congress, lawmakers and voters aren't in the mood to turn back the basic rights of workers.

An early sign of that came this summer. It didn't get a lot of attention. Remember the assault on Davis-Bacon? What a victory that was, with labor, Senate Democrats and the Administration all weighing in together to make sure Davis-Bacon rules continued to apply to federal highway projects.

And last week's vote by the House transportation committee on Amtrak funding legislation was a breakthrough. Although we're not quite there yet, the bill offers a win-win situation. First, the country wins through an adequately funded and a more entrepreneurial Amtrak. And just as importantly, labor wins because the bill doesn't dictate on the issues of contracting out and labor protection.

In FAA reform, we've strongly opposed congressional efforts to slash "premium pay" for air traffic controllers. With your help, I think we can win this one.

Now I've saved for last what I like doing best in this job -- making cash awards to worthy projects. After careful consideration -- maybe a little too carefully, it took some three years to decide -- I'm awarding $250,000 to the International Association of Fire Fighters (IAFF).

This grant will fund a program to train 160 new instructors in handling hazardous materials at accident sites. What pleases me most about making this award today is the way it fits into the administration's overall economic strategy which emphasizes training and education. I can't think of a better way to spend the taxpayer's money.

Congratulations to the IAFF and your members.

# # # #

THE DEPUTY SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

November 7, 1995

MEMORANDUM TO: Harold Ickes
Deputy Chief of Staff

FROM : Mortimer L. Downey

SUBJECT : Personnel Reform

The FY 1996 DOT Appropriations Act language on personnel reform exempts the FAA from all provisions of civil service law except for a short list of enumerated provisions. The short list did not include Chapter 71 under which the FAA grants recognition to organized bargaining units. While this does not preclude the FAA from continuing to recognize and deal with the unions currently representing agency employees, it leaves that recognition to the discretion of the agency. It is this discretionary nature of recognition that is vehemently opposed by the National Air Traffic Controllers Association (NATCA) and other unions which represent FAA employees. The McCain-Ford Bill supported by the Administration explicitly continues the applicability of Chapter 71 to the FAA. When NATCA brought this issue to the attention of the Department on October 18, we supported an attempt by House Democrats to include coverage by Chapter 71 in the Appropriations language. Unfortunately, this attempt failed because of Republican opposition. Secretary Pena wrote to Barry Krasner of NATCA on October 20 stating DOT's position of support for continued FAA coverage by Chapter 71.

It is our intent, as the FAA Administrator moves forward to implement a new personnel system as permitted by the Appropriations Act, to continue to recognize and support the existing labor-management framework in the same way we would if Chapter 71 were applicable.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

October 20, 1995

Mr. Barry Krasner
President, National Air Traffic
Controllers Association
1150 - 17th Street, NW, Suite 701
Washington, DC 20036

Dear Barry:

As you know, the Clinton Administration and the Congress are currently pursuing several avenues to achieve Federal Aviation Administration (FAA) reform. Several of the legislative initiatives grant the FAA authority to establish a new personnel system in some areas, while preserving coverage by Title V of the U.S. Code in other areas.

The Clinton Administration has voiced strong support for the FAA reform proposal introduced by Senators McCain, Ford and Hollings. One very important aspect of their bill is its preservation of the statutory framework for labor-management relations, Chapter 71 of Title V, within FAA. We believe that the preservation of this framework is a necessary component of any reform legislation.

Also, we supported and worked to preserve Premium Pay for Controllers, and the Conference Committee agreed to retain Premium Pay.

It indeed is unfortunate that you did not raise the DOT FY 96 appropriations bill language with me until Wednesday, October 18, the day the conferees considered this issue. I immediately went to work on this issue but, despite our efforts, we were unable to convince the conferees to clarify the Chapter 71 issue.

The conferees included in the Statement of Managers language that makes it clear that no labor organizations are to be disenfranchised by the personnel reform provisions. We strongly support this language. You can be assured that we will continue to recognize and support the existing labor-management statutory framework.

Sincerely,

Federico Peña

Federico Peña

9/12

Joshua —

Thanks for your patience — No Presidential response sent on this. Both ORM + Quorum files show Harold was going to respond (copies attached)

P.S. Did you ever talk to Steve Horn (66557) about getting hooked up to Quorum?

Thanks! Jan 65914

Sent to Lori 9/15

Trans Workers

May 10, 1995

To: Harold Ickes

From: Debbie Willhite

Per our discussion.

5/14
Jenn O'
Find out who (maybe you)
is involved in this. HI
should see any draft
response - J

622742

9/6
POTUS responded - HI ok'd final
as per Jenn O'

John - get copy of POTUS response
9/15 - Show to Jenn O' - see attachments

Transport Workers Union of America

Affiliated with American Federation of Labor and Congress of Industrial Organizations

80 WEST END AVENUE • NEW YORK, N.Y. 10023 • PHONE: 212 873-6000 • FAX: 212 721-1431

May 10, 1995

The Honorable William Clinton
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

On behalf of the sixty thousand airline workers represented by the Transport Workers Union of America, I want to express my grave concern that the United States may be about to waive the Fly America Act in the largest international aviation market in the world -- the U.S. - United Kingdom. If true, this is a severe blow to our airline members and their families. I urge you in the strongest possible terms, to reverse this decision before it is finalized.

The Fly America Act exists to make certain that U.S. government employees fly on U.S. airlines whenever possible. This is a widely accepted policy that has helped U.S. carriers to maintain strength in the international markets which, in turn, benefits U.S. airline labor. Last month during intense negotiations, the United Kingdom demanded that its carriers be allowed to receive waivers from this requirement and participate in U.S. government traffic. At the time, we were pleased that the U.S. negotiators stood firm on this issue.

But now, apparently, the Departments of Transportation and State have backed down and are prepared to give the British the authority to bid for this traffic by using U.S. carrier codes. This obviously does not change the effect of the waiver. U.S. government tax dollars will be going to pay for services by British carriers when there are many U.S. carriers serving these markets that could handle the business--carriers that employ U.S. workers, and fly U.S. manufactured planes, maintained and serviced in the United States. This would so undercut the Fly America Act as to make it meaningless.

We simply can't believe that this represents the position of the Clinton/Gore Administration. Accordingly, we ask you to stop the negotiations with the British until this issue is off the table once and for all.

Sincerely,

Sonny Hall

Sonny Hall
President, Transport Workers
Union of America, AFL-CIO

SH:mjm

cc: The Honorable Federico Pena
Harold Ickes
Kitty Higgins

SCREEN COPY FOR USER JANV PRINTED ON 11:09:03 Sep 12 1995

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.........................Constituent.Summary.View..............................
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| Record: 1311490.A        Revised:  11 Sep 95          Entered:  20 Oct 93   |
| Mr. Sonny Hall                | .Contact.Aide.Type..Code..............Status |
|                               |  311679  pak  HRC.S DC HEALTH LEGISLAT OPEN  |
| No home address               |                                              |
|                               |                                              |
| International President       |                                              |
| Transport Workers Union of    |                                              |
| America                       |                                              |
| 80 West End Avenue            | .History.Aide.DateIn/Out..Letter/Subject.....|
| New York, NY 10023            |  2322460 ems  27 Jun 95   LOGGED             |
|                               |               27 Jun 95   NOANS.N            |
| No additional information     |  2181011 bh   14 Apr 95   /ma/robo/jd/jd-013 |
|                               |               14 Apr 95   VIEWS.N            |
| No affiliations               |  1668536 pak  11 Jul 94   /hrc/schedule/wt.re|
|                               |               11 Jul 94                      |
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|                               |               28 Oct 93                      |
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Quorum

SCREEN COPY FOR USER JANV PRINTED ON 11:09:10 Sep 12 1995

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.Enclosures......Descriptions...	.In.Date LetterDate LoadDate Hom/Bus Lab/Env
	06/27/95 06/27/95 06/27/95 H
	................Comments..................
.Status........Date.....User....	NRN-Harold Ickes responding-incoming sent to central files
LOGGED 06/27/95 ELLYS	
ENTERED 06/27/95 ems	..............Using.Information.............

111384

CA004

NRN -
1 letter responding

TRACKING SHEET

	Date	Initial
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APP. FOR SIGNATURE		

3 Hrs:
Fly America Act
U.S.-U.K.

ORM

111387

Transport Workers Union of America

Affiliated with American Federation of Labor and Congress of Industrial Organizations

80 WEST END AVENUE • NEW YORK, N.Y. 10023 • PHONE: 212 873-6000 • FAX: 212 721-1431

May 10, 1995

COPY from ORM

The Honorable William Clinton
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

On behalf of the sixty thousand airline workers represented by the Transport Workers Union of America, I want to express my grave concern that the United States may be about to waive the Fly America Act in the largest international aviation market in the world -- the U.S. - United Kingdom. If true, this is a severe blow to our airline members and their families. I urge you in the strongest possible terms, to reverse this decision before it is finalized.

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Sincerely,

Sonny Hall

Sonny Hall
President, Transport Workers
Union of America, AFL-CIO

SH:mjm

cc: The Honorable Federico Pena
Harold Ickes
Kitty Higgins

copy to Ben Nye

TRANSPORTATION • COMMUNICATIONS INTERNATIONAL UNION

AFL-CIO, CLC **LEGISLATIVE DEPARTMENT**

ROBERT A. SCARDELLETTI
International President

HOWARD W. RANDOLPH, JR.
International Vice President and National Legislative Director

TONY PADILLA
Assistant National Legislative Director

December 14, 1995

Mr. Harold Ickes
Deputy Chief of Staff for
Policy and Political Affairs
Office of the President of the U.S.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Ickes:

As follow-up to our meeting of October 6, 1995, I have enclosed a copy of a letter written by John Sweeney, President, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

As we discussed, the Transportation Communications International Union (TCU), which represents over 100,000 rail workers, provided an automatic retiree COLA based on erroneous actuarial information. This COLA threatens the solvency of TCU and will eventually lead to a declaration of bankruptcy of the Union.

I have enclosed copies of the information that we provided to you during our meeting. It is imperative that legislative language that resolves this problem be incorporated into a tax package that will be signed by President Clinton. On behalf of TCU, I would like your support.

If you have any questions, please do not hesitate to contact me. In advance, I thank you for your attention to this matter.

Sincerely,

RA Scardelletti

Robert A. Scardelletti
International President

Enclosures

AFL-CIO Bldg. – 5th Floor • 815 – 16th Street, N.W. • Washington, D.C. 20006 • (202) 783-3660
FAX (202) 783-0198

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C 20006
(202) 637-5000

December 14, 1995

Senator Alfonse M. D'Amato
United States Senate
520 Senate Hart Office Building
Washington, D.C. 20510-3202

Dear Senator D'Amato:

As you are aware, the AFL-CIO has been supporting the Transportation·Communications International Union (TCU) in its efforts to correct the decision of its former Trustees in approving an automatic COLA on retiree benefits covering its officers and staff. This decision was based on demonstrably erroneous actuarial advice that this benefit could be provided without any increase in contributions. This action has, in fact, created a major burden on TCU, threatening the financial viability of this union.

TCU represents over 100,000 rail workers employed by our nation's railroads, including the following major carriers serving New York State -- Metro North, Long Island Rail Road, PATH, New Jersey Transit, Amtrak and ConRail. The bankruptcy of TCU would be a tragedy not only for that union and its members, but the entire labor movement. It would undoubtedly result in significant labor unrest to the detriment of our nation's rail carriers and the public they serve.

I, therefore, was extremely pleased to learn of your commitment to assist TCU in resolving this problem through an appropriate legislative vehicle and wanted to thank you for your support.

Sincerely,

John J. Sweeney

John J. Sweeney
President

cc: Michael Kinsella, AA
Susan Nassar, LA
R. A. Scardelletti, IP

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

September 29, 1995

The Honorable William V. Roth, Jr.
Chairman
Senate Finance Committee
Washington, D.C. 20510

Dear Mr. Chairman,

I am writing to you to request inclusion of language in your pending Chairman's Mark relating to the tax provisions for the 1995 budget reconciliation bill.

The language which is set out at TAB A, would provide relief for the Transportation Communications International Union ("TCU") by relieving it of the obligation to provide future COLA increases to its staff retirement beneficiaries.

Joint Tax in a letter dated June 14, 1995, estimated that the proposal "would have a negligible effect on Federal fiscal year budget receipts." The Joint Tax letter is at TAB B. In other words, Mr. Chairman, providing relief to TCU on this matter would have no cost impact on the fisc.

TCU is entitled to relief because the adoption of the COLA was based on demonstrably and clearly erroneous actuarial advice.

TCU's Union Staff Retirement Plan (the "Plan") was established in 1955. Until 1990, the Plan did not provide a COLA

In October of 1990, the Plan Trustees approved an automatic COLA based on the advice of its actuary that such a benefit could be granted without any increase in contributions by Plan participants.

In the summer of 1992, William M. Mercer, Inc. ("Mercer") was retained by the Plan Trustees to act as the actuary to TCU's Plan. In making the 1993 actuarial valuations, Mercer advised the Trustees that the COLA could not be funded without significantly increasing contributions.

Following receipt of Mercer's actuarial valuations, TCU amended the Plan to eliminate COLA's on benefits accruing for <u>active</u> employees after May 14, 1993. Mercer has concluded that even after the May 14, 1993 Plan amendments, the COLA benefit which continued to accrue to retiree's under the Plan would require TCU to raise its pension contributions by $2 million a year -- almost doubling the level of contribution prior to the adoption of the COLA.

TCU has concluded that such an increase in pension contributions is not sustainable and that the Pension Benefit Guaranty Corporation ("PBGC") may ultimately be required to assume certain of the obligations of the Plan. A forecast prepared by Deloitte & Touche LLP projecting the impact of the Plan's COLA on TCU's future finances over five years shows that at the end of five years, TCU will have spent all of its operating capital and have incurred a debt of $1.4 million. A copy of the Deloitte Touche forecast as well as the most recent valuation report prepared by Mercer were provided to Finance Committee staff in June of this year.

If the plan is to remain solvent, TCU requires legislative relief which would permit TCU to eliminate future COLA benefits accruing to beneficiaries of the plan who had retired prior to May 14, 1993. The attached legislative language at TAB A would amend Section 411(d)(6) of the IRC and Section 204(g) of ERISA to accomplish that result.

TCU, in a letter dated July 26, 1995, addressed to Sarah Fox, Chief Labor Counsel of the Senate Committee on Labor and Human Resources, advised Ms. Fox that:

> [TCU] has kept all Plan participants advised of the impact of COLAs. We have received virtually no negative response from retirees to our stated intent to discontinue future COLA increases.

A copy of that letter, together with the notices that the Plan provided to its retirees have been provided to the Finance Committee Staff.

The Trustee's for the Plan have filed a lawsuit against the prior actuary who certified that the COLA would not result in any increase in contributions by the Plan's participants and against the prior trustees who approved the COLA. Copies of the pleadings and responses can be provided to you or the Finance Committee staff upon request. TCU in its letter to Ms. Fox states that "even if successful, it is not anticipated that any judgment will be sufficient to cover the cost of the COLA."

My staff has been negotiating with Ms. Fox to determine whether the Senate Committee on Labor and Human Resources will exercise jurisdiction over the ERISA provisions contained in the attached legislative language. I will advise you of the result of those negotiations.

I am advised that the following persons at the Department of Labor have reviewed the proposed legislative language at TAB A and have no objection to its inclusion:

Olena Berg, Assistant Secretary for Pension and Welfare Benefits (219-8233),

Meredith Miller, Deputy Assistant Secretary for Policy (219-8233), and

Alan D. Lebowitz, Deputy Assistant Secretary for Program Operations (219-9048).

The Department of Labor has forwarded the proposed language to the Department of Treasury for their review and comment. I will advise you of Treasury's response upon receipt of the same.

In summary, Mr. Chairman, I am firmly convinced that TCU is entitled to the relief contained in the attached legislative language. Joint Tax has concluded that enactment of the language would have "negligible" revenue impact. Unless relief is obtained, the PBGC may well be required to assume many of the payment obligations under the plan -- to the detriment of the American taxpayers.

I request, Mr. Chairman, that you give consideration to including the legislative language set out at TAB A in your Mark relating to the tax provision for the 1995 budget reconciliation bill.

Sincerely,

Max Baucus

Max Baucus

104TH CONGRESS
1ST SESSION

S. ____

IN THE SENATE OF THE UNITED STATES

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To waive certain requirements of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 with respect to a plan amendment eliminating cost-of-living benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF PLAN AMENDMENT ELIMINATING COST-OF-LIVING BENEFITS.

(a) IN GENERAL.—The provisions of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 shall not apply to a qualified plan amendment which provides for the elimination of cost-of-living adjustments to benefits under the plan which were provided pursuant to a plan amendment—

(1) which was approved on October 13, 1990, and effective on January 1, 1991, and

(2) with respect to which the plan actuary gave advice that the amendment would not result in an increase in any required contribution to the plan.

(b) QUALIFIED PLAN AMENDMENT.—For purposes of this section, the term "qualified plan amendment" means a plan amendment which—

(1) is adopted before January 1, 1996, and is effective on or after such date,

(2) is to a defined benefit plan established on June 30, 1955, and

(3) does not reduce the amount of any benefit being paid to any plan participant or beneficiary immediately before the plan amendment is effective.

Congress of the United States
JOINT COMMITTEE ON TAXATION
1015 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6453
(202) 225-3621

JUN 14 1995

Honorable Max Baucus
United States Senate
Washington, DC 20510

Dear Senator Baucus:

This is in response to your request dated April 19, 1995, for a revenue estimate of a proposal which would provide relief for a specific plan from the provisions of Section 411(d)(6) of the Internal Revenue Code of 1986 ("the Code").

Specifically, the bill would provide that a qualified pension plan would not violate the rules relating to reductions in accrued benefits (Code sec. 411(d)(6)) if the plan was amended to eliminate cost-of-living adjustments to benefits under the plan. The bill would apply only to defined benefit plans established on June 30, 1955, that approved cost-of-living adjustments on October 13, 1990, which were effective on January 1, 1991. It is our understanding, from materials provided by Roger Blauwet of your staff, that the intent of the proposal is to provide relief to one particular plan, the Transportation Communications International Union plan. The revenue estimate is based on this understanding.

The proposal would be effective for plan amendments adopted before January 1, 1996. We estimate that the proposal would have a negligible effect on Federal fiscal year budget receipts.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,

Kenneth J. Kies

File [illegible] 3/7 copy to Jen O'C

TRANSPORTATION • COMMUNICATIONS
INTERNATIONAL UNION

AFL-CIO, CLC

ROBERT A. SCARDELLETTI
International President

this is same as Bill Burke stuff elsewhere - confirm status of this

TELECOMMUNICATION INFORMATION PAGE

find previous correspondence on this to get to me

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Harold Ickes

LOCATION: The White House

TELECOPIER NUMBER: 202/456-2464

FROM: R. A. Scardelletti

DATE: 3/6/96

MESSAGE: It's attached.

I need Harold's letter to him of 2/9

TOTAL NUMBER OF PAGES: 3
(including information page)

For copies not received or unacceptable copies, please call (301) 948-4910 and ask for Ginny Dixon.

3 Research Place • Rockville, MD 20850 • (301) 948-4910 • FAX (301) 948-1369

TRANSPORTATION • COMMUNICATIONS
INTERNATIONAL UNION

TCU

AFL-CIO, CLC

ROBERT A. SCARDELLETTI
International President

March 6, 1996

Mr. Harold Ickes
Assistant to the President
and Deputy Chief of Staff
The White House
Washington, DC 20500

Dear Mr. Ickes:

In regard to your letter of February 9, 1996, I am furnishing you with a copy of a joint letter dated February 29, 1996, from Senators Al D'Amato and Max Baucus, addressed to Senator William Roth, Chairman, Senate Finance Committee, urging that TCU's request for relief be included in any tax package drafted for consideration by the Senate Finance Committee this year.

As discussed with you, your assistance is urgently needed and, as always, appreciated.

Sincerely,

Robert A. Scardelletti
International President

Attachment
CC: Nell Hennessy, PBGC
Joseph Grant, PBGC
Linda Dorfee-Flaherty

3 Research Place • Rockville, MD 20850 • (301) 948-4910 • FAX (301) 948-1369

United States Senate

WASHINGTON, DC 20510

February 29, 1996

The Honorable William V. Roth, Jr.
Chairman
Senate Finance Committee
Washington, D.C. 20510

Dear Mr. Chairman,

In the event a tax package is drafted for consideration by the Finance Committee or the full Senate this year, we request that you give consideration to including language which would provide relief to the Transportation Communications International Union (TCU) from certain obligations under its qualified retirement plan (the "Plan").

Simply stated, Mr. Chairman, former trustees of the Plan approved an automatic COLA on retiree benefits based on erroneous actuarial advice that the COLA increases could be provided without any increase in contributions to the Plan. Contrary to the actuarial advice, the COLA increases now threaten the financial viability of TCU.

The legislative language which is attached to this correspondence would relieve TCU of the obligation to provide future COLA increases to its staff retirement beneficiaries.

Joint Tax in a letter dated June 14, 1995, estimated that the attached legislative language "would have a negligible effect on Federal fiscal year budget receipts."

We have also attached to this correspondence a letter Max sent you in September of last year explaining the TCU matter in greater detail. The letter notes that TCU has had discussions with the Department of Labor on this matter. We have been advised that TCU has recently met with the Pension Benefit Guaranty Corporation and that the PBGC supports a legislative solution to TCU's problem.

We thank you, Mr. Chairman, for your consideration of our request. We look forward to working with you in structuring a tax package for consideration by the Committee and the Senate.

Max Baucus

Alfonse M. D'Amato

Enclosures

F

THE WHITE HOUSE

WASHINGTON

9 February 1996

Mr. Robert A. Scardelletti
International President
Transportation Communications
  Legislative Union
AFL-CIO Building - 5th Floor 815
16th Street, N.W.
Washington, D.C. 20006

Dear Mr. Scardelletti:

Thank you for your 14 December 1995 letter about the proposed legislation regarding the ability of TCU to eliminate the automatic COLA in the pension plan for its staff employees.

I have referred your proposal for analysis to the Department of the Treasury, and they are reviewing it. Please be assured that we will take your views into consideration as part of our review of any legislative proposals on this issue by Congress.

Thank you again for writing.

Sincerely,

Harold Ickes

Harold Ickes
Assistant to the President
and Deputy Chief of Staff

cc: Bill Burtz (Treasury)

TRANSPORTATION • COMMUNICATIONS
INTERNATIONAL UNION

AFL-CIO, CLC LEGISLATIVE DEPARTMENT

ROBERT A. SCARDELLETTI
International President

HOWARD W. RANDOLPH, JR.
International Vice President and
National Legislative Director

TONY PADILLA
Assistant National Legislative Director

December 14, 1995

Mr. Harold Ickes
Deputy Chief of Staff for
Policy and Political Affairs
Office of the President of the U.S.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Ickes:

As follow-up to our meeting of October 6, 1995, I have enclosed a copy of a letter written by John Sweeney, President, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

As we discussed, the Transportation Communications International Union (TCU), which represents over 100,000 rail workers, provided an automatic retiree COLA based on erroneous actuarial information. This COLA threatens the solvency of TCU and will eventually lead to a declaration of bankruptcy of the Union.

I have enclosed copies of the information that we provided to you during our meeting. It is imperative that legislative language that resolves this problem be incorporated into a tax package that will be signed by President Clinton. On behalf of TCU, I would like your support.

If you have any questions, please do not hesitate to contact me. In advance, I thank you for your attention to this matter.

Sincerely,

R A Scardelletti

Robert A. Scardelletti
International President

Enclosures

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

FAX TRANSMITTAL SHEET

DATE: 2/8/96

NUMBER OF SHEETS TO FOLLOW: ______

TO: Jennifer O'Connor

ADDRESSEE'S FAX #: 456-2883

ADDRESSEE'S CONFIRMATION #: ______

FROM: J. Benjamin Nye

SENDER'S FAX #: 202-622-0073

SENDER'S CONFIRMATION #: 202-622-1700

SPECIAL INSTRUCTIONS/COMMENTS:

DEPARTMENT OF THE TREASURY
WASHINGTON

February 8, 1996

MEMORANDUM FOR JENNIFER O'CONNOR
THE WHITE HOUSE

FROM: J. BENJAMIN H. NYE Benjamin Nye
EXECUTIVE SECRETARY

SUBJECT Reply to TCU President Scardelletti regarding legislative proposals to eliminate pension plan COLA

Attached is the draft language you requested for Harold Ickes' reply to a letter from Mr. Robert A. Scardelletti, International President, Transportation-Communications International Union, requesting Administration support for legislation that would permit the union to eliminate a pension cost-of-living benefit it had previously granted its retirees.

It is generally viewed as inappropriate for the Administration to affirmatively support tax legislation narrowly targeted to benefit a specific plan. This proposed "rifle-shot" exception to the worker protection provisions of the Internal Revenue Code and ERISA is also not the type of provision that would be appropriate to be included in a budget proposal.

We are in fact currently studying this proposal but we have concerns about the appropriateness of using legislation to resolve this issue, particularly given the pending court case. It is conceivable that a fact-specific dispute such as this would be better addressed by the courts, who are better situated to examine the underlying facts of the case. We also want to weigh the fact that there may be other cases raising similar problems (union penion trustees granting COLAs for retirees shortly before their own retirement) and that the future benefits of rank and file retirees would be reduced under the proposed solution.

Attachment

Staff contact: Bill Bortz
Attorney-Advisor
Office of the Benefits Tax Counsel
622-1332

Mr. Robert A. Scardelletti
International President
Transportation-Communications International Union
AFL-CIO Building, Fifth Floor
816 Sixteenth Street, N.W.
Washington, D.C. 20006

Dear Mr. Scardelletti:

Thank you for your letter concerning the proposed legislation regarding the ability of TCU to eliminate the automatic COLA in the pension plan for its staff employees.

I appreciate hearing your concerns. The proposal has been referred for analysis to the Department of the Treasury. Please be assured that we will take your views into consideration as part of our review of any legislative proposals on this issue by Congress.

Thank you again for writing.

Sincerely,

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C 20006
(202) 637-5000

December 14, 1995

Senator Alfonse M. D'Amato
United States Senate
520 Senate Hart Office Building
Washington, D.C. 20510-3202

Dear Senator D'Amato:

As you are aware, the AFL-CIO has been supporting the Transportation·Communications International Union (TCU) in its efforts to correct the decision of its former Trustees in approving an automatic COLA on retiree benefits covering its officers and staff. This decision was based on demonstrably erroneous actuarial advice that this benefit could be provided without any increase in contributions. This action has, in fact, created a major burden on TCU, threatening the financial viability of this union.

TCU represents over 100,000 rail workers employed by our nation's railroads, including the following major carriers serving New York State -- Metro North, Long Island Rail Road, PATH, New Jersey Transit, Amtrak and ConRail. The bankruptcy of TCU would be a tragedy not only for that union and its members, but the entire labor movement. It would undoubtedly result in significant labor unrest to the detriment of our nation's rail carriers and the public they serve.

I, therefore, was extremely pleased to learn of your commitment to assist TCU in resolving this problem through an appropriate legislative vehicle and wanted to thank you for your support.

Sincerely,

John J. Sweeney

John J. Sweeney
President

cc: Michael Kinsella, AA
Susan Nassar, LA
R. A. Scardelletti, IP

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

September 29, 1995

The Honorable William V. Roth, Jr.
Chairman
Senate Finance Committee
Washington, D.C. 20510

Dear Mr. Chairman,

I am writing to you to request inclusion of language in your pending Chairman's Mark relating to the tax provisions for the 1995 budget reconciliation bill.

The language which is set out at TAB A, would provide relief for the Transportation Communications International Union ("TCU") by relieving it of the obligation to provide future COLA increases to its staff retirement beneficiaries.

Joint Tax in a letter dated June 14, 1995, estimated that the proposal "would have a negligible effect on Federal fiscal year budget receipts." The Joint Tax letter is at TAB B. In other words, Mr. Chairman, providing relief to TCU on this matter would have no cost impact on the fisc.

TCU is entitled to relief because the adoption of the COLA was based on demonstrably and clearly erroneous actuarial advice.

TCU's Union Staff Retirement Plan (the "Plan") was established in 1955. Until 1990, the Plan did not provide a COLA

In October of 1990, the Plan Trustees approved an automatic COLA based on the advice of its actuary that such a benefit could be granted without any increase in contributions by Plan participants.

In the summer of 1992, William M. Mercer, Inc. ("Mercer") was retained by the Plan Trustees to act as the actuary to TCU's Plan. In making the 1993 actuarial valuations, Mercer advised the Trustees that the COLA could not be funded without significantly increasing contributions.

Following receipt of Mercer's actuarial valuations, TCU amended the Plan to eliminate COLA's on benefits accruing for <u>active</u> employees after May 14, 1993. Mercer has concluded that even after the May 14, 1993 Plan amendments, the COLA benefit which continued to accrue to retiree's under the Plan would require TCU to raise its pension contributions by $2 million a year -- almost doubling the level of contribution prior to the adoption of the COLA.

TCU has concluded that such an increase in pension contributions is not sustainable and that the Pension Benefit Guaranty Corporation ("PBGC") may ultimately be required to assume certain of the obligations of the Plan. A forecast prepared by Deloitte & Touche LLP projecting the impact of the Plan's COLA on TCU's future finances over five years shows that at the end of five years, TCU will have spent all of its operating capital and have incurred a debt of $1.4 million. A copy of the Deloitte Touche forecast as well as the most recent valuation report prepared by Mercer were provided to Finance Committee staff in June of this year.

If the plan is to remain solvent, TCU requires legislative relief which would permit TCU to eliminate <u>future</u> COLA benefits accruing to beneficiaries of the plan who had retired prior to May 14, 1993. The attached legislative language at TAB A would amend Section 411(d)(6) of the IRC and Section 204(g) of ERISA to accomplish that result.

TCU, in a letter dated July 26, 1995, addressed to Sarah Fox, Chief Labor Counsel of the Senate Committee on Labor and Human Resources, advised Ms. Fox that:

> [TCU] has kept all Plan participants advised of the impact of COLAs. We have received virtually no negative response from retirees to our stated intent to discontinue future COLA increases.

A copy of that letter, together with the notices that the Plan provided to its retirees have been provided to the Finance Committee Staff.

The Trustee's for the Plan have filed a lawsuit against the prior actuary who certified that the COLA would not result in any increase in contributions by the Plan's participants and against the prior trustees who approved the COLA. Copies of the pleadings and responses can be provided to you or the Finance Committee staff upon request. TCU in its letter to Ms. Fox states that "even if successful, it is not anticipated that any judgment will be sufficient to cover the cost of the COLA."

My staff has been negotiating with Ms. Fox to determine whether the Senate Committee on Labor and Human Resources will exercise jurisdiction over the ERISA provisions contained in the attached legislative language. I will advise you of the result of those negotiations.

I am advised that the following persons at the Department of Labor have reviewed the proposed legislative language at TAB A and have no objection to its inclusion:

Olena Berg, Assistant Secretary for Pension and Welfare Benefits (219-8233),

Meredith Miller, Deputy Assistant Secretary for Policy (219-8233), and

Alan D. Lebowitz, Deputy Assistant Secretary for Program Operations (219-9048).

The Department of Labor has forwarded the proposed language to the Department of Treasury for their review and comment. I will advise you of Treasury's response upon receipt of the same.

In summary, Mr. Chairman, I am firmly convinced that TCU is entitled to the relief contained in the attached legislative language. Joint Tax has concluded that enactment of the language would have "negligible" revenue impact. Unless relief is obtained, the PBGC may well be required to assume many of the payment obligations under the plan -- to the detriment of the American taxpayers.

I request, Mr. Chairman, that you give consideration to including the legislative language set out at TAB A in your Mark relating to the tax provision for the 1995 budget reconciliation bill.

Sincerely,

Max Baucus

Max Baucus

104TH CONGRESS
1ST SESSION

S. ____

IN THE SENATE OF THE UNITED STATES

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

To waive certain requirements of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 with respect to a plan amendment eliminating cost-of-living benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF PLAN AMENDMENT ELIMINATING COST-OF-LIVING BENEFITS.

(a) IN GENERAL.—The provisions of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 shall not apply to a qualified plan amendment which provides for the elimination of cost-of-living adjustments to benefits under the plan which were provided pursuant to a plan amendment—

(1) which was approved on October 13, 1990, and effective on January 1, 1991, and

(2) with respect to which the plan actuary gave advice that the amendment would not result in an increase in any required contribution to the plan.

(b) QUALIFIED PLAN AMENDMENT.—For purposes of this section, the term "qualified plan amendment" means a plan amendment which—

(1) is adopted before January 1, 1996, and is effective on or after such date,

(2) is to a defined benefit plan established on June 30, 1955, and

(3) does not reduce the amount of any benefit being paid to any plan participant or beneficiary immediately before the plan amendment is effective.

Congress of the United States
JOINT COMMITTEE ON TAXATION
1015 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6453
(202) 225-3621

JUN 14 1995

Honorable Max Baucus
United States Senate
Washington, DC 20510

Dear Senator Baucus:

This is in response to your request dated April 19, 1995, for a revenue estimate of a proposal which would provide relief for a specific plan from the provisions of Section 411(d)(6) of the Internal Revenue Code of 1986 ("the Code").

Specifically, the bill would provide that a qualified pension plan would not violate the rules relating to reductions in accrued benefits (Code sec. 411(d)(6)) if the plan was amended to eliminate cost-of-living adjustments to benefits under the plan. The bill would apply only to defined benefit plans established on June 30, 1955, that approved cost-of-living adjustments on October 13, 1990, which were effective on January 1, 1991. It is our understanding, from materials provided by Roger Blauwet of your staff, that the intent of the proposal is to provide relief to one particular plan, the Transportation Communications International Union plan. The revenue estimate is based on this understanding.

The proposal would be effective for plan amendments adopted before January 1, 1996. We estimate that the proposal would have a negligible effect on Federal fiscal year budget receipts.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,

Kenneth J. Kies

THE WHITE HOUSE

WASHINGTON

29 January 1996

TO: Ben Nye

FROM: Jennifer O'Connor

RE: AFL-CIO, COLA response language

Enclosed is correspondence I received from Robert Scardelletti, President of the Transportation Communications International Union, requesting the Administration move to correct erroneous actuarial information used in current COLA calculations.

Please have the appropriate member of your staff draft a response for Harold and send it back to me. I can be reached at (202)456-6350 to discuss. Thank you.

TRANSPORTATION • COMMUNICATIONS INTERNATIONAL UNION

AFL-CIO, CLC

LEGAL DEPARTMENT

ROBERT A. SCARDELLETTI
International President

MITCHELL M. KRAUS
General Counsel

LARRY R. PRUDEN
Assistant General Counsel

June 7, 1996

file w/ other related stuff

William K. Bortz, Esquire
Attorney Advisor
Office of Benefits Tax Counsel
Department of the Treasury
1500 Pennsylvania Avenue, NW
Room 4017
Washington, DC 20220

Re: Transportation•Communications International Union Staff Retirement Plan

Dear Mr. Bortz:

This letter is being submitted to supplement my letter of April 18, 1996, in support of a legislative proposal dealing with the TCU Staff Retirement Plan. That proposal would permit TCU to void certain amendments to its Plan which called for automatic COLA's, adopted on the basis of clearly erroneous actuarial advice. As we previously noted, this proposal has been determined to be revenue neutral by the Joint Committee on Taxation (see attached), and we would hope that it would not be opposed by the Treasury Department.

I have attached excerpts from the recently-taken deposition of the Plan's former actuary, Robert Nemann. Mr. Nemann had advised the Union's International Secretary-Treasurer Donald Bobo in July, 1989, that the cost of adopting an automatic COLA was "prohibitive."

Notwithstanding, Mr. Nemann testified that he learned for the first time at a breakfast meeting with Mr. Bobo on October 12, 1990, that the Trustees were going to consider a proposal to adopt an automatic COLA that morning. Mr. Nemann made a rough estimate of the cost of this benefit on a napkin. He spent approximately five minutes making this estimate. He concluded that the union could provide this benefit, without increasing the contribution level.

Later that morning, Mr. Nemann advised the Trustees that an automatic COLA would be provided without any contribution increase, and the Trustees adopted the automatic COLA based on this advice.

By letter to me dated October 23, 1991, Mr. Nemann confirmed that he "informed the Trustees that the proposed COLA could be adopted without requiring an increase in the 17-1/2% contribution rate."

In fact, Mr. Nemann's advice has clearly proven erroneous. The cost of this benefit is "prohibitive," as Mr. Nemann had originally advised Mr. Bobo in July, 1989. The legislative relief being sought is needed to prevent the Plan from failing to meet minimum funding requirements and the possible bankruptcy of this Union.

This proposal is supported by Senators D'Amato, Moynihan and Baucus, as well as the Pension Benefit Guarantee Corporation. In the event you should need further information, please feel free to contact me.

Very truly yours,

Mitchell Kraus

Mitchell M. Kraus
General Counsel

MMK:fm
Attachments
CC: Jennifer O'Connor
Nell Hennessy
Robert A. Scardelletti, IP

Congress of the United States
JOINT COMMITTEE ON TAXATION
1015 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6453
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JUN 14 1995

Honorable Max Baucus
United States Senate
Washington, DC 20510

Dear Senator Baucus:

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Specifically, the bill would provide that a qualified pension plan would not violate the rules relating to reductions in accrued benefits (Code sec. 411(d)(6)) if the plan was amended to eliminate cost-of-living adjustments to benefits under the plan. The bill would apply only to defined benefit plans established on June 30, 1955, that approved cost-of-living adjustments on October 13, 1990, which were effective on January 1, 1991. It is our understanding, from materials provided by Roger Blauwet of your staff, that the intent of the proposal is to provide relief to one particular plan, the Transportation Communications International Union plan. The revenue estimate is based on this understanding.

The proposal would be effective for plan amendments adopted before January 1, 1996. We estimate that the proposal would have a negligible effect on Federal fiscal year budget receipts.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,

/S/

Kenneth J. Kies

Page 137

A: I'm not sure. Probably, but I'm not sure.

Q: Did you have any discussions with anyone other than Mr. Bobo before the meeting?

A: Other than casual conversation, I don't recall any.

Q: Did you have any discussion about the COLA with anyone in between the time you left your breakfast meeting and the time you actually began the formal trustees meeting?

A: I don't believe so. I don't recall any.

Q: I'm going to hand you what was marked earlier as Exhibit 34. These are the minutes of the October 12, 1990, meeting. The minutes indicate that Mr. Kilroy and Mr. Bobo and Mr. Lynch and Mr. Bosher were present, and Mr. Mazur was not present due to illness, and you were present; is that accurate?

A: I know I was there. I don't specifically recall the other attendees.

Q: Do you recall there being anyone else at the meeting other than the people listed here?

A: No, I don't.

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Q: Was Mr. Howard there?

A: I do not know.

Q: Do you know a man by the name of Jerry Lynch?

A: Yes.

Q: Was he there?

A: I do not know.

Q: Do you know Mr. Bobo's then secretary, Berdine Pursilley?

A: Yes, I do.

Q: Was she there?

A: I don't know.

Q: Let me ask you to drop down to the third paragraph, "Chairman Kilroy thoroughly discussed the many discussions" and so on.

Do you recall that happening, a discussion of previous discussions about COLAs?

A: I recall discussing COLAs, yes, but as to any specifics, no.

Q: The next paragraph begins, (reading) following a discussion by the actuary of his most recent actuarial study, which indicated that the

Page 139

Plan is financially able at this time to effect some sort of automatic COLA, it was proposed...and so on.

What do you remember happening at this point in the meeting?

A: Which part?

Q: Okay. Did you speak to the question of the COLA at the meeting?

A: Yes.

Q: What did you say?

A: I reiterated parts of a discussion that had occurred prior to the meeting with Don Bobo.

Q: Did you indicate to the other members of the board that you had had a meeting with Mr. Bobo that morning?

A: I don't know. I don't know if that was indicated or not by myself or anyone else.

Q: What parts of the discussion did you reiterate?

A: I think the items concerning cost basically that I had discussed earlier.

Q: As relating to the cost of what?

Page 140

A: Of this so-called proposed COLA.

Q: So you discussed that with Mr. Bobo at the breakfast meeting?

A: Yes.

Q: What did you tell him at the breakfast meeting about cost?

A: Basically I told him that I couldn't put an exact cost on such a COLA, and that in a few minutes time sitting there at the breakfast meeting I had come up with some rough estimates, and that it appears that they could adopt such a COLA. And if they did, the basic current contribution of 17-and-a-half percent would not have to be increased. And I reviewed at that time the Schedule B accountant balance, which means they had a margin in the minimum contributions.

I also discussed, I recall, specifically the amortization periods that we had been looking at in some of the earlier items that we costed earlier that year.

If nothing were adopted, it was projected that the Plan would be fully funded in

Page 141

approximately one year from that time, and that if this proposed COLA were adopted, that the amortization period would be backed up. I don't think I give him a specific number, but it would be back up again to substantial time in the future.

I did say that there is no way that I could say without doing a full cost study whether or not the contribution would have to be increased in the future down the road, that it would not have to be increased for some time into the future. But whether it would have to be increased eventually, I didn't know.

Q: When you did these rough estimates, I suppose, at the breakfast table with Mr. Bobo, did you have your files with you?

A: I probably had the actuarial report. I don't recall when it was dated. That was prepared as of January 1, 1990, and I believe that's the report referred to in the minutes that was discussed briefly at the trustees meeting. So yes, which gave the basic status of the Plan as of that time.

Page 142

Q: When you were making a rough estimate, did you make any notes?

A: I don't believe so, no. I may have scratched on a napkin some numbers, but I didn't make any notes as such.

Q: How long do you think you spent roughing out the estimate that you made that morning?

A: Not very long. I couldn't tell you exactly.

Q: Five minutes?

A: Yeah. In that kind of ball park.

Q: So when you got to the meeting, you discussed the cost estimate that you had roughed out with the trustees; is that right?

A: Briefly, yes.

Q: You tell me as specifically as you can what you told them.

A: I can't really tell you real specifically because I don't recall the specific conversation at the trustees meeting. All I can recall is discussing it. And I would have reiterated what I said earlier in the day, but I don't recall

specific statements that I made to the trustees. I think I tried to review what was discussed.
Q: Did you tell them that the basic form of the proposal had been first developed that morning?
A: No, I don't think I told them that.
Q: Did Mr. Bobo tell them that?
A: I don't know. I don't know that he told them that it had been–I don't know that it was developed that morning. I don't know when it was developed, the idea of that particular COLA.
Q: But that morning was the first time you heard about it?
A: That's correct.
Q: Did you tell them that the costs that you were discussing had been something that you made a rough estimate of that morning?
A: Again, I couldn't say specifically whether I said that exactly or not.
Q: But when you made those estimates, you did those, went through that process at breakfast with Mr. Bobo, possibly scratching something on the back of a napkin?

A: Possibly. I don't recall if I actually wrote numbers down or not.
Q: Did you tell the trustees at the meeting what effect this proposal would have on the Plan's amortization period?
A: I believe, again, that was generally discussed, yes, but as far as specifically what effect, no, because I didn't know what effect.
Q: You had come up with an estimate for the four- and eight-year ten percent COLA that you indicated would increase the Plan's amortization period to 5.3 years, I believe; is that right? It goes back to that August 6th document.
A: I think that was the period.
Q: Did you anticipate that the impact on the amortization period of this proposal, as outlined in the minutes here, would be substantially more than two in terms of its effect on the amortization period?
A: Yes, I would–I would have anticipated that.
Q: But you didn't know what number that would

be?
A: No.
Q: The proposal that is described here in the minutes on Exhibit Number 34 really has two parts to it. It's ten percent on the third anniversary date of benefit commencement. I guess that's for each participant; is that right? In other words, you would look at an individual, look at his retirement date and every third anniversary you would apply the increase?
A: Yes.
Q: So increases would take place throughout the year on a person-by-person basis throughout the third year after this was adopted?
A: I believe that's the way–I don't recall if it was–yes, to the best of my recollection, that's what was discussed. The only hesitation was I don't recall if there was discussion of a specific date each year for such increases or not. I think it was just continuous.
Q: (Reading) It was also proposed that the pension benefit in effect on December 31, 1990, be

increased effective January 1, 1991, for those participants who retired prior to January 1, 1991, at the rate of ten percent for each three-year period elapsed. Such increases to be applied on a compounded basis.
That, to me, means that it was a retroactive, in a sense, increase for people who retired. Somebody had been retired ten years, he would get three maximum ten percent increases to his benefit effective January 1, 1991; is that right?
A: Yes, I believe so.
Q: When you were trying to rough out the estimated cost of this benefit, did you take that into account?
A: Roughly.
Q: Did you take into account the idea that it was applied on a compounded basis what I will call the retroactive increase?
A: Yes, that was part–well, yes and no. Those elements were part of the proposed COLA that was discussed in that morning breakfast meeting.

As far as specifically taking into account specific items of the proposal, I can't say that I did or not under the environment of attempting to come up with a real rough estimate.
Q: After you discussed your rough estimate, did you receive any questions from any of the people present at the meeting?
A: I couldn't tell you. I don't recall.
Q: Did anyone there ask you to relate what you were telling them that morning to what you had previously said, particularly in the letter to Mr. Bobo where you used the term "prohibitive" when you talked about an automatic COLA?
A: I don't recall.
Q: At the time you were at this meeting, did you recall that you had previously told them that an automatic full fledged COLA was prohibitive?
A: I couldn't tell you if I recalled that or not at the time.
Q: The minutes also go on to say, (reading) it was also proposed that the maximum years of credited service under the Plan be increased to 35,

which is the maximum years of credited service now in effect in Canada.
That was something you had an opportunity to cost out prior to the meeting; is that right?
A: Yes. I believe that was part of the cost estimates that were given earlier.
Q: Did you separately describe the cost of that benefit increase?
A: I believe I did.
Q: What did you tell the board?
A: I can't tell you exactly, but I think I discussed essentially what was described in the cost estimate of that, that it had a minor effect, relatively speaking, a minor effect on the amortization period.
Q: Did you discuss the cost of the reduction in the early retirement reduction factor that we had taken a look at, prior to the meeting?
A: I don't recall discussing that.
Q: That was an option that you studied but it wasn't even discussed at the meeting?
A: Not to my recollection.

R.E. NEMANN & ASSOCIATES
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October 23, 1991

Mr. Mitchell M. Kraus
General Counsel
Transportation Communications Union
3 Research Place
Rockville, Maryland 20850

RECEIVED
OCT 25 1991
LEGAL DEPT.

Re: <u>Staff Retirement COLA</u>

Dear Mitch:

The actuarial study referred to in the minutes of the October 12, 1990 Trustees meeting is the regular Actuarial Report as of December 31, 1989, dated March 30, 1990 (copy enclosed). That report did not analyze or comment on any potential Plan changes; it did report the status of the Plan as of December 31, 1989.

There was no written actuarial report on the proposed COLA prior to its adoption. The proposed COLA was presented to me the day of the Trustees meeting, October 12, 1990, and I was asked if the Plan could support it under the current contribution rate of 17-1/2% of covered salary. Based upon the then current status of the Plan, as reflected in the December 31, 1989 Actuarial Report, I informed the Trustees that the proposed COLA could be adopted without requiring an increase in the 17-1/2% contribution rate.

The December 31, 1990 Actuarial Report (copy enclosed) does reflect the impact of the COLA which was effective January 1, 1991. The financial impact of the COLA can be analyzed by comparing the results reported in Table 8 of the two actuarial reports. The years required to fund the unfunded actuarial reserve increased from 1.9 years as of December 31, 1989 to 24.0 years as of December 31, 1990. Thus, had the COLA not been adopted, the unfunded reserve would have been completely funded by December 31, 1991. At that time, the contributions to the Plan would have been reduced by approximately 50%. With the COLA in place, this reduction in contributions will not occur for another 23 or 24 years.

Please give me a call after you have had a chance to review this information so that we can discuss any questions you might have.

Sincerely,

R. E. NEMANN & ASSOCIATES

Robert Nemann, A.S.A.
Consulting Actuary

RN/mn/c