

Digitized from the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

The original documents are located in Box 10, folder “10/24/74 S2362 Cumbres and Toltec Scenic Railroad Compact” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

APPROVED
OCT 24 1974

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

OCT 17 1974

*Posted
10/25
To Archive
10/25*

MEMORANDUM FOR THE PRESIDENT

**Subject: Enrolled Bill S. 2362 - Cumbres and Toltec Scenic
Railroad Compact
Sponsors - Sen. Domenici (R) New Mexico and 3 others**

Last Day for Action

October 26, 1974 - Saturday

Purpose

Grants the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact between the States of New Mexico and Colorado.

Agency Recommendations

Office of Management and Budget	Approval
Interstate Commerce Commission	No objection
Department of Justice	No objection
Department of Transportation	No objection
Department of the Treasury	No objection

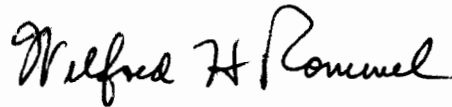
Discussion

S. 2362 would grant the consent of the Congress to the Cumbres and Toltec Scenic Railroad Compact entered into by the States of New Mexico and Colorado. This compact provides for the joint acquisition, ownership and operation of a narrow gauge steam railroad between Chama, New Mexico and Antonio, Colorado. Congressional approval is necessary because Article I, section 10 of the Constitution provides that no State may enter into any agreement or compact with another State without the consent of Congress.



Both the compact and the enrolled bill provide that any Interstate Commerce Commission authority and the applicability of Federal tax laws would be unaffected. The bill also provides that Congress shall retain the authority to alter, amend, or repeal this consenting legislation.

The railroad is a scenic railroad which draws a number of people to view the beauty of the area and to travel on one of the few narrow gauge railroads in the United States.



Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day - October 26

October 22, 1974

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill S. 2362
Cumbres and Toltec Scenic
Railroad Compact

Attached for your consideration is Senate bill, S. 2362, sponsored by Senator Domenici, which grants the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact between the States of New Mexico and Colorado.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who both recommend approval.

RECOMMENDATION

That you sign Senate bill S. 2362 (Tab B).

Interstate Commerce Commission

Washington, D.C. 20423

OFFICE OF THE CHAIRMAN

October 11, 1974

Mr. W. H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, DC 20503

Dear Mr. Rommel:

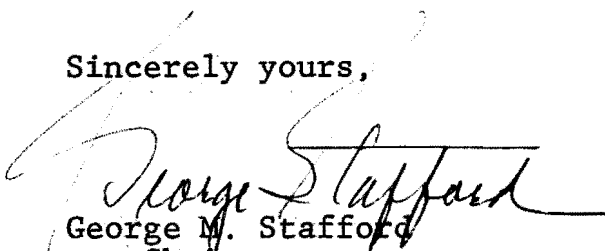
This responds to your request of October 11, 1974 for our comments on enrolled bill S. 2362.

On November 5, 1973, a letter was forwarded to Senator James O. Eastland, Chairman, Senate Committee on the Judiciary, stating that we had no objection to the States of Colorado and New Mexico entering a compact as called for in the bill. A copy of that letter is enclosed for your information.

Since the enrolled bill has not been changed, we have no objection to its enactment.

Thank you for the opportunity to comment upon this legislation.

Sincerely yours,


George M. Stafford
Chairman

Enclosure

November 5, 1973

Honorable James O. Eastland
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Chairman Eastland:

This further responds to your recent letter requesting our views on S. 2362, a bill, "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact". The legislation would authorize the States of New Mexico and Colorado to enter such a Compact to provide for the joint acquisition, ownership, and operation of the railroad within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado.

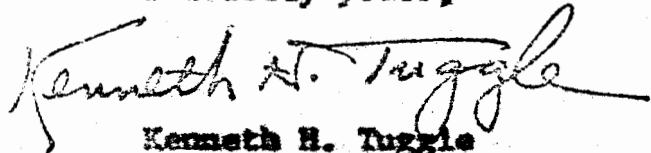
In June of 1970, the Colorado Railroad Authority and the New Mexico Railroad Authority filed an application with the Commission for a certificate of public convenience and necessity to acquire and operate a scenic railroad, Cumbres and Toltec Scenic Railroad, between Antonito, Colorado, and Chama, New Mexico, in Rio Arriba County, New Mexico, and Conejos and Archuleta Counties in Colorado. On April 23, 1971, we issued an order in the case (Finance Docket No. 25232 - Colorado Railroad Authority and New Mexico Railroad Authority-Acquisition-Rio Arriba County, New Mexico and Conejos and Archuleta Counties, (Colorado)), granting the application for authority to acquire and operate the railroad.

The application also contained a request for relief from all responsibilities and duties imposed by the Interstate Commerce Act, which was denied without prejudice by the Commission. In denying that portion of the application the Commission stated that the motion for relief was general in nature and that it did not specify those sections of the Act from which exemption was requested nor the reasons therefor. (Article 5 of the Compact provides that the agreement shall not abridge or affect the Commission's jurisdiction over the railroad, and thus is in conformity with our order.)

The Commission has already approved the operation of the scenic railroad by the Colorado Railroad Authority and the New Mexico Railroad Authority and we have no objection to the States entering a Compact for that purpose.

Thank you for the opportunity to comment on this legislation.

Sincerely yours,

A handwritten signature in cursive script that reads "Kenneth H. Tuggle". The signature is written in dark ink and is positioned above the typed name and title.

Kenneth H. Tuggle
Acting Chairman

Department of Justice
Washington, D. C. 20530

OCT 16 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 2362, "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact."

The compact which is the subject of this bill was entered into between the States of New Mexico and Colorado. It provides for the joint acquisition, ownership and control by those States of a certain narrow gauge scenic railroad running between those States, as a living museum for future generations. A provision of the compact recites that "Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the Interstate Commerce Commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operation."

By the final provision of the bill, the right to alter, amend, or repeal the consenting legislation would be expressly reserved.

The Department of Justice has no objection to Executive approval of this bill.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General



GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

OCT 15 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

This is in response to your request for the views of the Department on S. 2362, an enrolled bill

"Granting the consent and approval of Congress
to the Cumbres and Toltec Scenic Railroad Compact."

The bill would allow the States of New Mexico and Colorado to jointly acquire and make provision for the operation of the Cumbres and Toltec Scenic Railroad, to promote the public welfare by encouraging and facilitating recreation and by preserving as a living museum for future generations a mode of transportation that helped in the development of the territories and States. The bill provides that the railroad would not be exempt from jurisdiction of the ICC or Federal tax laws. In the absence of a specific exemption, the railroad would be subject to the various railroad safety laws and regulations administered by this Department.

We have no objection to the President signing S. 2362 into law.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney E. Eyster". The signature is fluid and cursive, with the first name "Rodney" being the most prominent part.

Rodney E. Eyster



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

OCT 15 1974

Dear Mr. Ash:

This is in response to your request for our views on the enrolled bill entitled, "AN ACT Granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

This bill would give Congressional approval to a compact entered into between the States of Colorado and New Mexico to jointly own and operate a railroad in their respective states. Article V of the compact provides that nothing therein shall limit, abridge or affect the applicability, if any, of the tax laws of the United States to the said railroad or its operation.

The Treasury Department has no objection to the enactment of this bill, since it would not alter the federal tax laws as applied to the joint operation of the railroad.

Sincerely yours,

Frederic W. Hickman

The Honorable
Roy Ash
Director, Office of Management
and Budget
Room 251, Executive Office Bldg.
Washington, D.C. 20503

Last Day - October 26

October 22, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill S. 2362
Cumbres and Toltec Scenic
Railroad Compact

Attached for your consideration is Senate bill, S. 2362, sponsored by Senator Domenici, which grants the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact between the States of New Mexico and Colorado.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who both recommend approval.

RECOMMENDATION

That you sign Senate bill S. 2362 (Tab B).

To Warren Handbuch
10-17-74

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

OCT 17 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2362 - Cumbres and Toltec Scenic
Railroad Compact
Sponsors - Sen. Domenici (R) New Mexico and 3 others

Last Day for Action

October 26, 1974 - Saturday

Purpose

Grants the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact between the States of New Mexico and Colorado.

Agency Recommendations

Office of Management and Budget	Approval
Interstate Commerce Commission	No objection
Department of Justice	No objection
Department of Transportation	No objection
Department of the Treasury	No objection

Discussion

S. 2362 would grant the consent of the Congress to the Cumbres and Toltec Scenic Railroad Compact entered into by the States of New Mexico and Colorado. This compact provides for the joint acquisition, ownership and operation of a narrow gauge steam railroad between Chama, New Mexico and Antonio, Colorado. Congressional approval is necessary because Article I, section 10 of the Constitution provides that no State may enter into any agreement or compact with another State without the consent of Congress.

Both the compact and the enrolled bill provide that any Interstate Commerce Commission authority and the applicability of Federal tax laws would be unaffected. The bill also provides that Congress shall retain the authority to alter, amend, or repeal this consenting legislation.

The railroad is a scenic railroad which draws a number of people to view the beauty of the area and to travel on one of the few narrow gauge railroads in the United States.

Wilfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE
WASHINGTON

10/17/74

TO: WARREN HENDRIKS



Robert D. Linder

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 673

Date: October 17, 1974

Time: 2:30 p.m.

FOR ACTION: ~~Michael Duval~~
~~Phil Buchen~~
~~Bill Timmons~~

cc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 22, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 2362 - Cumbres and Toltec
Scenic Railroad Compact

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 673

Date: October 17, 1974

Time: 2:30 p.m.

FOR ACTION: Michael Duval
Phil Buchen
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 22, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 2362 - Cumbres and Toltec
Scenic Railroad Compact

ACTION REQUESTED:

- | | |
|---------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

OK

Mike Duval 10/17/74

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 673

Date: October 17, 1974

Time: 2:30 p.m.

FOR ACTION: Michael Duval
✓ Phil Buchen
Bill Timmonscc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 22, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 2362 - Cumbres and Toltec
Scenic Railroad Compact

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*No objection
D.C.***PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

October 18, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS
FROM: WILLIAM E. TIMMONS *P.A.M. for BT*
SUBJECT: Action Memorandum - Log No. 673
Enrolled Bill S. 2362 - Cumbres and
Toltec Scenic Railroad Compact

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 673

Date: October 17, 1974

Time: 2:30 p.m.

FOR ACTION: Michael Duval
 Phil Buchen
 Bill Timmons

cc (for information): Warren K. Hendriks
 Jerry Jones
 Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 22, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 2362 - Cumbres and Toltec
Scenic Railroad Compact

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
 For the President

Calendar No. 714

93D CONGRESS }
2d Session }

SENATE }

REPORT
No. 93-740

GRANTING THE CONSENT AND APPROVAL OF CONGRESS TO THE CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

MARCH 21, 1974.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2362]

The Committee on the Judiciary, to which was referred the bill (S. 2362), granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad compact, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to grant the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact.

STATEMENT

In introducing the proposed legislation for himself and Senator Dominick, Senator Montoya, and Senator Haskell, Senator Domenici said:

In 1970 the States of New Mexico and Colorado jointly acquired the section of the D. & R.G.W., narrow gage railroad between Chama, N. Mex., and Antonio, Colo. This

section is now being operated by a concessionaire as a tourist facility under the name Cumbres and Toltec Scenic Railway.

Representatives of the States of New Mexico and Colorado have negotiated an interstate compact for the acquisition and operation of the railroad. In 1972 the State of New Mexico Legislature by chapter 19, Laws of 1972, authorized the Governor of New Mexico to enter into the compact, and the Colorado Legislature approved a bill to authorize the Governor of Colorado to enter into the compact.

This compact is necessary to provide an unquestionable legal basis for the joint action of States, in acquiring and operating the facility, and the Congress must give its consent.

After review of the operation of the Cumbres and Toltec Scenic Railroad, it is apparent that there are long-range benefits to the area. The railroad draws a consistent number of families and touring groups to view the beauty of the area and to experience travel on one of the few narrow gage railroads in the country.

The committee solicited the views of the Department of Justice, the Department of the Treasury, and the Interstate Commerce Commission, all of which have advised the committee that they have no objection to the proposed legislation.

The committee believes that the proposed legislation is meritorious and recommends it favorably.

Attached and made a part of this report are (1) the State agreements, (2) the letter from the Department of Justice, (3) the letter from the Department of the Treasury, and (4) the letter from the Interstate Commerce Commission.

NEW MEXICO SENATE BILL 42

Chapter 19—An act relating to railroads; providing for the adoption of the Cumbres and Toltec Scenic Railroad Compact; and repealing the compact previously adopted

Be it enacted by the Legislature of the State of New Mexico:

Section 1. Execution of Compact.—The legislature hereby approves and the governor is authorized to enter into a compact on behalf of this state with the State of Colorado in the form substantially as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The state of New Mexico and the state of Colorado, desiring to provide for the joint acquisition, ownership and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec scenic railroad, within Rio Arriba county in New Mexico and Archuleta and Conejos counties in Colorado, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and states, and to remove all causes of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

Article I

The states of New Mexico and Colorado agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec scenic railroad.

Article II

The State of New Mexico and Colorado hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the states.

Article III

The states of New Mexico and Colorado agree to make such amendments to the July 1, 1970 agreement and such other contracts, leases, franchises, concessions or other agreements as may hereafter appear to both states to be necessary and proper for the control, operation or disposition of the said railroad.

Article IV

The states of New Mexico and Colorado agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both states as both states shall hereafter mutually find necessary and proper.

Article V

Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the interstate commerce commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations."

Section 2. When Compact Effective.—The compact approved by this act shall not become effective unless and until the same shall have been approved by the legislature of the state of Colorado and consented to by the Congress of the United States.

Section 3. Repeal.—Sections 69-12-1 through 69-12-3 NMSA 1953 (being Laws 1971, Chapter 250, Sections 1 through 3) are repealed.

COLORADO HOUSE BILL 1117

Providing for the adoption of the Cumbres and Toltec Scenic Railroad Compact

Be it enacted by the General Assembly of the State of Colorado:

Section 1. Chapter 74, Colorado Revised Statutes 1963, as amended, is amended by the addition of a new article to read:

Article 19

Cumbres and Toltec Scenic Railroad Compact

74-19-1. *Execution of compact.* The general assembly hereby approves and the governor is authorized to enter into a compact on

behalf of this state with the state of New Mexico in the form substantially as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The state of New Mexico and the state of Colorado, desiring to provide for the joint acquisition, ownership and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec scenic railroad, within Rio Arriba county in New Mexico and Archuleta and Conejos counties in Colorado, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and states, and to remove all causes of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

Article I

The states of New Mexico and Colorado agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec scenic railroad.

Article II

The states of New Mexico and Colorado hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the states.

Article III

The states of New Mexico and Colorado agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions or other agreements as may hereafter appear to both states to be necessary and proper for the control, operation or disposition of the said railroad.

Article IV

The states of New Mexico and Colorado agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both states as both states shall hereafter mutually find necessary and proper.

Article V

Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the interstate commerce commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations."

74-19-2. When compact effective. The compact approved by this article shall not become effective unless and until the same shall have been consented to by the Congress of the United States.

Section 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 21, 1973.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 2362, a bill "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact."

The compact which is the subject of this bill, set out in the bill, was entered into between the States of New Mexico and Colorado. It provides for the joint acquisition, ownership and control by those States of a certain narrow guage scenic railroad running between those States, as a living museum for future generations. A provision of the compact recites that "Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the Interstate Commerce Commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations."

By the final provision of the bill, the right to alter, amend, or repeal the consenting legislation would be expressly reserved.

The Department of Justice has no objection to enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

PATRICK M. McSWEENEY,
Acting Assistant Attorney General.

III

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., January 2, 1974.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our views on S. 2362, entitled, "A bill granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact."

This bill would give congressional approval to a compact entered into between the States of Colorado and New Mexico to jointly own and operate a railroad in their respective States. Article V of the bill provides that nothing in the bill would limit, abridge or affect the applicability, if any, of the tax laws of the United States to the said railroad or its operation.

The Treasury Department has no objection to the enactment of S. 2362, since the bill would not alter the tax laws as applied to the joint operation of the railroad.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

FREDERIC W. HICKMAN,
Assistant Secretary.

IV

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 5, 1973.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN EASTLAND: This further responds to your recent letter requesting our views on S. 2362, a bill, "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact." The legislation would authorize the States of New Mexico and Colorado to enter such a compact to provide for the joint acquisition, ownership, and operation of the railroad within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado.

In June of 1970, the Colorado Railroad Authority and the New Mexico Railroad Authority filed an application with the Commission for a certificate of public convenience and necessity to acquire and operate a scenic railroad, Cumbres & Toltec Scenic Railroad, between Antonito, Colo., and Chama, N. Mex., in Rio Arriba County, N. Mex., and Conejos and Archuleta Counties in Colorado. On April 23, 1971, we issued an order in the case (Finance Docket No. 26232—*Colorado Railroad Authority and New Mexico Railroad Authority—Acquisition—Rio Arriba County, New Mexico and Conejos and Archuleta Counties, (Colorado)*), granting the application for authority to acquire and operate the railroad.

The application also contained a request for relief from all responsibilities and duties imposed by the Interstate Commerce Act. which was denied without prejudice by the Commission. In denying that portion of the application the Commission stated that the motion for relief was general in nature and that it did not specify those sections of the act from which exemption was requested nor the reasons therefor. (Art. 5 of the compact provides that the agreement shall not abridge or affect the Commission's jurisdiction over the railroad, and thus is in conformity with our order.)

The Commission has already approved the operation of the scenic railroad by the Colorado Railroad Authority and the New Mexico Railroad Authority and we have no objection of the States entering a compact for that purpose.

Thank you for the opportunity to comment on this legislation.

Sincerely yours,

KENNETH H. TUGGLE,
Acting Chairman.

○

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

AUGUST 22, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2362]

The Committee on the Judiciary, to whom was referred the bill (S. 2362) granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact, having considered the same, reports favorably thereon with amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 1, line 3 of the bill strike out the words "and approval".
Amend the title to read:

Granting the consent of Congress to the Cumbres and Toltec
Scenic Railroad Compact.

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to eliminate unnecessary and imprecise reference to Congressional approval, as apart from congressional consent. By the subject legislation the party States evidently seek to comply with the Constitution. The Constitution requires congressional consent for interstate compacts but makes no reference to and does not require congressional approval.

PURPOSE OF S. 2362, AS AMENDED

S. 2362 as amended would grant the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact.

STATEMENT

The States of Colorado and New Mexico have entered into a compact for the joint acquisition, ownership and control of a narrow gauge scenic railroad known as the Cumbres and Toltec scenic railroad within specified counties of the two States, and have submitted the

compact for congressional consent, pursuant to Article I, section 10 of the Constitution which provides that no State shall enter into any Agreement or Compact with another State without the consent of Congress.

The first section of the consent legislation (S. 2362) would grant the consent (and approval) of Congress to the compact, which is set forth in full. Certified copies of the State legislation creating the compact are in the Committee's files.

The compact itself is short. Article I is an agreement to acquire, own and provide for operation of the scenic railroad; Articles II and III ratify an agreement entered into on July 1, 1970, by the railroad authorities of the two States; Article IV contains an agreement by the States to seek appropriate tax exemptions, and Article V preserves the jurisdiction, if any, of the Interstate Commerce Commission, and the applicability, if any, of the Federal tax laws. In its report on the legislation the Interstate Commerce Commission indicates that it granted an application for authority to acquire and operate the railroad pursuant to the 1970 agreement, which is also in the files, and none of whose provisions appear to affect adversely the Federal interest.

Section 2 of the consent legislation contains the customary reservation by Congress of the right to alter, amend or repeal the Act.

The Departments of the Treasury and Justice and the Interstate Commerce Commission have indicated that they have no objection to the legislation. Copies of their reports on H.R. 10009, a similar bill, are set forth and made part hereof:

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., January 2, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for our views on H.R. 10009, entitled, "A BILL Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact."

This bill would give Congressional approval to a compact entered into between the States of Colorado and New Mexico to jointly own and operate a railroad in their respective states. Article V of the bill provides that nothing in the bill would limit, abridge or affect the applicability, if any, of the tax laws of the United States to the said railroad or its operation.

The Treasury Department has no objection to the enactment of H.R. 10009, since the bill would not alter the tax laws as applied to the joint operation of the railroad.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

FREDERIC W. HICKMAN,
Assistant Secretary.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 16, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 10009, a bill "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact."

The compact which is the subject of this bill, set out in the bill, was entered into between the States of New Mexico and Colorado. It provides for the joint acquisition, ownership and control by those States of a certain narrow gauge scenic railroad running between those States, as a living museum for future generations. A provision of the compact, and section 2 of the bill, recite that "Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the interstate commerce commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations."

By the final provision of the bill, the right to alter, amend, or repeal the consenting legislation would be expressly reserved.

The Department of Justice has no objection to enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICK M. McSWEENEY,
Acting Assistant Attorney General.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 5, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR CHAIRMAN RODINO: This further responds to your recent letter requesting our views on H.R. 10009, a bill, "Granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Compact". The legislation would authorize the States of New Mexico and Colorado to enter such a compact to provide for the joint acquisition, ownership, and operation of the railroad within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado.

In June of 1970, the Colorado Railroad Authority and the New Mexico Authority filed an application with the Commission for a certificate of public convenience and necessity to acquire and operate a scenic railroad, Cumbres and Toltec Scenic Railroad, between Antonito, Colorado, and Chama, New Mexico, in Rio Arriba County, New Mexico, and Conejos and Archuleta Counties in Colorado. On

April 23, 1971, we issued an order in the case (Finance Docket No. 26232—*Colorado Railroad Authority and New Mexico Railroad Authority-Acquisition-Rio Arriba County, New Mexico and Conejos and Archuleta Counties, (Colorado)*), granting the application for authority to acquire and operate the railroad.

The application also contained a request for relief from all responsibilities and duties imposed by the Interstate Commerce Act, which was denied without prejudice by the Commission. In denying that portion of the application the Commission stated that the motion for relief was general in nature and that it did not specify those sections of the Act from which exemption was requested nor the reasons therefor. (Article 5 of the Compact provides that the agreement shall not abridge or affect the Commission's jurisdiction over the railroad, and thus is in conformity with our order.)

The Commission has already approved the operation of the scenic railroad by the Colorado Railroad Authority and the New Mexico Railroad Authority and we have no objection to the States entering a compact for that purpose.

Thank you for the opportunity to comment on this legislation.

Sincerely yours,

KENNETH H. TUGGLE,
Acting Chairman.

COST

Enactment of S. 2362 will entail no cost to the United States.

VOTES

No record votes were taken in the Committee's consideration of S. 2362.

○

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

Granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Cumbres and Toltec Railroad Compact as agreed to by the States of Colorado and New Mexico, which compact is as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

"The State of New Mexico and the State of Colorado, desiring to provide for the joint acquisition, ownership, and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec Scenic Railroad, within Rio Arriba County in New Mexico and Archuleta and Conejos Counties in Colorado, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and States, and to remove all clauses of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

"ARTICLE I

"The States of New Mexico and Colorado agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec Scenic Railroad.

"ARTICLE II

"The States of New Mexico and Colorado hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the States.

"ARTICLE III

"The States of New Mexico and Colorado agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions, or other agreements as may hereafter appear to both States to be necessary and proper for the control, operation, or disposition of the said railroad.

"ARTICLE IV

"The States of New Mexico and Colorado agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both States as both States shall hereafter mutually find necessary and proper.

S. 2362—2

“ARTICLE V

“Nothing contained herein shall be construed so as to limit, abridge, or affect the jurisdiction or authority, if any, of the Interstate Commerce Commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operation.”

SEC. 2. The right to alter, amend, or repeal this Act is expressly reserved.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

October 15, 1974

Dear Mr. Director:

The following bill was received at the White House on October 15th:

S. 2362 ✓

Please let the President have reports and recommendations as to the approval of this bill as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.