

C
O
P
Y

THE WHITE HOUSE

WASHINGTON

May 24, 1939.

MEMORANDUM FOR

CHAIRMAN ECCLES

FOR PREPARATION OF REPLY

FOR MY SIGNATURE.

F. D. R.

C O P Y

HOUSE OF REPRESENTATIVES U. S.
COMMITTEE ON RULES
WASHINGTON, D.C.

May 22, 1939

Hon. Franklin D. Roosevelt,
The White House,
Washington, D. C.

My dear Mr. President:

During the past few days I have been drafting a bill which provides for the rediscounting of protected trade acceptances.

This follows recommendations made by Mr. Otto Eisenschiml, a gentleman who has given exhaustive study to the subject and who, even as long ago as 1934, urged such legislation, as the enclosed reprints show.

I enclose a draft of the bill, together with a brief summary of its provisions, in the belief that it is in line with your efforts to accelerate the flow of idle capital and increase employment.

In your speech before the Retail Trade Association Forum you may wish to mention this as one of the plans that you are considering.

With my very best regards, I am

Sincerely yours,

(signed) A. J. Sabath

C O P Y

The proposed bill contemplates placing into active use millions of dollars now frozen and lying idle in the vaults of hundreds of banks throughout the country. A paradoxical situation - business requires additional capital, and such capital is available. Yet the medium, instrumentality or "missing link" to bring these forces into play, as yet remains undevised. As justification for the refusal to extend credit, the banks blame the unnecessary rigid restrictions and examinations to which they are subjected on the part of the comptroller and the state bank auditors. It is the purpose of the proposed act to alleviate this condition. To keep the wheels of industry turning, sufficient credit to honest and reputable business men of standing is sadly needed and must be established. Extensions of such credit are essential and mandatory. Thereby and only thereby can we hope to stimulate the flow, manufacture, production and distribution of goods to point of consumption, which in, of, and by itself will result in increased commerce and employment.

A few of the salient features of the proposed bill provide that:

An instrument in the nature of a trade acceptance certificate be created. Such certificate is to be eligible for discount through the Federal Reserve Banks or through a corporation to be established under the President's recent "First Plan on Government Reorganization" co-ordinating all money lending agencies through the Federal Loan Administrator. The said trade acceptance certificates are to be issued under direction of a "trustee" to be designated by persons directly interested in transactions as defined relating to buying, selling, manufacturing or production. Such "trustee" is to serve without compensation, and is to be responsible to and be under the direct supervision of the Administrator.

The certificates are to bear interest at a rate not exceeding four percent per annum and are to be discounted at banks, affiliates of the Federal Reserve Bank, or through the said corporation at rates prevailing in the localities where the applicant's principle (sic) place of business is located.

The proceeds from the said transactions are to be deposited with the "trustee" for redemption of the said trade acceptance certificates, all other liens, judgments or other incumbrances, if any, against the person or property of the applicant, notwithstanding.

By virtue of the "trustee" arrangement, the proposed bill endeavors to achieve the desired results because ample credit for renewed industrial activity is open to business interests; interests of creditors are amply protected; the banks through discount and rediscount of certificates, are enabled to place into circulation idle capital for profitable production; the risks of Government are duly and securely safeguarded; and above all, a feasible and expeditious solution is proposed to effectively curtail unemployment.

visit

Counsel's Office

May 25, 1939

Summary of H. R. 6448

(Mr. Sabath; May 22, 1939).

"To liberalize extension of credit to small businesses, to stimulate business, to create employment, and for other purposes."

This bill, known as the "Credit Expansion Act of 1939", would authorize any individual, partnership, association, corporation, business trust, etc., in business for at least three years, to apply to any corporation or agency subject to the supervision of and designated by the Federal Loan Administrator, for credit to finance transactions involving the production, purchase, manufacture or distribution of goods.

The corporation or agency would appoint as "production and credit trustee" the person named in the application from whom the applicant intended to purchase materials, machinery or supplies.

The trustee thus appointed would be authorized to issue secured trustee's certificates, as general obligations of the applicant, for the purchase of goods, materials, machinery or supplies, to provide funds for the payment of labor, or for the retirement of outstanding certificates. Such certificates would bear interest at a rate not to exceed 10 per centum per annum, would be negotiable, and would be secured by and be a lien superior to all other liens on the proceeds of the transaction notwithstanding any provision of or adjudication under the Federal Bankruptcy laws or any other law.

The corporation or agency, upon request of and endorsement by any person holding a trustee's certificate would discount such certificate. These certificates would be discounted at rates prevailing at applicant's principal place of business and would also be eligible for discount by the Federal Reserve bank.

Provision is made for the retirement of these certificates. Certain acts of the trustee and the applicant are prohibited, and penalties are provided for violations. The corporation or agency is authorized to issue rulings and regulations and prescribe the form of trustee's certificates.

WLH:ah

1 (c) "Goods" means goods, wares, products, commodi-
 2 ties, merchandise, or articles or subjects of commerce of any
 3 character.

4 (d) "Production" includes manufacturing, mining,
 5 processing, or purchasing and selling.

6 (e) "Transaction" means a single or series of arrange-
 7 ments or agreements between persons engaged in buying,
 8 selling, and in employment for production or distribution of
 9 goods.

10 APPLICATION FOR BENEFITS OF ACT

11 SEC. 3. (a) Any person requiring credit to finance any
 12 transaction involving the production, purchase, manufacture,
 13 or distribution of goods may make application to the Cor-
 14 poration for benefits of this Act. The application shall con-
 15 tain such information relating to the applicant, the nature
 16 of the transaction, the profits expected to be derived there-
 17 from, together with data in support thereof, the amount
 18 of credit required, and such other information as the Cor-
 19 poration may by rules or regulations prescribe. The appli-
 20 cation shall be signed by the applicant under oath, and in
 21 addition shall be signed by every person from whom the
 22 applicant intends to purchase materials, machinery, or sup-
 23 plies necessary to carry out such transaction, and shall des-
 24 ignate one of such persons or an officer or employee of one
 25 of such persons or bank for appointment as "Production and

1 credit trustee" of such transaction, (b) all applications filed
2 pursuant to subsection (a) shall be passed upon by the
3 Corporation as expeditiously as possible, and the require-
4 ments of section 4 with respect to the approval of such appli-
5 cations shall be liberally construed, it being the purpose of
6 this Act to stimulate the production and sale of goods in
7 order to create employment.

8 APPOINTMENT OF TRUSTEE

9 SEC. 4. If the Corporation finds (a) that the applicant
10 has been in business of the same character as that to which
11 the application relates for at least three years immediately
12 preceding the date of application; (b) that there is a rea-
13 sonable likelihood that the transaction will not result in loss;
14 (c) that the transaction can be carried out with the amount
15 of credit designated in the application as required; (d) that
16 the applicant is in good business standing in the community
17 in which is located his principal place of business; and (e)
18 that the transaction is not prohibited by law, the Corporation
19 shall appoint the person so designated in the application as
20 "Production and credit trustee" of such transaction (in this
21 Act called the "Trustee") unless such person is deemed un-
22 faithful for a position of trust. Upon the appointment of the
23 trustee, the application shall be deemed to authorize the
24 trustee to issue 'secured trustee's certificates,' as hereinafter
25 provided, to the amount or amounts designated in the appli-

1 cation as the amount or amounts of credit required, and such
 2 certificates when issued shall be deemed to be general obli-
 3 gations of the applicant, whether they individually bear his
 4 signature or not.

5 DUTIES OF TRUSTEE; SECURED TRUSTEE'S CERTIFICATES

6 SEC. 5. It shall be the duty of the trustee to carry out the
 7 transaction in respect of which he was appointed, and all
 8 materials purchased and all disbursements made in connec-
 9 tion with the transaction shall be in the name of the trustee.
 10 To carry out the transaction the trustee may issue "Secured
 11 Trustee's Certificates. Such certificates may be issued for the
 12 purchase of goods, materials, machinery or supplies to be
 13 used in the production or sale of the goods involved in the
 14 transaction, or to provide funds for the payment of labor
 15 used in connection with such transaction or for the retire-
 16 ment of outstanding certificates. Such certificates when is-
 17 sued shall bear interest at a rate not to exceed ^{four} ~~10~~ per centum
 18 per annum. Any such certificate shall, at the request of,
 19 and upon the endorsement thereof by, any person in posses-
 20 sion thereof, be discounted by the Corporation as hereinafter
 21 provided, and such certificates shall be negotiable. Such
 22 certificates shall be secured by, and be a lien, superior to
 23 all other liens, on the proceeds of the transaction, notwith-
 24 standing any provision of, or adjudication under, the Act
 25 entitled "An Act to establish a uniform system of bank-

1 ruptcy throughout the United States", approved July 1,
2 1898, as amended, or any provision of any other law.

3 RETIREMENT OF SECURED TRUSTEE'S CERTIFICATES

4 SEC. 6. Whenever any transaction in respect of which
5 a trustee has been appointed under this Act has been com-
6 pleted, the trustee, out of all proceeds then remaining in his
7 possession from the transaction, shall forthwith retire trustee's
8 certificates outstanding, pay the remainder of the proceeds
9 of the transaction, if any, to the applicant, and so notify the
10 Corporation, whereupon he shall be discharged as trustee.

11 DISCOUNT OF SECURED TRUSTEE'S CERTIFICATES

12 SEC. 7. The Corporation, upon the request of, and upon
13 the endorsement thereof by, any person in possession of
14 any trustee's certificate issued pursuant to the provisions of
15 this Act, shall discount such certificate, except that endorse-
16 ment by the trustee shall be without recourse. Such certifi-
17 cates are to be discounted at rates prevailing at applicant's
18 principal place of business, and shall also be eligible for dis-
19 count by the Federal Reserve banks.

20 PROHIBITED ACTS

21 SEC. 8. (a) It shall be unlawful for any trustee ap-
22 pointed pursuant to the provisions of this Act to pay to
23 any person other than a holder of a Secured Trustee's Certifi-
24 cate any of the proceeds of the transaction in respect of
25 which he was appointed until all such certificates issued by

1 him to carry out such transaction have been retired or until
2 a sufficient part of such proceeds have been set aside to retire
3 all such certificates.

4 (b) It shall be unlawful for any trustee appointed pur-
5 suant to the provisions of this Act to use any funds received
6 by him from the discount of any ~~secured~~ trustee's ~~certificate~~
7 issued by him, for any purpose other than to carry out the
8 transaction in respect of which he was appointed.

9 (c) It shall be unlawful for the trustee to receive any
10 salaries, fees, commissions, or other emoluments for his
11 services as trustee.

12 (d) It shall be unlawful for the applicant to use pro-
13 ceeds of any such transaction for purposes other than that
14 specified in the application. Such proceeds shall be kept
15 separate and apart from all other funds.

16 (e) It shall be unlawful (1) for any person to falsely
17 make or to forge or counterfeit any trustee's certificate in
18 imitation of or purporting to be a trustee's certificate issued
19 pursuant to this Act, or (2) to pass, utter, or publish, or
20 attempt to pass, utter, or publish any false, forged, or coun-
21 terfeited trustee's certificate purporting to have been issued
22 pursuant to this Act, or (3) to falsely alter any trustee's
23 certificate issued or purporting to have been issued pursuant
24 to this Act, or (4) to pass, utter, publish, or attempt to

1 pass, utter, or publish as true any falsely altered or spurious
2 trustee's certificate issued or purporting to have been issued
3 pursuant to this Act.

4 **PENALTIES**

5 SEC. 9. Whoever willfully violates any of the provisions
6 of section 8 shall upon conviction thereof be subject to a
7 fine of not more than \$5,000, or to imprisonment for not
8 more than three years, or both.

9 **RULES AND REGULATIONS**

10 SEC. 10. The Corporation shall have power to issue rules
11 and regulations to carry out the provisions of this Act. The
12 Corporation shall also prescribe the form of trustee's cer-
13 tificates to be used pursuant to this Act.

14 **SEPARABILITY**

15 SEC. 11. If any provision of this Act, or the application
16 thereof to any person or circumstances, is held invalid, the
17 remainder of the Act, and the application of such provisions
18 to other persons or circumstances, shall not be affected
19 thereby.

76TH CONGRESS
1ST SESSION

H. R. 6448

A BILL

To liberalize extension of credit to small businesses, to stimulate business, to create employment, and for other purposes.

By Mr. SABATH

MAY 22, 1939

Referred to the Committee on Banking and Currency

June 2, 1939

The President,
The White House.

Dear Mr. President:

In response to your memorandum of May 24, 1939,
I am pleased to enclose herewith a draft of a suggested reply
to the letter addressed to you by Congressman Sabath under
date of May 22, 1939, with which there was enclosed a draft
of a bill to liberalize the extension of credit to small busi-
ness.

If you desire anything further in connection with
this matter, please call upon me.

Respectfully,

M. S. Eccles,
Chairman.

Enclosure.

GBV:11

GENERAL COUNSEL'S OFFICE

Dictated by.....

Approved by.....

Digitized by FRASER
<http://fraser.stlouisfed.org/>
Federal Reserve Bank of St. Louis

FILE COPY

Sent to White House on
June 2, 1939
for President's signature

Honorable A. J. Sabath,
House of Representatives,
Washington, D. C.

My dear Congressman:

Please accept my thanks for your letter of May 22, 1939, with which you enclosed a draft of a bill intended to liberalize extension of credit to small businesses. As you know, I am much interested in any effort to utilize available funds in the encouragement of business and the increase of employment. The plan set forth in the bill enclosed with your letter appears to have had thoughtful consideration and I appreciate your sending me a copy of the plan. I will be glad to see that it is brought to the attention of those who have been giving study to methods of providing additional funds to business and industry.

With my best regards, I am

Sincerely,

GBV:11

GENERAL COUNSEL'S OFFICE

Dictated by.....

Approved by.....

Revised by.....

FILE COPY