



**January 28, 2011**

## **Legislation**

**Continuing resolution, Highway Bill extended to March.** Since no agreement was reached for any appropriations bills by the conclusion of the 111<sup>th</sup> Congress in December 2010, a continuing resolution was passed to maintain federal government funding at current budget levels until March 4, 2011. Since the current surface transportation law (the "Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users") expired on September 30, 2009, Congress has enacted a series of extensions of the law – most recently by including it in the larger continuing resolution.

**Rockefeller reintroduces rail reform bill.** Senator John D. Rockefeller (D-WV), Chairman of the Senate Commerce, Science, and Transportation Committee, announced on January 26 that he is reintroducing his bill to reform the rail industry in order to improve rail service, create new jobs and make the industry and U.S. goods more competitive both here and abroad.

Rockefeller said his bill, known as the "Surface Transportation Board Reauthorization Act of 2011" will be a priority for the Commerce Committee this year.

"America is long overdue for a competitive, efficient, and balanced transportation network," Chairman Rockefeller said. "It is crucial to the health of our economy and the future of our rural communities. That is why I have reintroduced the "Surface Transportation Board Reauthorization Act." During this critical period for our economy, it is essential that we act now to effectively meet our country's transportation needs for the 21st century. I look forward to working with my colleagues to tackle these reforms."

Bills that are not passed by the conclusion of each Congress automatically expire and thus must be reintroduced during the new Congress. In December of 2009, the Senate Commerce Committee passed an earlier version of the legislation. However, the bill was never brought to the full Senate for consideration.

A press release from Rockefeller's office highlights the provisions of the legislation:

- Increase rail competition by requiring major railroads to quote "bottleneck rates," set standards for "reciprocal switching" and "terminal access" rates, create a process for parties to challenge "paper barriers," and increase STB scrutiny of future railroad mergers for competitive, service, and environmental effects.

- Strengthen STB oversight of the railroad industry by updating the rail transportation policy, giving the board independent investigative authority, and creating a strong rail customer advocate to help resolve shippers' concerns.
- Improve shippers' access to regulatory relief by improving the processes by which rate complaints are resolved, requiring railroads to provide service standards to shippers, requiring the STB to review current class exemptions for unregulated railroad traffic, and by setting lower fees for filing complaints at the STB.

A Soy Transportation Coalition summary of the proposed legislation can be accessed at: <http://www.soytransportation.org/newsroom/STBReauthorizationSummary.pdf>.

**House T&I leaders urge STB to not enact new rail regulations.** In a January 24<sup>th</sup> letter to the U.S. Surface Transportation Board, House Transportation and Infrastructure Chairman John Mica (R-FL), Ranking Member Nick Rahall (D-WV), and committee members Bill Schuster (R-PA) and Corrine Brown (D-FL) encouraged the agency to refrain from enacting new regulations that could threaten the health of the nation's rail industry. The Surface Transportation Board has scheduled a hearing for May 3<sup>rd</sup> to examine competition in the rail industry and whether steps need to be taken to provide greater balance between railroads and rail customers. Railroads argue that any potential new regulations will impose harm on the industry and restrict their ability to maintain and enhance their infrastructure.

In their letter, the committee members state, "Any policy change made by the (Surface Transportation Board) which restricts the railroads' abilities to invest, grow their networks and meet the nation's freight transportation demands will be opposed by the committee."

**Mica Announces Subcommittee Chairmen & Memberships for the 112th Congress.** On January 20<sup>th</sup>, Congressman John Mica (R-FL), the Chairman of the House Transportation and Infrastructure Committee, announced Chairmen, Vice Chairs and memberships of the six Subcommittees for the 112th Congress.

"The message from the voters in November was clear. The Committee must find ways to create jobs, cut waste in government, and do more with less," Mica said. "This important work begins at the Subcommittees, and I am confident these experienced Chairmen and Members will provide dedicated, effective leadership as the Subcommittees work to improve our nation's infrastructure in a fiscally responsible manner."

The Subcommittee Chairmen and Vice Chairs for the 112th Congress are as follows:

**Subcommittee on Aviation**

Thomas E. Petri (R-WI), Chairman  
Chip Cravaack (R-MN), Vice Chair

**Subcommittee on Coast Guard and Maritime Transportation**

Frank LoBiondo (R-NJ), Chairman  
Jeff Landry (R-LA), Vice Chair

**Subcommittee on Economic Development, Public Buildings and Emergency Management**

Jeff Denham (R-CA), Chairman  
Rick Crawford (R-AR), Vice Chair

### **Subcommittee on Highways and Transit**

John J. Duncan, Jr. (R-TN), Chairman  
Richard Hanna (R-NY), Vice Chair

### **Subcommittee on Railroads, Pipelines and Hazardous Materials**

Bill Shuster (R-PA), Chairman  
Tom Reed (R-NY), Vice Chair

### **Subcommittee on Water Resources and Environment**

Bob Gibbs (R-OH), Chairman  
Jamie Herrera Beutler (R-WA), Vice Chair

**Senate EPW Committee prioritizes transportation.** Members of Congress stressed the importance of infrastructure investment following President Obama's emphasis on transportation during his State of the Union address on January 25.

On Wednesday, January 26, the Senate Environment and Public Works Committee devoted its first hearing on the 112<sup>th</sup> Congress to transportation and the need to arrive at a sustainable source of funding for the country's infrastructure needs.

In her opening remarks, Senator Barbara Boxer (D-CA), Chairman of the Environment and Public Works Committee said, "Economic recovery and job creation are top priorities for this Committee and the Congress in 2011, which is why I decided to kick off the year with a hearing on the importance of transportation. Not only is investing in transportation important, it has bipartisan support. We know transportation infrastructure investment is a proven jobs creator. According to the Department of Transportation (DOT) every \$1 billion in Federal money for transportation that is matched by state and local funds creates and saves approximately 34,700 jobs."

Senator James Inhof (R-OK), Ranking Member of the Committee, explained the challenges surrounding the issue and the urgency of addressing them, "There are tremendous challenges involved in passing a multi-year highway bill, but the most immediate is that the Highway Trust Fund can no longer support spending significantly more funds than we collect in gas taxes. Congress must be very bold in crafting a highway bill that balances the funding realities with the tremendous needs of our infrastructure, which is the backbone of our economy. We have avoided this conversation for several years now, but if we fail to act, the consequences will be severe. They can no longer be ignored."

**Kohl reintroduces rail antitrust legislation.** Senator Herb Kohl (D-WI), reintroduced his railroad antitrust bill – an effort to abolish the limited antitrust exemptions provided to the rail industry. Senator David Vitter (R-LA) joined Senator Kohl as a bill co-sponsor.

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Currently, railroads are not under the same antitrust laws as most other industries. Rather than be subject to court challenges during economic disputes, the Surface Transportation Board provides oversight of such issues – rate disputes, mergers and acquisitions, etc.

Kohl argues that the antitrust exemptions unfairly insulate railroads from competition and lead to railroad shippers paying higher prices for degraded service. These higher prices are, in turn, passed on to consumers in the form of higher electricity rates, higher food prices, and higher prices for manufactured goods.

The rail industry counters that Kohl's antitrust bill would result in a costly regulatory system since they would face legal challenges in district courts, the Federal Trade Commission, in addition to the Surface Transportation Board. Railroads contend that this would inhibit their ability to invest in their infrastructure.

## **Administration**

**LaHood predicts Highway Bill by August recess.** At a recent speech at the SMCS trucking industry winter meeting in Atlanta, Secretary of Transportation Ray LaHood expressed optimism that the surface transportation reauthorization could occur by this summer.

"Obviously, with changes in Washington and increasing concern about deficits, we face a few hurdles," LaHood explained. "But, in the past, transportation policy was one area where members of both parties joined together in the common good. I've met with Speaker Boehner and Transportation Chairman Mica – and I'm optimistic that we will work together in the months ahead and get legislation to President Obama's desk by the August recess."

Congress is obligated to reauthorize a surface transportation bill every six years. The legislation not only serves to direct federal spending on our nation's surface transportation infrastructure, it also establishes the funding mechanism for generating the necessary revenues for transportation investment. The current surface transportation law (the "Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users") expired on September 30, 2009, Congress has enacted a series of extensions of the law until a replacement piece of legislation has been passed.

**Report: Jones Act did not prevent BP oil clean up.** The final report by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling suggests that the Jones Act did not prevent foreign vessels from assisting with the cleanup during the 2010 oil spill in the Gulf of Mexico.

The Merchant Marine Act of 1920 ("The Jones Act") is a law that restricts the carriage of goods or passengers between U.S. ports to U.S. built and flagged ships. In addition, at least 75 percent of crewmembers must be U.S. citizens.

According to the report, "While decision makers did decline to purchase some foreign equipment for operational reasons – for example, Dutch vessels that would have taken weeks to outfit and sail to the region, and a Taiwanese super-skimmer that was expensive and highly inefficient in the Gulf – they did not reject foreign ships because of Jones Act restrictions. When the act did apply, the National Incident Commander appears to have granted waivers and exemptions when requested."

The Jones Act only applies within three miles of shore. The report contends that foreign oil skimmers along with American skimmers, did perform cleanup beyond three miles from shore.

The *Deepwater Horizon* spill occurred 50 miles from shore, and the vast majority of the oil that leaked was beyond three miles.

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