May 28, 2010

Legislation

House Extends Jobless Benefits, Short Line Tax Credit. The House of Representatives on May 28th passed H.R. 4213 – a $115 billion package of jobless benefits and business tax credits, including an incentive for short line railroads to invest in its infrastructure.

The House voted 215 to 204 to approve the bill, which would extend unemployment benefits through November and renew for one year numerous tax credits and incentives that had previously expired. The bill now proceeds to the Senate, where it faces stiff opposition.

The Senate adjourned on May 27th for its Memorial Day recess. It is not scheduled to return until June 7th.

The short line tax credit, which expired on December 31, 2009, allows short line railroads to receive a tax credit of 50 percent of the cost of maintenance of roadbed, bridges, and related track structures up to a limit of $3,500 per mile per year. The short line rail industry is seeking a multiple year extension that would increase the credit too $4,500 per mile.

Mica Expects Transportation Bill in January. Congressman John Mica (R-FL), the ranking member on the House Transportation and Infrastructure Committee, told a group of freight transportation officials on May 25th he expects Congress will not take up a comprehensive surface transportation bill until January 2011 – further reducing the likelihood the legislation will pass this year.

Mica argued Congress should consider a "robust and comprehensive" transportation bill that includes funding options. He said he expects the new legislation, once proposed, will include an expansion of public-private partnerships.

The committee in July 2009 drafted a bill that outlines a surface transportation spending plan for the next six years. The bill has never been formally filed because the House Ways and Means Committee has not determined how to pay its $500 billion cost. The Senate began to work on its own version of the bill in January 2010.

The current transportation law, the "Safe Affordable, Flexible, Efficient Transportation Equity Act – A Legacy for Users" (SAFETEA-LU) expired on September 30, 2009. Because Congress has not developed replacement legislation for the next six years, a series of short term extensions of the current law have been approved. The most recent extension this past March extended SAFETEA-LU until December 31, 2010. The extension included a $20 billion transfer from the General Fund to the Highway Trust Fund to keep the account solvent through the end of the year.

U.S. Railroads Seek Congressional Support if Harmed by Climate Legislation. Citing the importance of coal to the profitability of the rail industry, Association of American Railroads (AAR) President and CEO Ed

Hamberger recently warned members of the Congressional Coal Caucus of the potential harm various climate change proposals could exact on U.S. freight railroads. Many such proposals are designed to discourage coal consumption, the number one commodity transported by rail. As a result, Hamberger urged lawmakers to consider enacting contingent allowances in legislation that would be activated if railroads experience a decrease in coal revenue due to any future federal climate change law. If coal markets are unaffected, the allowances would not take effect.

According to the AAR, railroads deliver 70 percent of all coal shipments to their final destinations. Coal represents 25 percent of total revenue for the nation's largest railroads. One in five railroad jobs is related to the movement of coal.

"Without coal, the U.S. rail network would face a need for vast restructuring with greatly reduced capacity to invest in the nation's rail network infrastructure," Hamberger said. "The loss of these coal-related assets and revenue would significantly impede railroads' ability to meet the transportation needs of businesses all across the country that rely on rail to get to the global marketplace. If railroads cannot afford to renew and expand their capacity, more rail passengers and freight will move by less efficient, less environmentally sound ways across overcrowded highways."

Surface Transportation Board

In response to a request from Congress, the Surface Transportation Board (STB) on May 27th released a report on options for updating its Uniform Rail Costing System (URCS), which is used by the STB in rate and other cases.

URCS is the methodology that assists the STB in determining a railroad's variable costs of providing rail transportation service. The STB uses variable costs to determine whether it has jurisdiction in rate disputes between railroads and their customers and if rates in question are reasonable. URCS is also used in other cases such as proposed abandonments and disputes over trackage rights.

The report lays out three alternatives ranging from updating the outdated computer programs to a complete revamping of the current system that could cost $10 million or more.

The STB has recommended a middle option that would upgrade computer software and modify the existing system to account for the many changes in the railroad industry that have occurred since URCS was first adopted in 1989. The suggested improvements would make URCS more reliable and more reflective of today's railroad industry. The middle option is estimated to cost $625,000 over two years.

The full study, "Surface Transportation Board Report to Congress Regarding the Uniform Rail Costing System," is available on the STB's website, www.stb.dot.gov or at www.stb.dot.gov/stb/docs/URCS/URCS%20Report%205.27.10.pdf

The Surface Transportation Board is the regulatory agency created by the United States Congress to resolve railroad rate and service disputes and review proposed railroad mergers. The STB is governed by three commissioners – each serving a five year term. Commissioners are nominated by the president and confirmed by the Senate.

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