



July 15, 2011

Legislation

House approves Energy, Water Appropriations bill, includes funding for river dredging. The House of Representatives today passed H.R. 2354, the fiscal year 2012 Energy, Water, and Related Agencies Appropriations bill. The legislation provides the annual funding for the various agencies and programs under the Department of Energy, including the National Nuclear Security Administration, as well as the Army Corps of Engineers, the Bureau of Reclamation, the Nuclear Regulatory Commission, and various regional water and power authorities.

The legislation includes an amendment from Congressman Steve Scalise (R-LA) that cuts \$6.3 million from supervision and general administrative expenses in the headquarters of the Army Corps of Engineers, and adds the funds to Army Corps Operation and Maintenance for dredging of waterways.

The overall legislation totals \$30.6 billion – a cut of \$5.9 billion below the President’s request and \$1 billion below last year – which brings the total cost of the bill to nearly the 2006 funding level. In addition, the bill provides over \$1 billion dollars in emergency funding for the Corps of Engineers to address recent Mississippi River and Missouri River flood disasters. The funding will be used for flood fighting activities and restoration of flood prevention and navigation systems.

House Appropriations Chairman Hal Rogers applauded the House for passing the bill:

“This bill is proof that we can make common-sense spending reductions without damaging or impairing the programs that help keep our country safe and our citizens at work. While providing vital funding for programs that preserve our public safety, quality of life, economic competitiveness, energy independence and national defense, this bill abides by the promise that we would cut spending where we can to get our budgets back into balance and keep us on track toward economic recovery,” Chairman Rogers said.

House transportation leaders roll out surface transportation proposal. On July 7th, House Transportation and Infrastructure Committee leaders rolled out a new six-year transportation reauthorization proposal.

Committee Chairman John L. Mica (R-FL) and Committee leaders presented a framework for a six-year reauthorization of federal highway, transit and highway safety programs. The multi-modal initiative also incorporates significant policy reforms for rail and maritime transportation.

“Given U.S. House rules and budget constraints, this proposal maximizes the value of our available infrastructure funding through better leveraging, streamlining the project approval process, attracting private sector investment, and cutting the federal bureaucracy,” Mica said. “Most importantly, this six-year proposal provides the stability states need to plan major transportation improvements and create long-term jobs.

The proposal authorizes approximately \$230 billion over six years from the Highway Trust Fund for highway, transit, and highway safety programs. These funding levels match current revenue being deposited into the Highway Trust Fund and comply with House rules that do not permit authorization of more funds than those collected.

The Republican leaders contend that Congress will not support a gas tax increase and that without an increase in revenue, other current options, such as a two-year bill, the Administrations' proposal, or extending expired law at the current funding levels, all lead to the Highway Trust Fund going broke by 2013.

Senators Boxer and Johnson urge immediate action on strong transportation bill. On July 14th, Senator Barbara Boxer (D-CA), Chairman of the Environment and Public Works Committee, and Senator Tim Johnson (D-SD), Chairman of the Banking, Housing, and Urban Affairs Committee, sent a letter to all 535 Members of Congress to urge immediate action on a transportation bill – suggesting inaction would result in a nationwide loss of 630,000 private sector jobs over the next year.

A portion of the letter is below:

Dear Colleague,

We are at a crisis moment today when it comes to our nation's transportation system, and Congress must act before September 30, or hundreds of thousands of Americans will lose their jobs.

The good news is that the Senate is working on a bipartisan transportation proposal that will support current funding levels.

A great country must keep up investment in infrastructure. According to a report by the Council of Economic Advisors, the U.S. currently spends 2 percent of GDP on infrastructure, a 50 percent decline from 1960. Meanwhile, China is spending close to 9 percent of its GDP on infrastructure. The underinvestment in infrastructure has led to a crumbling transportation system that the American Society of Civil Engineers gave a "D" on their 2009 "Report Card for America's Infrastructure." This is not the grade a world leader with an infrastructure system for the 21st Century would receive.

Please support a bill which maintains funding at the current levels, includes significant reforms to make the nation's transportation programs more streamlined and efficient, and provides robust assistance for transportation projects under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program to leverage state, local and private-sector funding.

Sen. Kohl requests administration to support rail anti-trust bill. On July 5th, Senator Herb Kohl (D-WI) called on the Departments of Justice and Transportation to support his Railroad Antitrust Enforcement Act (S.49), legislation to repeal the limited antitrust exemptions

Currently, railroad mergers and acquisitions are exempt from antitrust law and are reviewed by the Surface Transportation Board. Kohl's legislation would allow the federal government, state attorneys general, and private parties to file suits to prevent "anti-competitive rail mergers and acquisitions. Jurisdiction over mergers and acquisitions would transfer from the Surface Transportation Board to the Department of Justice.

In a letter to Secretary of Transportation Ray LaHood and Assistant Attorney General Christine Varney, Kohl wrote, "Consumers face higher electricity bills because a utility must pay for the high cost of transporting coal and higher prices for goods produced by manufacturers who rely on railroads to transport raw materials. They also result in reduced earnings for American farmers who ship their products by rail and raise food prices paid by consumers. Therefore, we must ensure that freight railroads are subject to the basic principles of fair competition by repealing their obsolete and undeserved exemption from the antitrust laws."

Earlier this year, the Senate Judiciary Committee passed Kohl's Railroad Antitrust Enforcement Act by a vote of 14 to 1. Kohl is chairman of the Senate Antitrust, Competition Policy and Consumer Rights subcommittee.

The rail industry strongly opposes S.49. According to the Association of American Railroads, the industry "has a few very limited federal antitrust exemptions, but these exemptions only cover areas where the Surface Transportation Board has regulatory authority over railroads. Legislation that would repeal railroads' limited antitrust exemptions is a solution in search of a problem."

Kohl's legislation is cosponsored by the Chairman of the Senate Judiciary Committee, Patrick Leahy (D-VT) and Senators Orrin Hatch (R-UT), Charles Schumer (D-NY), Amy Klobuchar (D-MN), Jon Tester (D-MT), David Vitter (R-LA) and Al Franken (D-MN).

Congressman Fleischmann joins House Transportation and Infrastructure Committee. Congressman Chuck Fleischmann (R-TN) was recently named to the House Transportation and Infrastructure Committee – bringing the Republican roster to a total of 33 Members, and the Full Committee roster to 59.

"I am pleased to welcome Rep. Fleischmann to the Transportation and Infrastructure Committee," said Chairman John L. Mica (R-FL). "I look forward to working with him as the Committee develops a major transportation reauthorization bill to create jobs and reform federal transportation programs. As a small businessperson, Congressman Fleischmann knows the importance of making wise investments in infrastructure and reducing burdensome federal regulations for businesses. His experience and background make him a welcome addition to the Committee."

Surface Transportation Board

STB lowers filing fees for rail customers. On July 7th, the Surface Transportation Board (STB) announced it will significantly reduce the fee for rail customers to file a rate or "unreasonable practice" complaint from \$20,000 to \$350. The \$150 fee to file an expedited small rate case will remain in effect.

The STB's decision is welcome news to agricultural and other shippers who rely heavily on the rail industry to satisfy customer demands. Shippers have long argued that the \$20,000 filing fee resulted in the STB being inaccessible to those receiving unreliable rail service or paying exorbitant rates. This resulted in the STB being widely criticized as overly disposed toward the interests of railroads at the expense of rail customers. A lower filing fee will provide a more level playing field between the two.

The Surface Transportation Board is a semi-autonomous federal agency charged with resolving railroad rate and service disputes and approving proposed railroad mergers and acquisitions. The STB is governed by a three person board – comprised of a chairman and two commissioners. Each member of the board is nominated by the president and confirmed by the Senate for a five year term of office.

In its decision, the STB explained, “The filing of a complaint is often the Board’s only mechanism for investigating and addressing potential rate violations or other unlawful practices. High fees for the filing of formal complaints may discourage shippers and others from bringing complaints before the Board. The changes to the Board’s regulation reducing such fees should improve the agency’s management of its docket and resources.”

In a February 15 notice of a proposed rulemaking change, Daniel Elliott, STB Chairman, stated, “Charging a small business more than \$20,000 to bring a complaint is not right.”

Mike Steenhoek, executive director of the Soy Transportation Coalition, commended the Surface Transportation Board for its decision. “In reducing the filing fees for shippers to seek relief from potentially unreasonable practices, the Surface Transportation Board has restored some balance between the interests of railroads and rail customers. Government agencies should never erect excessive obstacles between them and the individuals and organizations they were created to serve. Chairman Elliott and the STB should be applauded for making themselves more accessible and accountable.”

The Soy Transportation Coalition has been active in reaching out to the members of the Surface Transportation Board and helping educate them about the concerns of agricultural shippers. Chairman Elliott gave a presentation to the STC board at its March 2010 board meeting and later participated in the organization’s tour of the Port of Los Angeles. In November of 2010, Elliott accepted an invitation from the STC to participate in an agricultural shipper field trip in central Iowa. In June of 2011, STB Commissioner Francis Mulvey attended a similar Soy Transportation Coalition field trip in the Ft. Wayne, Indiana, area.

“A number of organizations, including the National Grain and Feed Association, deserve much credit for effectively advocating for agricultural shippers before the Surface Transportation Board,” explains Steenhoek. “The efforts of many to reach out to the STB commissioners and better acquaint them with the concerns of agricultural shippers have certainly been helpful in ensuring the agricultural perspective is better taken into account at the Surface Transportation Board.”

