



July 27, 2010

Legislation

Senators Lautenberg, Murray, Cantwell Introduce FREIGHT Act. On July 22nd, U.S. Senators Frank R. Lautenberg (D-NJ), Patty Murray (D-WA), and Maria Cantwell (D-WA) introduced legislation that would establish a freight transportation policy to ensure the nation's transportation system supports the United States' global economic competitiveness. The legislation would direct the federal government to develop and implement a strategic plan to improve the nation's freight transportation system and provide investment in freight transportation projects. The goals include reducing congestion and delays, increasing the timely delivery of goods and services, reducing freight-related transportation fatalities, and making freight transportation more efficient and better for the environment.

"We are long overdue in establishing a national freight transportation policy that will meet the economic and mobility demands of the 21st Century," said Senator Lautenberg, who chairs the Senate Commerce Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security.

"Poor planning and underinvestment in our transportation infrastructure has led to increased congestion at our ports, highways, airports, and railways, and increases the cost of doing business. If we want to help U.S. businesses succeed and create new jobs, we need a freight transportation system that works better and can grow with the changing needs of the global economy. This bill would put us on that path."

"The safe and efficient movement of goods across our nation is critical for our businesses, especially for those in my home state of Washington," said Senator Murray, who chairs the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development. "The FREIGHT Act will help bring us a national freight policy that will dramatically improve freight mobility in this country and increase the competitiveness of our businesses, reduce congestion, and provide a much-needed boost to job creation in our communities."

"Exports play a critical role in Washington state's economy," said Senator Cantwell. "A key piece of any thriving export economy is the smooth shipment of freight from farm and factory to port and customers. This legislation will help our export economy remain among the strongest in the nation by understanding how to maximize the way road, rail, sea, air and pipelines interact."

The "Focusing Resources, Economic Investment, and Guidance to Help Transportation (FREIGHT) Act of 2010" would establish America's first comprehensive national freight transportation policy and create a new Office of Freight Planning and Development within the Department of Transportation (DOT) that would coordinate efforts to improve the efficiency and operation of all modes of the national freight transportation system. The Secretary of the DOT would be directed to develop and implement a long-term national freight transportation strategic plan that meets the goals of the FREIGHT Act, and issue biennial progress reports, which would include any challenges to implementation and any requested policy and legislative changes.

The major goals established by the FREIGHT Act are:

- Reduce delays of goods and commodities entering into and out of intermodal connectors that serve international points of entry on an annual basis.
- Increase travel time reliability on major freight corridors that connect major population centers with freight generators and international gateways on an annual basis.
- Reduce by 10 percent the number of freight transportation-related fatalities by 2015.
- Reduce national freight transportation-related carbon dioxide levels by 40 percent by 2030.
- Reduce freight transportation-related air, water, and noise pollution and impacts on ecosystems and communities on an annual basis.

The FREIGHT Act also would create a new competitive grant program for freight-specific infrastructure projects, such as port infrastructure improvements, freight rail capacity expansion projects, and highway projects that improve access to freight facilities.

Conrad Calls on DOT to Address Container Shortage. In a recent letter to the U.S. Secretary of Transportation, Senator Kent Conrad (D-ND) urged the DOT to address serious challenges that are impeding North Dakota exporters' ability to ship goods to the global market – warning that exporters in North Dakota and other rural areas in the Midwest are being disproportionately impacted by the lack of service.

"This situation is simply unacceptable. If our exporters are to remain competitive, they must be able to rely on the transportation network to get their products to markets, and that network must not unduly penalize those who are in rural areas," Senator Conrad said.

Senator Conrad is concerned about reports that producers in North Dakota and other rural areas have been unable to access containers needed to ship their products overseas. When containers are available, prices per container are often 50 percent higher than those at other inland areas, making it prohibitively expensive to ship products.

Many exporters have resorted to trucking containers hundreds of miles, at considerable expense, just in order to obtain equipment to ship products to overseas markets. These costs are ultimately passed on to the producer, which leads to lost export opportunities and overseas customers because they cannot remain competitive in the global marketplace.

"Producers tell me they have lost business when customers can't get timely delivery of products or they have been priced out of the market. All because they can't get containers to ship commodities to market. This is a serious issue that threatens North Dakota's economic competitiveness," Senator Conrad said.

WRDA Markup Scheduled for July 29. The House Transportation and Infrastructure Committee is scheduled to markup the Water Resources Development Act (WRDA) of 2010. WRDA is a major bill that upgrades the nation's ports, locks and other infrastructure for waterborne commerce, and funds numerous habitat restoration projects in wetlands and waterways across the nation.

House Minority Leader John Boehner (R-Ohio) has asked committee Chairman James Oberstar (D-Minn.) to disregard all Republican requests for projects in the WRDA reauthorization he is drafting — even if the original sponsors have not yet withdrawn their projects. Oberstar responded by asking Republicans who had previously requested WRDA projects to confirm by July 23 their requests for WRDA projects in order to avoid having those projects deleted from the bill.

Surface Transportation Board

Montana Accuses BNSF of Unreasonable Practices. On July 8, the State of Montana filed a complaint with the Surface Transportation Board (STB) challenging the 48-car limit on wheat shipments from certain Montana grain elevators with 52-car or greater capacity imposed by BNSF Railway as an unreasonable practice.

For many years, BNSF encouraged the construction of grain elevators that could handle loading trains of 52 cars or more. However, since April 2009, BNSF has eliminated rates for movements of this size. Now for 52-car shipments, shippers must pay the higher 48-car rate for the first 48 cars and the even higher single car rate for the last 4 cars.

Shippers are upset because they made substantial investment to gain the economic advantage of lower rates for larger shipments, as well as increased grain handling efficiencies. Also, the STB's Uniform Rail Costing System treats 52-car trains differently than 48-car trains, resulting in lower revenue-to-variable cost (R/VC) ratios for 48-car trains. The lower R/VC ratios for the 48-car trains make it more difficult for grain shippers to appeal rates that may be considered unreasonable for 52-car trains. *(Source: USDA)*

Department of Transportation

LaHood Dismisses Fuel Tax Increase. Secretary of Transportation Ray LaHood recently suggested the current fuel tax system, along with a number of other funding mechanisms – including tolling and a national infrastructure fund – could provide sufficient long term funding to maintain and expand the nation's surface transportation system without the need for new taxes.

At a meeting in Washington, DC, of the American Road and Transportation Builders Association, LaHood stated, "raising the gas tax is not an option," for increasing available funding for transportation projects.

LaHood acknowledged the Highway Trust Fund is "insufficient" for meeting the nation's current and future transportation needs. He suggested increased use of tolling, a proposed \$4 billion infrastructure fund, and public-private partnerships could generate the necessary revenues for the surface transportation system. LaHood dismissed the potential of transitioning to the tax on vehicle miles traveled in the near future.

Congress reauthorizes a surface transportation plan every six years that stipulates how transportation funding is generated and where it is allocated. The previous legislation, which originally expired on September 30, 2009, has been extended to December 31, 2010. A new system for financing the nation's roads and bridges remains the primary issue of dispute as policymakers debate the issue. The current Highway Trust Fund, the main source of revenue for surface transportation projects, is financed via an 18.4 cent per gallon tax on gasoline and a 24.4 cent per gallon tax on diesel fuel.

New Rule Addresses Railroad Bridge Safety. Federal Railroad Administrator (FRA) Joseph Szabo announced on July 14th a Final Rule requiring railroad track owners to adopt and follow specific procedures to protect the safety of their bridges, and to strengthen federal oversight of railroad bridge maintenance programs. This rule is a requirement under the Rail Safety Improvement Act of 2008.

"This Final Rule will help ensure the 100,000 railroad bridges in the United States are maintained and inspected to the standards accepted by sound engineering practices," said Transportation Secretary Ray LaHood. "The structural integrity of bridges that carry railroad tracks is vitally important to the safety of railroad employees and to the public."

The Final Rule requires track owners to implement bridge management programs that include at least annual inspections of railroad bridges; know the safe capacity load of bridges; and, conduct special inspections if the weather or other conditions warrant such inspections.

In addition, it requires an inventory of all railroad bridges, the audit of the bridge management programs, and inspections by the FRA; it also requires railroads to maintain the design documents of each bridge and to document all repairs, modifications, and inspections of each bridge subject to FRA review. Finally, the Final Rule allows FRA to levy fines of up to \$100,000.

“During the past five decades, not one fatality has been caused by the structural failure of a railroad bridge, and there have been just nine injuries since 1982,” said FRA Administrator Szabo. “Most of the older bridges in the U.S. were designed to carry loads much heavier than the trains of today, but we believe this Final Rule will institutionalize best engineering and inspection practices for all railroad bridges and give the FRA greater enforcement power in order to continue this record of excellence.”

The move to institutionalize engineering and inspection best practices took hold in the industry in 1995, but took a large step in January, 2009, when FRA published an amendment to its bridge policy – since adopted by the industry – to include the Essential Elements of Railroad Bridge Management Programs.

The Essential Elements are included in the Final Rule in accordance with the Rail Safety Improvement Act and provide railroad track owners with a uniform, comprehensive set of components for inclusion in their bridge management programs. With this information, a track owner may develop a single, comprehensive set of instructions, information and data as guidance for his or her employees who are responsible for the management, inspection, maintenance, and safety of railroad bridges.

The Final Rule is available at: <http://www.fra.dot.gov/downloads/safety/bridgefinalsafetyrule2010.pdf>