August 7, 2012

Legislation

Senate bill would extend short line railroad tax credit. On August 2nd, Senate Finance Committee Chairman Max Baucus (D-MT) released the "Family and Business Tax Cut Certainty Act of 2012." The package is comprised of more than $205 billion in tax cut extensions for families and businesses. The bill was advanced out of the Finance Committee by a 19-5 vote.

Included in the bill is an extension of the tax credit available to short line and regional railroads when maintaining track. Under the provision, the tax credit, which expired in December of 2011, would be extended for two years retroactive to January 1, 2012.

Instituted in January of 2005, the tax credit enables short line and regional railroads to claim a tax credit of 50 cents per dollar spent on improvements to owned or leased track. The credit is capped at $3,500 per mile.

Over 500 short line and regional railroads operate in the United States and either originate or terminate one out of every four carloads moved in the country. According to the RailConnect Index of short line traffic, 392,512 carloads of grain and oilseeds were transported by short line and regional railroads in 2011 – the number one commodity moved.

Legislation would restore U.S. cargo preference reductions. On July 24, U.S. Congressmen Elijah E. Cummings (D-MD) and Jeff Landry (R-LA) introduced the "Saving Essential American Sailors (SEAS) Act," H.R. 6170, which would ensure American food aid is transported by U.S. flagged vessels. The bill repeals Section 100124 of the recently passed highway bill, "Moving Ahead for Progress in the 21st Century" (MAP-21).

Section 100124 of MAP-21 reduces the amount of U.S. food aid required to be carried on U.S.-flagged ships from 75 percent to 50 percent. The Maritime Administration (MARAD) estimates that enactment of Section 100124 could cause the U.S.-flagged fleet to lose 16 vessels and $90 million in annual revenues.

"The number of vessels in the U.S. flag and the percentage of U.S. cargoes carried on American vessels have continued to fall in recent decades. Currently, there are fewer than 100 U.S.-flagged vessels in the foreign trade, and these vessels carry less than two percent of U.S. cargoes," said Cummings. "If we allow a further decline in this fleet and the loss of additional mariner jobs, we risk leaving our economy and indeed our military dependent on foreign-flagged, foreign-owned vessels manned by non-U.S.

citizens – a situation that would be intolerable.”

Additional co-sponsors include Nick Rahall (D-WV), Rick Larsen (D-WA), Bennie Thompson (D-MS), Colleen Hanabusa (D-HI), Cedric Richmond (D-LA), Michael Grimm (R-NY), Tim Bishop (D-NY), and Candice Miller (R-MI).

Administration

FMC contends rail rate disparities, avoidance of Harbor Maintenance Tax may cause diversion of traffic. On July 27, the U.S. Federal Maritime Commission (FMC) released their “Study of U.S. Inland Containerized Cargo Moving through Canadian and Mexican Seaports.” The study was requested by Congress to study the impacts and the extent to which the U.S. Harbor Maintenance Tax (HMT), other U.S. policies and other factors may encourage U.S.-bound container cargo to shift from U.S. seaports to those located in Canada and Mexico.

The study examines the competitiveness of Mexican and Canadian ports with U.S. West Coast ports; discusses the history and the theories of cargo diversion and of the HMT; reviews ocean freight rates, transit times and rail charges; and examines other potential relevant factors influencing the movement of cargo.

The study confirms previous estimates that a significant amount of containerized cargo imports moving through the Ports of Oakland, Seattle, Tacoma and Portland on the U.S. West Coast may be vulnerable to Canada routing due to overall shipment savings, mitigation of risk via port diversification, transit-time benefits, avoidance of the harbor maintenance tax and rail rate disparities.

Federal Maritime Commission Chairman Richard A. Lidinsky, Jr. stated, "This study provides facts U.S. policymakers can rely upon as they make the important choices affecting this country’s ability to compete in a global transportation marketplace."

Surface Transportation Board

STB explores options for protecting captive rail shippers from unreasonable rates. On July 25, the Surface Transportation Board (STB) announced “two initiatives to explore ways to further protect captive shippers from unreasonable rail rates.” First, the STB proposes to reform its rules on how it resolves rate disputes to ensure that all captive shippers have a meaningful way to challenge rates. Second, the STB is taking steps to consider a proposal submitted by The National Industrial Transportation League (NITL) to increase rail-to-rail competition.

The STB’s rate rules proposal removes the limitation on relief for cases brought under the Simplified-Stand Alone Cost alternative. "Our goal is to encourage shippers to use a simplified alternative to a Full-(Stand Alone Cost) analysis that is economically sound, yet provides a less complicated and less expensive way to challenge freight rates by discarding the requirement that shippers design a hypothetical railroad to judge a railroad's real world rates," the STB stated. The STB also proposes to double the relief available to shippers under its other simplified approach, the Three-Benchmark method; to make technical changes to the Full-SAC and simplified rate procedures; and to raise the interest rate that railroads must pay on reparations to shippers if the railroads are found to have charged unreasonable rates.

In addition to the rate relief proposals, the STB is beginning a proceeding to explore a competitive-access proposal submitted by NITL. "We continue," said the STB, "to explore whether there are policy changes the Board could adopt that would promote more rail-to-rail competition and thereby allow competition and the demand for services to establish reasonable rates for transportation by rail, and thus minimize the need for Federal regulatory control." Under NITL's proposal, certain shippers located in terminal areas that lack effective transportation alternatives would be granted access to a competing railroad, if there is a working interchange within 30 miles.

STB rated 1st in innovation among federal agencies. For the second year in a row, the Surface Transportation Board (STB) has been ranked the top small federal agency for innovation by the Partnership for Public Service in the PPS's July 2012 *Best Places to Work in the Federal Government® Analysis: Achieving a Culture of Innovation* report.

The Board achieved a 2011 innovation score of 87.7 out of 100, a 7.8-percent increase over the agency's prior score. The government-wide score was 63.2 out of 100. The STB's distinction in innovation follows earlier PPS rankings of the Board as one of the federal government's "Best Places to Work" for three years in a row (2009, 2010, and 2011).

The STB attributes its top ranking to the active encouragement of employee suggestions during weekly open-door meetings with the Chairman, and recognition of the best staff proposals with the STB's own "genius" award, presented annually.