

November 19, 1999

H.R. 3446, SURFACE TRANSPORTATION BOARD REFORM ACT OF 1999

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Mr. OBERSTAR. Mr. Speaker, I am introducing today H.R. 3446, the Surface Transportation Board Reform Act of 1999.

The Surface Transportation Board has been a troubled agency since its creation at the end of 1995.

First, the Board approved a huge merger between the Union Pacific and Southern Pacific railroads. Shippers were promised dramatically improved service. Instead, a year later, they got the biggest rail service meltdown in history. Two years later, the service crisis is over, but there are precious few signs that shippers are getting better service. Clearly, however, they are getting fewer choices and less competition.

Last year, the Board approved another huge restructuring of the industry when it allowed Conrail to be divided between Norfolk Southern and CSX. After spending a year planning the transaction so as to minimize adverse consequences, the transaction became effective on June 1st, and service almost instantly collapsed. While service in some areas has recovered, many shippers still cannot move their goods and are losing business to their competitors because they had the bad luck to be served by Norfolk Southern and CSX.

Clearly, the Board has failed to analyze rail transactions adequately to avoid these service disasters. Because of the reduced competition that has resulted from these mergers, the Board needs to provide more aggressive support to shippers who come to the Board for relief from high rates and poor service. This bill directs the Board to move in that direction. Shippers also need more competitive options without having to go to the Board. The bill's provisions on bottlenecks, terminal access, and reciprocal switching would allow shippers to avoid the adverse effects of mergers by getting more competitive service without seeking rate relief from the Board.

Second, the Board has continued the established policy of its predecessor in allowing railroads to abrogate their collective bargaining agreements as a "reward" for undergoing a merger. For 63 years, from 1920 to 1983, the Interstate Commerce Commission held to the sensible view that the rather vague language in its statute did not entitle railroads to walk away from their signed contracts. In 1983, the Reagan-era ICC voted to ignore its precedents and adopt a new interpretation that was totally at variance with Congressional intent and sound policy. The Board appointed by the current Administration, rather than return to the sensible precedents of the past, has followed the misguided policy adopted by its immediate predecessors. Instead of using the discretion that the statute gives them, the Board has written to the Congress and invited us to change the statute to save us from themselves, and prevent them from continuing to pursue this regressive policy.

This bill is a first step in that direction.

EXTENSIONS OF REMARKS

Title I of this bill proposes a series of measures to enhance rail competition. It clarifies the Rail Transportation Policy to make clear that competition is the "primary objective" to be pursued by the Board. It corrects the Board's "bottleneck" decision, which says that, even if a railroad monopolizes only part of the route along which a shipper wishes to transport a shipment, it can effectively monopolize the whole route, because the railroad can refuse to offer to ship along only part of the route.

The bill also makes it easier to secure competing rail service in terminal areas, and by reciprocal switching.

It codifies the one recent decision by the Board that has benefited shippers, namely the December 1998 decision on "product" and "geographic" competition.

It ends the ludicrous annual charade in which the Board examines the books of railroads that are raising billions of dollars in the capital markets and concludes that they are earning inadequate revenues.

It provides relief for small captive grain shippers by reducing the fees they must pay to protest rate and simplifying the process of determining a rate to be unreasonable. It also provides them with some assurance that they will be able to get enough cars to move out their grain each year.

The bill also requires submission of monthly service quality performance reports by the railroads, so the Board can do a better job of monitoring the industry's performance.

The bill's labor provisions in Title II end any authority of the Board to abrogate collective bargaining agreements, or to authorize a railroad or anyone else to do so. The bill strictly limits the preemption of other laws that is allowed in connection with railroads mergers, restricting this preemption to State and local laws that regulate mergers, and restricting this preemption in time to one year after the railroad takes possession of the acquired property.

The bill also clarifies the status of labor protection for railroad employers. The current statute confusingly defines labor protection in terms of the labor protection once received by Amtrak employees, whose statutory labor protection was taken away by the 1997 Amtrak reauthorization bill. Today's bill makes clear that railroad employees receive six years of labor protection if they are laid off as the result of a merger. While employees in other industries are not given labor protection like this, employees in other industries are entitled to strike if they cannot reach agreement with their employer on a contract. Since World War II, railroad employees have been denied the right to strike by repeated congressional interventions every time a strike is threatened. It is only fair, if employees are not entitled to strike, that they at least be compensated if they lose their jobs as the result of a merger.

Title III of the bill has several other significant provisions. The bill corrects an historical oversight by giving commuter railroads the same access to freight railroad rights-of-way that Amtrak has. When Amtrak was created in 1971, the Nation's private railroads were relieved of their common carrier obligation to provide passenger service—both intercity and commuter service. In return for being relieved of this common carrier obligation, the railroads

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were required to provide Amtrak with guaranteed access to their rights-of-way, but, in an oversight, the Nation's commuter railroads—which provide equally essential passenger service—were not given the same guaranteed access. This bill corrects that oversight by giving commuter railroads the same guaranteed access that Amtrak has.

The bill also gives special consideration to local communities and to passenger railroads in the Board's merger decisions. The Board has often given short shrift to the legitimate concerns of these parties in approving mergers, and has not imposed conditions that are necessary to protect their legitimate interests.

The bill also corrects an anomaly that was inserted in the statute by the 1995 ICC Termination Act. That bill preempted the authority of states to regulate the construction or abandonment of "spur, industrial, team, switching, or side tracks," but it did not give corresponding authority to the Surface Transportation Board. The result was a regulatory black hole, where such facilities could be built or abandoned without regulation either by local zoning regulations or by Federal environmental regulations. If these facilities were only minor railroad spurs, this would perhaps be acceptable, but the term "switching tracks" has been interpreted by the Board to include railroad yards occupying hundreds of acres. Not only can the railroads built these yards without any regulatory interference, they can also use their eminent domain authority to force landowners to sell them the land. This provision should never have been in the statute, and this bill repeals it, giving regulatory jurisdiction to the STB.

The bill also eliminates tariff filing for water carriers in the domestic offshore trades serving Alaska, Hawaii, Puerto Rico, and Guam. These carriers are directed to make their tariffs available electronically, just as water carriers in the U.S. foreign trades were in the Ocean Shipping Reform Act.

Finally, the bill reauthorizes the STB for three years, from fiscal year 2000 to fiscal year 2002, with authorized appropriations rising from \$17 million in FY 2000 to \$25 million in FY 2002. In view of its inability to respond promptly to shipper rate protests (documented in a GAO report earlier this year) and its inability to oversee the results of its merger decisions, the Board clearly needs additional resources. We can only hope that this bill will be enacted and that the Board will use these resources effectively.

COMMEMORATING THE WORK OF
GENERATION EARTH

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Ms. ROYBAL-ALLARD. Mr. Speaker, it gives me great pleasure to come to the floor of the House to recognize the Los Angeles County Department of Public Works for its Generation Earth Program.

Generation Earth is an environmental program of the Los Angeles County Department of Public Works and presented by TreePeople.

The program educates and empowers secondary school students in Los Angeles county to be an active part of the solution to minimize use of landfill space and understand their role in reducing pollutants from entering our waterways by proper disposal methods. Through a hands-on approach, students learn that the local environment is part of their everyday life, and that everyday decisions, choices and actions make a difference to the health of our environment.

TreePeople, is one of Los Angeles' oldest and most successful locally based nonprofit environmental education group. Since 1996, it has worked under the direction of the County of Los Angeles Department of Public Works Environmental Programs Division to create Generation Earth, the state's most effective secondary school environmental education program.

Generation Earth is a highly successful program with measurable milestones backed by research reviewed by educational experts. The classroom curriculum was designed to fit any academic discipline. It meets the curriculum objectives of language arts classes, math, science, social studies and history.

By providing opportunities for young people to improve their quality of life and challenge them as they apply lessons learned in school, Generation Earth is an important catalyst for the people of Los Angeles. Thanks to Generation Earth, Los Angeles County teenagers are beginning to learn that they can make a positive difference in their surroundings.

I hope my colleagues will join me in commending Generation Earth for its leadership in developing a successful comprehensive approach to environmental education.

RECOGNIZING THE PARTICIPATION OF MS. JOANNA MANUEL IN THE VOICES AGAINST VIOLENCE CONGRESSIONAL TEEN CONFERENCE

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Mr. UNDERWOOD. Mr. Speaker, last month, 342 teenagers from throughout the country came to Capitol Hill to attend the Voices Against Violence Conference regarding youth violence. During the two days, the teenagers had unique opportunities to express their views on youth violence to Members, learn from national law enforcement and youth programming experts, and participate in workshops covering a variety of issues including diversity training, peer mediation, and hate crime prevention strategies. Supporting agencies and organizations included the U.S. Department of Justice, the National Crime Prevention Council, the American Mental Health Association, MTV, and the Children's Defense Fund.

I felt it was important for a young person from Guam to participate in this conference to ensure that the diversity of perspectives of youth violence included teens from the furthest American jurisdiction. I was proud that Ms. Joanna Manuel, a sophomore attending Simon Sanchez High School, was Guam's represent-

ative to the conference. During her visit, Joanna gained practical knowledge about violence prevention initiatives and helped to explore the causes, needs and solutions to the problems of youth violence which continues to impact our society. Joanna proved to be a valuable contributor and an able spokesperson for Guam's youth.

The two day conference resulted in the introduction of House Resolution 357, which represents the views of the 342 conference participants and provides their collective views of the causes and solutions to youth violence. The measure was introduced by Democratic Leader RICHARD A. GEPHARDT, myself, and 94 other co-sponsors.

I am hopeful that Joanna will continue to be involved in the issue of youth violence and help raise community awareness and activity. It is evident from the outcome of the Voices Against Violence conference, that we can look to America's youth for solutions and guidance to understand why violence happens and what we can do to avert it.

For the record, I am submitting an essay written by Ms. Joanne Manuel giving her views on the causes of violence among teenagers.

WHAT DO YOU FEEL ARE THE CAUSES OF VIOLENCE AMONG TEENAGERS TODAY?

As anyone who listens to the radio, watches television, or reads the newspaper knows, violence has become a cause for nationwide and worldwide concern. Of particular concern is the alarming increase in violence among children and youth. The rates of youth-initiated violent crimes are rising dramatically, as are the numbers of young victims. Many teens are pressured into doing things they don't want to do. One of the hardest parts of growing up, is the same today as it has been for years, peer pressure. It is a part of every teenager's junior and high school years. Some peer pressure is actually quite good in working towards developing a teen's recognition of right and wrong. Negative peer pressure, the kind we most commonly associate with the concept, can be devastatingly corruptive. Positive and negative pressure are two totally different things. Positive pressure includes encouragement to try out for the school play, or challenges to study harder. Negative peer pressure includes encouragement to use drugs, to smoke, or other things that harm. Positive pressure has many benefits such as helping teenagers develop a sense of morality. Part of being a teen involves learning to make decisions. One of the things that affects decision-making is pressure from friends. Teens should make decisions based on their own morals and values. Daily, teens are persuaded to participate in activities that statistics report may harm their well-being. These activities include: smoking, drinking, using drugs, having premarital sex, and even cheating on schoolwork. Many teens are pressured into taking drugs and smoking by "friends." Teens today need to learn to make their own decisions and say no to drugs, smoking, and other things they know can harm them. Our communities and schools have to work together to help prevent negative peer pressure between teenagers. There are many other things that cause violence among teens today. Troubled teens are gradually increasing these days and many are caused by problems stemming from home. Counseling is a great way to find the problem and solve it before other prob-

lems arise. While I was in middle school, we had a peer counseling system. Students who needed help or just needed someone to talk to would go to the counselor's office and fellow students would talk and lend a helping hand. It was a great system and it worked. I think that the government should set aside some money to establish and maintain this type of system in every school in the nation and maybe even worldwide. We all have to work together to make a brighter future for all of us and the generations to come.

FREEDOM OF THE PRESS
SLIPPING IN HONG KONG

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Mr. PORTER. Mr. Speaker, I am greatly concerned over the growing reports from Hong Kong that freedom of the press is increasingly at risk under Chinese rule. When Hong Kong was turned over to China in July of 1997, it was to become one country but remain two systems. Unfortunately, after less than two and a half years, we are already seeing example after example of Beijing's power and its communist values being exhibited throughout Hong Kong and imposed on the citizenry.

The most recent example of this clampdown was the abrupt reassignment of the well-respected, outspoken director of the government owned Radio/Television Hong Kong, Cheung Man-yeet last month. Ms. Cheung was named economic and trade representative to Japan, a post equivalent to that of ambassador. This action took place just days after she drew a rare public rebuke from the Chinese Deputy Prime Minister, Qian Qichen. Recently, the station had also aired a senior Taiwanese official seeking to explain President Lee Teng-hui's shift in policy toward China.

The Hong Kong government is becoming increasingly critical of all local media. Statements from the chief of executive of Hong Kong, Tung Chee-hwa such as "while is freedom of speech is important, it is also important for government policies to be positively presented," show the direction in which freedom of the press is headed.

This "reassignment" of a qualified journalist is a scary first step. The international community must stand up and take notice when the slipping away of a vital freedom begins. The freedom of the press is the cornerstone of a strong democracy. If Hong Kong loses its free press, I have great fear for what is next.

THE TRUE GOAL OF EDUCATION

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Mr. TALENT. Mr. Speaker, I insert the following eloquent speech entitled "the True Goal of Education" into the CONGRESSIONAL RECORD.