Brotherhood of Maintenance of Way Employes Division
of the International Brotherhood of Teamsters

NEWS CLIPS

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Is Obama Hanging Workers Out to Dry?

February 15, 2010

Friday's headlines were triumphant: President Barack Obama won a "showdown" with Republican leaders, convincing them to release the holds they had placed on the confirmation of 27 nominees to federal agencies. But Craig Becker, Obama's nominee to the National Labor Relations Board, was not part of that deal. Mr. Becker's crime? He is a lawyer who represents the interests of union members in labor-management disputes.

Obama could fix this easily, by naming Becker to the labor board during the current congressional recess, a move that would allow Becker to serve on the NLRB for a year without Senate confirmation. President George W. Bush made seven recess appointments to the labor board, most of them anti-union lawyers whose careers were spent representing management in labor disputes. (The NLRB functions as an arbitrator of disputes between workers and their bosses.)

But Obama's part of the deal that bought those other 27 nominees the freedom to serve seems to be a promise not to make any recess appointments during the Presidents Day recess, regardless of the toll on American workers. Any time the Republicans scream about the purported threat that labor poses to the economy, national security or the free-market system (all lies, by the way), Obama folds.

Case in point: Erroll Southers, Obama's nominee to head the Transportation Security Administration, came under fire by Senate Republicans when he refused to promise that he would deny collective bargaining rights to TSA airport screeners -- one of the most abused workforces in the federal government. The abuses heaped upon screeners -- arbitrary firings, mandatory overtime, lack of proper equipment and training -- put the traveling public at risk.

If the workers had full union representation, they would be able to bargain for the tools and conditions they need to do their jobs properly. During the creation of TSA, I worked for the union the that organized them, the American Federation of Government Employees. I heard, first-hand, troubling tales from workers about a range of security risks posed to the public because of the screeners' lack of workplace protections. (While TSA screeners can belong to a union, the union essentially has no power to represent them in the workplace because they are barred by executive order from bargaining collectively.)

Yet, Sen. Jim DeMint, in placing a hold on Southers' nomination, made a specious case that somehow collective bargaining rights for screeners would imperil public safety. (Never mind that the first-responder heroes of the 911 attacks -- the firefighters, cops and EMTs who ran into the inferno of the World Trade Center -- were all union members.)

In the wake of the attempted bombing of a U.S. aircraft on Christmas Day, Obama could have easily and justifiably made a recess appointment of Southers, a highly qualified anti-terrorism expert. Certainly, the public at large would have taken little issue with him for doing so. Instead, Obama allowed DeMint to win that bogus argument, and Southers withdrew his nomination after receiving no support from the administration.

It was a stunning blow, not just to labor, but to Obama's own credibility. During the presidential campaign, Obama pledged AFGE President John Gage his support for collective bargaining rights for screeners. Southers was ditched for refusing to recant Obama's promise to the workforce he was poised to lead.

Even if you don't belong to a union, this matters to you more than you know. Whatever standards of workplace fairness have managed to survive since the anti-union onslaught begun under President Ronald Reagan continue to exist because unions have fought hard for them. Whether the Family Medical Leave Act or the simple requirement that you receive at least a half-hour for lunch, these standards were advanced by unions. When unions are disempowered, every worker suffers, be she a union member or not.

The war on Obama's labor nominees is far bigger than any one person named to any one position. It's about the public perception of unions, and the GOP's success at demonizing unions and their members. For the sake of the nation, it's a game they must not be allowed to win.

President Obama owes it to the American worker to make a recess appointment of Craig Becker -- and not just because Becker is a highly qualified nominee to a board that is currently hamstrung by vacancies, and unable to act. If Obama is truly on the side of the American worker, he must make this recess appointment to demonstrate his commitment to fairness in the workplace, and to assert the right of workers to organize. It's a universal human right, according to the United Nations declaration to which the U.S. is a signatory, and one by which the president has an obligation to stand.

Carload traffic shows strength relative to last year February 16, 2010

Though still trailing 2008 levels, U.S. freight carload traffic during the week ended Feb. 6 rose 1.4% compared with the same week in 2009, the Association of American Railroads reported. That still left traffic down 14.7% from the comparable week in 2008.

U.S. intermodal traffic showed similar relative strength, up 5.1% from the same week a year ago but still down 10.7% from the comparable 2008 period.

Fourteen of the 19 carload freight commodity groups were up in comparison with the same week last year, led by a 50.8% rise in metals and products movements. Other increases included nonmetallic minerals, up 40.1%; farm products other than grain, up 32%; coke, up 25.7%; and motor vehicles and equipment, up 19.9%. Notable declines include crushed stone, sand, and gravel, down 12.7%, and pulp, paper, and allied products, down 10.3%.

Total volume on U.S. railroads for the week ending Feb. 6 was an estimated 29.2 billion ton-miles, up 2.5% from 2009 levels but down 11.8% from 2008 figures.

Canadian railroads reported traffic volume up 9.3% from last year, with intermodal up 2.4 %. Mexico's two major railroads reported carload traffic was up 11.4 % compared with 2008, while intermodal notched a 19.5% gain

Combined North American rail volume for the first 5 weeks of 2010 on 13 reporting U.S., Canadian, and Mexican railroads was up 3.2% from the comparable 2009 period, while intermodal also rose, 3.8%, compared with the same period.

2/18/2010 Traffic Outlook

Double-digit carload growth in offing for Class Is, Baird analysts say

Although U.S. rail traffic currently is up slightly vs. 2009 levels yet still well below 2008 volumes, a normal seasonal trend could produce double-digit year-over-year carload growth for Class Is in the months ahead, according to Robert W. Baird & Co. Inc.'s "Domestic Truck, Intermodal and Rail Trends" report for February. Most commodities — potentially even coal — could register traffic gains.

The strong fall harvest for corn, wheat and soybeans should continue to drive up agricultural product volumes in the coming months, the report states. Chemical volumes have increased the past two months, "with anecdotes of improved trends for plastics exports," Baird analysts wrote in the report. In addition, automobile production levels remain stable vs. recent quarters.

Meanwhile, coal production "remains the lone laggard," according to the report. However, "commentary from recent investor conferences suggests stronger export coal trends (particularly for metallurgical coal), as well as anecdotes of improved weather and industrial production-related electricity generation needs resulting in customer coal stockpile reductions, which could drive modest year-over-year growth for overall coal volumes in 2010," the analysts wrote.

In the intermodal sector, domestic container gains continue to drive overall volume growth.

"Throughout the recent downturn, domestic intermodal has continued to gain market share from over-the-road truckload as fuel prices, scale efficiencies and better rail service remain key drivers of conversion," the analysts wrote. "Looking ahead, we expect domestic container growth to continue as the broader freight environment firms."

Moreover, “bottoming fundamentals” suggest the headwinds facing international intermodal volumes have diminished and growth will return as “easy comparisons lap and economic fundamentals improve,” according to the report.

US labor enforcers scrutinize 'independent' workers, truckers

WASHINGTON -- The Obama administration plans to crack down on companies that blur the lines between employees as independent contractors, including owner-operators in the trucking industry.

Facing significant budget shortfalls, officials could soon increase enforcement of misclassified workers in an attempt to uncover additional sources of revenue while also appealing to unions that oppose independent worker status in some sectors.

According to a report today from the N.Y. Times, President Obama's 2010 budget estimates that such measures would yield at least $7 billion over 10 years.

The administration will hire 100 more enforcement personnel and the IRS has begun auditing 6,000 companies.

Meanwhile, more than two dozen states have already stepped up enforcement, by enacting stricter penalties, according to the paper.

The Labor Department estimates that up to 30 percent of companies misclassify employees, many of which are in the trucking or construction industries.

In many of these cases, companies treat independent contractors the same as payroll employees, who perform many of the same functions. Both types of workers are frequently given similar instructions and duties and have access to the same equipment and facilities.

Companies that pass off employees as independent contractors may do so to avoid paying Social Security, Medicare and unemployment insurance taxes.

The attention federal and state officials are now paying to the issue is significant on another front, as it could bolster unions that are attempting to collectively bargain for owner-operators contracted to for-hire fleets.

FedEx, for example, has spent years fending off large-scale unionization efforts by the Teamsters.

In that campaign (which has since expanded to Canada), the Teamsters are lobbying Congress to change how the carrier is governed under federal law and force FedEx's independent drivers to be recognized as company employees.

The Teamsters, interestingly, are backed by FedEx's main competitor, UPS, whose workforce is represented nationwide by the same union.

FedEx's argument -- one often made by trucking companies in similar situations -- is that owner-operators own or lease their own equipment and can choose which lanes to take.

But if Canadian precedent is anything to go by, that argument could be a tough sell to officials sympathetic to union interests if the company exercises any degree of control or direction on non-employee drivers.

As Today's Trucking has documented over the last few years, the Canada Industrial Relations Boardand independent arbitrators have routinely certified unions to collectively bargain for owner-ops -- whether the truckers wanted it or not.

Issuing uniforms or company mailboxes to owner-ops; or allowing them to share facilities with company workers and inviting them to company functions are all actions that have been cited to define the carrier as the "true employer" of an independent worker or agency driver.

Whether auditors and labor tribunals in the U.S. interpret things as arbitrarily remains to be seen.

Although, according to the Times, White House and state officials deny they are doing it as a favor to the unions.

'Cadillac tax' on health plans would hit union and nonunion jobs equally

By Alec MacGillis
Washington Post Staff Writer
Monday, February 22, 2010; A13

It happens often in Washington: A perception emerges and soon hardens into fact. Take the proposed tax on high-cost insurance plans in the Senate's health-care legislation. Because organized labor took the lead in opposing the tax, the assumption took hold that it would hit unions the hardest.

Both sides made use of this perception. Opponents of the tax could argue that it would hurt a lot of hardworking factory workers or teachers who had traded wage gains in return for good health benefits. Proponents of the tax portrayed opposition to it largely as a special-interest issue driven by self-protective unions.

But according to a new analysis, the conventional wisdom about the tax is wrong: The tax would actually fall equally on nonunion plans. At least 80 percent of the workers whose plans would be subject to the tax in 2019 would be in nonunion jobs, according to the analysis by Ken Jacobs of the University of California at Berkeley Labor Center and William H. Dow, a professor of health economics at Berkeley who was a member of President George W. Bush's Council of Economic Advisers.

This impact is roughly in line with the overall breakdown of nonunion vs. union workers with employer-provided plans. And it would be true under both the version of the tax passed by the Senate and a more labor-friendly one the White House agreed to last month.

The excise tax on "Cadillac" health plans has emerged as one of the most contentious elements of the proposal that congressional Democrats are cobbling together from bills passed by the House and Senate. The tax will probably be included in the health-care proposal the White House is expected to release Monday in advance of the health-care summit President Obama has called.

The bill passed by the Senate would raise $150 billion over 10 years by taxing plans worth more than $23,000 for families and $8,500 for individuals. Any value that exceeds those thresholds would be taxed at 40 percent. Proponents say the tax would slow the growth in health-care costs, as employers and employees shift to less generous plans to avoid it. The savings from switching to lower-cost plans, proponents say, would go into higher wages.

Opponents of the tax, including many House Democrats, doubt that it would slow the growth in costs, arguing that consumers have a limited role in driving health-care spending. They also point to research suggesting that the tax would hit not only lavish plans but also those that are costly because they are in expensive regions or in businesses that have many older workers. And they warn about the political risk of taxing middle-class voters' health benefits, noting that Sen. Scott Brown (R-Mass.) made hay of the tax in his campaign.

The House bill instead relies on a surtax on the wealthy. But Obama has made plain his preference for the tax on high-cost plans. To mitigate its impact, the White House and union leaders last month negotiated revisions, including slightly raising the tax threshold, limiting the tax for businesses with many female or older workers, and exempting government workers and union plans until 2018.

Congressional Republicans have attacked the deal as a carve-out for labor, but according to the analysis, the revisions would also benefit many nonunion workers. The authors, whose work was funded by the California Endowment and the liberal Institute for America's Future, estimate that the revisions would reduce the tax's revenue by $41 billion, of which 71 percent would accrue to nonunion workers.

If employers remained with their current plans, the researchers estimate that 23 percent of plans would be subject to the tax by 2019 in the Senate version, while 14 percent of plans would be hit under the revised deal.

The fate of the tax in the Democratic discussions is unclear. If the labor-friendly revisions are jettisoned, there will be a call to find other ways to minimize the impact on middle-class families.

Rep. Joe Courtney (D-Conn.), a leading opponent of the tax, said the analysis "confirmed what I've been saying all along -- this is a much bigger issue than labor-union households."

"The momentum in the House against it has gotten even worse," he said. "The more this thing has sunk in, it's become politically dangerous in the minds of a lot of members."

Mon, February 22, 2010 -- 10:14 AM ET

Obama Details Plan to Expand Health Care to Uninsured

President Obama on Monday laid out for the first time a detailed legislative proposal for overhauling health care, largely sticking with the approach passed by the Senate with unified Democratic support in December but making concessions to the House version as well.

Mr. Obama's proposal is the opening act to a week of high drama around health care that will culminate on Thursday, when the president convenes Democrats and Republicans at an all-day televised health care "summit" at Blair House. The White House is hoping the session can jump start the stalled health bill.

2/22/2010 Traffic

AAR weekly report: Heavy snow weighs down U.S. carloads

Two major eastern snowstorms put the kibosh on U.S. railroads' weekly traffic gains from late January into early February. During the week ending Feb. 13, their carloads dropped 8.1 percent to 257,823 units compared with traffic from the same week last year, according to the Association of American Railroads (AAR). Total volume declined 7 percent to an estimated 28.1 billion ton-miles.

In the East — where carloads tumbled 16.1 percent — CSX Corp. and Norfolk Southern Corp. experienced severe weather-related delays "upwards of 48 hours," said Robert W. Baird & Co. Inc. analysts in their weekly "Rail Flash" report.

However, U.S. roads' intermodal traffic weathered the snowstorms by inching up 0.5 percent year over year to 192,354 units.

For the week ending Feb. 13, Canadian railroads reported 69,954 carloads, up 4.8 percent, and 42,560 containers and trailers, down 1.6 percent year over year. Mexican railroads reported 14,370 carloads, up 28.1 percent, and 6,602 intermodal loads, up 17.3 percent.

Huron & Eastern employees approve BMWED/IBT representation

Monday, February 22, 2010

Employees of the Huron & Eastern Railway Company voted in favor of union representation by the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters. After the votes had been counted, an overwhelming majority of Huron & Eastern employees chose to be represented by the Allied Federation, which already represents more than 7,000 members of the BMWED/IBT.

The Huron & Eastern Railway, owned and operated by Rail America, operates in the Lower Peninsula of Michigan, headquartered in Vassar, Mich., with its main junction located in Saginaw.

Obama offers new health-care reform proposal

By Alec MacGillis and Amy Goldstein
Washington Post Staff Writer
Tuesday, February 23, 2010; A01

President Obama signaled his determination to forge ahead with a Democratic vision of comprehensive health-care reform as he unveiled on Monday an ambitious proposal that would extend coverage to 31 million people, raise taxes on the wealthy and ratchet up regulations on insurers.

The proposal is a carefully calibrated attempt to relaunch a nearly year-long effort that has stalled: It tries to combine the separate bills that narrowly passed the House and Senate into a final version that could pass muster in both chambers.

Like the Senate and House bills, the proposal would require almost everyone to obtain insurance or pay a fine and provide income-based subsidies to those who cannot afford it. It would expand Medicaid for the working poor and impose new requirements on insurers that sell policies in a new "exchange," or marketplace, where those without employer-based benefits could buy coverage.

Obama's proposal takes the more modest Senate bill as his basic framework. But, in what is perhaps his proposal's most notable feature, he scales back the Senate bill's main revenue source, a tax on high-cost insurance that he has strongly supported. Instead, he would impose a new tax on the unearned income of the wealthy.

He would expand subsidies to help working-class and middle-class families afford coverage. To win over some of the bill's strongest skeptics -- seniors and state officials -- he would expand the Medicare drug benefit for seniors and Medicaid assistance for budget-strapped states.

There is no independent cost estimate yet, but the proposal's additions drive its price tag higher than the Senate bill's $871 billion. White House health-care czar Nancy-Ann DeParle estimated the increase at $75 billion over 10 years, which she said would be offset by bigger cuts in subsidies for private insurers that offer Medicare Advantage plans and higher fees on drug companies, among other sources. By reining in Medicare, the proposal would still reduce the deficit by $100 billion over 10 years, the White House said.

The proposal arrives in advance of Obama's bipartisan health-care summit on Thursday. But his formal adoption of an approach so aligned with the efforts of congressional Democrats acknowledges that the overhaul will draw little to no Republican support, and that the main challenge lies in retaining the support of Democratic lawmakers.

"It doesn't strike you as a scaled- down thing that's not supposed to have enemies," said John Holahan of the Urban Institute, who is a proponent of comprehensive legislation. "They just went all out."

Because of the Democrats' loss of their 60th Senate seat, the overhaul's likeliest route is for the House to pass the Senate bill with the understanding that the Senate would pass agreed revisions using a maneuver that requires only 51 votes. But for that to work, House Speaker Nancy Pelosi (D-Calif.) would need to retain the Democrats who voted for the House bill, as well as replace those who are opposed to the abortion language in the Senate bill.

The imperative of corralling House Democrats is apparent in the president's decision to scale back the tax on high-cost insurance plans. The White House had championed the "Cadillac tax" as a cost-containment tool, but House Democrats and labor unions had opposed it, saying it would hit middle-class families and would be an easy political target for Republicans. Instead, the House bill raised income taxes on couples earning $1 million.

The president's proposal scales back the tax on high-cost plans by raising the threshold of plans that would be taxed from $23,000 to $27,500 for family plans, and by delaying the tax until 2018, an exemption previously given only to unions. The proposal makes up the revenue by extending the Medicare tax so that it applies, at a 2.9 percent rate, to wealthy taxpayers' income from sources other than wages, such as interest and dividends.

Reducing the tax on high-cost plans "is going to make it much easier to pass the bill in the House a second time," said Ron Pollack, director of Families USA, which advocates universal health care.

The proposal adopts, with tweaks, the Senate's more lenient approach to fining large employers that do not provide coverage. It slightly increases the penalty for people without coverage. It does not include a "public option," the government-run insurance plan included in the House bill that people could buy instead of private plans.

White House officials touted as the proposal's signature addition a new nationwide authority to review insurance rate increases. It is intended to prevent big rate hikes, such as the 39 percent increase that Anthem Blue Cross of California is seeking for many individual policies.

The proposed authority is slightly less than meets the eye. The existing bills contained provisions geared toward minimizing big rate increases: They would bring healthier people into the pool of the insured by requiring everyone to have coverage; they would require insurers to spend a minimum amount of premiums on medical care, not profit-taking; and they would require reviews of rate hikes on exchanges.

But the new authority could serve to limit big rate increases in the years before the legislation takes effect in 2014. And it could serve to reassure those who object to having to buy coverage from private insurers, in the absence of a public option.

Karen Ignagni, president of America's Health Insurance Plans, said the White House's focus on insurance rates instead of the underlying prices of doctors, hospitals and drug manufacturers is akin to saying that "we can only look at what the price of the car is at the dealer's lot," without considering the price of steel and other materials. "It doesn't make a whole lot of sense," she said.

In another bid at popular support, the proposal would go further than the Senate's legislation to fill the "doughnut hole" in the Medicare drug benefit, in which patients who reach a certain level of spending on drugs must pay for it unless they reach an extremely high amount, after which the insurance resumes. The Senate bill would fill the gap halfway, but under the White House proposal the hole in coverage would shrink over several years, disappearing in 2020 -- a year later than the House's version.

The proposal jettisons the special deal on Medicaid costs that Sen. Ben Nelson (D-Neb.) secured for his state. Instead, it seeks to address cash-strapped states' concerns about the cost of expanding Medicaid by increasing the federal share of covering newly eligible people, to 100 percent of the cost for the first four years, 95 percent for the next two, and 90 percent after 2020.

This could help win over governors and state legislators who have until now been ambivalent about the federal overhaul. But those who have been following the debate for the past year said the overhaul's prospects may depend more now on the White House's ability to rebuild momentum and nail down key votes in Congress rather than on the new proposal's details.

"At this point, if policy mattered, it would," said John Rother, AARP's executive vice president for policy and strategy. "The question is, does policy matter or has this become completely political? We'll see."

2/24/2010 Legislation

Oberstar bill would give feds jurisdiction over transit-rail safety

On Monday, Rep. James Oberstar (D-Minn.) introduced the Public Transportation Safety Program Act of 2010 (H.R. 4643), which proposes to provide the federal government jurisdiction over transit-rail safety.

Co-sponsored by Reps. Peter DeFazio — who chairs the House's transit subcommittee — and Donna Edwards (D-Md.), H.R. 4643 would establish a national public transportation safety program. Currently, the Federal Transit Administration manages a State Safety Oversight program that places transit-rail safety responsibility on states, but the legal authorities of various state oversight agencies are limited and "vary widely," said Oberstar in a prepared statement.

So, transit ridership continues to grow nationwide, but the "state-of-good-repair" condition of many transit agencies' systems hasn't kept up with the influx of new riders, he said.

"Maintenance levels at many public transit agencies have decreased to a point where older, less safe rail cars, track, electrical equipment and other assets are left in service long after their useful life," said Oberstar. "Currently, there are no nationwide mandatory minimum standards for rail transit safety. At a very basic level, we need to ensure that passengers feel completely safe as they board rail transit systems."

Oberstar plans to work with the U.S. Department of Transportation and other legislators on the bill while Congress considers a long-term surface transportation reauthorization measure. H.R. 4643 was referred to the House Committee on Transportation and Infrastructure.

Senate easily approves jobs bill; House passes health-insurance antitrust bill

By Ben Pershing and Perry Bacon Jr.
Thursday, February 25, 2010; A06

The Senate easily approved a $15 billion jobs bill Wednesday that would give tax breaks to companies for hiring new employees, one of two legislative victories that showcased a new Democratic strategy of winning Republican support by advancing popular measures.

The jobs bill passed 70 to 28, with 13 Republicans joining 57 Democrats. Only one Democrat, Sen. Ben Nelson (Neb.), voted against it.

Sen. Charles E. Schumer (D-N.Y.) said the vote was a welcome change after "so much gridlock," and Senate Majority Leader Harry Reid (D-Nev.) said he was "optimistic that this show of bipartisanship signals a renewed spirit of working together to solve our shared challenges."

The bill now goes to the Senate. It is the first piece of major legislation to win approval in the Senate since the passage on Christmas Eve of the health-care overhaul, which was upended last month when the election of Scott Brown (R-Mass.) cost Democrats their filibuster-proof supermajority.

Frustrated by Republican opposition on key bills and eager for concrete accomplishments to show voters, Democrats are focused on pushing the minority to take a stand on popular measures, including the jobs bill and House legislation aimed at repealing the health-insurance industry's decades-old antitrust exemption.

The House measure passed Wednesday 406 to 19, with most Republicans joining all Democrats in voting for the legislation.

Before the vote, Republican leaders circulated a memo saying Democrats were pursuing the repeal because of "political calculations, rather than substantive reasons." Even so, wary of being tagged as too close to the insurance industry, the GOP did not organize its members to oppose the measure.

Although President Obama has said he supports the repeal, Senate aides said the chamber is focused on passing a comprehensive health-care bill and is unlikely to take up the antitrust measure soon.

Health insurance companies are regulated by state governments to prevent collusion, price-fixing and other anti-competitive behavior, and the nonpartisan Congressional Budget Office said last year that repealing the exemption would not significantly reduce premiums.

As of Wednesday night, House leaders had not settled on a strategy for proceeding on the jobs bill. Democratic aides said the most likely scenario was that the House would pass the Senate bill this week, although some representatives have expressed reservations about that approach. The House passed a $154 billion jobs bill in December.

Five Senate Republicans helped Democrats overcome a procedural hurdle on the jobs bill Monday, and eight more crossed the aisle Wednesday: Sens. Lamar Alexander (Tenn.), Richard Burr (N.C.), Thad Cochran (Miss.), Orrin G. Hatch (Utah), James M. Inhofe (Okla.), George S. LeMieux (Fla.), Lisa Murkowski (Alaska) and Roger Wicker (Miss.).

Brown, who drew criticism from some conservatives for siding with Democrats on the bill Monday, said after its passage that he "supported this measure because it does contain some tax relief that will help Massachusetts businesses put people back to work."

The centerpiece of the jobs measure is a $13 billion program to give companies a break from paying Social Security taxes for the remainder of the year on new employees. If those workers remain on the payroll for at least a year, their employers would also get a $1,000 tax credit. In addition, the Senate bill includes a one-year reauthorization of the highway trust fund, which allows companies to write off equipment purchases, and an expansion of the Build America Bonds program.

The highway money could cause problems in the House, where some members have complained that the Senate bill's funding formula unfairly benefits a handful of states.

Some moderate House Democrats -- and many Republicans -- are also concerned that the jobs measure violates recently enacted "pay as you go" budget rules because only a portion of its spending and tax credits is offset.

Senate leaders are working to craft the next piece of what Reid is calling a "jobs agenda." The two parties are negotiating the parameters of a second package that could reach the Senate floor next week.

It would include year-long extensions of unemployment insurance, COBRA health benefits and a variety of expiring tax breaks, as well as a "fix" to prevent a scheduled cut in physician payments under Medicare. Because some of those programs expire Sunday, the Senate was moving Wednesday toward approving one-month extensions of some items.

Class I rails cut 13,902 jobs, January '09 to January '10

February 25, 2010

A report released Wednesday by the Surface Transportation Board shows that Class I railroad employment fell to 145,609 in mid-January 2010, a loss of 8.72%, or 13,902 jobs, since January 2009.

The biggest loser was the train crew category transportation (train and engine), where employment declined 11.57% to 55,876, a loss of 7,311 jobs.

Other employment groups also declined: executives, officials, and staff assistants (9,029), down 10.79%; professional and administrative (13,256), down 3.61%; maintenance of way and structures (32,729), down 4.99%; maintenance of equipment and stores (28,186), down 8.16%; and transportation other than train and engine (6,533), down 10.65%.

Total January 2010 employment was down 0.78% from December 2009, indicating a continuing downward trend.

The STB report showed that the January 2010 employment index (based on 1967 as 100) was 23.7% vs. 25.9% in January 2009 and 26.5% in January 2008.

U.S. rail freight off slightly as coal loadings decline

February 26, 2010

Freight traffic on U.S. railroads was down slightly during the week ended Feb. 20, in comparison with the corresponding week last year, according to the Association of American Railroads. AAR cited “a sharp drop in coal loadings” as a primary factor.

U.S. railroads originated 273,999 carloads, down 1.6% compared with the same week in 2009, and down 15.3% from 2008. But intermodal traffic gained sharply in comparison with last year, up 19%, though it still fell 11.1% below the comparable week in 2008. AAR cautioned, though, that the corresponding 2009 week was affected by the Chinese New Year, which has a significant impact on container volume.

West was best for U.S. Class I railroads, where carloads gained 2.2% over 2009, trailing 2008 levels by 10.8%. In the East, carloads fell 7.1% from a year ago, and were 21.5% behind the 2008 period.

Twelve of the 19 carload freight commodity groups were up in comparison with the same week last year. Double-digit increases were reported in loadings of metals (44.6%), motor vehicles and equipment (30.5%), grain (21.9%), metallic ores (17.6%), grain mill products (14.4%), and chemicals (13.7%). Total volume on U.S. railroads for the week ending Feb. 20 was estimated at 29.8 billion ton-miles.

Canadian car loadings were up 9.6% from last year, while intermodal gained 12.5% over 2009 levels. Mexico’s two major railroads reported carload traffic rose 25.3% from the same week last year, while intermodal gained 12.7%.

Combined North American rail volume for the first seven weeks of 2010 on 13 reporting U.S., Canadian, and Mexican railroads totaled 2,442,733 carloads, up 1.8% from last year, and 1,745,653 intermodal trailers and containers, up 5.1% from 2009.

RailAmerica reports loss during fourth quarter

February 26, 2010

Jacksonville, Fla.-based RailAmerica, Inc. Thursday reported a fourth-quarter earnings loss of $12.5 million, or 24 cents per share, compared with the company’s earnings of $6.0 million, or $0.14 per diluted share, for the comparable quarter of 2008. Total net loss, which includes discontinued operations of the company’s Ottawa Valley Railway (OVR), was $6.9 million, compared to net income of $8.9 million for the fourth quarter of 2008.

The results still beat the estimates of Morgan Stanley analysts William Green and John Godyn, who observed that the company’s “operating income of $22.8 million (adding back $6.3 million in non-cash IPO charges and $2.3 million of OVR discontinued operations) exceeded our forecast of $21.4 million.” But, they cautioned, “the combination of RA's OVR sale (and plans to report discontinued operations income), stale consensus estimates, and presence of other below-the-line adjustments in 4Q09 creates downside risk vs. consensus (though frankly we're not sure how consensus will treat all of these adjustments yet).”

In a statement, RailAmerica President and Chief Executive Officer John Giles said, "In the fourth quarter we posted solid financial results as we increased Adjusted EBITDA 1% to $33.5 million in a challenging economic environment. Excluding the $6.3 million IPO-related charge our operating income was up 7% for the quarter to $20.5 million. This was a result of our continued focus on running safe railroads and driving operating efficiencies. With the completion of the IPO and the OVR transaction, we have strengthened our balance sheet and are well positioned to pursue external growth opportunities. We will apply the same discipline to strategic investments that we have used over the past three years to improve the company's operational and financial performance."

Giles continued, "Although still evolving, we are encouraged by the recent growth in carloads and have positioned RailAmerica for strong performance as volumes improve. This year, we plan to maintain a sharp focus on our three strategic priorities: delivering organic growth and efficiency gains, strengthening our balance sheet, and capitalizing on external growth opportunities."

February 26, 2010

Clearing the Air at American Ports

By STEVEN GREENHOUSE

The Teamsters union and environmental activists have formed an unlikely and outspoken alliance aiming to clear the air in American ports, and perhaps bolster the Teamsters' ranks in the process.

The labor-green alliance is getting under the trucking industry's skin by asserting that short-haul trucking companies working in ports — and not the truck drivers, who are often considered independent contractors — should spend the billions needed to buy new, low-emission rigs that can cost $100,000 to $175,000 each.

The Teamsters union says seaport air is so dirty largely because port truck drivers earn too little to buy trucks that would belch out fewer diesel particulates, tiny particles that contribute to cancer and asthma. Working with environmentalists, the union helped persuade the Port of Los Angeles to adopt a far-reaching plan that bars old trucks from hauling cargo from the port and puts the burden of buying new vehicles on the trucking companies, not the drivers.

The battle has intensified as federal officials press ports to adhere to clean-air regulations. Seaports from Newark to Miami to Seattle are confronting the same issue: who should pay for the cleaner trucks?

"We think if you have the big trucking companies own the equipment and maintain it, the trucks will be cleaner," said David Pettit, director of the Natural Resource Defense Council's Southern California Clean Air Program. Noting that both trucks and ships contribute to port pollution, he said, "we got involved because the ports of Los Angeles and Long Beach are the single biggest contributors to air pollution in the L.A. area, and that's because of diesel pollution."

Environmental groups are happy to have the Teamsters' political muscle behind efforts to clean up the ports, while the union likes having environmentalists backing its goal: requiring port trucking companies to employ their drivers directly, rather than as independent contractors because employees, unlike contractors, can join unions. The Teamsters are eager to unionize the nation's more than 40,000 port drivers.

The labor-green alliance achieved a major victory in late 2008 when it helped persuade the mayor of Los Angeles, Antonio Villaraigosa, a former union organizer, and the city's port to require trucking companies to employ their drivers directly, making the companies bear the cost of buying new rigs.

Angry that this move increased their labor costs, trucking companies sued to block the policy. A federal judge on Thursday announced she would hold a civil trial beginning April 20.

Last April, the Federal District Court judge in the case, Christina A. Snyder, granted an injunction suspending the mandate while letting stand the ban on pre-1994 trucks. The judge said the suspended rules were pre-empted by a federal law that regulated trucking.

The American Trucking Associations, the industry group, wants to maintain the current structure in which most port drivers are considered independent contractors responsible for buying their own trucks. The group also wants the seaports to subsidize purchases of new trucks, whether by drivers or the companies.

The industry does not hide its dismay about the labor-environmental coalitions that have sprouted in various cities.

"A lot of these groups are just front groups for the Teamsters, and it's really horrible that they're attacking these drivers and saying they can't possibly finance newer trucks and don't know how to maintain them," said Clayton Boyce, a spokesman for the American Trucking Associations. "That is a total falsehood."

But Rafael Prestol, a truck driver at the Port of Newark, disagreed, saying he could not possibly afford a new truck. When he became a driver in 1978, his salary was $425 a week, but some weeks, he says, he still nets the same amount — just $425 — after fuel and other expenses.

"If we invest $100,000 in a new vehicle and we're making $2,000 a month or less, it doesn't make sense," said Mr. Prestol, who blames trucking deregulation for pulling down drivers' pay. "And what guarantee do you have after you buy a new truck that you'll continue to get work?"

In addition to Mayor Villaraigosa, the Teamsters and environmentalists have lined up other backers, including Mayor Michael R. Bloomberg of New York, Mayor Corey Booker of Newark and other mayors, senators and representatives.

With a recent Rutgers study finding that port drivers earned $29,000 a year on average (after paying for their trucks, maintenance, fuel and insurance), Mr. Bloomberg said, "Truck drivers simply can't afford to buy expensive trucks. They're barely earning enough to make ends meet in a job that should be providing them with a solid, middle-class living."

The Port Authority of New York and New Jersey, which runs the Port of Newark, has introduced an antipollution plan that includes $28 million in grants and subsidized loans, totaling nearly $50,000 a truck, that aim to enable 630 drivers to buy new rigs to replace the dirtiest ones. The industry likes the plan. But drivers like Mr. Prestol say the subsidies are inadequate, considering the cost of the rigs.

The Port of Los Angeles hired the Boston Consulting Group to help develop its ambitious plan. That plan charges companies like Wal-Mart $70 for each shipping container hauled by older trucks as a way to finance $42 million in subsidies to buy cleaner trucks. With grants of $20,000 a truck, that program has helped companies buy 2,100 new trucks, including 250 trucks powered by liquid natural gas. Both the ports of Los Angeles and Long Beach, the nation's largest port complex, have banned pre-1994 trucks.

Port officials in Los Angeles channeled the grants to trucking companies, convinced that most drivers did not have the wherewithal to buy new trucks or maintain them adequately.

"I used to see a lot of people drive messed up trucks, badly maintained trucks," said Carlos Santamaria, a driver in Los Angeles. "They often had to make a decision, 'do I fix my truck or do I put food on the table?' "

Los Angeles officials wanted to make the port less of a free-for-all where trucking companies and drivers constantly undercut each other on price, leaving too little money for them, in the port's view, to buy new trucks and maintain them.

John Holmes, deputy executive director of operations at the Port of Los Angeles, said some might describe the port as perfect, free-market economics, but he described it as "cavemen economics."

To transform the system, the port required that trucking companies treat their drivers as employees, arguing that this would ensure better, cleaner trucks because the companies, not the drivers, would be responsible for buying and maintaining the rigs.

As a result of the grants, the ban on pre-1994 trucks and the extra fees for using trucks from 1994 to 2003, the industry had bought more than 6,000 new trucks since the Los Angeles plan took effect in October 2008.

"We say emissions are down 70 percent since the program began," Mr. Holmes said. "This program has probably been the most successful environmental program on the planet in terms of reducing emissions."

Dismayed by the judge's ruling partly blocking the plan, Mr. Bloomberg, Mr. Villaraigosa and Mr. Booker are pressing Congress to amend truck-deregulation law so that local ports would have greater power to adopt environmental and safety rules, including ones like the suspended employee mandate in Los Angeles.

The trucking industry opposes such legislation. “We need to keep trucking regulated by the federal government to prevent a patchwork of regulations across the country,” Mr. Boyce said.

Michael Fox, president of a trucking firm in Rancho Cucamonga, Calif., opposes any mandate that companies treat drivers as employees.

“It’s just a bad idea to dictate that you can only do business one way,” said Mr. Fox.

With the injunction in force, some companies that hired drivers as $18-an-hour employees now employ them as independent contractors.

Once again, many drivers are rushing to haul as many loads as they can each week, although they often wait for two unpaid hours to pick up loads. Many say they now earn $8 to $10 an hour. Mr. Holmes and many environmentalists ask who will buy the next generation of trucks in five years if it is left to the drivers.

“You can’t get clean air on the backs of the drivers,” said Amy Goldsmith, executive director of the New Jersey Environmental Federation. “They can’t possibly earn enough the way the system is set up, with the drivers required to buy gas, insurance and equipment.”