

October 20, 2010

The Honorable John Rockefeller
Chair, Senate Commerce, Science and
Transportation Committee
254 Russell Senate Office Building
Washington, DC 20510

The Honorable Kay Bailey Hutchinson
Ranking Member, Senate Commerce, Science
and Transportation Committee
560 Dirksen Senate Office Building
Washington, DC 20510

The Honorable James Oberstar
Chair, House Transportation and Infrastructure
Committee
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable John Mica
Ranking Member, House Transportation and
Infrastructure Committee
2163 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen and Ranking Members,

On behalf of the undersigned organizations concerned with government openness and accountability, we are writing to urge you to not include in the final version of the National Transportation Safety Board Reauthorization (NTSB) Act of 2010 (HR 4714, S 2768) two provisions in Section 3(d) of the Senate-passed version of the bill, S. 2768, that unduly limit the public's ability to access critical information.

The Senate-passed bill would needlessly expand categories of information that may be withheld under exemption b(3) of the Freedom of Information Act (FOIA) for records related to ongoing Board investigations. There is no reason to offer the NTSB greater protection beyond the existing FOIA exemptions that provide protection for ongoing investigations, and represent a proper balancing of interests. Indeed, given the critical safety issues the NTSB investigates, the public's interest should be paramount. We understand that NTSB has expressed concerns that fulfilling public requests for information takes time and resources. Expanding categories of information withhold-able under our oldest public disclosure law is not, however, an appropriate way to handle resource issues, and is not in the spirit of the law. House-passed version of the bill, HR 4714, contains no such expansion.

The Senate-passed language also excessively expands protections from public disclosure for commercial or financial information submitted to the Board. Under FOIA's existing b(4) protections, all *confidential* commercial or financial information is exempt. By omitting the word "confidential," the Senate language denies the public access to any and all commercial or financial information, even if the information is not a trade secret. Section 6 of the House-passed version of the bill makes clear that Congress does not intend to exempt all commercial or financial information from public release.

We urge you to not include the exemption for ongoing investigations and to support the language in Section 6 of HR 4714 narrowing the exemption for commercial and financial information. We welcome an opportunity to discuss this issue with you further. To reach our groups, you or your staff may contact Patrice McDermott, Director of OpenTheGovernment.org, at 202-332-6736 or pmcdermott@openthegovernment.org.

Sincerely,

American Association of Law Libraries
American Booksellers Foundation for Free Expression
American Library Association
American Society of News Editors
Association of Research Libraries
Bill of Rights Defense Committee
Center for Media and Democracy
Citizens for Responsibility and Ethics in Washington (CREW)
Defending Dissent Foundation
Essential Information
First Amendment Coalition
Freedom of Information Foundation of Texas
Government Accountability Project (GAP)
iSolon.org
Legal Publication Services
Liberty Coalition
Mississippi Center for Freedom of Information

National Coalition Against Censorship
Northern California Association of Law Libraries (NOCALL)
National Freedom of Information Coalition
OMB Watch
OpenTheGovernment.org
Progressive Librarians Guild
Project On Government Oversight (POGO)
Public Employees for Environmental Responsibility (PEER)
Radio Television Digital News Association
Reporters Committee for Freedom of the Press
Society of Professional Journalists
Sunlight Foundation
Tennessee Coalition for Open Government
Tully Center for Free Speech at Syracuse University
U.S. Public Interest Research Group (US PIRG)
Washington Coalition for Open Government

cc: Senator Patrick Leahy
Representative Edolphus Towns