

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](mailto: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 Center  
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