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Legislative Schedules

Week of November 9, 2009

House

Tuesday — meets at noon for legislative business — seven measures under suspension of the rules.

Wednesday and the balance of the week — meets at 10 a.m. (9 a.m. Friday) — H.R. 2781, Wild and Scenic Rivers; H.R. 3971, Fire Grants Reauthorization; H.R. 3961, Medicare Physician Payment Rates; and possible consideration of the conference report to accompany H.R. 2847, Commerce-Justice-Science appropriations.

Senate

The Senate convened at 10 a.m. today and is currently considering H.R. 3082, Military Construction-VA Appropriations. The Senate is expected to complete consideration of that bill this afternoon and then consider a motion to invoke cloture on a judicial nomination.

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DOT To Propose First Federal Regs For Transit Safety

Federal Law Would Have To Be Changed To Allow FTA Any Regulatory Role

In the wake of high-profile safety lapses on the Washington DC Metro system and other areas, the U.S. Department of Transportation is preparing a legislative proposal to give the Federal Transit Administration its first-ever role in regulating the safety and operations of local transit systems.

This would be major redirection of federal transit priorities, as the original 1964 transit law made it clear that the federal government was to have no regulatory role whatsoever in overseeing the operations of local transit agencies.

A federal court decision in 1990 struck down an

earlier DOT attempt to issue nationwide regulations on transit safety, saying that "Congress has chosen not to give [the Federal Transit Administration's predecessor agency] direct regulatory authority over urban mass transit safety..."

The forthcoming legislation from DOT will be called the Public Transportation Safety Program Act of 2009 and will require DOT to establish and enforce minimum Federal safety standards through the FTA for rail transit systems (except for commuter rail systems that are already regulated by the Federal Railroad Administration) and will give DOT the

option to establish such standards for bus systems as well.

Safety of commuter rail (which operates on the tracks owned by freight railroads and which usually is a descendant of older, private passenger rail service) has always been regulated by FRA. This point deserves some explanation. All of the regulatory powers of the Department of Transportation at present are derived from the federal government's power to regulate interstate commerce.

Congress started regulating the railroad industry first, in the 1880s. Federal regulation of aviation followed in the 1920s and

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House Hazmat Safety Markup Back On For This Week

The House Transportation and Infrastructure Committee is scheduled to try once again to mark up a hazardous materials safety bill this week after a markup session two weeks ago was abruptly called off due to bipartisan concerns over provisions of the bill.

The legislation, H.R. 4016, was introduced on November 4 by House Transportation and Infra-

structure Chairman James Oberstar. The bill has no cosponsors. The lack of Republican cosponsors is (sadly) no longer unusual for a committee that once upon a time prided itself on moving bipartisan legislation through the House. But the bill is also noticeably not cosponsored by Railroads, Pipelines and Hazardous Materials Subcommittee chairman Corrine

Brown (D-FL), who is said to oppose a key provision in the bill relating to gasoline tanker trucks.

The provisions in H.R. 4016 are based on provisions contained in Oberstar's massive six-year, \$450 billion surface transportation bill that was marked up in the Highways and Transit subcommittee four months ago. But since that legislation

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Transit Safety Rules

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trucking and highway safety followed in the 1950s and 1960s, but was always justified because of the interstate commerce connection.

Mass transit aid, meanwhile, was an offshoot of federal housing aid to urban areas under the constitutional authority to promote the general welfare. Transit is always inherently local (it is hard even for the most expansionist Commerce Clause partisans to explain how taking a crosstown bus is interstate commerce), and the original debates on the 1964 Urban Mass Transit Act made it clear that legislators did not want to give up the autonomy of their local transit agencies — they only wanted some federal financial assistance. (*Ed. Note:* that's always how it starts.)

A provision was added to the law in 1974 allowing DOT to investigate specific safety risks in individual transit systems receiving federal funds and to withhold funds unless the local agency fixes the problem, but this was a very specific grant of power and did not give any general regulatory authority.

In the late 1980s, when mandatory drug testing was in vogue, DOT responded to pressure and issued regulations requiring all transit agencies receiving federal funds to give random drug tests to employees. A federal appeals court struck down these regulations in 1990 in a lawsuit brought by a transit union, saying that the DOT had "exceeded its statutory authority over safety matters by imposing through rule-making uniform, national requirements on local transit authorities."

The 1991 ISTEA law gave the safety regulatory authority to states in what is now 49 U.S.C. 5330, which requires states to establish safety programs for transit agencies in the state and designate some state agency to put in charge of safety oversight. If states don't comply, FTA can withhold five percent of the state's transit funds.

The most obvious problem is in the few transit agencies that operate in multiple states (principally Washington DC) where the authority can be vested in a multistate board. But in the wake of the recent DC Metro Red Line crash, the *Washington Post* has extensively documented that the multistate board in charge of overseeing Metro safety is toothless and basically worthless.

A case could certainly be made that due to Metro's unique multi-state operation, DC's unique status as a federal non-state, and the unique funding role that the federal government has played over the years in funding Metro, that a direct federal oversight role for WMATA (and possibly other transit agencies that cross state lines and are currently overseen by multi-state boards) is needed.

But the new federal proposal goes further than that by setting nationwide safety standards for the state agencies. DOT would finally be able to direct local transit agencies (through the state or directly, as shown below) to implement National Transportation Safety Board recommendations and other safety protocols. At present, all DOT can do is send letters to transit agencies saying things like "I urge you to implement this safety procedure."

Under the draft legislation, DOT would establish a safety certification program whereby a state that chooses to participate would be eligible for federal transit assistance to carry out a DOT-approved Public Transportation Safety Program. Participating states would be required to meet DOT standards for:

- an adequate number of fully trained staff to enforce federal regulations;
- having been granted sufficient authority under state law to compel compliance by the transit systems they oversee; and
- sufficient financial independence from any transit systems under their purview.

Federal assistance to participating states would cover the salary and

benefit costs, as well as the training, certification and travel costs, of the state agency in overseeing and enforcing federal transit safety regulations.

The federal regulations implementing the Act would be nationally uniform and would consider, to the extent practicable, existing industry standards.

State governments that want to maintain their existing safety regulatory authority over their local transit agencies would have the option of implementing the federal standards or imposing their own tighter safety standards.

However, the proposed legislation would not require states to continue regulating transit safety. The state could "opt out" of enforcing the new standards and put the federal DOT directly in charge. Or, DOT could find the state safety regulator to be doing an inadequate job and take over regulation under the authority of the draft legislation. In either instance, the Secretary, acting through the FTA, would enforce all federal safety regulations.

The proposal would authorize FTA and state safety agencies to conduct inspections, investigations, audits, examinations, and testing of a public transportation system's equipment, facilities, rolling stock, operations, and persons engaged in the business of a public transportation system; issue reports, subpoenas, and discovery requests; and conduct research, development, testing and training.

A hearing before the House Transportation and Infrastructure Committee on the federal role in transit safety is scheduled for December 8.

Rep. Pete DeFazio (D-OR), the Highways and Transit Subcommittee chairman, said yesterday that the six-year surface authorization bill would be a good place for this legislation. But later this week, T&I is scheduled to pull some urgent safety-related provisions out of that bill (hazmat) and mark them up separately to speed things up.

THE EVOLVING FEDERAL (NON-) ROLE IN MASS TRANSIT SAFETY

Section 9(f) of the Urban Mass Transportation Act of 1964

None of the provisions of this Act shall be construed to authorize the Administrator to regulate in any manner the mode of operation of any mass transportation system...

Section 107 of the National Mass Transportation Assistance Act of 1974

The Secretary of Transportation shall investigate unsafe conditions in any facility, equipment, or manner of operation financed under this Act which creates a serious hazard of death or injury for the purpose of determining its nature and extent and the means which might best be employed to eliminate or correct it. If the Secretary determines that such facility, equipment, or manner of operation is unsafe, he shall require the State or local public body or agency to submit to the Secretary a plan for correcting the unsafe facility, equipment, or manner of operation, and the Secretary may withhold further financial assistance to the applicant until such plan is approved or implemented.

Section 318 of the Surface Transportation Assistance Act of 1982

(Repealed sec. 107 of the 1974 Act and replaced it with a new sec. 22 of the Urban Mass Transportation Act of 1964):

SEC. 22. The Secretary may investigate conditions in any facility, equipment, or manner of operation financed under this Act which the Secretary believes creates a serious hazard of death or injury. The investigation should determine the nature and extent of such conditions and the means which might best be employed to correct or eliminate them. If the Secretary determines that such conditions do create such a hazard, he shall require the local public body which has received funds under this Act to submit a plan for correcting or eliminating such condition. The Secretary may withhold further financial assistance under this Act from the local public body until he approves such plan and the local public body implements such plan.

From *the Skinner v. Amalgamated Transit Union* Opinion

(U.S. Court of Appeals for the District of Columbia Circuit, 894 F. 2d. 1362, January 19, 1990)

In assessing the federalism implications of its proposed rule, UMTA* explained that:

Historically, transportation safety in the mass transit industry has not been the subject of specific UMTA regulatory requirements. Unlike other DOT organizations (e.g., FAA, FHWA, Coast Guard, FRA), UMTA has never directly licensed or regulated industry employees for safety. These matters have been handled locally by transit authorities.

53 *Fed.Reg.* at 25,920. We believe that Congress intended for such matters to continue to be handled locally, with UMTA's guiding hand, not with an iron fist...Congress has chosen not to give UMTA direct regulatory authority over urban mass transit safety to the extent that would justify imposing a mandatory drug testing program on the employees of state, local, and private operating authorities. We hold accordingly that UMTA exceeded its statutory authority over safety matters by imposing through rulemaking uniform, national requirements on local transit authorities.

Section 5329 of Title 49, United States Code

(Which Replaced Sec. 22 of the UMTA of 1964, As Revised By Sec. 3028 of the 2005 SAFETEA-LU law)

§ 5329. Investigations of safety hazards and security risks

(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

State Safety Oversight

In addition, section 3029 of the 1991 ISTEA law added a new section 28 to the Urban Mass Transportation Act of 1964 allowing DOT to withhold up to 5 percent of a state's transit apportionments if the state did not establish and implement safety program plans for rail transit systems operating within that state and designating a state agency to oversee transit security (unless those transit systems were already regulated by the Federal Railroad Administration). A version of this provision is now codified as section 5330 of title 49, United States Code, and can be viewed here:

<http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=BROWSE&TITLE=49USCSIII&PDFS=YES>

*In the court decision, "UMTA" refers to the Urban Mass Transportation Administration (the predecessor organization of the Federal Transit Administration), not to the Urban Mass Transportation Act of 1964.

Hazmat Markup

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shows no signs of movement until next year at the earliest, Oberstar is pulling the hazmat safety provisions out to move separately.

Most of the bill is noncontroversial, but a flareup over two provisions postponed the markup on November 5 amongst sharp words from both sides and may cause fireworks at the next markup on Thursday. (Fireworks are a hazardous material, of course.)

One provision is section 202, which requires truck manufacturers to install equipment in all new tanker trucks within two years to automatically purge the “wet lines” (the product piping under the tank) of residual product for all Class 3 tankers (things like gasoline) and requires all existing trucks to be retrofitted with purge devices by December 31, 2020.

The trucking industry estimates that retrofitting existing trucks with the purge devices will cost \$8,000 per truck, plus the cost of downtime, and also complains that at this point, the technology is practically a sole source contract for one firm (though that firm, which testified at a field hearing yesterday, denies that).

The predecessor agency of the Pipeline and Hazardous Materials Safety Administration proposed a requirement similar to this in 2004, after the National Transportation Safety Board recommended it, but the cost-benefit analysis performed as part of the rulemaking indicated that the safety benefits did not outweigh the economic costs.

The second provision is section 201 of the bill, which adds many new requirements for the transportation of lithium batteries, the high-capacity batteries used in most laptop computers, cell phones, and other portable electronic devices.

Because of a few high-profile meltdowns of laptop batteries (one of which was a big viral video hit on YouTube) caused by metal impurities added during manufacture, the bill would prevent the commercial shipment of lithium batteries in air cargo unless either (a.) the plane's cargo hold has a built-in fire suppression system; or (b.) the batteries are placed somewhere where the crew can access them quickly in case of a meltdown. The airlines say that this would cause a logistical nightmare.

H.R. 4016 would not affect carry-on luggage or small shipments of batteries for the personal use of the recipient.

(Ed. Note: The airlines could get Sarah Palin to start a false rumor on her Facebook page saying that Oberstar wants to ban iPods on airplanes, similar to the “death panels” viral rumor, in which case this bill would go away quickly.)

AUTHORIZATION OF APPROPRIATIONS UNDER H.R. 4016, HAZARDOUS MATERIALS TRANSPORTATION SAFETY ACT OF 2009

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>Total</u>
Hazardous Materials Safety (Discr. GF)	\$ 39,800,000	\$ 51,296,000	\$ 58,641,920	\$ 61,414,758	\$ 62,643,054	\$ 273,795,732
Public Sector Training Curriculum (Mand. EPF)	\$ 198,000	\$ 198,000	\$ 198,000	\$ 198,000	\$ 198,000	\$ 990,000
Planning and Training Grants (Mand. EPF)	\$ 21,800,000	\$ 21,800,000	\$ 21,800,000	\$ 21,800,000	\$ 21,800,000	\$ 109,000,000
Monitoring and Technical Assistance (Mand. EPF)	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 750,000
Emergency Response Guidebook (Mand. EPF)	\$ 625,000	\$ 625,000	\$ 625,000	\$ 625,000	\$ 625,000	\$ 3,125,000
Supplemental Training Grants (Mand. EPF)	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 5,000,000
Hazmat Training Grants (Mand. EPF)	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000	\$ 20,000,000
<i>Subtotal, General Fund Discretionary</i>	<i>\$ 39,800,000</i>	<i>\$ 51,296,000</i>	<i>\$ 58,641,920</i>	<i>\$ 61,414,758</i>	<i>\$ 62,643,054</i>	<i>\$ 273,795,732</i>
<i>Subtotal, Emergency Preparedness Fund</i>	<i>\$ 27,773,000</i>	<i>\$ 27,773,000</i>	<i>\$ 27,773,000</i>	<i>\$ 27,773,000</i>	<i>\$ 27,773,000</i>	<i>\$ 138,865,000</i>
Total Authorizations, H.R. 4016	\$ 67,573,000	\$ 79,069,000	\$ 86,414,920	\$ 89,187,758	\$ 90,416,054	\$ 412,660,732

SECTION-BY-SECTION SUMMARY OF H.R. 4016, HAZARDOUS MATERIALS TRANSPORTATION SAFETY ACT OF 2009

TITLE I—STRENGTHENING EMERGENCY RESPONSE CAPABILITIES AND INFORMATION

Sec. 101. Minimum Standards for Emergency Response Information Services. Requires DOT, within 24 months of enactment, to prescribe minimum standards for persons who provide hazardous material transportation emergency response information services.

Sec. 102. Training for Emergency Responders. Requires States and Indian tribes that use grants for training emergency responders to train those responders at an operations level, at a minimum.

Sec. 103. Assessment of Volunteer Firefighter Training Capabilities. Authorizes DOT to conduct an assessment of current volunteer fire service hazmat response capabilities and carry out a volunteer fire fighter hazardous material training pilot program to develop new training methods and curricula.

Sec. 104. National Hazardous Materials Fusion Center. Requires DOT to establish a national hazardous materials fusion center to serve as a data and information network for emergency response providers, government, and other emergency responders.

Sec. 105. Paperless Hazard Communications Pilot Program. Authorizes DOT to conduct three pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. Firefighters, law enforcement, emergency responders, hazmat producers, hazmat transporters, and employees of hazmat transporters must be consulted in the development of the pilot projects.

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SECTION-BY-SECTION OF HOUSE HAZMAT BILL, CONTINUED FROM PREVIOUS PAGE**Title II - Strengthening Hazardous Material Safety**

Sec. 201. Transportation of Lithium Cells and Batteries. requires the Administrator of PHMSA, in coordination with the Administrator of the FAA, to issue regulations for the safe transportation of lithium cells and batteries on board aircraft. The regulations, at a minimum, must: (1) require proper identification of lithium cells and batteries as hazardous material on packages and in shipping documents; (2) establish requirements for testing and retesting lithium cells and batteries that are, at a minimum, equivalent to the United Nations testing regime; (3) provide for an appropriate marking that indicates compliance with testing requirements; (4) adopt a watt-hours requirement for easily understandable hazard levels; (5) establish appropriate packaging performance requirements for lithium cells and batteries; (6) establish limits on the number of packages that may be transported in a unit load device, pallet, or other container based on watt-hour ratings; (7) limit the stowage of lithium cells and batteries to crew-accessible locations, unless the batteries or cells are transported in a fire-resistant container or the aircraft is equipped with appropriate fire-suppression systems; and (8) require reporting of all accidents and incidents involving lithium cells and batteries. The section provides exceptions for small quantities of batteries that are shipped on board aircraft for the personal use of the receiver of the shipment, and maintains the exceptions in current regulations for passengers, crewmembers, and air operators.

The section also requires PHMSA, in coordination with FAA, to review all special permits and approvals that allow grantees to deviate from current lithium battery requirements to determine if such exemptions, special permits, and approvals should be modified to reflect the new regulations; establish safety measures for the transport (other than on board aircraft) of lithium cells or batteries identified as being defective for safety reasons or damaged and prohibits the transport of such defective or damaged items on board aircraft. This section also creates a mechanism in the case of product recalls, to notify manufacturers and consumers that the product is prohibited from being transported in air transportation; consolidate and simplify requirements for transporting lithium cells and batteries, and to educate the flying public on safe practices for carrying lithium cells and batteries; and review and update its education program related to the transportation of lithium cells and batteries on board aircraft.

Sec. 202. Requirements Relating to External Product Piping on Cargo Tanks Transporting Hazardous Material. Prohibits the transportation of Class 3 flammable liquid in the external product piping of all cargo tank motor vehicles manufactured two years after the date of enactment. All existing vehicles are prohibited from transporting Class 3 flammable liquid in the external product piping of cargo tank motor vehicles on or after December 31, 2020.

Sec. 203. Improving Data Collection, Analysis, and Reporting. Requires PHMSA to establish a working group consisting of representatives from each of the modes and the Coast Guard for the purpose of improving the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

Title III - Strengthening Enforcement

Sec. 301. Hazardous Material Enforcement Training Program. Requires DOT to carry out a hazardous material enforcement training program to: (1) develop uniform performance standards for training hazardous material inspectors and investigators; (2) train hazardous material inspectors and investigators on how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and (3) train hazardous material inspectors and investigators on how to identify noncompliance with hazardous material regulations and take appropriate enforcement action.

Sec. 302. Inspections and Investigations. Requires DOT to provide affected offerors, carriers, packaging manufacturer or tester, or other person responsible for the package reasonable notice of any findings made during an inspection or investigation and actions being taken as a result of a finding of noncompliance.

Sec. 303. Civil Penalties for Denial of Entry. Allows DOT to impose penalties on a person who obstructs or prevents hazmat inspections and investigations conducted by the Secretary.

Sec. 304. Additional Resources. Directs DOT to increase the personnel of PHMSA by a total of 84 full-time employees to carry-out the hazardous materials safety program, 30 of which must be inspectors. PHMSA currently has a total of 42 inspectors for five regions.

Title IV - Miscellaneous

Sec. 401. Special Permits, Approvals, and Exclusions. Maintains current law authorizing the Secretary to issue special permits and approvals but requires the Secretary prior to issuance of a special permit or approval to determine that the person is fit, willing, and able to conduct the authorized activity.

Sec. 402. Uniform Hazardous Material State Registration and Permit Program. Directs DOT to carry out a program to develop uniform forms and procedures for States to register, and issue permits to persons who transport, or cause to be transported, hazardous material by motor vehicle.

Sec. 403. Regular Reporting on Use of Fees. Requires States, political subdivisions, and Indian tribes that levy fees in connection with the transportation of hazardous materials to report biennially to the Secretary on (1) the basis on which the fee is levied; (2) the purpose for which the revenues from the fee are used; (3) the annual total amount of the revenues collected from the fee; and (4) such other matters as the Secretary requests.

Sec. 404. Implementation of the Hazardous Material Safety Permit Program. Requires the Government Accountability Office to conduct a study on the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code.

Sec. 405. Authorization of Appropriations. Authorizes a total of \$392.7 million in appropriations for PHMSA to carry out its hazardous materials safety program over the five fiscal years 2010-2014, some from the general fund and some from the Hazardous Materials Emergency Preparedness Fund.

What's Going On With...DOT Approps? Surface Extension? FAA?

(Ed. Note: Rather than write three separate articles, all of which basically say that we don't know much more than we knew last week, we decided to consolidate all of it into one big article which basically says that we don't know much more than we did last week.)

USDOT Appropriations. Work continues apace on the Transportation-HUD appropriations bill for fiscal year 2010 (H.R. 3288). Almost everything in the bill is finalized, and staff were scheduled to proofread the final copy today or tomorrow. However, a few troublesome provisions (mostly non-budgetary policy amendments added by the Senate) are not yet settled, and there is no set timetable for the leadership of the Appropriations Committees (or of the House and Senate) to settle those outstanding provisions.

And once all of the provisions of the bill are agreed to, there is no clear path forward. It still appears likely that the "THUD" bill will be used as the legislative vehicle to carry some other, less popular legislation to the President's desk. This might be a year-end omnibus appropriations bill, or it might be something else.

Surface transportation extension. That "something else" could eventually be a multi-month extension of expired federal surface transportation programs. The chairmen and ranking Republicans

of the Senate Public Works, Commerce, and Banking Committees and the chairman of the Finance Committee sent a joint letter to the Majority and Minority Leaders this morning saying that "On a bipartisan basis, we have decided to move forward with a 6-month extension. Unfortunately, a small number of Senators continue to object and will not allow an extension to be considered by the Senate without a cloture vote. We urge you to file cloture on the motion to proceed to the 6-month extension and dedicate the time necessary to complete this important legislation, so we can put Americans back to work and keep our economy moving."

However, it appears that Majority Leader Reid will file cloture instead on the motion to proceed to the health care bill within thirty seconds of his finally receiving a score on his much-awaited health care bill from the Congressional Budget Office, which is expected today or tomorrow. This would likely keep the surface extension from getting time on the Senate floor for most of the rest of 2009, forcing some other legislation (probably THUD or the omnibus appropriations bill, whether or not THUD is the vehicle) to carry the next extension.

Stimulus Mark II. As the unemployment rate continues to increase, Congressional leaders are frantically trying to throw together at second stimulus bill that is exclusively

focused on job creation (an admission that there were a whole lot of provisions in the first stimulus law that had nothing to do with near-term job creation).

House leaders are focusing on a strategy whereby a "jobs bill" would be added directly to an appropriations conference report with no committee markup, no Senate floor debate, and possibly no House debate.

This "jobs bill" might include tens of billions of additional dollars for highways and transit in order to "front-load" a future multi-year surface transportation bill and allow lower, more sustainable spending levels in that measure.

But if amendments were to be allowed on the House or Senate floors, legislators might try to offset the new spending by cutting back on spending in the first stimulus bill that has not created jobs and is not likely to create jobs in the next year or two.

As the table below at left shows, about 25 percent of the USDOT funding under the Recovery Act went to programs that have turned out to be "clunkers" where short-term job creation is concerned — the multi-modal discretionary grants and high-speed rail. But high-speed rail in particular has a popularity among Congressmen that defies rational analysis and would be hard to cut.

However, Senate leaders say they would prefer to deal with a jobs bill on the Senate floor early next year, which would preclude jamming a final bill into a conference report as a fait accompli for the President's signature before New Years.

FAA. We believe that the Joint Committee on Taxation has finished its analysis of chairman Max Baucus's draft revenue provision for the FAA bill, but there is no time left for that bill to go to the Senate floor during the remainder of 2009.

OBLIGATION AND OUTLAY OF MAJOR USDOT RECOVERY ACT FUNDING

(Millions of Dollars, as of Close of Business for Week Ending Nov. 6)

	Total Provided	Obligated 11/6/2009	Oblig. % of Total	Outlays 11/6/2009	Outlay % Of Total
Highways	27,500	20,439	74.3%	3,931	14.3%
Transit - Capital Formula	6,900	6,244	90.5%	752	10.9%
Transit - Rail Mod	750	739	98.5%	93	12.4%
Transit - New Starts	750	468	62.4%	367	48.9%
Multimodal Discr. Grants	1,500	-	0.0%	-	0.0%
Airport Grants	1,100	1,088	98.9%	297	27.0%
High-Speed Rail	8,000	2	0.0%	1	0.0%
Other USDOT	1,620	1,495	92.3%	108	6.7%
Total, USDOT	48,120	30,475	63.3%	5,549	11.5%

Sen. Gregg Explains His Opposition To Highway Extension Bill

Sen. Judd Gregg (R-NH), the ranking minority member on the Senate Budget Committee, made a speech on the Senate floor last week explaining why he is blocking legislation to provide a short-term funding extension of highway and transit funding authorizations, which expired on September 30.

In a statement on pages S11337-S11338 of the *Congressional Record* for November 10, 2009, Gregg noted that the latest Senate version of the draft legislation (running through April 30, 2009) "would increase spending authority by \$20.8 billion over the CBO baseline in 2010 and in every year after that."

The \$20.8 billion is as follows: \$12.1 billion to restore cuts in the baseline made by rescissions in contract authority that took place in FY 2009 which then lowered the baseline in 2010 and every subsequent fiscal year (the \$8.7 billion

and \$3.2 billion rescissions from highways, \$0.1 billion in safety program rescissions, and the \$0.1 billion transit rescission), and an additional \$8.7 billion added in FY 2010 to give states back the money they lost in one of the highway rescissions (but which the Congressional Budget Office would have to score as repeating in every subsequent year, increasing the baseline again).

In the core of his argument, Gregg said this:

The authorizers brush off any deficit concerns by saying that, under the Byzantine system of split jurisdiction with the appropriators, they don't control outlays and so there is no "pay-go" problem with their expansion bill. But it's too late to raise any objection if you wait to measure highway program outlays for budget enforcement until they are triggered by an appropriations bill, since the outlays are already baked into the baseline and into the allocations of the ap-

propriators. The only point where taxpayers or their watchdogs can measure whether proposed future spending is higher than current law is at the authorization stage. Extra special vigilance is required whenever authorizers claim they just want to enact a "simple clean extension."

Gregg has a valid point — under the Budget Act, the "control point" for new spending is the creation of budget authority (of which contract authority is a form), even though a bizarre system of loopholes in the Budget Act mean that contract authority from transportation trust funds is no longer "real money" in a fully spendable sense like all other kinds of budget authority are.

Future versions of the extension might include some kind of "directed scorekeeping" language forcing CBO to score the \$8.7 billion rescission restoration as occurring in 2010 only (not in out-years).

FHWA Distributes Funds To States Under 79-Day Continuing Resolution

Yesterday, the Federal Highway Administration distributed highway funding to state departments of transportation under the second continuing resolution for fiscal year 2010 (Division B of Public Law 111-88).

A total of \$8.1 billion in total budgetary resources has been distributed to states for the period of October 1 through December 18. (The funds distributed yesterday incorporate the money distributed under the first CR that ran from October 1 through October 31).

A total of \$7.1 billion in obligation limitation for all formula contract authority programs subject to limit was distributed to states, but only \$5.0 billion in formula contract authority subject to limit was apportioned. This means that in order to utilize the extra \$2.0 billion in obligation limitation, states must obligate older formula contract authority balances from prior fiscal years.

However, for some states, that will be impossible, since the massive rescission of \$8.7 billion in formula balances that took effect on September 30, 2009 reduced leftover balances in the core formula programs in some states below usable levels, and in the case of Nevada, the rescission took every dollar of contract authority the state had on-hand.

When the mandatory contract authority for the equity bonus program outside the limitation, and the

extra funds based on a pro-rated share of the FY 2009 earmarks under the HPP, PNRS, Corridor, Transportation Improvement, Bridge and MAGLEV programs in SAFETEA-LU under section 157(d) of the CR, a total of \$8.1 billion was provided.

The tables on the following three pages break down how the total of \$8.1 billion was apportioned and distributed to individual states and the relative state shares.

TOTAL HIGHWAY FUNDING PROVIDED TO STATES FOR THE OCT. 1 TO DEC. 18 PERIOD UNDER THE CONTINUING RESOLUTIONS	
Obligation Limitation For Formula Programs	\$ 7,076,307,564
<i>New Formula Contract Authority Apportioned:</i>	\$ 5,043,555,933
<i>Amount of Prior CA Balances Needed In Order To Utilize All New Obligation Limitation:</i>	\$ 2,032,751,631
Mandatory Budget Authority for Equity Bonus	\$ 138,304,110
Obligation Limitation For Sec. 157 Earmarks	\$ 879,145,590
Total Budgetary Resources Given To States Under the 79-Day CR (Oct 1 - Dec 18):	\$ 8,093,757,264

Highway Formula Funding For States Under the 79-Day CR, p. 1 of 2

	New Regular Formula CA Subject to Limit	Regular Formula Ob Limit	Ob Lim as % of New CA	Special Equity Bonus New CA	Special Equity Bonus Ob Limit	Appalachian Highways New CA	Appalachian Highways Ob Limit
ALABAMA	77,361,753	112,448,652	145.35%	7,481,936	7,480,610	17,007,737	23,799,672
ALASKA	36,593,632	53,928,113	147.37%	8,984,651	8,983,059	0	0
ARIZONA	90,297,472	133,341,595	147.67%	12,162,421	12,160,266	0	0
ARKANSAS	58,625,402	83,303,641	142.09%	5,604,648	5,603,654	0	0
CALIFORNIA	440,512,516	620,446,902	140.85%	29,359,406	29,354,202	0	0
COLORADO	65,075,120	93,350,452	143.45%	4,260,847	4,260,091	0	0
CONNECTICUT	59,699,365	85,618,984	143.42%	5,882,199	5,881,157	0	0
DELAWARE	19,236,812	26,926,802	139.98%	1,183,346	1,183,137	0	0
DISTRICT OF COLUMBIA	19,501,624	27,286,462	139.92%	147,029	147,003	0	0
FLORIDA	220,428,148	329,500,346	149.48%	36,245,616	36,239,193	0	0
GEORGIA	149,848,451	222,669,133	148.60%	22,462,421	22,458,440	1,715,087	2,399,997
HAWAII	20,534,056	28,938,190	140.93%	494,686	494,599	0	0
IDAHO	33,031,971	48,685,977	147.39%	4,298,093	4,297,331	0	0
ILLINOIS	156,514,195	227,539,581	145.38%	15,201,757	15,199,063	0	0
INDIANA	112,385,494	167,241,700	148.81%	17,242,252	17,239,197	0	0
IOWA	56,456,057	80,421,678	142.45%	2,770,041	2,769,550	0	0
KANSAS	49,692,629	69,902,161	140.67%	986,221	986,046	0	0
KENTUCKY	73,423,058	107,176,823	145.97%	7,844,601	7,843,210	5,656,821	7,915,838
LOUISIANA	82,404,595	114,406,876	138.84%	5,820,746	5,819,715	0	0
MAINE	22,006,624	30,690,299	139.46%	0	0	0	0
MARYLAND	74,002,646	105,565,104	142.65%	3,874,278	3,873,592	1,982,517	2,774,223
MASSACHUSETTS	80,310,032	113,174,788	140.92%	1,927,588	1,927,246	0	0
MICHIGAN	131,884,485	190,239,905	144.25%	10,359,897	10,358,061	0	0
MINNESOTA	75,358,383	106,601,777	141.46%	6,673,668	6,672,486	0	0
MISSISSIPPI	56,692,692	79,502,020	140.23%	3,707,700	3,707,043	726,523	1,016,655
MISSOURI	107,921,798	153,853,103	142.56%	11,050,853	11,048,895	0	0
MONTANA	42,074,626	62,337,912	148.16%	6,006,147	6,005,082	0	0
NEBRASKA	36,161,576	51,375,824	142.07%	1,550,577	1,550,303	0	0
NEVADA	35,450,041	51,703,729	145.85%	3,716,531	3,715,872	0	0
NEW HAMPSHIRE	21,157,344	30,309,307	143.26%	1,318,087	1,317,854	0	0
NEW JERSEY	119,943,220	174,383,352	145.39%	11,666,918	11,664,850	0	0
NEW MEXICO	44,606,174	63,048,102	141.34%	4,076,534	4,075,811	0	0
NEW YORK	211,346,273	301,244,371	142.54%	10,667,593	10,665,703	1,360,429	1,903,707
NORTH CAROLINA	123,152,151	180,447,353	146.52%	14,273,611	14,271,081	4,765,343	6,668,354
NORTH DAKOTA	30,627,407	43,529,804	142.13%	1,340,411	1,340,174	0	0
OHIO	159,549,381	227,567,895	142.63%	16,125,320	16,122,463	3,286,228	4,598,563
OKLAHOMA	72,265,498	103,983,224	143.89%	5,253,610	5,252,679	0	0
OREGON	56,050,409	78,097,505	139.33%	2,525,592	2,525,145	0	0
PENNSYLVANIA	193,716,021	277,605,333	143.31%	12,222,906	12,220,739	16,178,058	22,638,667
RHODE ISLAND	25,801,045	35,448,466	137.39%	0	0	0	0
SOUTH CAROLINA	73,594,531	108,205,472	147.03%	9,139,894	9,138,274	1,038,452	1,453,151
SOUTH DAKOTA	31,495,447	44,411,968	141.01%	2,628,390	2,627,924	0	0
TENNESSEE	95,469,809	136,501,035	142.98%	10,897,051	10,895,120	3,569,216	4,994,561
TEXAS	382,435,567	566,453,478	148.12%	54,322,950	54,313,323	0	0
UTAH	36,701,110	53,060,522	144.57%	3,080,073	3,079,527	0	0
VERMONT	21,102,032	28,940,232	137.14%	82,461	82,446	0	0
VIRGINIA	115,848,803	165,630,081	142.97%	12,659,380	12,657,137	5,513,527	7,715,320
WASHINGTON	83,762,122	118,178,472	141.09%	2,238,358	2,237,962	0	0
WEST VIRGINIA	42,598,474	62,056,777	145.68%	6,378,944	6,377,814	5,231,008	7,319,980
WISCONSIN	85,175,894	126,468,362	148.48%	12,604,217	12,601,983	0	0
WYOMING	32,764,310	44,559,236	136.00%	2,074,256	2,073,888	0	0
TOTAL	4,542,648,275	6,548,308,876	144.15%	432,876,712	432,800,000	68,030,946	95,198,688

NOTE: Numbers on this page and the following two pages include funds apportioned and distributed under the first CR (October 1—October 31) as well as the second CR (October 1—December 18).

Highway Formula Funding For States Under the 79-Day CR, p. 2 of 2

	Total New Formula CA Subject to Limit	Total New Formula Ob Limit	Ob Lim as % of New CA	New EB CA Exempt from Limitation	TOTAL NEW BUDGETARY RESOURCES
ALABAMA	101,851,426	143,728,934	141.12%	2,390,479	146,119,413
ALASKA	45,578,283	62,911,172	138.03%	2,870,596	65,781,768
ARIZONA	102,459,893	145,501,861	142.01%	3,885,893	149,387,754
ARKANSAS	64,230,050	88,907,295	138.42%	1,790,685	90,697,980
CALIFORNIA	469,871,922	649,801,104	138.29%	9,380,330	659,181,434
COLORADO	69,335,967	97,610,543	140.78%	1,361,341	98,971,884
CONNECTICUT	65,581,564	91,500,141	139.52%	1,879,363	93,379,504
DELAWARE	20,420,158	28,109,939	137.66%	378,079	28,488,018
DISTRICT OF COLUMBIA	19,648,653	27,433,465	139.62%	46,976	27,480,441
FLORIDA	256,673,764	365,739,539	142.49%	11,580,474	377,320,013
GEORGIA	174,025,959	247,527,570	142.24%	7,176,743	254,704,313
HAWAII	21,028,742	29,432,789	139.96%	158,052	29,590,841
IDAHO	37,330,064	52,983,308	141.93%	1,373,241	54,356,549
ILLINOIS	171,715,952	242,738,644	141.36%	4,856,961	247,595,605
INDIANA	129,627,746	184,480,897	142.32%	5,508,900	189,989,797
IOWA	59,226,098	83,191,228	140.46%	885,028	84,076,256
KANSAS	50,678,850	70,888,207	139.88%	315,098	71,203,305
KENTUCKY	86,924,480	122,935,871	141.43%	2,506,350	125,442,221
LOUISIANA	88,225,341	120,226,591	136.27%	1,859,728	122,086,319
MAINE	22,006,624	30,690,299	139.46%	0	30,690,299
MARYLAND	79,859,441	112,212,919	140.51%	1,237,832	113,450,751
MASSACHUSETTS	82,237,620	115,102,034	139.96%	615,864	115,717,898
MICHIGAN	142,244,382	200,597,966	141.02%	3,309,987	203,907,953
MINNESOTA	82,032,051	113,274,263	138.09%	2,132,237	115,406,500
MISSISSIPPI	61,126,915	84,225,718	137.79%	1,184,610	85,410,328
MISSOURI	118,972,651	164,901,998	138.60%	3,530,748	168,432,746
MONTANA	48,080,773	68,342,994	142.14%	1,918,964	70,261,958
NEBRASKA	37,712,153	52,926,127	140.34%	495,409	53,421,536
NEVADA	39,166,572	55,419,601	141.50%	1,187,432	56,607,033
NEW HAMPSHIRE	22,475,431	31,627,161	140.72%	421,129	32,048,290
NEW JERSEY	131,610,138	186,048,202	141.36%	3,727,580	189,775,782
NEW MEXICO	48,682,708	67,123,913	137.88%	1,302,453	68,426,366
NEW YORK	223,374,295	313,813,781	140.49%	3,408,296	317,222,077
NORTH CAROLINA	142,191,105	201,386,788	141.63%	4,560,419	205,947,207
NORTH DAKOTA	31,967,818	44,869,978	140.36%	428,261	45,298,239
OHIO	178,960,929	248,288,921	138.74%	5,152,040	253,440,961
OKLAHOMA	77,519,108	109,235,903	140.91%	1,678,528	110,914,431
OREGON	58,576,001	80,622,650	137.64%	806,927	81,429,577
PENNSYLVANIA	222,116,985	312,464,739	140.68%	3,905,218	316,369,957
RHODE ISLAND	25,801,045	35,448,466	137.39%	0	35,448,466
SOUTH CAROLINA	83,772,877	118,796,897	141.81%	2,920,196	121,717,093
SOUTH DAKOTA	34,123,837	47,039,892	137.85%	839,771	47,879,663
TENNESSEE	109,936,076	152,390,716	138.62%	3,481,608	155,872,324
TEXAS	436,758,517	620,766,801	142.13%	17,356,183	638,122,984
UTAH	39,781,183	56,140,049	141.12%	984,083	57,124,132
VERMONT	21,184,493	29,022,678	137.00%	26,346	29,049,024
VIRGINIA	134,021,710	186,002,538	138.79%	4,044,672	190,047,210
WASHINGTON	86,000,480	120,416,434	140.02%	715,155	121,131,589
WEST VIRGINIA	54,208,426	75,754,571	139.75%	2,038,073	77,792,644
WISCONSIN	97,780,111	139,070,345	142.23%	4,027,047	143,097,392
WYOMING	34,838,566	46,633,124	133.85%	662,725	47,295,849
TOTAL	5,043,555,933	7,076,307,564	140.30%	138,304,110	7,214,611,674

**Allocations Under Sec. 157 of the 79-Day CR
(SAFETEA-LU Earmark Shares Given To
States For Use As STP Formula Money)**

State Percentage Shares of Ob Limit Under 79-Day CR

	Contract Authority	Obligation Limitation		Regular Formula Ob Limit (\$6.55 B)	No-Year ADHS Ob Limit (\$95.2 M)	No-Year Equity B. Ob Limit (\$432.8 M)	Sec. 157 Earmark Ob Limit (\$879.1 M)
ALABAMA	14,415,967	13,584,537	ALABAMA	1.7172%	25.0000%	1.7284%	1.5452%
ALASKA	34,433,178	32,223,743	ALASKA	0.8235%	0.0000%	2.0756%	3.6653%
ARIZONA	5,300,143	4,960,054	ARIZONA	2.0363%	0.0000%	2.8097%	0.5642%
ARKANSAS	17,557,603	16,431,005	ARKANSAS	1.2721%	0.0000%	1.2947%	1.8690%
CALIFORNIA	105,015,957	98,277,517	CALIFORNIA	9.4749%	0.0000%	6.7824%	11.1788%
COLORADO	14,380,164	13,457,449	COLORADO	1.4256%	0.0000%	0.9843%	1.5307%
CONNECTICUT	11,920,039	11,155,180	CONNECTICUT	1.3075%	0.0000%	1.3589%	1.2689%
DELAWARE	6,891,397	6,449,205	DELAWARE	0.4112%	0.0000%	0.2734%	0.7336%
DISTRICT OF COLUMBIA	6,384,066	5,974,426	DISTRICT OF COLUMBIA	0.4167%	0.0000%	0.0340%	0.6796%
FLORIDA	24,392,083	22,826,944	FLORIDA	5.0318%	0.0000%	8.3732%	2.5965%
GEORGIA	18,521,707	17,333,245	GEORGIA	3.4004%	2.5210%	5.1891%	1.9716%
HAWAII	6,302,685	5,898,268	HAWAII	0.4419%	0.0000%	0.1143%	0.6709%
IDAHO	6,363,288	5,954,982	IDAHO	0.7435%	0.0000%	0.9929%	0.6774%
ILLINOIS	55,058,758	51,525,865	ILLINOIS	3.4748%	0.0000%	3.5118%	5.8609%
INDIANA	11,925,358	11,160,156	INDIANA	2.5540%	0.0000%	3.9832%	1.2694%
IOWA	17,426,534	16,308,345	IOWA	1.2281%	0.0000%	0.6399%	1.8550%
KANSAS	8,614,247	8,061,506	KANSAS	1.0675%	0.0000%	0.2278%	0.9170%
KENTUCKY	15,495,552	14,501,266	KENTUCKY	1.6367%	8.3151%	1.8122%	1.6495%
LOUISIANA	22,922,677	21,451,824	LOUISIANA	1.7471%	0.0000%	1.3447%	2.4401%
MAINE	8,629,830	8,076,090	MAINE	0.4687%	0.0000%	0.0000%	0.9186%
MARYLAND	13,320,482	12,465,762	MARYLAND	1.6121%	2.9141%	0.8950%	1.4179%
MASSACHUSETTS	12,501,479	11,699,311	MASSACHUSETTS	1.7283%	0.0000%	0.4453%	1.3308%
MICHIGAN	18,798,450	17,592,231	MICHIGAN	2.9052%	0.0000%	2.3933%	2.0011%
MINNESOTA	19,028,496	17,807,516	MINNESOTA	1.6279%	0.0000%	1.5417%	2.0255%
MISSISSIPPI	15,446,031	14,454,922	MISSISSIPPI	1.2141%	1.0679%	0.8565%	1.6442%
MISSOURI	28,080,712	26,278,889	MISSOURI	2.3495%	0.0000%	2.5529%	2.9891%
MONTANA	13,775,219	12,891,320	MONTANA	0.9520%	0.0000%	1.3875%	1.4663%
NEBRASKA	7,783,123	7,283,712	NEBRASKA	0.7846%	0.0000%	0.3582%	0.8285%
NEVADA	20,899,288	19,558,267	NEVADA	0.7896%	0.0000%	0.8586%	2.2247%
NEW HAMPSHIRE	2,867,375	2,683,388	NEW HAMPSHIRE	0.4629%	0.0000%	0.3045%	0.3052%
NEW JERSEY	20,785,008	19,451,320	NEW JERSEY	2.6630%	0.0000%	2.6952%	2.2125%
NEW MEXICO	7,731,178	7,235,100	NEW MEXICO	0.9628%	0.0000%	0.9417%	0.8230%
NEW YORK	37,846,913	35,418,433	NEW YORK	4.6003%	1.9997%	2.4643%	4.0287%
NORTH CAROLINA	13,925,540	13,031,995	NORTH CAROLINA	2.7556%	7.0047%	3.2974%	1.4823%
NORTH DAKOTA	7,315,616	6,846,204	NORTH DAKOTA	0.6647%	0.0000%	0.3097%	0.7787%
OHIO	25,733,487	24,082,276	OHIO	3.4752%	4.8305%	3.7252%	2.7393%
OKLAHOMA	24,011,671	22,470,941	OKLAHOMA	1.5879%	0.0000%	1.2137%	2.5560%
OREGON	23,244,060	21,752,584	OREGON	1.1926%	0.0000%	0.5834%	2.4743%
PENNSYLVANIA	29,668,852	27,765,124	PENNSYLVANIA	4.2393%	23.7804%	2.8236%	3.1582%
RHODE ISLAND	10,536,219	9,860,153	RHODE ISLAND	0.5413%	0.0000%	0.0000%	1.1216%
SOUTH CAROLINA	11,367,343	10,637,947	SOUTH CAROLINA	1.6524%	1.5264%	2.1114%	1.2100%
SOUTH DAKOTA	11,055,188	10,345,822	SOUTH DAKOTA	0.6782%	0.0000%	0.6072%	1.1768%
TENNESSEE	20,080,409	18,791,932	TENNESSEE	2.0845%	5.2465%	2.5174%	2.1375%
TEXAS	29,687,242	27,782,333	TEXAS	8.6504%	0.0000%	12.5493%	3.1602%
UTAH	11,399,808	10,668,330	UTAH	0.8103%	0.0000%	0.7115%	1.2135%
VERMONT	13,865,041	12,975,379	VERMONT	0.4419%	0.0000%	0.0190%	1.4759%
VIRGINIA	22,090,945	20,673,460	VIRGINIA	2.5294%	8.1044%	2.9245%	2.3515%
WASHINGTON	21,501,852	20,122,167	WASHINGTON	1.8047%	0.0000%	0.5171%	2.2888%
WEST VIRGINIA	14,042,521	13,141,470	WEST VIRGINIA	0.9477%	7.6892%	1.4736%	1.4948%
WISCONSIN	14,533,836	13,601,259	WISCONSIN	1.9313%	0.0000%	2.9117%	1.5471%
WYOMING	4,449,973	4,164,436	WYOMING	0.6805%	0.0000%	0.4792%	0.4737%
TOTAL	939,324,590	879,145,590	TOTAL	100.0000%	100.0000%	100.0000%	100.0000%

NEW AND NOTABLE ON THE INTERNET

Hazardous Materials Safety

The text of H.R. 4016, the House hazardous materials safety bill, is online here:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4016ih.txt.pdf

Testimony from yesterday's field hearing on the House hazmat bill can be found here:

<http://transportation.house.gov/hearings/hearingdetail.aspx?NewsID=1056>

Highway Apportionments

The full apportionment notices under the 79-day continuing resolution, by program, are here:

<http://www.fhwa.dot.gov/legsregs/directives/notices/n4510715.htm>

And here:

<http://www.fhwa.dot.gov/legsregs/directives/notices/n4510716.htm>

Transit Safety

Information on FTA's existing transit safety programs can be found here:

<http://transit-safety.volpe.dot.gov/Safety/Safety.asp>

STATUS OF PENDING TRANSPORTATION-RELATED NOMINATIONS

Agency	Nominee	Position	Senate Committee	Latest Action
Department of Transportation	Chris Bertram	Assistant Secretary for Budget and Programs	Commerce, Science and Transportation	Nomination confirmed 8/7/09
Department of Transportation	Susan Kurland	Assistant Secretary for Aviation and Int'l Affairs	Commerce, Science and Transportation	Nomination confirmed 8/7/09
DOT-Federal Motor Carrier Safety Admin.	Anne Ferro	Administrator	Commerce, Science and Transportation	Nomination confirmed 11/5/09
DOT-National Highway Traffic Safety Admin.	Charles Hurley	Administrator	Commerce, Science and Transportation	Nomination withdrawn prior to transmission
DOT—Pipeline and Hazard. Materials Adm.	Cynthia Quarterman	Administrator	Commerce, Science and Transportation	Nomination confirmed 11/5/09
Amtrak Board of Directors	Anthony Coscia	Director for a term of five years	Commerce, Science and Transportation	Hearing scheduled for 11/18/1009
Amtrak Board of Directors	Albert DiClemente	Director for rest of a term expiring 7/26/2011	Commerce, Science and Transportation	Hearing scheduled for 11/18/1009
National Transport. Safety Board	Christopher Hart	Member for a term expiring 12/31/2012	Commerce, Science and Transportation	Nomination confirmed 8/7/09
National Transport. Safety Board	Mark R. Rosekind	Member for a term expiring 12/31/2014	Commerce, Science and Transportation	Hearing scheduled for 11/18/1009
Surface Transportation Board	Daniel Elliott	Chairman (and member until 12/31/2013)	Commerce, Science and Transportation	Nomination confirmed 8/7/09
Department of the Army	Jo-Ellen Darcy	Assistant Secretary for Civil Works	Armed Services <i>and</i> Enviro. & Public Works	Nomination confirmed 8/7/09
Department of Homeland Security	Erroll Southers	Assistant Secretary for Transport. Security	Commerce <i>and</i> Homeland Security	Nomination transmitted 9/17/09

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*Please send comments or corrections to:
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THIS WEEK IN COMMITTEE

Tuesday, November 17, 2009 — House Homeland Security — full committee markup of pending legislation including H.R. 3963, air marshal training, and H. Res. 28, sense of the House on rail and transit security — *2:00 p.m., 311 Cannon.*

Wednesday, November 18, 2009 — House Homeland Security — Subcommittee on Transportation Security and Infrastructure Protection — subcommittee hearing on foreign repair station security — *2:00 p.m., 311 Cannon.*

House Transportation and Infrastructure — Subcommittee on Water Resources and Environment — subcommittee hearing on proposals for a Water Resources Development Act of 2010 — *2:00 p.m., 2167 Rayburn.*

Senate Commerce, Science and Transportation — full committee hearing on pending nominations, including those of Mark Rosekind to the National Transportation Safety Board and of Anthony Coscia and Albert DiClemente to the Amtrak Board of Directors — *2:30 p.m., SR-253 Russell.*

Senate Environment and Public Works — full committee briefing with USDOT officials “to discuss issues related to the transportation reauthorization” — *2:30 p.m., SD-406 Dirksen.*

Thursday, November 19, 2009 — House Transportation and Infrastructure — full committee markup of H.R. 4016, Hazardous Materials Transportation Safety Act of 2009 — *11:00 a.m., 2167 Rayburn.*

STATUS OF MAJOR TRANSPORTATION BILLS — 111th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	RESOLUTION
Economic Stimulus Appropriations & Tax Cuts	H.R. 1 conference report passed House 2/13/09 by 246-183-1	H.R. 1 conference report passed Senate 2/13/09 by a vote of 60-38	Public Law 111-5 2/17/09
FY 2010 Congressional budget resolution	H. Con. Res. 85 passed House 4/2/09 by vote of 233-196	S. Con. Res. 13 passed Senate 4/2/09 by vote of 55-43	Conference report (H. Rept. 111-89) agreed to 4/29/09
FY 2010 Transportation-HUD Appropriations	H.R. 3288 passed House 7/23/09 by a vote of 256-168	H.R. 3288 passed Senate amended 9/17/09 by vote of 73-25	
FY 2010 Energy and Water Appropriations	H.R. 3183 passed House 7/17/09 by a vote of 320-97	H.R. 3183 passed Senate amended 7/29/09 by vote of 85-9	Public Law 111-85 10/28/09
FY 2010 Homeland Security Appropriations	H.R. 2892 passed House 6/24/09 by a vote of 389-37	H.R. 2892 passed Senate amended 7/9/09 by a vote of 84-6	Public Law 111-83 10/28/09
Federal Aviation Admin. Reauthorization Bill	H.R. 915 passed House 5/22/09 by a vote of 277-136	S. 1451 reported 9/29/09 S. Rept. 111-82	
Surface Transportation Reauthorization Bill	Subcommittee marked up draft bill on 6/24/09		
Short-Term Extension of Surface Transportation Laws	H.R. 3617 passed House 9/23/09 by a vote of 335-85	S. 1498 reported 7/22/09 S. Rept. 111-59	
Water Resources Development Act	Subcommittee hearing scheduled for 11/18/09		
FY 2010 Coast Guard Authorization	H.R. 3619 passed House 10/23/09 by a vote of 385-11	S. 1194 reported 10/30/09 S. Rept. 111-95	
Transportation Security Admin. Reauthorization	H.R. 2200 passed House 6/4/09 by a vote of 397-25		