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Legislative Schedules *Week of July 28, 2003*

House

The House has adjourned for the August District Work Period and will next meet at 2 p.m. on September 6, 2003.

Senate

The Senate will convene at 11 a.m. today to resume consideration of S. 14, the energy bill. The first vote of the day will be at 5:30 p.m. on a judicial nomination.

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FAA Reauthorization Bill Finalized But Not Yet Passed

Republicans End House-Senate Conference On \$62.1 Billion Bill Despite Democratic Objections To Air Traffic Control Privatization Language

Republican negotiators from the House and Senate finalized a \$62.1 billion four-year Federal Aviation Administration reauthorization bill last Friday but ran out of time for the House to consider the bill before that chamber left for the August recess. The Senate may consider the bill this week.

House and Senate conferees filed the conference report on H.R. 2115, "Vision 100 — Century of Aviation Reauthorization Act" early Friday evening. The text of the conference report (H. Rept. 108-240) is now available on the THOMAS website under "Committee Reports" (you can use the hyperlink on page 17).

While most of the bill's provisions were agreed to

on a bipartisan basis, Democrats in the House and Senate are likely to fight the final bill on the floors of those chambers because the final bill waters down provisions passed by both chambers preventing the Bush Administration from contracting out certain air traffic control services.

The dispute over ATC privatization prevented any Democratic House or Senate conferees from signing the conference report — another bitter blow for the legendary bipartisanship of the Transportation and Infrastructure Committee.

On July 13, at the only public meeting of the House-Senate, Rep. James Oberstar (D-MN) said that the "heart and soul" of the House bill



The debate over whether or not to allow the Bush Administration to contract out certain air traffic control services has overshadowed the other provisions of a \$62.1 billion FAA reauthorization bill.

had been "eroded" and that he regretfully could not support the final work product. Oberstar offered an amendment in conference that would have reinstated the Senate-passed privatization ban, but sensing that the fix was in, he did not call for a rollcall vote when conference chairman Don

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House Appropriators Boost Amtrak, Transit, EAS; Cut Highways, AIP

The House Appropriations Committee last week performed major surgery on a bill funding the Transportation and Treasury Departments and other agencies for fiscal 2004.

The draft bill, which had been approved by a subcommittee on July 11,

proved highly controversial because of its low funding levels for Amtrak, essential air service (EAS) subsidies for rural communities, and low funding for subway and light rail projects, as well as several other policy initiatives undertaken by subcommittee chair

Ernest Istook (R-OK). After consultation with full committee chairman Bill Young (R-FL), Istook offered a lengthy (fourteen pages) manager's amendment to his bill at the full committee markup on July 24 making many changes.

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DOT Names Chief Counsels For Highway, Motor Carrier Safety Administrations



Transportation Secretary Norman Mineta last week announced the hiring of new Chief Counsels for both the Federal Highway Administration and the Federal Motor Carrier Safety Administration, both of whom were scheduled to start work today.

D.J. Gribbin has been named chief counsel for FHWA, and Brigham A. McCown will assume that role for FMCSA.

Gribbin comes to FHWA from Koch Industries, where he had served as director of public sector business development since 1999 and as director of government affairs from 1997 to 1999. He was national field director of the Christian Coalition from 1994 to 1997 and legislative

representative of the National Federation of Independent Business from 1989 to 1994.

Between 1986 and 1989 Gribbin worked on Capitol Hill, including stints as legislative director for U.S. Rep. Larry Combest of Texas and as a staff member of the House Committee on the District of Columbia. Gribbin earned his Bachelor of Arts degree in 1985 and his law degree in 1992, both from Georgetown University.

McCown joins FMCSA from the Dallas office of the law firm Winstead Sechrest & Minick P.C., where he has practiced since 2001 as a member of the firm's litigation and government affairs sections. He served as a special legal counsel to the Bush-Cheney 2000 campaign

during the Florida recount process. Between 1998 and 2001 he was an associate attorney with the firm Peterson & Bernard in West Palm Beach, FL, where he worked in litigation.



Brigham McCown

McCown spent the previous decade as an aviator in the U.S. Navy, accumulating over 1,500 flight hours in Operation Desert Storm, Haiti's Operation Support Democracy and other deployments. He earned a Bachelor of Arts degree from Miami University, Oxford, Ohio, in 1988, and a law degree from Northern Kentucky University in 1997.

Rep. Duncan Introduces Bill Requiring Crash-Proof Black Boxes On Airliners



At a Capitol Hill press conference last week, Rep. Jimmy Duncan (R-TN), former chairman of the House Aviation Subcommittee, announced the introduction of legislation (H.R. 2632) requiring all commercial airliners to carry two sets of "black boxes" (*i.e.* two sets of flight data recorders and cockpit voice recorders), with one set at the far rear of the aircraft to be automatically jettisoned in the event of an accident, and with both sets having independent power supplies in the event of loss of electrical power.

The bill, which has seven bipartisan cosponsors, implements safety recommendations made by the National Transportation Safety Board in 1999 in the wake of the TWA 800 disaster off Long Island and the ValuJet disaster in the Florida Everglades. In both situations, loss of electrical power caused the recorders to stop functioning almost a minute before the crash due to loss of electrical power, and it took searchers many days of labor to find the recorders.

H.R. 2632, the Safe Aviation and

Flight Enhancement (SAFE) Act, would require all new commercial aircraft manufactured ordered by an air carrier after January 1, 2005 to carry dual systems — a front combination (CVR/FDR) fixed system and a rear combination deployable system. "Commercial aircraft," in this context, means jets with 10 or more seats or weighing over 12,500 pounds or prop planes with 19 or more seats or weighing over 19,000 pounds.

Under the terms of the bill, the federal government would purchase the recorder systems and make them available at no cost to air carriers for retrofitting existing aircraft and would reimburse U.S. aircraft manufacturers (*i.e.* Boeing) for engineering, certification and installation costs they incur in developing and installing the systems.

The front CVR/FDR combination must be located as close to the cockpit as possible (to prevent the risk of the cables providing voice and telemetry to the recorders being severed) and must be powered by the second-most-reliable electrical bus on the aircraft.

The rear CVR/FDR combination shall be located as far aft as possible (to increase survivability — the tail survives most often), must be powered by the most reliable electrical bus (keeping the two sets of recorders on separate power systems) and must be "deployable" (defined in the bill as "designed to be mounted conformal to the surface of the airframe, eject from the aircraft upon accident and fly away from the crash site, and float indefinitely on water").

Both combination recorders have to be equipped with a battery backup enabling them to record for ten minutes after the recorders lose electrical power.

Duncan said, "If we have another major air disaster, it will be very important to determine if its cause is a mechanical failure or another terrorist attack."

Representatives of the National Air Disaster Alliance and the Families of TWA Flight 800 organizations attended the press conference and endorse the legislation.

House T&I Committee Approves Bipartisan Water Resources Bill

Deal Finally Reached On Peer Review Of Major Corps Projects, Changes To Corps Planning Process



Ending an impasse stretching back several years, the House Transportation and Infrastructure Committee last week approved, by voice vote, legislation (H.R. 2557) that would require the U.S. Army Corps of Engineers to subject its major project studies to independent peer review and would make other changes in the Corps planning process.

The legislation, the Water Resources Development Act of 2003, is a 250-page bill, the vast majority of which is a series of laundry lists of water projects that Congress is directing the Corps of Engineers to study or carry out.

But the projects (with the memorable exception of the American River fiasco in the late 1990s) are always the least controversial, most popular part of the bill, tying hundreds of Members of Congress to the legislation.

The sticking point for several years has been whether or not to reform the way the Corps selects projects, particularly big projects. Disputes over this issue prevented either chamber of Congress from passing a WRDA bill during the 107th Congress.

H.R. 2557 was approved by the House Water Resources and Environment Subcommittee on July 17, but subcommittee members had agreed to delay amendatory action relating to Corps reform and other issues until the full Transportation and Infrastructure Committee considered the bill.

On July 23, the full T&I Committee marked up the bill, and what had the potential to be a contentious session turned into a lovefest with high praise being offered for chairman and ranking members.

Water Subcommittee Chairman Jimmy Duncan (R-TN) offered a "manager's amendment" making several policy changes to the bill to

accommodate members who had voiced concerns at the subcommittee markup. The manager's amendment also added numerous studies and projects to the bill that were brought to the subcommittee's attention late in the process.

After that amendment was approved by voice vote, Duncan and his ranking minority member, Jerry Costello (D-IL), jointly offered an amendment creating a process by which the project studies for major projects or controversial projects must be subject to independent peer review.

This most basic "reform" is designed to put outside judgment in the project selection process, which is currently dominated by the incestuous back-and-forth between Congress (which orders studies in WRDA bills and appropriations bills), the Corps (which performs the studies and issues a Chief's report after further consultation with Congress), and Congress again (appropriating funds for the projects).

The peer review language in the Duncan-Costello amendment requires that all studies of projects estimated to cost over \$50 million must be subject to peer review unless specifically exempted by the Chief of Engineers. State Governors and heads of federal and state agencies may also request that a specific study of a project under \$50 million be subject to peer review, and if the Chief turns them down, they can appeal the request to the Secretary of the Army. The Chief also has the power to declare a "controversial" project subject to peer review on his own.

The peer review process has a deadline of 180 days but may be extended by the Chief. After the peer review panel reports, the Chief must evaluate the peer review report alongside the project study and must make written determinations of where he agrees and disagrees with the peer review report.

This is all designed to prevent future problems like those that have developed in the Corps Missouri River and Delaware River megaprojects, where critics of the Corps feel that by working too closely with Congress and outside interests, the Corps ignored alternatives that would be far less costly and complicated and which would have fewer negative environmental consequences.

The Corps reform provisions are summarized in detail on page four.

The manager's amendment also accomplished other things:

- Clarifies that the streamlining provisions of the bill do not expand the scope of the Corps' authority under NEPA as lead federal agency (a change requested by Rep. Jim Oberstar (D-MN)).
- Requires the Corps to put more detail into its mitigation plans, including what mitigation is needed and how it is to be carried out; a description of the land necessary for mitigation and its availability; criteria for success based on habitat functions and values; and a monitoring plan an identification of the person responsible for monitoring (changes requested by Rep. Wayne Gilchrest (R-MD)).
- Changes in the Corps' principles and guidelines for its planning process sought by Rep. Earl Blumenauer (D-OR) (see full description at bottom of page four).
- Requires a Corps study of the appropriate use of the federal hopper dredge fleet (sought by Rep. Peter DeFazio (D-OR)). This provision may be redundant since a similar study is ongoing.

Now that the Corps reform issue is settled (well, not settled, but moved forward to the satisfaction of Democrats), the bill should be scheduled for the House floor in September and should pass the House by a wide margin.

Overview Of House "Corps Reform" Provisions In WRDA 2003

INDEPENDENT PEER REVIEW

What studies are subject to independent peer review? All project studies where the project will cost over \$50 million *must* be subject to peer review unless the Chief of Engineers specifically exempts the project after finding it is not controversial, has negligible impact on scarce cultural, historical or Tribal resources, has no substantial adverse impact on fish and wildlife species, has no more than negligible impact on endangered species, or unless the project is one of a list specifically authorized by Congress in past legislation. If a state Governor or the head of a federal or state agency requests a peer review, or the Chief of Engineers believes a project to be controversial, the Chief may order the project study to peer review if he finds that there is a significant public dispute as to the size, nature, or effects of the project; or there is a significant public dispute as to the economic or environmental costs or benefits of the project. If a Governor or agency head requests peer review for a project study and the Chief denies the request, the person requesting peer review may appeal the decision to the Secretary of the Army within 30 days. This applies to project studies initiated during the two-year period prior to enactment of WRDA 2003 for which the array of alternatives has not been identified, and to project studies initiated for four years after enactment of WRDA 2003.

Who gets appointed to a peer review panel? The Chief of Engineers shall contract with the National Academy of Sciences (or similar organization) to establish a panel of experts, to be composed of "independent experts who represent a balance of areas of expertise suitable for the review being conducted." No one may serve on such a panel who has financial or close professional associations with any group with a strong financial or organizational interest in the project.

What goes into a peer review? The peer review panel must "assess the adequacy and acceptability of the economic and environmental methods, models, and analyses used by the Chief of Engineers; provide timely written and oral comments to the Chief of Engineers throughout the development of the project study, as requested; and submit to the Chief of Engineers a final report containing the panel's economic, engineering, and environmental analysis of the project study, including the panel's assessment of the adequacy and acceptability of the economic and environmental methods, models, and analyses used by the Chief of Engineers, to accompany the publication of the project study." The bill limits the cost of a peer review study to \$500,000, but the Chief of Engineers may waive that limitation.

When does a peer review begin? "The peer review shall occur during the period beginning on the date of the completion of the reconnaissance study for the project and ending on the date the draft report of the Chief of Engineers for the project is made available for public comment. Where the Chief of Engineers has not initiated a peer review of a project study, the Chief of Engineers shall consider, at a minimum, whether to initiate a peer review at the time that— (1) the without project conditions are identified; (2) the array of alternatives to be considered are identified; and (3) the preferred alternative is identified."

How long can peer review take? A panel must complete its peer review for a project study and submit a report to the Chief of Engineers within 180 days after the date of establishment of the panel, or, if the Chief of Engineers determines that a longer period of time is necessary, such period of time established by the Chief of Engineers, but in no event later than 90 days after the date a draft project study is made available for public review. If a panel does not complete its peer review of a project study under this section and submit a report to the Chief of Engineers on or before the 180-day deadline the Chief of Engineers shall continue the project study for the project that is subject to peer review by the panel without delay.

Who evaluates the peer review study? The Chief of Engineers "shall consider any recommendations contained in the report and prepare a written response for any recommendations adopted or not adopted." The Chief must make peer review reports and his written responses available to the public and to Congress.

PROJECT PLANNING

Objectives. Declares that for flood control, navigation and hurricane and storm damage reduction projects, the objective shall be (1) to maximize national economic benefit, consistent with (2) protecting the nation's environment. Declares that for ecosystem restoration projects, the objective shall be to (1) maximize net national ecosystem restoration benefits, consistent with (2) national economic development. Projects with multiple purposes shall be evaluated consistent with the foregoing objectives.

Project alternatives. Allows the Secretary to select a project alternative that does not maximize net benefits if there is an overriding reason based on other federal, state, local or international concerns. Allows the Secretary to select plans other than the plan that maximizes goal #1 (see objectives, above) if the Secretary and the non-Federal interest concur that an alternative plan is feasible and achieves the project purpose while maximizing goal #2.

Additional benefits and projects. During a study of a project with primarily economic benefits, allows the Secretary to recommend a separate project or project element to achieve identified ecosystem benefits. (Vice versa language also included for studies of projects with primarily ecosystem restoration benefits).

Calculation of costs and benefits. Requires feasibility studies for flood damage reduction projects to include, as part of the cost-benefit calculus, a calculation of the residual risk of flooding following completion of the proposed project; a calculation of any upstream or downstream impacts of the proposed project; and calculations to ensure that the benefits and costs associated with structural and nonstructural alternatives are evaluated in an equitable manner.

FAA Reauthorization

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Young (R-AK) announced that the amendment failed on voice vote.

Young said he was sympathetic to Oberstar's concerns, but that a strongly and specifically worded veto threat from DOT left him no choice. Young implied that the House leadership would prevent the House from voting on the conference report if it did not meet the Administration's privatization threshold. Senate Commerce Chairman John McCain (R-AZ) noted that the DOT Inspector Gen-

eral supported the concept of privatizing the 71 VFR (visual flight rules) towers that the conference language would allow to be privatized. Oberstar noted that not all of the 71 VFR towers could be privatized — the conference report excludes the two towers in Alaska — to which Young responded "damn right."

Despite the likely opposition by most House Democrats and a possible Senate filibuster by Sen. Frank Lautenberg (D-NJ), the original author of the ban on ATC privatization, there is much in the bill that both parties approve of. The tables

below show the authorized funding levels in the final bill and how the major accounts compare to the House, Senate and Administration proposals. The conference agreement would spend \$3.4 billion on Airport Improvement Program grants in FY 2004 and \$3.7 billion in FY 2007 (hard to believe that AIP was funded at \$1.7 billion as recently as FY 1998) and would match or exceed the Administration's budget request for FAA operations and procurement.

Money-wise, the conference report also extends the budgetary treat-

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COMPARISON OF AUTHORIZED FUNDING LEVELS FOR MAJOR FAA ACCOUNTS

Account	FY 2004	FY 2005	FY 2006	FY 2007	4-year total
AIP-Administration	3,400,000,000	3,400,000,000	3,400,000,000	3,400,000,000	13,600,000,000
AIP-Senate	3,400,000,000	3,500,000,000	3,600,000,000	n/a	10,500,000,000
AIP - House	3,400,000,000	3,600,000,000	3,800,000,000	4,000,000,000	14,800,000,000
AIP - conference	3,400,000,000	3,500,000,000	3,600,000,000	3,700,000,000	14,200,000,000
Facilities & Equipment - Administration	2,916,000,000	2,971,000,000	3,031,000,000	3,098,000,000	12,016,000,000
Facilities & Equipment - Senate	2,916,000,000	2,971,000,000	3,030,000,000	n/a	8,917,000,000
Facilities & Equipment - House	2,938,000,000	2,993,000,000	3,053,000,000	3,110,000,000	12,094,000,000
Facilities & Equipment - Conference	3,138,000,000	2,993,000,000	3,053,000,000	3,110,000,000	12,294,000,000
Operations & Maintenance - Administration	7,591,000,000	7,732,000,000	7,889,000,000	8,064,000,000	31,276,000,000
Operations & Maintenance - Senate	7,591,000,000	7,732,000,000	7,889,000,000	n/a	23,212,000,000
Operations & Maintenance - House	7,591,000,000	7,732,000,000	7,889,000,000	8,064,000,000	31,276,000,000
Operations & Maintenance - Conference	7,591,000,000	7,732,000,000	7,889,000,000	8,064,000,000	31,276,000,000
Research, Engineering & Dev. - Administration	100,000,000	102,000,000	104,000,000	107,000,000	413,000,000
Research, Engineering & Dev. - Senate	289,000,000	304,000,000	317,000,000	n/a	910,000,000
Research, Engineering & Dev. - House	n/a	n/a	n/a	n/a	n/a
Research, Engineering & Dev. - Conference	346,317,000	356,192,000	352,157,000	356,261,000	1,410,927,000

OTHER AUTHORIZATIONS IN THE FAA CONFERENCE REPORT

Account	FY 2004	FY 2005	FY 2006	FY 2007	4-year total
Contract tower program (49 USC 47124)	6,500,000	7,000,000	7,500,000	8,000,000	29,000,000
Alaska powerhouse land restoration (sec. 190)	1,500,000				1,500,000
Airport project environmental review (sec. 304)	4,200,000	4,200,000	4,200,000	4,200,000	16,800,000
Study of aircraft noise/fuel efficiency (sec. 321)	500,000				500,000
Essential air service (disc.) (sec. 404)	77,000,000	77,000,000	77,000,000	77,000,000	308,000,000
Commission on Small Community A.S. (sec. 411)	250,000				250,000
Small Community Air Service (sec. 412)	35,000,000	35,000,000	35,000,000	35,000,000	140,000,000
Wake turbulence assessment (sec. 505)	500,000				500,000
Airport security improvement projects (mand.)	250,000,000	250,000,000	250,000,000	250,000,000	1,000,000,000
Airport security improvement projects (discr.)	250,000,000	250,000,000	250,000,000	250,000,000	1,000,000,000
FAA Science & Tech. Scholarships (sec. 702)	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
NASA Science & Tech. Scholarships (sec. 703)	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
FAA Center for Excellence (sec. 708)	500,000				500,000
Next Generation Air Transportation (sec. 709)	50,000,000	50,000,000	50,000,000	50,000,000	200,000,000
General aviation loss reimbursement (sec. 817)	100,000,000				100,000,000
Total, other authorizations	795,950,000	693,200,000	693,700,000	694,200,000	2,877,050,000

FAA Reauthorization

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ment established by the 2000 AIR21 legislation. While those procedures do not formally take the Airport and Airway Trust Fund off-budget or erect a budgetary firewall protecting the funds, they do provide procedural protections to ensure that all receipts and interest in the Trust Fund get spent, and give capital programs a higher priority for Trust Fund resources than operations (since operations get a share of general fund revenues as well).

Other highlights of the conference report include:

- A new \$500 million per year program to fund airport security projects. Half of the money — \$250 million per year — would be mandatory spending and would be automatically taken from the initial proceeds of the 9/11 security fee. (This will, no doubt, give apoplexy to appropriators who rightly note that the current proceeds of the 9/11 fee are woefully
- insufficient to pay for the costs of aviation security screening activities *before* money gets diverted to capital projects). The other \$250 million per year would be subject to annual appropriations (and thus may never show up). DHS could issue letters of intent similar to those for AIP projects to formally signal (non-binding) federal intent for multi-year funding for big projects. Half of the funds would be distributed by formula (40% for large hubs, 20% for medium hubs, 15% for small hubs, and 25% discretionary) and the other half would be completely discretionary but with priority given to fulfilling existing letters of intent. The federal share of projects at large hub airport would be 90 percent and the federal share would be 95 percent at all other airports.
- The conference report adds new takeoff and landing slots at Ronald Reagan Washington National Airport as proposed by the House. Twelve slots would be
- added for flights inside the 1,250-nautical mile perimeter (enough for six daily round-trips) and eight slots would be added outside the perimeter (four round-trips). The bill also allows regional jets with up to 76 seats to be classified as “commuter” flights to use those underutilized slots at Reagan National.
- The conference report extends the federal war risk insurance program for U.S. airlines through March 30, 2008 and covers U.S. airplane manufacturers for damages exceeding \$50 million.
- The conference report ignores most of the changes that the Bush Administration wanted to make in the essential air service program. The final bill does not cut off any existing EAS city and does not require EAS communities to pay any matching share of their subsidy (except that DOT may select ten cities and make them pay ten percent of their subsidy cost as part of a pilot program).
- The conference report follows the House bill and requires the FAA to certify flight attendants who have completed their training and prohibits non-certificated flight attendants from being hired by U.S. airlines in the future.
- The conference report includes extensive environmental streamlining provisions designed to speed up the approval of airport expansion, safety and security projects (see page nine).
- The conference report authorizes \$100 million in appropriations for reimbursement to general aviation entities for economic losses suffered due to post-9/11 federal restrictions on the industry. (This comes as the House Appropriations Committee just killed a \$4 million appropriation for same).

HOW HOUSE-SENATE CONFERENCES WORK

Or, the tradeoffs between party loyalty and committee loyalty

The Senate, which has no automatic procedure for splitting jurisdiction over a bill between committees, only appointed nine conferees on H.R. 2115: five Republicans and four Democrats, all from the Commerce, Science and Transportation Committee.

Changes in House rules in the early 1970s made it easier for House committees to share jurisdiction over bills through joint and sequential referral, and this also made itself felt in the appointment of conferees. When naming House conferees on H.R. 2115, the Speaker named ten from Transportation and Infrastructure (six Republicans and four Democrats) and three conferees each from six other committees, only for consideration of the specific sections of the House or Senate bill that concerned their panels.

The most important rule of a conference is that the conference report must be signed by a majority of the conferees named by each chamber for each part of the bill for which conferees have been named.

Normally, if the conferees of both parties from the primary House committee (in this case, T&I) stick together, they form a clear majority of House conferees on each section. But, since no Democrats chose to sign the conference report, the six T&I Republican conferees could not, by themselves, close out any of the sections of the bill where conferees from other committees had been appointed. For example, ten T&I conferees plus three Ways and Means conferees equals thirteen conferees named for consideration of the revenue title, and seven signatures (a majority of thirteen) would be necessary to close out that title.

Again, since no Democrats were going to sign, the two Republican conferees from each of the six committees of shared jurisdiction were in the driver's seat on the whole bill, as long as they held together, and were particularly empowered in their particular sections. For example, the conference report could not be filed until one of the Republican conferees from each of these committees signed alongside the six Republican T&I conferees: Judiciary, Resources, Government Reform, Energy and Commerce, Ways and Means, and Science.

An initial reading of the conference report shows the Science conferees to have been particularly effective, since funding authorizations in their title of the bill (title VII) are far higher than what the Senate or the President proposed and well beyond what T&I envisioned when they went into the conference.

A brief summary of the conference agreement is on page 7, the ATC privatization language is on page 8 and a summary of the streamlining provision is on page 9.

RESOLUTION OF MAJOR ISSUES IN THE HOUSE-SENATE FAA CONFERENCE

ISSUE	HOUSE BILL	SENATE BILL	FINAL BILL
Bill title	"Flight 100 — Century of Aviation Reauthorization Act"	"Aviation Investment and Revitalization Vision Act" (AIR-V)	"Vision 100 — Century of Aviation Reauthorization Act"
Length of bill	Four years	Three years	Four years
Extension of AIR21 budget process and spending guarantees	Extends section 106 of AIR21 through fiscal year 2007.	Extends section 106 of AIR21 through fiscal year 2006.	Codifies section 106 of AIR21 into law at 49 USC §48114, lasting through fiscal year 2007.
Air traffic control privatization	Prohibits privatization of ATC separation and control functions except for the contract tower program (both current participants and other towers that might qualify for the program).	Prohibits privatization of ATC separation and control <i>and</i> of system certification and maintenance, except for the contract tower program (limited to participating towers as of date of enactment).	Prohibits privatization of separation and control until 10/1/07 except for the contract tower program, which may expand to newly constructed towers and 69 specified VFR towers. See next page for details.
Slots at Ronald Reagan Washington National Airport	Adds 20 new takeoff or landing slots at DCA (12 inside perimeter, 8 outside).	No provision.	House bill (12 new slots inside, 8 outside).
Commuter flights at Ronald Reagan Washington National Airport	Changes definition of "commuter plane" from jets with 56 seats max. to jets with 76 seats max. for use of DCA commuter slots.	No provision.	House bill.
War risk insurance	War risk insurance for international flights made permanent, extended for domestic flights through 12/31/07. Extends \$100 million liability cap to U.S. manufacturers.	Extends all expiring war risk insurance provisions through 12/31/06.	Extends the war risk insurance program until 3/30/08. Allows DOT to extend coverage to U.S. manufacturers for losses over \$50 million.
Airport security project grant program (letters of intent)	No provision, but another T&I bill (H.R. 2144) authorizes \$500 million per year for airport security grant projects (90% fed. share for large/med hubs and 95% share for others) and authorizes letters of intent.	Establishes Aviation Security Capital Fund with \$500 million per year in mandatory receipts deposited in the fund, to be apportioned by formula (40% large hub, 20% med. hub, 15% small hub, 25% discretionary) and authorizes letters of intent.	Authorizes \$500 million per year (half mandatory, half subject to appropriation) for a DHS airport security grant program, half by Senate formula and half discretionary. Federal share same as House bill (retroactive to current projects). Authorizes letters of intent.
AIP entitlements	Lowers primary airport AIP entitlement by 5 cents per passenger over 3.5 million. Allows airports falling below 10,000 enplanements in 2001 or 2002 due to 9-11 to keep getting AIP. Increases cargo airport set-aside from 3% of AIP to 3.5%. Eliminates reliever airport set-aside.	No change in primary airport AIP entitlement. Allows airport falling below 10,000 enplanements to stay AIP-eligible. Identical provision on cargo entitlement. No provision on reliever airports.	No change in primary airport AIP entitlement. House language on airports falling below 10,000 annual enplanements. Increases cargo airport set-aside from 3% of AIP to 3.5%. No provision on reliever airports.
Streamlining airport project delivery	Too complicated to discuss in this small space. See page nine.	Too complicated to discuss in this small space. See page nine.	Too complicated to discuss in this small space. See page nine.
Essential Air Service	Continues existing \$50 million/year mandatory EAS funding and authorizes \$65 million/year in appropriations in addition.	Continues existing \$50 million/year mandatory EAS funding and authorizes \$63 million/year in appropriations in addition.	Continues existing \$50 million/year mandatory EAS funding and authorizes \$72 million/year in appropriations in addition, \$12 million of which is to be used for marketing incentive programs.
Flight attendant certification	Requires all flight attendants on aircraft of a U.S. airline to hold a certificate from the FAA. Requires the FAA to issue a certificate to a person after the airline notifies the FAA that the person has completed all FAA approved training.	Requires FAA to establish standards for flight attendant training. FAA shall require flight attendants to complete training courses approved by FAA and TSA. FAA shall issue a certificate to each person that completes the course.	House bill, however Conferees agreed to allow the Administrator 120 days to issue the certificate after receiving notification from the air carrier.
General aviation reimbursement	Authorizes \$100 million for reimbursement of DC-area GA entities, banner towers, flight schools, and other affected GA businesses.	Similar provision but does not explicitly include banner towers or flight schools in each coverage.	House bill, but narrows reimbursement eligibility to general aviation businesses that are specifically identified as having incurred costs or lost money as a result of the events of September 11, 2001.

FINAL AIR TRAFFIC CONTROL PRIVATIZATION LANGUAGE

The House-passed version of H.R. 2115 prohibited the "transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United States Government" but exempted towers participating in the contract tower program on the date of enactment.

The Senate amendment to H.R.

2115 included language very similar to that passed by the House but also prohibited the privatization of "maintenance of certifiable systems and other functions related to certification of national airspace systems and services operated by the Federal Aviation Administration on the date of enactment of this Act or flight service station personnel."

Objections from the White House forced Congressional Republicans to

overrule Democratic objections and include final conference language weaker than the House's (and, therefore, much weaker than the Senate's). The scope of the House language (prohibiting privatization of separation and control only) is kept, but it sunsets in four years, and a new proviso is added to allow the privatization of separation and control at 69 listed VFR airports. The final language and the list of VFR airports is below.

SEC. 230. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION.

(a) IN GENERAL.—Until October 1, 2007, the Secretary of Transportation may not authorize the transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United State Government.

(b) LIMITATION.—Subsection (a) shall not apply—

- (1) to a Federal Aviation Administration air traffic control tower operated under the contract tower program on the date of enactment of this Act;
- (2) to any expansion of that program through new construction under subtitle VII of title 49, United States Code; or
- (3) to a Federal Aviation Administration air traffic control tower (other than towers in Alaska) identified in the Report of the Department of Transportation Inspector General dated April 12, 2000, and designated "Contract Towers: Observations on the Federal Aviation Administration's Study of Expanding the Program".

The VFR towers referred to in subsection (b)(3) of section 230 are listed below, reproduced from the DOT IG report.

ATC Grade 5 VFR Towers

State	Airport	Density <small>As of 11/99, unless noted</small>	Staffing <small>As of 12/31/99</small>	Excluded in FAA's Study	Controller Incentive Pay
AK	Juneau International	39.98	10	No	0.0%
AZ	Grand Canyon Municipal	56.59	10	No	0.0%
CA	El Monte	36.23	10	No	8.0%
CA	Napa County	42.19	11	No	5.5%
CA	Santa Rosa Sonoma	35.88	12	No	5.5%
FL	Fort Pierce	38.14	13	No	0.0%
IN	Lafayette/Perdue University	45.29	11	No	0.0%
MI	Ann Arbor Municipal	43.10	12	Yes	5.0%
MI	Traverse City	35.55 (10/99)	9	No	0.0%
VA	Manassas Regional/Davis Field	27.89	12	No	5.5%
		ATC-5 Staffing	110		

ATC Grade 6 VFR Towers

AZ	Scottsdale	48.55	14	No	0.0%
CA	Camarillo	45.33	11	No	8.0%
CA	Concord/Buchanan Field	52.50	9	No	8.0%
CA	Hayward Air Terminal	45.65	11	No	8.0%
CA	Livermore Municipal	60.30	10	No	8.0%
CA	Sacramento International	31.70	15	Yes	0.0%
CA	San Jose/Reid-Hillview	48.56	9	No	8.0%
CO	Denver/Jeffco	38.32	15	No	0.0%
DE	Wilmington/New Castle	33.06	12	No	0.0%
FL	Miami/Kendall-Tamiami	47.30	13	Yes	0.0%
FL	Vero Beach	50.98	14	No	0.0%
IL	Cahokia/St. Louis	49.22	12	Yes	0.0%
IL	Chicago/Aurora Municipal	33.74	13	No	5.5%
KY	Louisville Bowman	38.29	11	Yes	0.0%
LA	New Orleans/Lakefront	40.91	11	Yes	0.0%
MI	Detroit Willow Run	37.28 (10/99)	12	Yes	4.5%
MN	Minneapolis/Crystal	48.51	11	Yes	0.0%
MN	St. Paul Downtown	39.61	12	No	0.0%
MO	Spirit of St. Louis	47.19	14	Yes	0.0%
NY	Poughkeepsie/Dutchess	33.43	8	No	0.0%
OR	Portland-Hillsboro	55.94	10	No	0.0%
PA	Northeast Philadelphia	48.86	12	No	5.5%
PA	Pittsburgh/Allegheny County	28.33	14	Yes	0.0%
TX	Fort Worth/Alliance	49.78	17	Yes	0.0%
WA	Everett Paine Field	57.75	11	No	0.0%
		ATC-6 Staffing	301		

ATC Grade 7 VFR Towers

State	Airport	Density <small>As of 11/99, unless noted</small>	Staffing <small>As of 12/31/99</small>	Excluded in FAA's Study	Controller Incentive Pay
AK	Anchorage/Merrill Field	49.36	12	No	0.0%
AZ	Mesa/Falcon Field	56.67	13	No	0.0%
AZ	Phoenix-Deer Valley Municipal	63.74	15	No	0.0%
AZ	Prescott/EA Love Field	89.72	18	No	0.0%
CA	Carlsbad/McClellan	62.55	14	No	5.5%
CA	Chino	44.56	10	No	4.5%
CA	La Verne/Bracket Field	59.97	11	No	8.0%
CA	Palo Alto	47.99	10	No	8.0%
CA	San Diego/Gillespie Field	49.46	12	No	5.5%
CA	San Diego/Montgomery	58.04	16	No	5.5%
CA	Santa Monica Municipal	53.44	13	Yes	8.0%
CA	Torrance/Zamperini Field	51.55	10	No	8.0%
FL	Fort Lauderdale Executive	48.66 (9/99)	15	Yes	0.0%
FL	Orlando Executive	45.17	11	Yes	0.0%
GA	Atlanta/Dekalb-Peachtree	50.52	16	Yes	0.0%
IL	Chicago/Du Page	46.57 (10/99)	16	Yes	5.5%
IL	Chicago/Palwaukee Municipal	38.36	14	Yes	5.5%
MA	Bedford/Hanscom Field	46.45	13	Yes	8.0%
MA	Nantucket Memorial	39.75	9	Yes	8.0%
MN	Minneapolis/Flying Cloud	50.42	14	No	0.0%
ND	Grand Forks International	57.26	16	Yes	0.0%
NJ	Caldwell/Essex County	56.52	13	No	5.5%
NJ	Morristown Municipal	56.99	11	No	5.5%
NV	North Las Vegas	51.55	17	Yes	0.0%
NY	Farmingdale/Republic	57.75	12	No	8.0%
TX	Dallas Addison	36.48	15	Yes	0.0%
TX	Tomaball D. W. Hooks	62.02	13	Yes	0.0%
VA	Newport News	48.28	13	No	0.0%
		ATC-7 Staffing	372		

ATC Grade 8 VFR Towers

FL	Orlando/Sanford	78.11	18	Yes	0.0%
MI	Pontiac/Oakland Cty Internat'l	76.22 (9/99)	17	No	5.5%
OK	Tulsa/Riverside	70.77	17	Yes	0.0%
WA	Seattle/Boeing Field	72.68	23	Yes	5.5%
		ATC-8 Staffing	75		

ATC Grade 9 VFR Towers

CA	Long Beach/Daugherty	97.80	29	Yes	8.0%
CA	Van Nuys	118.35	23	Yes	8.0%
CO	Denver/Centennial	97.45	24	Yes	0.0%
TX	Fort Worth Meacham	75.97	25	Yes	0.0%
		ATC-9 Staffing	101		
		Total Staffing	959		

STREAMLINING THE PERMITTING PROCESS — FINAL CONFERENCE VERSION

The final conference report version of H.R. 2115 contains extensive provisions providing for streamlining the process by which the environmental clearances for airport expansion projects are considered. These reforms have been circulating for several years on Capitol Hill and are now almost done. Title III of the bill, "Environmental Process," contains subtitle A to be known as the "Aviation Streamlining Approval Process Act of 2003" or ASAP.

EXCERPTS FROM THE CONFERENCE REPORT'S JOINT STATEMENT OF MANAGERS

Promotion of new runways—airport capacity projects. Provides that the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports. This is designed to encourage the FAA to take a more proactive approach in encouraging the construction of new runways when it determines that it would be in the national interest.

DOT as lead agency. The Conferees intend that the procedures set forth in this section will allow DOT to cut through red tape and eliminate duplication without diminishing existing environmental laws or limiting local input into these critical projects. Conferees believe that the expedited, coordinated environmental review process will ensure that once a community reaches consensus on a critical project, the review process will not unnecessarily delay action. Conferees designate the Department of Transportation as the lead agency for the project review process, and directs the Secretary of Transportation to develop a coordinated review process for major airport capacity projects that will ensure that all environmental reviews by government agencies will be conducted at the same time, whenever possible.

The Conferees agreed to combine the streamlined environmental review processes and procedures for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects into one section. Therefore, House bill section 47177 is folded into House bill section 47171. The Conferees also adopted the Senate amendment regarding environmental impact statement teams as a way to streamline the environmental review process and achieve a coordinated, expedited environmental review. Conferees believe that after proper scoping and public comment processes, the determinations of the Secretary with regard to a proposed project's purpose and need and reasonable alternatives shall be binding on any other Federal or state agency that is participating in a coordinated environmental review process under this section. Participation in a coordinated environmental review process includes the review of environmental analyses, consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals.

Conferees recognize that the Department of Transportation and the Federal Aviation Administration have significant expertise and experience on transportation-related matters. Therefore, the Conferees believe that in conducting environmental reviews within the jurisdiction of the DOT, the Secretary should play a lead role in determining which analytical methods are reasonable for use in determining the transportation impacts and benefits of project alternatives, particularly in the area of noise impacts. Other agencies should give substantial deference to the aviation expertise of the Federal Aviation Administration with respect to determinations of relevant aviation factors including aircraft and airport operations, airport capacity, and future national air space capacity forecasts. Other agencies have expertise in determining the environmental impacts of transportation projects, and the Secretary should rely on the expertise of these agencies in analyzing these impacts. The Conferees believe that, to the maximum extent possible, all Federal and State agencies participating in the coordinated review process should use a common set of data for their analyses in carrying out their responsibilities to conduct environmental reviews under Federal law.

Categorical exclusions. the Conferees agree that the requirement to develop and publish a list of categorical exclusions is unnecessary given that the FAA already published a list of new categorical exclusions as part of their proposed FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." It would therefore be most helpful if the FAA finalized this Order. The Conferees have set a 180-day deadline for the FAA to publish their final FAA Order 1050.1E. In addition, with regard to airport projects, the Conferees have set a deadline for the FAA to publish, for public comment, the revised FAA Order 5050.4B, "Airport Environmental Handbook," and urge the FAA to finalize this Order as soon as practicable.

Streamlining of safety and security projects. Conferees combined House bill section 47177, which includes the procedures for an expedited, coordinated environmental review process for aviation safety and aviation security projects, with House bill section 47171, the procedures for airport capacity enhancement projects at congested airports. The Conferees believe that environmental reviews for these types of projects should be streamlined in the same way that airport capacity enhancement projects at congested airports are streamlined. Therefore, all processes and procedures applicable to airport capacity enhancement projects at congested airports apply to designated aviation safety or aviation security projects. Conferees adopted the House bill definitions of terms in both Sections 47177(g) and 47178.

Governor's certificate. Conference substitute repeals the governor's certificate requirement regarding compliance with applicable air and water quality standards.

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An outline of the transportation-related provisions of the manager's amendment follows.

- **Amtrak.** The amendment boosted the federal Amtrak subsidy for FY '04 from \$580 million to \$900 million (the amount requested by the Bush Administration). While this is still just under half of the amount Amtrak says it needs, \$900 million was enough to hold Appropriations Committee Republicans together long enough to get the bill out of committee. The bill breaks down the Amtrak funding this way:

Operating subsidies	\$400,000,000
NEC Capital	\$373,000,000
Debt service payments	\$117,000,000
General capital	\$10,000,000

The bill directs that the estimated \$188 million in FY 2004

operating profit from Northeast Corridor trains should be used to pay off Amtrak debt principal. Release of the funds to Amtrak is still contingent on the grant oversight and management reforms entered into in 2003. Of the \$400 million in operating subsidies, \$188 million is set aside for short-distance trains and \$193 million for long-distance trains. After the markup, Amtrak issued a statement saying that a \$900 million funding level "will cause the shutdown of the railroad." Amtrak President and CEO David Gunn said that, "For too long this company deferred maintenance on its plant and equipment. The can has been kicked down the road so far, that we have simply run out of road. The work has to begin now. Failure to fully fund this request, I fear, will quickly bring on the next crisis. This railroad simply can-

not continue to operate without an adequate maintenance budget."

The Bush Administration's long-awaited legislative proposal to restructure Amtrak is scheduled to be delivered to Congress on Tuesday, prompting further debate.

- **Essential Air Service.** The amendment more than doubled the amount of EAS subsidy funding contained in the bill, from \$41.5 million to \$113 million, roughly the amount appropriated last year. The amendment boosts the actual appropriation contained in the bill from \$41.5 million to \$63 million and also removes language in the draft bill that canceled out the mandatory \$50 million that the EAS program is supposed to automatically receive each year out of FAA overflight fee collections. The amendment also removes the draft bill's prohibition on EAS subsidies for communities less than 210 miles from a medium or large hub airport.

- **Transit.** The manager's amendment adds \$128.4 million to the Federal Transit Administration. \$68.3 million of this goes to formula grants and \$60.1 million goes to capital grants. Within the \$3.1 billion capital grants program, the amendment leaves fixed guideway modernization funding intact at \$1.214 billion, reduces the appropriation for buses from \$727.7 million to \$677.7 million (but the amendment then steals \$50 million from formula grants and transfers it back to buses to make up for it), and boosts new start funding to \$1.214 billion. Together with over \$20 million that the report reprograms from old new start money that never got spent, that makes almost \$1.24 billion available for the new starts program in FY 2004. The earlier draft bill had only earmarked nineteen new starts (all with existing full

CHANGES IN SPENDING LEVELS IN THE HOUSE APPROPRIATIONS MANAGER'S AMENDMENT

An unusually lengthy "manager's amendment" to the subcommittee-approved Transportation-Treasury appropriations bill for fiscal 2004 was agreed to by voice vote by the full House Appropriations Committee on July 24. The amendment moved a good deal of money around, as follows:

Account Increase	Amount	Account Decrease	Amount
Office of the Secretary	+2,500,000	FAA Airport Improvement Program	-75,000,000
Essential Air Service (discretionary)	+21,500,000	Federal-Aid Highways (ob limit)	-749,000,000
Essential Air Service (mandatory)	+50,000,000	Federal-Aid Highways (rescission)	-137,000,000
Amtrak	+320,000,000	NHTSA Operations and Research	-6,000,000
FTA Formula Grants	+68,345,000	DOT Office of Inspector General	-1,000,000
FTA Capital Grants	+60,100,000	Reagan National GA loss reimburse	-4,000,000
		Public-private partnerships (highway)	-50,000,000
		Other non-DOT spending cuts	-137,051,000
Total, Spending Increases	+522,445,000	Total, Spending Decreases	-1,159,051,000

In terms of budget authority (listed in the table, above), the spending cut from the bill totals over twice as much as the spending added to other parts of the bill. However, not all spending is created equal. The accounts getting boosts include subsidies for Amtrak and essential air service. Being subsidies, the accounts are basically large checks written to non-federal entities (Amtrak and airlines), and become outlays (actual Treasury disbursements) at a furious rate (100 percent of Amtrak budget authority becomes first-year outlays, as does 81 percent of EAS funding). That \$378 million in FY 2004 outlays has to be offset eventually. The manager's amendment cuts a total of \$936 million from the draft bill that was to come from the Highway Trust Fund for highway-related spending. Highways spend out slowly — only 27 percent of highway obligations become outlays in year one — so the \$936 million in highway cuts frees up \$253 million in FY'04 outlays. The appropriators supplemented that with cuts in faster-spending accounts in the non-DOT portion of the bill and in the slow-spending Airport Improvement Program.

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funding grant agreements) and funded them at 90 percent of the FFGA amount, leaving \$184 million left over for FTA to allocate. The manager's amendment boosts the original nineteen new starts up to 100 percent of the FFGA amount and adds funding for twelve more new starts lacking FFGAs. This leaves zero money left over for FTA to allocate. (See table below at right). The manager's amendment also eliminates the draft bill's requirement that all non-FFGA new starts have at least a 50 percent

local matching share.

- Highways.** To offset the increased spending listed above, the appropriators had to make some cuts, and the manager's amendment cut highway spending in several areas. The amendment reduced the draft bill's obligation limitation for federal-aid highways (the main highway budget number) by \$749 million to \$33.385 billion (still an all-time high). The amendment adds a new rescission of TEA-21 contract authority totaling \$137 million. And the amendment kills a new \$50 million highway program proposed by Istook to fund highway projects through public-

private partnerships. Altogether, the amendment cuts \$936 million out of FHWA activities. The amendment left the draft bill's extra \$400 million appropriation for highways outside the obligation limitation intact, but set aside an extra \$38.5 million for earmarked highway projects (the draft bill had set aside \$95 million of the \$400 million for 76 earmarked projects, the added funds will go towards 34 additional earmarked projects). Altogether, the bill allows the obligation of \$34.58 billion from the Highway Trust Fund when exempt obligations are included.

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REVISED LANGUAGE IN THE DRAFT HOUSE APPROPRIATIONS BILL

Transportation enhancements. Sec. 114 of the draft bill now reads "None of the funds limited or made available in this Act shall be available to carry out 23 U.S.C. 133(d)(2)."

FAA agreements. The proviso under FAA Operations now reads "...none of the funds in this Act may be obligated or expended to execute or continue to implement a memorandum of understanding or memorandum of agreement or any revisions thereto with representatives of any FAA bargaining unit unless such document is filed in a central registry and catalogued in an automated, searchable database under the executive direction of appropriate management representatives at FAA headquarters."

Mexican trucks. The manager's amendment added a new section 119 which says that, "Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107-87, including that the Secretary submit a report to the House and Senate Appropriations Committee annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers."

NHTSA early warning reporting. The manager's amendment added a new section 141 of the bill prohibiting enforcement of 49 CFR 579.24 (comprehensive early warning requirements) in FY 2004 with respect to trailers weighting 26,000 pounds or less gross vehicle weight.

Public-private partnerships. The manager's amendment struck the \$50 million for public-private partnership highway projects and replaced it with a new sec. 636 expressing the sense of the House encouraging DOT to "apply available funds to select projects that are in the development phase, eligible under titles 23 and 49, United States Code [except for enhancement] and that employ a PPP strategy."

Magnetic levitation. The manager's amendment includes report language directing FRA to "provide the Committee a cost-benefit comparison report of magnetic levitation to other modes of travels" so that the appropriators can "evaluate the potential of magnetic levitation to achieve traffic congestion relief."

REVISED HOUSE NEW START FUNDING

Project	FY 2004 Amount
Alaska/Hawaii Ferries	10,296,000
Baltimore Central Light Rail Double-Tracking	40,000,000
BART SFO Airport Extension	100,000,000
Boston Silver Line Phase III	3,000,000
Charlotte South Corridor Light Rail	4,000,000
Chicago METRA Commuter Rail Expansion	52,000,000
Chicago Ravenswood Reconstruction	45,000,000
Chicago Douglas Branch Reconstruction	85,000,000
Dallas North Central Light Rail Extension	30,161,283
Denver Southeast Corridor LRT	80,000,000
East Side Access Project Phase I, NY	70,000,000
Ft. Lauderdale Tri-Rail Commuter Project	18,410,000
Las Vegas Resort Corridor	15,000,000
Los Angeles Eastside LRT	10,000,000
Memphis Medical Center Extension	9,247,588
Minneapolis Hiawatha Corridor LRT	74,980,000
New Orleans Canal Street Streetcar Project	23,921,373
Newark Rail Link MOS-1	22,566,022
New York Second Avenue Subway	3,000,000
Northern NJ Hudson-Bergen MOS-1	100,000,000
Phoenix Central/East Valley LRT	13,000,000
Pittsburgh Stage II LRT Reconstruction	32,243,422
Portland Interstate MAX Light Rail Extension	77,500,000
Raleigh, NC Triangle Transit	3,000,000
Salt Lake City Medical Center LRT	30,663,361
San Diego Mission Valley East LRT	65,000,000
San Diego Oceanside-Escondido	48,000,000
San Francisco Muni Third Street LRT	10,000,000
San Juan, PR Tren Urbano	43,540,000
Seattle Sound Transit Central Link	15,000,000
Washington DC Metro Largo Extension	65,000,000
Washington DC Metro Dulles Corridor	25,000,000
1% Oversight Set-aside	12,144,000
Total New Start Funding	1,236,673,049

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- **Transportation enhancements.** The draft bill had contained a controversial general provision (sec. 114) that would shut down the transportation enhancements program funded by state DOTs out of a ten percent set-aside of their federal Surface Transportation Program apportionments. The manager's amendment changes the language to get rid of the mandatory set-aside for enhancements but still allows states to fund them at their discretion. Rep. John Olver (D-MA), the ranking minority member on the Transportation-Treasury Subcommittee, offered an amendment to strike section 114 altogether, leaving the enhancement program as is. The Olver amendment was defeated by a rollcall vote of 29-33. All Democrats present voted "yea" along with Republicans Ray LaHood (R-IL) and Mike Simpson (R-ID). All other Republicans voted "no." Reps. Northup (R-KY), Murtha (R-PA) and Pastor (D-AZ) did not vote.
- **Airport Improvement Program.** The manager's amendment lowers the draft bill's funding for the FAA's Airport Improvement Program in FY 2004 by \$75 million to \$3.425 billion.
- **General aviation loss reimbursement at Ronald Reagan Washington National Airport.** The draft bill had contained a provision appropriating \$4 million to repay general aviation entities operating out of Reagan National for post-9/11 losses caused by the federal government's shutdown of GA access to National. The manager's amendment eliminates that appropriation, while adding a meaningless "sense of Congress" provision declaring that DOT ought to reimburse DCA GA entities for losses.
- **Other spending cuts.** The manager's amendment cuts

NHTSA operations by \$6 million and takes \$1 million from the DOT Office of Inspector General. A total of \$137 million is taken out of various accounts in the non-DOT portions of the bill.

- **Project-related provisions.** In addition to the new highway and transit new start earmarks mentioned above, the manager's amendment also made a series of changes to project designations contained in the draft committee report and moved funds from one project to another without changing the overall amount of said earmarks. The amendment also added a few more no-cost legislative provisions pertaining to old TEA21 and appropriated projects and added a new section 120 requiring DOT to enter into an agreement with Nevada and Arizona for a method of funding a Hoover Dam Bypass Bridge that allows the states to issue special bonds supported by the federal lands highway allocations given to the project. This provision would clear the way for the \$300 million megaproject to commence.

During the markup, Olver also offered an amendment increasing Amtrak subsidies by an additional \$500 million (up to \$1.4 billion). His amendment would have paid for the extra Amtrak spending by reducing the amount of previously enacted tax cuts for taxpayers with adjusted gross incomes over \$1 million. (Rep. David Obey (D-WI), the ranking Democrat on the full committee, has been using such a financing mechanism to offer additional spending amendments to every appropriations bill so far as a way to try and focus media attention on the spending tradeoffs forced upon the appropriators by decreasing tax revenues). The Olver Amtrak amendment was defeated by voice vote.

Several other amendments to the draft bill were offered and accepted but they did not deal with transportation-related items.

The House has left for the August

recess, so it cannot consider the bill until after Labor Day. When it does, there will be the traditional dispute between Appropriations and the House authorizing committees of jurisdiction over provisions in the bill that violate House rules against legislation on appropriations bills. In its manager's amendment, the appropriators jumped the gun and jettisoned controversial provisions (allowing Highway Trust Fund money to be used for Amtrak, the new public-private partnership program) that the Transportation and Infrastructure Committee would have objected to.

However, the bill still contains many legislative provisions within T&I jurisdiction, including several redesignations of TEA21 projects, the revision of Alameda Corridor loan agreements, changes in administrative takedown percentages, language authorizing the FRA to take over Amtrak commuter rail responsibilities, several transit provisions, and sec. 628 requiring the franchising of Amtrak routes. The House Rules Committee, at the direction of the Speaker, will have to arbitrate any disputes on this issue that T&I and Appropriations cannot solve themselves, and Rules usually sides with the authorizing committee during the initial stage of House consideration of an appropriations bill.

Before the House adjourned on July 25, it gave permission for the Appropriations Committee to file its report on the Transportation-Treasury bill during the recess if it files by midnight Wednesday night (July 30). This means that the bill and report should be available for viewing online on the THOMAS website by Friday at the latest.

The draft bill was extensively summarized in last week's Transportation Weekly.

A revised table of budget authority contained in the bill (post-manager's amendment) appears on the next page.

USDOT FUNDING LEVELS IN DRAFT HOUSE BILL, AS REPORTED FROM FULL COMMITTEE

	FY 2003 Enacted	FY 2004 Request	FY 2004 House Bill	House vs. FY 2003	House vs. Request
Office of the Secretary					
Salaries and Expenses	87,574	108,931	93,577	6,003	-15,354
Office of Civil Rights	8,643	8,569	8,569	-74	0
New Headquarters Building	-	45,000	45,000	45,000	0
Transportation Planning, R&D	20,864	10,836	8,336	-12,528	-2,500
Essential Air Service payments to air carriers	51,761	-	-	-51,761	0
Minority Business Research Center Program	894	900	900	6	0
Minority Business Outreach	2,981	3,000	3,000	19	0
Subtotal, Office of the Secretary	172,717	177,236	159,382	-13,335	-17,854
Federal Aviation Administration					
Operations	7,023,070	7,590,648	7,532,000	508,930	-56,648
Essential Air Service payments to air carriers	-	-	63,000	63,000	63,000
Facilities and Equipment	2,941,645	2,916,000	2,900,000	-41,645	-16,000
Research, Engineering and Development	147,485	100,000	108,000	-39,485	8,000
Grants-in-Aid for Airports (AIP) (obligation limitation)	3,377,900	3,400,000	3,425,000	47,100	25,000
Subtotal, FAA (appropriations plus ob limit)	13,490,100	14,006,648	14,028,000	537,900	21,352
Federal Highway Administration					
Federal-aid Highways (obligation limitation)	31,593,000	29,293,948	33,385,000	1,792,000	4,091,052
Appalachian Development Highway System	186,778	-	-	-186,778	0
Rescission of Federal-aid Highway funds	-	-	-137,000	-137,000	-137,000
Federal-aid Highways (additional appropriation)	-	-	266,550	266,550	266,550
Surface transportation projects	373,158	-	133,450	-239,708	133,450
Exempt obligations	884,329	931,297	931,297	46,968	0
Subtotal, FHWA (appropriations plus ob limit)	33,037,265	30,225,245	34,579,297	1,542,032	4,354,052
Federal Motor Carrier Safety Administration					
Motor Carrier Safety (ob limit)	116,700	224,406	236,753	120,053	12,347
National Motor Carrier Safety Program (ob limit)	188,765	222,594	190,000	1,235	-32,594
Border enforcement program	-	-	47,000	47,000	47,000
Subtotal, FMCSA (appropriations plus ob limit)	305,465	447,000	473,753	168,288	26,753
National Highway Traffic Safety Administration					
Operations and Research (appropriations and ob limit)	208,921	214,510	205,288	-3,633	-9,222
Highway Traffic Safety Grants (obligation limitation)	223,538	447,000	225,000	1,462	-222,000
National Driver Registrar	1,987	3,600	3,600	1,613	0
Subtotal, NHTSA (appropriations plus ob limit)	434,446	665,110	433,888	-558	-231,222
Federal Railroad Administration					
Safety and Operations	116,600	131,175	130,922	14,322	-253
Railroad Research and Development	29,134	35,025	28,225	-909	-6,800
Next-generation High-Speed Rail	30,252	23,200	28,250	-2,002	5,050
Alaska Railroad Rehabilitation	21,857	-	-	-21,857	0
Grants to Amtrak	1,043,175	900,000	900,000	-143,175	0
Pennsylvania Station Redevelopment Project	19,870	-	-	-19,870	0
Subtotal, FRA	1,260,888	1,089,400	1,087,397	-173,491	-2,003
Federal Transit Administration					
Administrative Expenses	72,525	76,500	72,500	-25	-4,000
Formula Grants	3,814,046	5,615,406	3,839,000	24,954	-1,776,406
University Transportation Research	-	-	6,000	39	6,000
Transit Planning and Research	121,207	-	122,000	793	122,000
Capital Investment Grants	3,016,266	1,534,094	3,106,500	90,234	1,572,406
Job Access and Reverse Commute Grants	149,025	-	85,000	-64,025	85,000
Subtotal, FTA	7,179,030	7,225,000	7,231,000	51,970	5,000
Saint Lawrence Seaway Development Corporation					
Operations and Maintenance	13,994	14,400	14,700	706	300
Subtotal, St. Lawrence Seaway	13,994	14,400	14,700	706	300
Maritime Administration					
Operations and Training	92,093	104,400	105,897	13,804	1,497
Ship Disposal	11,088	11,422	14,000	2,912	2,578
Maritime Security Program	98,058	98,700	98,700	642	0
Title XI Loan Program Account	29,099	4,498	-	-29,099	-4,498
Subtotal, Maritime Administration	230,338	219,020	219,597	-11,741	-4,23
Research and Special Programs Administration					
Research and Special Programs	40,714	41,000	47,018	6,304	6,018
Pipeline Safety	63,763	67,077	64,054	291	-3,023
Emergency Preparedness Grants (app. + ob limit)	14,499	200	14,500	1	-14,300
Subtotal, RSPA (appropriations plus ob limit)	118,976	108,277	125,572	6,596	17,295
Office of Inspector General					
Salaries and Expenses	54,912	55,000	56,000	1,088	1,000
Subtotal, Office of Inspector General	54,912	55,000	55,000	88	0
Surface Transportation Board					
Salaries and Expenses	18,324	18,471	18,471	147	0
Subtotal, STB	18,324	18,471	18,471	147	0
TOTAL APPROPRIATIONS, USDOT	13,479,840	13,722,081	13,791,000	311,160	68,919
TOTAL OBLIGATION LIMITATIONS, USDOT	41,315,158	39,812,400	43,215,925	1,900,767	3,603,525
TOTAL EXEMPT OBLIGATIONS, USDOT	884,329	931,297	931,297	46,968	0
TOTAL, U.S. DEPARTMENT OF TRANSPORTATION	55,679,327	54,265,778	57,938,222	2,268,895	3,672,444
Related Agencies:					
Architec. and Trans. Barriers Compliance Board	-	-	-	-	-
Salaries and Expenses	5,160	5,401	5,401	241	0
Subtotal, ATBCB	5,160	5,401	5,401	241	0
National Transportation Safety Board					
Salaries and Expenses	71,979	71,460	76,679	4,700	5,219
Subtotal, NTSB	71,979	71,460	76,679	4,700	5,219
TOTAL, USDOT AND RELATED AGENCIES	55,756,466	54,342,639	58,020,302	2,263,836	3,677,663
Non-transportation spending in bill					
TOTAL, TRANSPORTATION-TREASURY BILL	30,831,439	31,519,680	30,805,068	(26,371)	-714,812
TOTAL, TRANSPORTATION-TREASURY BILL	86,587,905	85,862,519	88,825,370	2,237,465	2,962,851

Coast Guard, Stakeholders Discuss Port Security Regs At House Hearing



At a hearing before the House Coast Guard and Maritime Transportation Subcommittee last week, the Commandant of the Coast Guard explained the extensive new rules issued earlier this month implementing the new port and maritime security law, and stakeholder groups aired their concerns over the new regulations.

At the July 22 hearing, Admiral Thomas Collins, Commandant of the Coast Guard, told the panel that, "Much has been done since the tragic events of September 11, 2001, and much is left to do. The six security regulations published on July 1, 2003, form an essential element of our national strategy to prevent terrorist attacks in the United States, to reduce our vulnerability to terrorism, and to minimize the damage and permit quick recovery from any attacks that might occur. I pledge that the Coast Guard will continue to work aggressively to complete this critical work for our nation."

Collins said that the six separate but complementary rules are especially valuable because they are integrated with the international maritime security regime established through the International

Maritime Organization (IMO).

Collins noted that the regulations will affect as many as 10,000 vessels, 5,000 facilities, 361 ports, and 40 offshore facilities and that the cost to industry of implementation is estimated to be \$7 billion dollars over the next 10 years. However, he said that this cost pales against the "serious and long-lasting negative impact on global shipping, international trade, and the world economy" that would result from a successful terrorist incident against the marine transportation system.

In response to questions from the panel, Collins said that the Coast Guard would work with international societies for better certification of cargo ships but would retain "port state control" and the power to reject vessels from entering U.S. ports. He spoke of the potential efficiencies of international cooperation on port security, noting that "one hundred partners doing the same thing is much stronger than one nation trying to do it alone."

Rep. Bob Filner (D-CA) brought up an interesting point — that the regulations are somewhat based upon mutual trust between nations for the certificates issued to ships by those nations, and that trusting nations like Liberia (a huge flag of

convenience for merchant vessels but a failed state in almost all other ways) might be a mistake. Collins quoted Ronald Reagan's oft-repeated "trust, but verify" proverb.

Collins was accompanied by Rear Admiral Larry Hereth, the head of port security for the Coast Guard, who described the process by which every vessel approaching the U.S. is run through a risk matrix (factors in the matrix include who owns the ship, what flag and classification society was used, point of origin, etc.) and vessels reaching Priority 1 in the risk matrix are boarded offshore.

After the Coast Guard testimony was completed, the subcommittee heard from several other witnesses representing stakeholder organizations. They included:

The Passenger Vessel Association supported most of the security requirements in the new regulations but expressed strong objections that domestic passenger vessels be required to install Automatic Identification Systems (AIS). The PVA representative said that the rules require AIS equipment on every passenger vessel of 65 feet or more in length (required by law) and on every passenger vessel carrying 50 or more passengers (a threshold within the Coast Guard's discretion to set) when operating in areas served by VTS (Vessel Traffic Service) or VMRS (Vessel Movement Reporting System). These areas include Los Angeles/Long Beach, San Francisco Bay, Puget Sound, New Orleans, New York, Prince William Sound (Alaska), Houston, St. Mary's River (Michigan), and Port Arthur (TX). The PVA representative said that:

The cost of an AIS system (\$10,000 or more) will be an economic burden on our members' operations...People do not have this type of money to invest in a technology that will provide very few tangible benefits for themselves or for society as a whole...

The Coast Guard's own economic

CONTINUED ON NEXT PAGE

THE HIGH COST OF SECURITY

The following table, assembled by the Transportation and Infrastructure Committee from Coast Guard data, presents the estimated cost if vessels, facilities, outer continental shelf (OCS) facilities, and ports are operating at maritime security (MARSEC) Level I, the "normal" operating condition when elevated security threats are not present. Whenever the MARSEC level jumps to level 2 or 3, operating costs would be higher, but the duration of such emergencies is unknown.

Security Element	Vessels/Facilities Affected	First Year Cost	Annual Cost Thereafter	10-Year Cost (2003-2012)
Vessel Security	10,300 vessels*	\$218 million	\$176 million	\$1.368 billion
Facility Security	5,000 facilities	\$1.125 billion	\$656 million	\$5.399 billion
OCS Facility Security	40 offshore facilities	\$3 million	\$5 million	\$37 million
Port Security	361 ports	\$120 million	\$46 million	\$477 million
Automatic ID System	4,670 vessels**	\$40.6 million	\$1.1 million	\$67 million
TOTAL COST		\$1.507 billion	\$884.1 million	\$7.348 billion

*Includes U.S. flag SOLAS, domestic (non-SOLAS), and foreign non-SOLAS vessels.

** Includes 4,600 U.S. flag SOLAS and domestic (non-SOLAS) vessels in VTS areas and 70 foreign flag, non-SOLAS vessels.

Port Security Regs...

CONTINUED FROM PREVIOUS PAGE

analysis is dismaying! It shows that this AIS requirement for domestic vessels will have a **negative cost-benefit ratio**. It will cost U.S. vessels on domestic routes \$61 million--\$38 million in the first year alone! Of all aspects of the Temporary Interim Rule, this is far and away the most expensive per security risk eliminated...

AIS will have a crushing impact on small businesses. The Coast Guard estimates that the Temporary Interim Rule will affect 1,491 small businesses that own 2,360 affected vessels. This \$10,000 expense will fall on every one of them within a year and a half. If the Coast Guard extends the rule, thousands of other small businesses will certainly be injured in a like manner.

The International Council of Cruise Lines noted that it had worked closely with the Coast Guard and the IMO in negotiating the rules and agreements and had been living under some of the new requirements for some time. ICCL seemed most concerned that its members might be forced to provide their own security presence, noting:

ICCL believes that enforcing laws and regulations on the waterways of the United States is an inherently governmental function. It must be accomplished utilizing the law enforcement authority of a duly authorized law enforcement officer. Even if it were possible to delegate law enforcement authority to some other entity than government, it is not practical or reasonable to arm and empower a foreign seafarer to perform this function in the territory of the United States. Today, in many places foreign seafarers are frequently denied permission for shore leave due to security concerns. It is ironic to contemplate arming and deputizing them to enforce the law when we also deny them shore leave.

The Chamber of Shipping of America had one major area of concern, liability. Their representative expressed concern that the Oil Pollution Act of 1990 should be amended to clarify that oil spills due to terrorist attacks on tankers

are not in the same liability category as normal oil spills. He also said that ship owners who follow all federal rules should not then be sued when terrorists launch a successful attack defeating existing security.

The International Longshore and Warehouse Union, speaking on behalf of the **Transportation Trades Division of the AFL-CIO**, liked the new rules on the whole but wanted more labor participation in future decision-making, a requirement for inspection of empty containers, and some technical changes, as well as more funding for port and maritime security in general.

The American Association of Port Authorities had a series of technical questions relating to the division of responsibilities between ports, state and local governments, and the Coast Guard and other federal resources. Their representative also mentioned the need for additional federal funds for port security grants and enforcement.

MariTEL, Inc. (the biggest provider of marine band radio communications) testified that the AIS requirement in the new regulations cannot be carried out unless MariTEL and the Coast Guard reach an agreement providing for the usage of a significant amount of the marine band radio spectra owned by MariTEL. The AIS plan will require the use of spectra not envisioned by current FCC rules, so MariTEL is not legally required to allow the Coast Guard to use the frequencies. The President and CEO of Maritel said that:

We believe the first hurdle for resolution is for Congress to determine whether a national shore station deployment is required by December 2004 to coincide with the MTSA schedule for AIS mandatory carriage as a tool for collision avoidance, vessel traffic services, port security, and surveillance for maritime domain awareness. Regardless of the implementation schedule, it is imperative that any domestic AIS solution use channels 87B (AIS1) and 88B (AIS2) for seamless interoperabil-

ity between the high seas and U.S. territorial waters for all of these AIS applications. To accomplish this vision and protect MariTEL's VPCSA rights as licensed by the FCC, the USCG will be required to enter into a commercial agreement with MariTEL to offset the substantial impairment to the firm's spectrum assets and inability to operate as a marine communication services provider.

The Maritime Exchange for the Delaware River and Bay, representing the ports and related business in Coast Guard Subcommittee Chairman Frank LoBiondo's (R-NJ) neck of the woods, requested that the comment period on the rules be extended by 60 days. Their representative also described the progress experienced by the Delaware River Exchange in its pilot project to establish a transportation worker ID card (TWIC). He also mentioned the need for greater coordination of data between various industry and government groups.

The National Marine Charter Association, which represents predominantly small marine charter operators, asked for the Coast Guard to use a better cost-benefit analysis in drafting the final rules. Their representative said:

These small passenger vessel operations are mainly seasonal businesses with transient crew, and operate close to the margins of profitability. The industry is already overburdened with regulations and their associated costs during difficult economic times for an industry that caters to recreational customers. In proposing such overarching security regulations, with the strong implication of more to come, neither Congress nor the Coast Guard have provided any evidence to justify the significant expense, time and confusion that these new security regulations will impose on the majority of these operators. Clearly, the benefit to these regulations lays in their application to those vessels with the highest profile, value and cargo calling on ports with similar distinction, not on a universe of small passenger vessels that haven't been, nor are likely to be used in a transportation security incident.

Administration Threatens Veto Of Transportation Bonding Plans

Last week, the Treasury Department, on behalf of the Bush Administration, issued a strongly worded veto threat against the plan to fund most federal mass transit spending via the issuance of special government bonds, a plan pushed by Sens. Chuck Grassley (R-IA) and Max Baucus (D-MT). The scope of the veto threat, however, *seems* to apply to other federal special purpose bonding plans, including the Build America Bonds Act (S. 1109) sponsored by Sens. Jim Talent (R-MO) and Ron Wyden (D-OR). It is unclear how it would apply to plans for making non-federal bonds exempt from federal tax or paid by tax credit, such as the House Transportation Committee's RIDE-21 rail infrastructure financing legislation (H.R. 2571) or similar Senate legislation pushed by various members of the Commerce Committee

LETTER FROM TREASURY SECRETARY SNOW TO BUDGET CHAIRMAN NICKLES

July 24, 2003

Dear Chairman Nickles:

Thank you for your letter of July 9, 2003, in which you ask for the Treasury Department's recommendations regarding several variations on a transit bond proposal recently reported on by the Congressional Budget Office. Based on our review, the Department opposes these proposals in the strongest possible terms.

In short, as the attachment details, I believe that these proposals represent a grave threat — both themselves and as precedents — to the public fisc and our ability to control spending. These proposals would result not only in ultimately higher costs to the U.S. taxpayer (Treasury's estimates range from \$8 billion to \$48 billion over 20 years) but also in a threat to the government's financial foundation, which rests on the soundness of the U.S. Treasury's securities and the confidence that the public places in them. We can not allow this confidence to be eroded.

I want to emphasize that these strong objections exist whether the proceeds of these bonds are used to finance mass transit, highways, or any other form of federal spending. If legislation including these or similar proposals were to be presented to the President, I would recommend that he veto the legislation.

I appreciate the opportunity to express the Treasury Department's views on this important legislation. I hope these will be helpful in the Senate's deliberations. If I can provide further assistance on this subject, please contact me.

Sincerely,

John W. Snow

EXCERPTS FROM ATTACHMENT TO TREASURY LETTER

Treasury objections to this proposal are twofold — one is that any special purpose borrowing would be more costly than unitary financing and the second is that even small changes in market participants' perceptions of Treasury financing principles would generate large costs for a portfolio of marketable debt in excess of \$3 trillion. The results of special purpose financing would be unambiguous: the American taxpayer would be worse off.

Special purpose funding for Transportation projects would needlessly burden the taxpayer with billions of dollars in additional financing costs. Assuming a \$40 billion, 20 year Highway Bond program, the cost to taxpayers in additional interest cost alone could easily add up to \$400 million a year (\$8 billion over the life of the program). Potential "contamination cost" to overall Treasury financing could run as high as \$2 billion a year in additional interest rate cost. These costs are an unavoidable consequence of special purpose funding: the smaller and more complex a security, the more lenders demand in interest. The costs are potentially so large because of the deviation from the standard Treasury issuance policy, based on the concept of unitary financing, which dates back to the writing of the Constitution...

Treasury's analysis is consistent with the CBO results but CBO was very careful in making conservative assumptions that, in all likelihood, understate the true costs of special purpose funding. In addition, CBO did not examine the potential costs to Treasury's borrowing for the general fund. Consequently, Treasury estimates that the total cost for this program is significantly higher...

Summary of Special Purpose Financing Costs (not additive)

Costs of poor liquidity	\$400 million/year (\$8 billion over 20 years)
Costs to Treasury's regular borrowing program	\$2 billion per 10 basis points annually
Costs of higher cash balances	Depends on structure; at least 3 percent; as high as \$1.2 billion
Retail administrative costs	Depends on scale of retail sales; 4 percent; as high as \$1.6 billion
Systems, programming and auction costs	Largely fixed costs; time to implementation 6-18 months...

...so-called "tax credit" bonds would suffer from all the same problems described above with respect to conventional transit bonds, the interest on which would be paid in cash. In addition, however, tax credit bonds would be more expensive to issue, more difficult to administer, and would increase the complexity of the tax law...

Payment of interest on such bonds by means of a tax credit would be extremely inefficient. Money is a fungible commodity, whether that money is in the form of a cash payment or in the form of a reduced tax obligation. Tax credit bonds are only useful, *if at all*, where the tax credit serves as a subsidy for the interest obligation of another party (e.g., qualified zone academy bonds). In this situation, however, it would be the Federal government's own obligation that would be paid by means of a tax credit. Interest payments in cash would be far more efficient and cause significantly fewer collateral consequence[s].

Moreover, payment of interest by means of a tax credit would be an inappropriate use of the tax code and would add additional complexity to an already overburdened system. The IRS would not have additional resources to determine whether taxpayers claiming such tax credits were entitled to them. Unless additional resources were allocated for that purpose, taxpayers claiming the credit would in essence, be on the honor system. The error and fraud rate would increase the cost of the bonds even more. If additional resources were allocated, they would come from either higher appropriations or (more likely) diversion of existing resources away from more effective uses. In either case, there would be additional costs to be borne.

FROM THE FEDERAL REGISTER

Monday, July 21, 2003 — The TSA solicited applications from critical national seaports/terminals/U.S. passenger vessels for grants under the Port Security Grant Program. Applications are due by 2 p.m. EDT on August 21, 2003.

Tuesday, July 22, 2003 — *Nothing of general applicability pertaining to transportation was published in the Federal Register on this date.*

Wednesday, July 23, 2003 — *Nothing of general applicability pertaining to transportation was published in the Federal Register on this date.*

Thursday, July 24, 2003 — DOT and its modal administrations withdrew or terminated a long series of rulemakings (52 of them) at various stages that were obsolete or long left unfinished.

Friday, July 25, 2003 — *Nothing of general applicability pertaining to transportation was published in the Federal Register on this date.*



NEW AND NOTABLE ON THE INTERNET

The conference report on the FAA bill may be found online by following this link: [http://thomas.loc.gov/cgi-bin/cpquery/R?cp108:FLD010:@1\(hr240\)](http://thomas.loc.gov/cgi-bin/cpquery/R?cp108:FLD010:@1(hr240)):

Information on the 52 specific rules withdrawn by DOT last week may be found online at <http://dms.dot.gov/search/document.cfm?documentid=249286&docketid=15243>

The Bureau of Transportation Statistics has revamped its website, to include searchable on-time performance data for airlines by carrier and flight number. It may be seen at <http://www.bts.gov/>

The text of H.R. 2557, the Water Resources Development Act of 2003, as passed by subcommittee, and the two manager's amendments to it passed by full committee may be found online at <http://www.house.gov/transportation/water/bills.html>

TRANSPORTATION NOMINATIONS

ANNOUNCED BY THE WHITE HOUSE BUT NOT YET TRANSMITTED

Department of Homeland Security — Michael D. Brown, to be Under Secretary for Emergency Preparedness and Response. *(Nomination announced January 10, 2003 but not yet transmitted).*

Bruce Carnes, to be Chief Financial Officer. *(Nomination announced March 3, 2003 but not yet transmitted).*

Steven I. Cooper, to be Chief Information Officer. *(Nomination announced January 10, 2003 but not yet transmitted).*

Department of Transportation — Karan K. Bhatia, to be Assistant Secretary for Aviation and International Affairs. *(Nomination announced July 10, 2003 but not yet transmitted).*

PENDING IN COMMITTEE

Department of Homeland Security — Joe Whitley, to be General Counsel. *(Nomination transmitted April 28, 2003).*

Federal Maritime Commission — Paul Anderson, to be a Federal Maritime Commissioner for the term expiring June 30, 2007. *(Nomination transmitted April 10, 2003).*

Metropolitan Washington Airports Authority — Charles Snelling, to be a Member. *(Nomination transmitted April 28, 2003).*

PENDING ON THE SENATE EXECUTIVE CALENDAR

Department of Defense — John Paul Woodley, Jr. to be Assistant Secretary of the Army for Civil Works. *(Nomination reported April 9, 2003).*

Department of Transportation

Federal Motor Carrier Safety Administration — Annette Sandberg, to be Administrator. *(Nomination reported June 19, 2003).*

CONFIRMED BY THE SENATE LAST WEEK

Department of Transportation — Nicole Nason, to be Assistant Secretary for Governmental Affairs. *(Nomination confirmed July 23, 2003 by voice vote).*

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Please send comments or corrections to:
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THIS WEEK IN COMMITTEE

Tuesday, July 22, 2003 — Senate Governmental Affairs — full committee hearing to examine the nominations of Joe D. Whitley, of Georgia, to be General Counsel, and Penrose C. Albright, of Virginia, to be an Assistant Secretary, all of the Department of Homeland Security — 9:30 a.m., SD-342

Wednesday, July 30, 2003 — Senate Environment and Public Works — full committee markup to consider legislation including several bills amending the Stafford Act, several naming bills, and the GSA Capital program — 9:30 a.m., SD-406 Dirksen.

Thursday, July 31, 2003 — Senate Commerce, Science and Transportation — full committee markup session — agenda to be announced later — 9:30 a.m., SR-253 Russell.

NOTE: the House of Representatives has departed for the August District Work Period. At the conclusion of this week's business, the Senate will (hopefully) do likewise.

Congress will reconvene after Labor Day.

STATUS OF MAJOR TRANSPORTATION BILLS — 108th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	OUTCOME
Omnibus finalization of unfinished FY 2003 appropriations	H. J. Res. 2 (placeholder) passed House 1/8/03	H. J. Res. 2 (omnibus) passed Senate amended 1/23/03	Public Law 108-7 2/20/03
FY 2004 Congressional budget resolution	H. Con. Res. 95 passed House 3/21/03 by a vote of 215-212	S. Con. Res. 23 passed Senate 3/26/03 by a vote of 56-44	Took effect when conference report cleared by Senate 4/11/03
FY 2004 Transportation & Treasury Appropriations	Draft bill ordered reported 7/24/03 by House Appropriations	Subcommittee markup postponed until further notice	
FY 2004 Energy and Water Appropriations	H.R. 2754 passed House 07/18/03 by vote of 377-26	S. 1424 reported 7/17/03 S. Rept. 108-105	
FY 2004 Homeland Security Appropriations	H.R. 2555 passed House 6/24/03 by vote of 425-2	H.R. 2555 passed Senate 7/24/03 by vote of 93-1	
Surface transportation reauthorization (highway bill)	H.R. 2088 (Administration bill) introduced by request 5/14/03	Senate Commerce marked up safety titles 6/26/03	
Federal Aviation Administration reauthorization	H.R. 2115 passed House 6/11/03 by a vote of 418-8	H.R. 2115 passed Senate 6/12/03 (amended) by a vote of 94-0	Conference report filed 7/25/03 H. Rept. 108-240
Water Resources Development Act	H.R. 2557 ordered reported 7/23/03 by House T&I		
Coast Guard Authorization for fiscal year 2004	H.R. 2443 reported 7/23/03 H. Rept. 108-233	S. 733 introduced by Sen. Snowe 3/27/03	
Amtrak restructuring/reform/reauthorization	H.R. 2572 ordered reported 6/25/03 by House T&I		
Freight rail infrastructure financing	H.R. 2571 ordered reported 6/25/03 by House T&I		