

CRS Issue Brief for Congress

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Transportation Issues in the 107th Congress

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Transportation Issues in the 107th Congress

SUMMARY

This issue brief identifies key transportation issues facing the 107th Congress.

Transportation Budgeting. Spending for highway and transit programs is linked directly to revenue collected, and the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21) guarantees funding for certain FAA programs. **DOT Appropriations** for FY2001 provide nearly \$58 billion for DOT, an increase of more than 14% over FY2000.

The Airport Improvement Program was reauthorized through FY2003 by the 106th Congress. **Aviation Delays** are at record levels with little relief in site. **Airline Consumer Protection** issues stem from the growing dissatisfaction expressed by airline consumers in the press and to Congress. **Airline Mergers.** The United-USAirways merger has heightened congressional interest in airline industry concentration.

European Hushkit Dispute. A ban on newly hushkitted aircraft into European airline fleets risks U.S. retaliation. **The Airbus 380 trade dispute** once again raises the issue of European subsidies for aircraft projects that compete directly against non-subsidized U.S. products.

TEA21 Traffic Safety Grants. Interest centers on how effectively agencies are implementing TEA21 traffic safety grant programs.

Oversight of the Environmental Provisions of TEA21. Oversight of environmental streamlining provisions of TEA21 will continue into the 107th Congress.

Traffic Congestion is worsening in many urbanized areas. In the 107th Congress, federal transportation policies may be examined to explore possible solutions this problem.

Amtrak funding will be reviewed early in the 107th Congress to reconsider a \$10 billion bond proposal that failed to be passed in the closing days of the 106th Congress. **Amtrak reform** is on the agenda as Amtrak attempts meet a statutory requirement that it cover its operating expenses out of its own revenues by the end of FY2002 or go out of business.

Rail Safety programs have not been reauthorized since they expired at the end of FY1998. **Hazardous Materials Transportation Safety** was not reauthorized during the 106th Congress. **Pipeline Safety** measures may again be considered during the 107th Congress.

Firestone Tire Recall and **Child Safety Seats** will spur congressional review of NHTSA's efforts to implement the TREAD Act passed by the 106th Congress.

Proposed Revision of Hours-of-Service Rules will be reviewed by the 107th Congress.

Harbor Maintenance User Fees. The 107th Congress may consider whether to create a fee-based system to pay for harbor maintenance or use the General Fund.

Coast Guard Reauthorization. Major issues include replacing aging vessels and addressing expanded operational responsibilities.

MOST RECENT DEVELOPMENTS

On October 6, 2000, the House and Senate approved the conference report on H.R. 4475, the FY2001 Department of Transportation Appropriations bill, sending the measure to the President. President Clinton signed the FY2001 Department of Transportation (DOT) and Related Agencies Appropriations Act (P.L. 106-346; H.Rept. 106-940) on October 23, 2000. The agreement provides \$57.978 billion for DOT. This amount is an increase of almost \$8 billion over (or 14%) the enacted FY2000 level. The Act provides increases for all major DOT agencies except the Federal Railroad Administration (FRA). This appropriation or funding level is \$4 billion more than the Clinton Administration's request and about \$3 billion more than either the House or Senate approved in their original transportation spending bills.

BACKGROUND AND ANALYSIS

Introduction

This issue brief provides an overview of key issues on the transportation agenda of the 107th Congress. The issues are organized under the headings of budget, aviation, surface transportation, and maritime, with the author of each issue identified. Relevant Congressional Research Service (CRS) reports are cited in the text. Consult the CRS Home Page [<http://lcweb.loc.gov/crs/>] or the *Guide to CRS Products*, or call CRS on (202) 707-5700 to obtain the cited reports or identify materials in other subject areas.

Budget

Transportation Budgeting

During the 105th and 106th Congresses, major legislation changed the relationships between the largest transportation trust funds and the federal budget. The Transportation Equity Act for the 21st Century (TEA21) (P.L. 105-178) linked spending for highway programs directly to revenue collections for the highway trust fund. In addition, core highway and mass transit program funding has been given special status in the discretionary portion of the federal budget by virtue of the creation of two new budget categories. The Act thereby creates a virtual "firewall" around highway and mass transportation spending programs.

Of the total 6-year TEA21 authorization during FY1998 through FY2003, \$198.0 billion is guaranteed. These funds are not subject to reduction as part of the annual budget/appropriations process. Additional funds provided annually by a mechanism called "Revenue Aligned Budget Authority" (RABA) are also guaranteed by this process. (RABA funds accrue to the trust fund as a result of increased fuel tax revenues.) The funding

guarantees are set up in a way that makes it difficult for funding levels to be altered as part of the annual budget/appropriations process.

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21)(P.L. 106-181) provides a so-called “guarantee” for Federal Aviation Administration (FAA) program spending. The guarantee for aviation spending, however, is significantly different from that provided by TEA21. Instead of creating new budget categories, the FAIR21 guarantee rests on adoption of two point-of-order rules for the House and the Senate. The first point-of-order prevents Congress from considering any legislation that does not spend all of the “total budget resources” as defined by the Act, for aviation purposes. Total budget resources for the purposes of the Act are essentially the revenues and interest accruing to the aviation trust fund. The second point-of-order prevents any spending for FAA Operations and Maintenance (O&M) or Research, Engineering, and Development (RE&D), unless the Airport Improvement Program (AIP) and the Facilities and Equipment (F&E) portions of the FAA account are funded at their fully authorized levels.

Supporters of FAIR21 believe the new law requires significant new spending on aviation programs; and, for at least the FY2001 appropriations cycle, new spending was significantly higher. Almost all observers view the FAIR21 guarantees, however, as being somewhat weaker than those provided by TEA21. Congress can, and sometimes does, waive points-of-order during consideration of legislation. In addition, there is a sense that appropriators might still have some latitude to make significant changes to FAA O&M funding which is dependent on both trust fund and general fund contributions. For FY2001, supporters of FAIR21 had the assurances of House leadership that no point-of-order waivers would be considered. No such assurances exist as yet for the 107th Congress.

Enactment of TEA21 and FAIR21 means that transportation appropriators have total control over spending for the Coast Guard, the Federal Railroad Administration (including Amtrak), and a number of smaller DOT agencies. All of these agencies are concerned about their funding prospects in a constrained budgetary environment. In FY2001, additional funds for transportation provided as a result of the budget surplus largely negated these concerns. Any future constraint on the congressional budget, however, is likely to rekindle these concerns. For more information, see CRS Report 98-749E, *The Transportation Equity Act for the 21st Century (TEA21) and the Federal Budget* and CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106th Congress*. (CRS contact: John Fischer)

Department of Transportation Appropriations

Appropriations for the Department of Transportation (DOT) (Function 400 in the federal budget) provide funding to a variety of programs that include regulatory, safety, research, and construction activities.

Money for over half of DOT programs comes from highway fuel taxes, which are credited to the highway trust fund. In turn, the trust fund supports two accounts: the federal-aid highway account and the mass transit account. Aviation programs are also supported, in part, by fuel taxes but rely more heavily on other user fees such as the airline ticket tax. The DOT annual appropriations also include significant monies from Treasury general-fund revenues.

The FY2001 Appropriations Act (P.L. 106-346) provided \$57.978 billion for DOT. This is an increase of more than 14% over the amount provided for FY2000. The appropriations debate for FY2001 was less contentious than for FY2000. It can be argued that this is a direct result of a less constrained budgetary environment. For FY2002, it is uncertain whether this will again be the case. **Table 2** shows, for selected agencies and offices that receive funding under the DOT appropriations act each year, enacted amounts for FY2001. The table will be updated as FY2002 budget actions occur.

Table 2. Department of Transportation Appropriations
(for selected agencies, in millions)

Agency	Enacted FY2001	Requested FY2002	House Passed	Senate Passed	Conf. Report
Federal Highway Administration	33,477	--	--	--	--
Federal Aviation Administration	12,588	--	--	--	--
Federal Transit Administration	6,271	--	--	--	--
United States Coast Guard	4,519	--	--	--	--
Federal Railroad Administration	726	--	--	--	--
National Highway Traffic Safety Administration	404	--	--	--	--
Office of the Secretary	87	--	--	--	--
National Transportation Safety Board	63	--	--	--	--
Office of the Inspector General (OIG)	48	--	--	--	--
Surface Transportation Board (STB)	18	--	--	--	--

Source: Figures in **Table 2** are drawn from tables provided by the House Committee on Appropriations. Some figures include offsetting collections.

For more information see CRS Report RL300508, *Appropriations for FY2001: Department of Transportation and Related Agencies*. (CRS contact: **Bob Kirk**)

Aviation

FAA's Airport Improvement Program (AIP)

The Airport Improvement Program (AIP) provides federal grants for airport development and planning. AIP grants are usually spent on capital projects that support airport operations including runways, taxiways, aprons, and noise abatement.

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21) (P.L. 106-181) substantially increases the federal support for airport capital spending. From a funding level of approximately \$1.9 billion for FY2000, the authorization increases funding by nearly 70% to \$3.2 billion for FY2001, \$3.3 billion for FY2002, and \$3.4 billion for FY2003. The FY2001 DOT Appropriations Act (P.L. 106-346) provided \$3.2 billion for AIP and is, therefore, in conformance with FAIR21. FAIR21 also raised the cap on the passenger facility charge (PFC) from \$3 to \$4.50. Meant to provide a source of funds that would complement AIP grants, the PFC is a local tax on each boarding passenger that may be levied by an airport with FAA approval. The combination of a nearly 70% increase

in AIP and a 50% increase in the PFC cap should lead to a significant increase in funds to finance airport construction and improvement activity through FY2003 and beyond.

A number of issues that could be subject to congressional scrutiny in the 107th Congress include: whether the pattern of spending of both AIP grants and PFC revenues encourage competition or benefit incumbent carriers; how well FAIR21's spending guarantees hold up; the effectiveness of aircraft noise mitigation at or near airports; and the earmarking of dollar amounts for airports identified in the report language of the FY2001 conference report (H.Rept. 106-940) and its potential impact on the FAA's grant application process.

For more information on AIP, see CRS Issue Brief IB10026, *Airport Improvement Program*, and also CRS Report RL30096, *Airport Improvement Program Reauthorization Legislation in the 106th Congress*. (CRS contact: **Bob Kirk**)

Aviation Delays

Flight delays and cancellation in the U.S. air transportation system rose to record levels in 2000. The problem costs the airlines an estimated \$3 billion annually and causes great inconvenience for shippers and passengers. Both the airlines and the federal air traffic control (ATC) system have been blamed. On the federal side, billions of federal dollars are being spent each year to modernize the air traffic control system, purchase new equipment, and expand airport capacity. But the airlines express little confidence that these efforts will provide near-term relief or be sufficient in the long-term to accommodate the forecasted growth in air traffic – up from about 670 million passengers in 2000 to 1.0 billion forecast by 2010 and 1.5 billion by 2025. The ability of the FAA to manage the ATC system while overseeing airline safety has been a disputed issue for some time. The increase in delays adds voice to calls for ATC reform and/or regulatory remedies.

It is generally agreed that the delay problem is likely to get worse before it gets better, and that correcting it is an evolutionary process that will take years to accomplish. The answer may lie in a mix of solutions – technology, more runways, airline scheduling, and airspace redesign among them. Congress has taken steps to make airlines provide better information on the sources of delay, but there is much about the delay problem that is still not known. For example, the FAA does not know what traffic load the ATC and airport systems can handle without suffering major delays – now and into the future; or how much relief technological options can provide – and on what timetable. The effective allocation of resources may depend upon Congress having answers to questions such as these. For additional information, see CRS Report RS20734, *Aviation Delays*. (CRS contact: **Glen Moore**)

Airline Consumer Protection Legislation

At issue is how to respond to the growing dissatisfaction that airline consumers have expressed in the press and increasingly to Members of Congress. Two summers of record delays and flight cancellations by the major airlines, and a perception of complacency by the airlines to passenger discontent, has led to calls for changes in airline customer service and business practices. During the first months of the 106th Congress, several legislative initiatives, collectively referred to as “airline passenger bill of rights” bills, were introduced. Most of the bills proposed remedies to a variety of consumer complaints, mostly about delays,

cancellations, partial ticket use, and provision of complete fare information. Some bills proposed new or increased penalties, while others relied on administrative or legal remedies. Similar legislation may be introduced in the 107th Congress.

The Air Transport Association (ATA), which represents the major air carriers, insists that legislative remedies are not needed because air carriers are implementing “customer service plans,” based on voluntary customer “Service Commitments,” that are designed to restore consumer confidence in airline service. Among these are commitments to offer the lowest fare available; to notify customers of known delays, cancellations and diversions; to handle “bumped” passengers with fairness and consistency; and to meet customers’ essential needs during long on-aircraft delays. Kenneth Mead, the DOT’s Inspector General (IG), noted in a speech in October 2000, that his office had found “the airlines were making a clear and genuine effort at strengthening the attention paid to customer service, but bottom-line results are mixed, and the airlines clearly had a long ways to go to restore customer confidence.”¹

Although no free-standing airline consumer rights bills were enacted in the 106th Congress, some consumer provisions were added by amendment to both the FY2000 DOT Appropriations Act (P.L. 106-69) and to the FAA Reauthorization Act (FAIR21) (P.L. 106-181). These provisions could be significant in the 107th Congress. One provision calls for the IG to monitor and report on the airlines’ implementation of their voluntary “Service Commitments.” Another provision orders the IG to investigate whether air carriers are engaging in practices that constitute “unfair or deceptive trade practices” or “unfair methods of competition” (pursuant to 49 U.S.C. 41712) when they sell tickets on flights that are already overbooked or offer different low fares through different media (e.g. telephone or Internet).

Specific issues that may reemerge in the 107th congress include: disclosure of the reasons for cancellation, delay, or flight diversion; partial ticket use; access to all fares regardless of the technology used to access the information; the right to deplane from delayed aircraft; and “bumping” rights. There are also broader overarching issues including: what is the appropriate federal oversight role in a deregulated airline environment; should certain practices such as over-booking of flights be considered unfair or deceptive practices; how much of the seeming decline in the quality of passenger treatment is due to existing record demand for air travel; and is there a mismatch between demand and capacity that industry could better address? For more information see CRS Report RL30691, *Airline Passenger Rights Legislation in the 106th Congress*. (CRS contact: Bob Kirk)

Airline Mergers

On May 24, 2000, United Airlines announced its intention to acquire and merge with US Airways. This complex, \$11.4 billion dollar proposal created immediate concern that it was a precursor for further consolidation in the U.S. airline industry. The proposed merger joins the Nation’s largest and sixth largest carriers, creating a firm that would be almost double the size of its next largest competitor, American Airlines. The proposed merger would also result,

¹ Remarks of DOT Inspector General Kenneth M. Mead To the Washington, DC International Aviation Club. October 23, 2000.

over time, in the creation of a new airline operating from Reagan National Airport – DC Air – which would be the Nation’s only minority-owned airline.

The authority to approve or disapprove airline mergers rests entirely with the Department of Justice (DOJ). The Department of Transportation (DOT) makes recommendations to DOJ based on its evaluation of the effect of a proposed merger on airline industry competition. The DOJ has already begun its evaluation of the merger; a ruling is not expected before April 2001 at the earliest.

Congress has no specific statutory role in the airline merger process. Congress, however, has already held hearings in the 106th Congress on the possible impacts of the merger and may hold additional hearings in the future. Individual Members of Congress have taken positions both for and against the merger. (CRS contact: John Fischer)

The European Union Hushkit Dispute

Early in 1999, the European Parliament adopted legislation that banned the introduction of new hushkitted aircraft into European airline fleets. (“Hushkits” consist of jet engine modifications designed to bring older, noisy engines into compliance with current noise standards.) Beginning in April 2002, hushkitted non-European aircraft would be banned from operating within the European Union (EU) unless they had already been operating in April 1999. This legislation responds to what the European Parliament believes is a growing concern about noise levels around airports throughout the EU. This legislation required the approval of EU Transport Ministers prior to implementation. On March 29, 1999, the Ministers extended the deadline to April 29, 1999, to allow the possibility of further discussion with the United States. The EU did adopt the rule on April 29, 1999. Implementation of the rule was delayed, however, until May 4, 2000. In March 2000 the United States filed a memorial with the International Civil Aviation Organization (ICAO) asking it to rule on the EU’s proposed policy. The EU has since suggested that the U.S. action forces it to implement the rule.

The United States is opposed to the EU hushkit rules. The United States believes that the EU is creating an aircraft noise regulatory framework that is at odds with international rules on noise reduction agreed to by the ICAO. FAIR21 contains language that instructs the Secretary of Transportation to continue to work to develop, through the ICAO, new performance standards for aircraft and aircraft engines that will lead to a further reduction in aircraft noise levels. That Act directs the Secretary to give high priority to developing standards that ensure that United States air carriers and aircraft engine and hushkit manufacturers are not put at a competitive disadvantage. As written by the EU, its hushkit legislation primarily applies to aircraft and aircraft engines produced in the United States. In addition, all aircraft engine hushkit producers are U.S. firms. As a result, the United States believes the EU legislation is discriminatory and could cause serious economic damage to U.S. firms.

In the 106th Congress, the House passed a bill “to direct the Secretary of Transportation to prohibit the commercial operation of supersonic transport category aircraft that do not comply with stage 3 noise levels if the European Union adopts certain aircraft noise regulations.” The only aircraft that fits this definition is the Concorde, and its only regularly scheduled routes were between New York and London, and New York and Paris (the

Concorde is currently grounded for safety reasons). The bill was viewed by its supporters as a way to retaliate for the EU legislation. A similar bill was introduced in the Senate, but not considered.

In September 1999, the House Committee on Transportation and Infrastructure marked up a resolution that called on the Clinton Administration to use “all reasonable means” to prevent EU implementation of its hushkit ban. The Senate meanwhile approved a similar resolution in its version of the FY2000 Commerce, Justice, and State Appropriation Act. The resolution is supported by the U.S. Aerospace Industries Association (AIA), but was opposed by the Clinton Administration. Further legislative action is unlikely pending ICAO’s ruling on the United State’s complaint currently before it. For more information, see CRS Report RL30547, *Aircraft Hushkits: Noise and International Trade*. (**CRS contact: John Fischer**)

The Airbus A380 Trade Dispute

The 107th Congress is likely to react to the December 19, 2000 Airbus Industrie announcement that it has formally launched a program to construct the world’s largest commercial passenger aircraft, the newly numbered Airbus A380. This long expected launch reopens a long-standing trade dispute between the United States and Europe about subsidization of aircraft projects that compete directly with non-subsidized U.S. products, in this case the Boeing 747 series aircraft. Several Members of Congress are likely to call for hearings and other possible actions on this issue in the near future.

The A380 will be offered in several versions seating between 500 and 800 passengers. The project is expected to cost at least \$10.7 billion and might cost significantly more. Airbus has 50 firm orders for the aircraft and an additional 42 options. Airbus expects that its member firms will contribute 60% of this sum, with the remaining 40% coming from subcontractors. State-aid, which is limited to one-third of the project’s total cost, by a 1992 Agreement on Government Support for Civil Aircraft between the United States and the EU, would be used to assist the Airbus partner firms. Boeing does not perceive that an adequate market exists to justify the large expenses needed to develop an aircraft of this size, and is instead offering airlines newly stretched versions of its 747 aircraft.

At issue is at least \$2.5 billion in already identified direct loans to be provided to Airbus member firms by the governments of France, Germany, Spain and the United Kingdom. Additional funds are likely to be provided to subcontractors by other European nations such as Belgium and Italy. The United States is concerned that the level of state-aid needed for this project could violate the aforementioned bilateral agreement. There are also concerns recently expressed by President Clinton and the Office of the United States Trade Representative (USTR) that these loans will not be at commercial rates, and that they might be forgiven if the A380 is a commercial failure. The European Union disputes these claims. (**CRS contact: John Fischer**)

Surface Transportation

Oversight of the Traffic Safety Grant Provisions of TEA21

The Transportation Equity Act for the 21st Century (TEA21) (P.L. 105-178) authorizes funding through FY2003 for a variety of traffic safety grant programs conducted by the states. Collectively, these grants are intended to encourage the states to: strengthen their laws and programs dealing with drunk driving, including the adoption and enforcement of a law which makes it illegal for someone with a blood alcohol concentration (BAC) of 0.08% or higher to drive a motor vehicle; increase seat belt use rates; improve the timeliness, accuracy, completeness, uniformity, and accessibility of state crash and related highway data; and conduct innovative strategies to deal with a variety of traffic safety challenges. The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) have issued regulations to implement each of the new grant programs established by TEA21.

Various committees of the 107th Congress are likely to oversee the implementation of these grant programs. Policy issues and key questions associated with the grant programs include: How effectively are these programs being administered? Can the grant application processes be streamlined while still ensuring accountability for the use of federal funds? Are larger financial incentives needed to accelerate increases in seat belt use rates and reductions in the percentage of traffic crashes involving alcohol? How useful are the various grant programs in reducing traffic safety challenges? Discussions over the reauthorization of most of these grant programs, perhaps with some modifications, is expected to intensify during the Second Session of the 107th Congress. For additional information, see CRS Report 98-890, *Traffic Safety Provisions in the Transportation Equity Act for the 21st Century*. (CRS contact: Paul Rothberg)

Oversight of the Environmental Provisions of TEA21

In the 107th Congress, the use of federal highway revenues to address the environmental impacts of surface transportation may receive attention during oversight of TEA21 implementation. The law set aside roughly \$12.5 billion from FY1998 to FY2003 for several environmental programs. Most of this funding is reserved for air quality projects to assist states in complying with federal air quality standards. The law also increased funding for environmentally related transportation enhancements and established new programs to assist transit systems in purchasing low-emission buses; conduct environmental research; encourage environmental technologies for motor vehicles; and support projects that integrate transportation efficiency, community preservation, and environmental protection. Other provisions addressed the operation of low-emission vehicles in high occupancy vehicle lanes, extended tax benefits for alcohol-based fuels, and required streamlining of the environmental review process for highway projects.

Oversight of TEA21's environmental provisions during the 106th Congress focused primarily on the implementation of requirements to streamline the environmental review process for highway projects. Oversight of this issue will likely continue into the 107th Congress. On May 25, 2000, DOT issued its environmental streamlining regulatory proposal and accepted public comments through September 23, 2000. During the 106th Congress

oversight hearings, some Members in the House and Senate criticized the DOT proposal for not fully addressing the streamlining requirements and for addressing other planning and regulatory issues not required under TEA21. Some of the principal criticisms of the proposal were the absence of a requirement for environmental reviews to be conducted concurrently, rather than sequentially, and to be completed within a cooperatively determined time period. Some Members also criticized the proposal for not including a dispute resolution mechanism to ensure that federal agencies complete their environmental reviews within mutually agreed upon time frames. In response, DOT testified that it would carefully evaluate all of the concerns and the proposed changes submitted during the comment period when developing a final rule on the environmental streamlining regulations. By the conclusion of the 106th Congress, DOT had not issued a final rule. It is uncertain whether the Bush Administration will issue a different proposal that may be more acceptable to Congress. CRS Report 98-646 ENR, *Transportation Equity Act for the 21st Century (P.L. 105-178): An Overview of Environmental Protection Provisions*, describes each of the above programs and indicates the amount of funding authorized for them. **(CRS contact: David Bearden)**

Traffic Congestion

The Economist and others estimate that delays caused by congestion cost the United States \$100 billion per year. Most of these estimates are predicated on assigning a dollar value to time lost by individuals and businesses as a result of people and products being stuck in traffic. Sometimes these estimates also include energy and pollution costs. By necessity these estimates are very generalized. Nonetheless, these estimates are illustrative of a massive problem for American society. There are few individuals living near major urbanized areas who could honestly claim to be unaffected by congestion-caused delays.

In the last several decades there have been numerous attempts to reduce traffic congestion, primarily at the state, local, and regional levels. DOT has often provided funding for specific projects, and has offered the expertise of its employees in the battle against congestion. The crux of federal transportation spending, however, has been and continues to be aimed at overall infrastructure improvement, with air quality improvement, congestion improvement, and other issues being essentially secondary goals.

There is a sense that there is no one good solution to congestion problems and that successful congestion reduction strategies require multiple remedies. New infrastructure alone, at the level currently being constructed, has not been able to stay ahead of the congestion problem. Efforts aimed at alleviating congestion by changing individual travel behaviors have also been largely unsuccessful.

During the 107th Congress, discussion will begin on how, or whether, to modify the Transportation Equity Act for the 21st Century (TEA21). Congestion issues can be expected to play a major role in this discussion, especially as regards changes to specific federal initiatives such as the Congestion Mitigation and Air Quality program (CMAQ), whose purpose is to fund projects and programs in air quality nonattainment and maintenance areas for ozone, carbon monoxide (CO), and small particulate matter (PM-10) which reduce transportation related emissions. **(CRS contact: John Fischer)**

Amtrak Funding

Amtrak and its congressional supporters sought, but failed to achieve, the passage of legislation, the High-Speed Rail Investment Act of 2000 (106th Congress: S. 1900/H.R. 3700), in the 106th Congress. Amtrak would have been allowed to raise up to \$10 billion over the next 10 years by issuing up to \$1 billion in bonds each year to pay for track improvements in the 10 high-speed rail corridors designated by the Department of Transportation.² The bonds would not have paid interest; instead the bondholders would have been eligible to deduct a certain amount from their taxes. The estimated cost to the federal government over the ten-year period was \$3.2 billion; in exchange, Amtrak would receive a much larger amount, and in a predictable manner. This would have enabled it to prepare realistic long-term capital improvement plans. Participating states would have to provide a 20 percent match.

While this bill did not pass, Senate leaders pledged to reintroduce the legislation early in the 107th Congress; Senator John McCain, Chairman of the Committee on Commerce, Science and Transportation, opposed the bill but promised to hold hearings on the reintroduced bill during the 107th Congress and allow the legislation to move forward.³ (CRS contact: David Randy Peterman)

Amtrak Oversight

The Amtrak Reform and Accountability Act of 1997 (P.L. 105-134, December 2, 1997) requires that Amtrak be able to operate without using federal funds to cover operating expenses by the end of FY2002. Amtrak has been using federal funds to help cover both its capital expenses and operating expenses. If Amtrak is not able to cover its operating expenses out of its own revenues by the end of FY2002, the Act provides that Congress will consider an Amtrak reform plan. The reform plan would be drawn up by the Amtrak Reform Council [[http://\(www.amtrakreformcouncil.gov\)](http://www.amtrakreformcouncil.gov)], another creation of the Act. Additionally, the Act provides for an Amtrak liquidation plan that would be drawn up by Amtrak. Both the General Accounting Office and the Inspector General of the Department of Transportation have noted that Amtrak does not appear likely to achieve the congressionally-mandated goal.⁴ (CRS contact: David Randy Peterman)

Railroad Safety Reauthorization

The Federal Railroad Administration (FRA) is the primary federal agency that promotes and regulates railroad safety. The development of new or revised regulations, the assessment of the safety operations of railroads, and the promotion of compliance with the federal safety regulations form the core of FRA's safety program. The combined impact of FRA's activities,

² [http:// www.fra.dot.gov/o/hsgt/hsgt.htm](http://www.fra.dot.gov/o/hsgt/hsgt.htm)

³ "Amtrak Faces Funding Obstacles; Senator McCain Seeks Debate on Type of System U.S. Needs," *Washington Post*, January 11, 2001.

⁴ U.S. GAO, *Amtrak's Costs and Capital Needs*, GAO/RCED-00-138; U.S. Department of Transportation, Office of Inspector General, *2000 Assessment of Amtrak's Financial Performance and Requirements*, CR-2000-121

billions of dollars of investment in railroad infrastructure, as well as many other industry and labor initiatives have yielded improvements in the long-term safety record of the railroad industry, especially during the last 20 years. Nevertheless, a tragic and well-publicized train crash historically occurs every few years that heightens interest in railroad safety. Further improvements in both rail safety and FRA's safety regulations and programs are possible, but each approach has its own potential benefits and costs.

The last railroad safety reauthorization statute was enacted in 1994, and its funding authority expired at the end of FY1998. FRA's safety programs continue using the authorities specified in existing railroad safety law and the funds that are appropriated annually. The reauthorization process provides an opportunity to review federal policies and programs, to consider the current state of railroad safety, and to explore various options intended to further improve the long-term safety record. Some of the issues likely to be debated as part of the reauthorization process include: Should railroads be required to implement operator fatigue management plans? Should the hours-of-service regulations be extended to cover additional railroad workers? What should be done, if anything, to deal more effectively with alleged harassment and intimidation of railroad workers? What might be done to further reduce death and injury at highway-rail grade crossings? Should FRA's current safety program simply be reauthorized without any new authorities or regulatory mandates? Forging new legislation in the railroad safety arena is difficult, especially when a balance is sought among the interests of public safety, railroad labor, and management. For more information, see CRS Issue Brief IB10030, *Federal Railroad Safety Program and Reauthorization Issues*. (**CRS contact: Paul Rothberg**)

Hazardous Materials Transportation Safety

The 107th Congress is likely to consider several bills that would reauthorize the Hazardous Materials Transportation Act (HMTA), as amended, (including P.L. 93-633 and P.L. 101-500). That body of law specifies the broad purposes and operating authorities for DOT's hazardous materials (hazmat) safety program. Although hearings were held during the 106th Congress, none of the committees of jurisdiction reported out a reauthorization bill. Among the key issues under consideration are: the level of funding to support DOT's hazmat emergency preparedness grant program; development of cost-effective strategies to improve further hazmat safety; proposed exemptions for various industries from the safety regulations; and the appropriate role of DOT in the regulation of hazmat transportation. Similar issues are likely to be debated during the 107th Congress. For additional information see: CRS report RS 20580, *Hazardous Materials Transportation Safety—Federal Program and Legislative Issues*. (**CRS contact: Paul Rothberg**)

Pipeline Safety

The 107th Congress is likely to consider several bills that would amend federal pipeline safety law, which directs the U.S. Secretary of Transportation to regulate pipeline transportation and storage of natural gases and hazardous liquids. Those bills would also authorize funding for the Office of Pipeline Safety (OPS) of the DOT, which is charged with implementing pipeline safety law. Among the topics being discussed as part of the process of reauthorizing the OPS program are: state versus federal roles in pipeline safety, increased community involvement in promoting pipeline safety, funding amounts to support OPS, and new regulatory directives and authorities intended to improve the OPS program and

associated state activities. For additional information, see CRS Report RS20640, *Pipeline Safety: Federal Program and Reauthorization Issues*. (CRS contact: Paul Rothberg)

Firestone Tire Recall

On August 9, 2000, Bridgestone/Firestone, Inc. (Firestone) issued a voluntary safety recall of some 14.4 million, 15-inch tires. Based on about 4300 complaints and other data, the National Highway Traffic Safety Administration (NHTSA) is aware of reports totaling 148 deaths and more than 500 injuries allegedly related to certain Firestone tires. Most of the incidents that resulted in deaths reportedly involved sport utility vehicles (SUVs), primarily Ford Explorers. On September 1, 2000, NHTSA issued a warning to consumers recommending that users of an additional 1.4 million Firestone tires should take a number of actions to enhance their safety. Firestone declined to extend its recall to include these additional tires. The Agency is investigating whether the scope of Firestone's voluntary recall should be expanded to a NHTSA-issued mandatory recall affecting additional Firestone tires.

The "Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act," (P.L. 106-414), was enacted to strengthen NHTSA's ability to detect and investigate defects. More specifically, the bill includes provisions to: increase or strengthen reporting requirements for manufacturers of motor vehicles or motor vehicle equipment, increase civil penalties for violations of the federal motor vehicle safety regulations, provide criminal penalties under certain conditions, require a rulemaking to revise and update NHTSA's tire standards, increase the number of years that a remedy for a defect must be provided without charge to the vehicle owner, and authorize increased funding for NHTSA. The 107th Congress is likely to review NHTSA's efforts to develop regulations and new information programs required to implement this Act. For additional information, see CRS Report RL30710, *Firestone Tire Recall: NHTSA, Industry, and Congressional Responses*. (CRS contact: Duane Thompson and Paul Rothberg)

Child Safety Seats

Provisions seeking to improve child safety in transportation were incorporated into the TREAD Act, which requires the Secretary to initiate a rulemaking intended to develop regulations for improving the safety of child restraints, including reducing head injuries from side impact collisions. P.L. 106-414 specifies 9 different aspects of rulemaking pertaining to child safety and booster seats, including improved crash testing and better consumer information. If the Secretary decides not to issue requirements in any of the 9 specified areas, a report must be submitted to Congress explaining the reasons for such decisions. The Secretary is also required to establish by regulation a child restraint safety rating program within the same period. The TREAD Act also requires the Secretary to develop a five-year strategic plan to reduce deaths and injuries caused by failure to use the appropriate booster seat in the 4 to 8 year old age group by 25 percent. The 107th Congress is likely to review NHTSA's efforts to develop regulations and new information programs required to implement this Act. (CRS contacts: Duane Thompson or Paul Rothberg)

Hours-of-Service Regulations for Commercial Drivers

The Federal Motor Carrier Safety Administration (FMCSA), some safety and insurance groups, and most of the commercial motor vehicle industry seek improvements to the hours-of-service (HOS) regulations. These rules specify minimum off-duty and maximum on-duty hours for commercial truck and bus drivers. Many agree that the HOS regulations do not reflect current road conditions, operating logistics, or knowledge concerning rest and fatigue. On May 2, 2000, FMCSA published in the *Federal Register* a Notice of Proposed Rulemaking (NPRM) to revise the HOS regulations. FMCSA proposes to require truck and bus companies to provide drivers with better opportunities to obtain sleep, and thereby reduce the risk of their drivers operating while drowsy, tired or fatigued. The core of FMCSA's proposal is to place each driver on a 24-hour cycle and a seven day work week, and, in many cases, to limit their work to a maximum of 12 hours within a 14 hour period, followed by at least a 10 hour off-duty period.

The issuance of FMCSA's proposal led to a variety of administrative and congressional actions. During 2000, FMCSA conducted eight public hearings on its HOS proposal, heard from some 700 witnesses, and reportedly received some 70,000 comments. Because of numerous concerns, many in the industry lobbied to prevent adoption of the NPRM into the *Code of Federal Regulations*. The FY2001 DOT Appropriations Act, P.L. 106-346, includes a provision that prohibits the use of funds to issue a revised HOS rule for one year, but allows the FMCSA to continue working on this rulemaking. Given the potential impacts of the proposed rule, some industry spokesmen and Members of Congress have advised FMCSA to proceed cautiously. The 107th Congress is likely to review FMCSA's response to the concerns that have been raised regarding the NPRM. (CRS Contact Paul Rothberg)

Maritime

Harbor Maintenance User Fees

User fees for deepening harbor channels for ships and for maintaining current depths by dredging were established in 1986. The fees cover the federal contribution to the cost of such services. Prior to 1986, the federal contribution came from the General Fund of the U.S. Treasury. On March 31, 1998, the U.S. Supreme Court declared the portion of the user fees levied on exports to be unconstitutional, and such collections were discontinued. Fees on imports continue to be collected. However, these have generated opposition from foreign countries, which oppose import fees on the basis that such fees unfairly discriminate against imports. On August 24, 1998, the Clinton Administration proposed a new user-fee system. In his FY2001 Budget, President Clinton included, for the second time, a \$1 billion per year tax, the "Harbor Services User Fee," to pay for harbor dredging. The user fee struck down by the Court, the Harbor Maintenance Tax (HMT), was based on the value of cargo exported; the new fee would be based on the cargo-carrying capacity of the vessel, the type of ship, and the number of times the ship enters or leaves a port. The proposal is opposed by most shipping groups, including representatives of ports, because they prefer using monies obtained from the General Fund of the U.S. Treasury rather than levying a user fee to pay for harbor maintenance. (CRS contact: Gwenell L. Bass)

Reauthorizing the Coast Guard

In the 107th Congress, a major issue may be how effectively is the Coast Guard managing its increased responsibilities to interdict illegal drugs and immigrants while continuing its traditional functions, such as search and rescue and aiding navigation. Its capital needs are at the core of this issue. Congress generally authorizes funds for the Coast Guard for 2-year periods and appropriates these monies annually in the DOT appropriations bill.

The Coast Guard is a multi-function agency with a mission to protect people, the environment, and U.S. economic interests, including maritime transportation, in coastal and ocean waters. Extension of the U.S. Economic Zone to 200 miles in the 1970s and the related geographic expansion of U.S. responsibilities for deepwater missions greatly transformed the Coast Guard's operations. Increased duties related to high-seas illegal drug trafficking and immigration have added to the agency's obligations and increased the complexity of the issues it faces. Key acts include the 1998 Western Hemisphere Drug Elimination Act (P.L. 105-277, title VIII), the Anti-Drug Abuse Acts of 1988 (P.L. 100-690), and the Maritime Drug Law Enforcement Act (P.L. 99-570).

Issues for the 107th Congress include how the agency is operationally responding to new demands and managing plans to replace many of its aging vessels and aircraft. The Coast Guard's major acquisition program is called the "Integrated Deepwater System," which would require an estimated \$9.6 billion to fund an acquisition program over 20 years beginning in FY2002. The program's purpose is to identify needed vessels, aircraft, and related sensor, communications, and navigation systems that work together to accomplish mission objectives. Only planning funds were provided in FY2000 and FY2001 appropriations. On March 1, 2000, at a hearing of the Subcommittee on Transportation and Related Agencies, House Committee on Appropriations, DOT's IG reported that the Coast Guard planned to request \$350 million in Fiscal Year 2002 and \$500 million annually over the next 19 years to implement its acquisition strategy, based on a Coast Guard initial estimate that the project would cost \$9.8 billion and take 20 years to complete. A 1999 GAO Report concluded, "Unless the Congress grants additional funds, which, under existing budget laws could mean reducing funding for some other agency or program, these other capital projects could be severely affected" (GAO-RCED-99-6). With acquisition programmed to begin in FY2002, Congress will be confronted with this issue in the FY2002 appropriations bill.

While this ambitious replacement plan challenges the Coast Guard, so do everyday operations. To support current operational demands, the Coast Guard has had to shift funds from other priorities. In testimony before the Subcommittee on Coast Guard and Maritime Transportation, GAO emphasized that sustaining Coast Guard anti-drug efforts will increase resource pressures on other activities of the agency. GAO called for still greater management efficiencies within the agency to address these constraints. For further discussion of these issues and Coast Guard funding, see CRS Report 98-830, *Coast Guard Integrated Deepwater System: Background and Issues for Congress*, discusses issues associated with the deepwater program. For further discussion, see CRS Report RS20117, *Coast Guard FY2000 and FY2001 Authorization Issues*. (CRS contact: Martin Lee)

FOR ADDITIONAL READING

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