

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Morning Transportation
Sent: Fri 11/10/2017 3:02:24 PM
Subject: POLITICO's Morning Transportation, presented by the Association of American Railroads: DOT nominees get their moment in the Senate spotlight — Register that drone — Will Grover Norquist doom the infrastructure bill?

By Tanya Snyder and Lauren Gardner | 11/10/2017 10:00 AM EDT

With help from Stephanie Beasley and Brianna Gurciullo

BIG WHEEL KEEP ON TURNING: The slate of pending DOT nominees is in the spotlight in the Senate, with at least one set to be approved next week. Derek Kan - a former staffer for Senate Majority Leader [Mitch McConnell](#) who has been serving as a senior adviser at the department while awaiting confirmation - inched one step closer to it Thursday, with senators [voting](#) 87-9 to limit debate on his nomination to be undersecretary of transportation for policy. That hurdle passed, his nomination is all but cinched pending a final vote.

Future's so bright: Senate Commerce Chairman [John Thune](#) (R-S.D.) brought some shade to the chamber floor immediately following the cloture vote, blasting the New York and New Jersey delegations for holding "hostage" the nominations of Kan, Ron Batory to be FRA administrator and Adam Sullivan to be an assistant secretary for legislative affairs over the Trump administration's dithering on providing federal funding to the Gateway Program. "While no one questions the importance of this corridor, there are many other important projects that also are awaiting approval and funding at the department," Thune said. "No project should get to cut the line based on the machinations of a handful of our Democratic colleagues." The three senators from the region present Thursday - Democratic Leader [Chuck Schumer](#), [Cory Booker](#) and [Kirsten Gillibrand](#) - all voted no on cloture for Kan. Booker told Lauren earlier this week he had "nothing new to report" on his interactions with the administration on Gateway.

Next up: Shortly after the Kan vote, McConnell filed cloture on the nomination of Steven Bradbury to be DOT's general counsel. Bradbury's nod has drawn sharp criticism from Democrats who take issue with his having written three secret memos justifying torture while working at President George W. Bush's Justice Department. Sen. [John McCain](#) (R-Ariz.) has [indicated](#) that he'll oppose Bradbury's confirmation vote next week. But, as [Elana Schor reports](#), another key swing vote - Sen. [Susan Collins](#) (R-Maine) - said Thursday that she would support Bradbury. "His role was not developing the policy," Collins told POLITICO. "His role was as an attorney within the Justice Department, and he's obviously not going to have anything to do with this issue at DOT."

FRIYAY: Thanks for tuning in to POLITICO's Morning Transportation, your daily tipsheet on all things trains, planes, automobiles and ports. Tanya is at the MT helm. Send tips, feedback and song lyrics to tsnyder@politico.com or [@TSnyderDC](https://twitter.com/TSnyderDC).

"But I would walk 500 miles / And I would walk 500 more / Just to be the man who walks a thousand miles / To fall down at your door."

GET LISTENING: Follow MT's [playlist](#) on Spotify. What better way to start your day than with songs (picked by us and readers) about lonely highways and south-bound trains?

HOME FOR THE HOLIDAYS: The defense authorization bill ([H.R. 2810 \(115\)](#)) agreed to by House and Senate negotiators this week includes language to reinstate FAA's registration rule for small drones, Lauren [reports](#). The regulation was scrapped in May by a federal appeals court who agreed that an earlier FAA authorization law forbade the agency from setting such a mandate for "model aircraft." The House and Senate FAA bills ([H.R. 2997 \(115\)](#), [S. 1405 \(115\)](#)) addressed the issue, but Pros know a final deal on the FAA reauthorization is going to take some time.

NOW OR NEVER: There will be no infrastructure plan if tax overhaul revenues aren't used to pay for it, Rep. [John Delaney](#) (D-Md.) [told](#) MT today. White House officials say they're open to allowing a vote on the gas tax, for instance -- but later, when Congress takes up an infrastructure plan, not as part of the tax bill. "Clearly they have provisions in the tax reform that [are] raising revenues, and having the gas tax in there could have been easily part of this bill," he said. Alternately, Republicans also could set aside \$200 billion in the tax bill for an infrastructure package -- but that would leave them \$200 billion less for tax cuts. "Infrastructure is more stimulative than these tax cuts," he said.

ON THE SCENE: NTSB is [sending](#) investigators to Las Vegas to look into a zero-injury crash between a driverless transit shuttle on its first day in operation and a truck. News reports [indicated](#) the truck driver was at fault, not the shuttle.

USED CARS: EPA wants to repeal emissions rules for new trucks with rebuilt engines, arguing that they don't fit the Clean Air Act's definition of a "new motor vehicle," [reports](#) Pro Energy's Alex Guillén. EPA Administrator Scott Pruitt said gliders are more affordable for small owners and operators and serve as "a key economic driver to numerous rural communities." But Luke Tonachel, director of NRDC's Clean Vehicles and Fuels Project, said "reopening this loophole" could cause up to 40 times more pollution than modern big rigs.

GETTING TO THE BOTTOM OF IT: Rep. [Debbie Dingell](#) (D-Mich.) has asked the Trump administration for an official answer about whether they're [dropping a proposed rule](#) mandating that new cars have vehicle-to-vehicle communications. "Because it matters," Dingell told MT. "I called and said I need to know." Dingell also said she's trying to pre-conference at least some of the driverless car bill, even before the Senate passes theirs ([S. 1885 \(115\)](#)). She said she's "talking to everybody to find out where the concerns are so maybe we can do a pre-conference."

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NOT TO BE CRUDE: Rep. [Peter DeFazio](#) (D-Ore.), top Democrat on the House Transportation Committee, sent a [letter](#) to DOT Secretary Elaine Chao Thursday to urge PHMSA to move forward on outstanding rulemakings, including one requiring railroads to

develop comprehensive oil spill response plans. The NTSB made that recommendation in January 2014. "We cannot afford to wait until another catastrophic accident occurs and lives are lost for PHMSA to take final action on these rules," DeFazio wrote.

EXPANDED DRUG PANEL COMING SOON: DOT will finalize Monday its long-awaited rule to harmonize its drug-testing panel with the expansion HHS signed off on earlier this year as the U.S. opioid epidemic continues to rage, Lauren [writes](#). That means four prescription opioids - hydrocodone, hydromorphone, oxycodone and oxycodone - will be added to the existing DOT 5-panel that "safety-sensitive" transportation workers must submit to when chosen for random screening.

LABOR NOTES: During its executive meeting Thursday, the Transportation Trades Department of the AFL-CIO talked to House Transportation Chairman [Bill Shuster](#) (R-Pa.) and Sen. [Brian Schatz](#) (D-Hawaii), a member of the Senate Commerce Committee, about their priorities for the year. They also adopted new [policies](#) on protecting worker rights in the age of driverless vehicles, supporting the Jones Act, holding foreign aircraft repair stations to the same standards as domestic stations, protecting Amtrak and other passenger rail employees from assault, ensuring commercial airline pilots receive adequate training, and addressing sleep apnea and driver fatigue.

MADE YOU LOOK: The Senate Homeland Security Committee decided not to vote on DHS Secretary nominee Kirstjen Nielsen after all, instead kicking the vote to next week to give Nielsen time to answer all of the questions members submitted, [Steph reports](#). Chairman [Ron Johnson](#) (R-Wis.) warned senators against drawing the process out, noting the need to have a permanent head at DHS. But top Democrat [Claire McCaskill](#) (D-Mo.) said Democrats insisted on full responses. The committee could vote on the nomination off the floor Monday.

STAY WOKE: Meanwhile, Acting Homeland Security Secretary Elaine Duke updated the national terrorism advisory system bulletin that DHS uses to alert the public to ongoing threats. Commercial aviation and air cargo continue to be primary targets for attacks and terrorists groups also are pointing followers to "easy-to-use tools" like vehicles, which can be used to mow down pedestrians, per the advisory. More details can be found [here](#).

MT MAILBAG: Rep. [Brian Babin](#) (R-Texas) [asked](#) Trump in a letter Thursday to delay a federal mandate on electronic logging devices through an executive order. The order should direct Chao to waive the mandate "until such time as it can be certified that implementation will not cause economic or other harm to the millions who are subject to it," or at least until April 1, 2018, Babin wrote. The deadline now is Dec. 18, 2017.

GET ON THE BUS: The Accessibility Observatory at the University of Minnesota ranked 49 of the 50 most populous metropolitan areas in the United States for how well their transit systems connect residents with jobs. The top 10 list is unchanged from last year and offers no surprises (New York, San Francisco, Chicago, etc.) but a second list shows the metros with the most improvement since last year, where Cincinnati, Charlotte and Orlando ranked highest. You can check out the rankings and all 49 block-by-block transit access heat maps [here](#).

SLICE OF PI: Jim Kiley, a former lobbyist for General Motors and the Alliance of Automobile Manufacturers, has landed at the lobbying firm Federal Advocates.

ARRIVALS AND DEPARTURES: Sabrina Sussman is leaving the New York Mayor's Office of Federal Affairs, where she worked on transportation and housing issues, on Monday to work at Zipcar, where she will be managing the company's public partnerships. Sussman served as special assistant to now-NYC DOT Commissioner Polly Trottenberg when Trottenberg was undersecretary for policy at the federal DOT. And Stephen Johnson, American Airlines' executive vice president for corporate affairs, has been named to the U.S. Chamber of Commerce board of directors.

THE AUTOBAHN:

- "Rail passengers petition Supreme Court to review case involving on-time performance standards." NARP.
- Waymo launches fully driverless cars in Arizona with liability issues still unclear. Phoenix New Times.
- Tax breaks for electric cars survive in Senate bill. Bloomberg.
- "State comptroller: MTA fare and toll hikes may come sooner." Observer.
- "Cars lose the spare tire for a leaner ride, but it could cost you." The New York Times.

THE COUNTDOWN: DOT appropriations run out in 29 days. The FAA reauthorization expires in 142 days. Highway and transit policy is up for renewal in 1,056 days.

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