

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
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**Subject:** POLITICO's Morning Transportation: When is it 'lobbying'? — Senate Commerce advances DOT nominations — DHS on Kelly's departure: We're just fine

By Stephanie Beasley and Brianna Gurciullo | 08/03/2017 10:00 AM EDT

*With help from Tanya Snyder and Lauren Gardner*

**WHEN IS IT 'LOBBYING'?** Three House Dems want DOT's inspector general to look into whether administration officials broke federal law by promoting Rep. Bill Shuster's (R-Pa.) bill, H.R. 2997 (115), to split off air traffic control operations from the FAA. In a letter to IG Calvin Scovel, Democratic Reps. Peter DeFazio of Oregon, Nita Lowey of New York and David Price of North Carolina wrote: "It has come to our attention that at least four DOT political appointees have contacted members of Congress, nonfederal stakeholders such as aviation association representatives and airport sponsors, or both to gain support" for the House Transportation Committee chairman's legislation.

**Sound familiar?** Luckily for you MT readers, you all already knew that some DOT officials had sent emails to lawmakers and trade groups advocating for the bill. FAA told us at the time that it was "providing fact-based information in response to questions and issues that we have been consistently asked over the course of the FAA's reauthorization."

**'Highly irregular':** DeFazio, Lowey and Price wrote in their letter that folks within DOT also chatted on the phone with "nonfederal stakeholders" to urge the overhaul. And, they pointed out, DOT launched a website on separating air traffic control operations from the FAA. "Even when viewed in the light most favorable, these e-mails, phone calls, and other activities are highly irregular, at best," the trio wrote.

**IT'S THURSDAY:** Thanks for tuning in to POLITICO's Morning Transportation, your daily tipsheet on all things trains, planes, automobiles and ports. Steph and Brianna are driving the MT train, so please send along tips, feedback and lyrics to sbeasley@politico.com or @Steph\_Beasley and bgurciullo@politico.com or @brigurciullo.

"Orange juice in my ride / Wawa's to the right / They got a beverage inside."

**GET LISTENING:** Follow MT's playlist on Spotify. What better way to start your day than with tunes (picked by us and readers) that are all about flying, driving, commuting and sailing?

**TWEETS DU JOUR:** From our POLITICO colleague Seung Min Kim: "The smell of #jetfumes getting stronger in the Senate." And from Time's Zeke Miller: "FAA has formally issued NOTAMS for POTUS vacation in Bedminster from Aug 4-20."

**DOT PICKS MOVE AHEAD:** Several nominees moved through the Senate Commerce Committee on Wednesday (including controversial DOT general counsel nominee Steven Bradbury, who barely made it through on a party line vote). Some Democrats, including ranking

member [Bill Nelson](#) (D-Fla.), objected to advancing Bradbury's nomination because of his ties to Takata, and because they felt his plans to avoid potential conflicts of interest were insufficient.

**Meanwhile:** Other Dems balked at Bradbury's history in President George W. Bush's Justice Department, where he authored three memos that helped authorize torture. Sen. [Tammy Duckworth](#) (D-Ill.) led that campaign, saying: "When you're stuck bleeding in a helicopter behind enemy lines like I was, you hope and pray that if the enemy finds you first, they treat you humanely." The other three nominees - Mark Buzby for MARAD administrator, Ron Batory for FRA administrator and Robert Sumwalt for NTSB chairman - were approved easily. Our Tanya Snyder has [more](#) for Pros.

**DRIVERLESS BILL-LESS:** At Wednesday's Senate Commerce Committee markup, Chairman [John Thune](#) (R-S.D.) [announced](#) that his panel's driverless car legislation would have to wait a little longer. The bill - which Sen. [Gary Peters](#) (D-Mich.) had promised was coming "very soon" a bit more than a week ago - is being held up until "sometime this fall," Thune said.

**NEVER MIND:** Qatar Airways has [changed its mind](#) about looking to purchase a stake in American Airlines, saying "further review ... has demonstrated that the investment no longer meets our objectives," the Doha-based carrier said in a statement to [Reuters](#). American, which has [clashed](#) with Qatar Airways over Open Skies issues, is surely pleased. "We respect Qatar Airways' decision not to proceed with its proposed investment," the U.S. carrier told us in a statement.

**MOVING ALONG THE PIPELINE:** FTA [released](#) on Wednesday the Record of Decision for the Gateway program's Portal Bridge project, putting it closer to the engineering phase of the Capital Investment Grant pipeline. The partners involved with the \$1.64 billion project hope to obtain CIG funding totaling \$811 million.

**AMICABLE DIVORCE:** DHS spokesman David Lapan says John Kelly's departure from the agency was smooth and followed the established succession plan to shift power to Elaine Duke. He [said](#) during a pen and pad Wednesday that he didn't know how much of a heads-up Duke had before Trump tweeted out the announcement that Kelly would take over as White House chief of staff, but that Kelly had been aware that he was being considered. "I know that there had been conversations between Gen. Kelly and the White House," Lapan said. "But I couldn't tell you how many or over what period of time."

**Search party update:** It's possible that Duke could hold the top spot at DHS for a while given that there are still no clear front-runners to step in as the permanent head of the agency. Pro Energy's Alex Guillen [reports](#) that Energy Secretary Rick Perry doesn't want anyone to add his name to the list of contenders to replace John Kelly. Perry is "happy where he is & focused on carrying out mission POTUS gave him," DOE's press office [tweeted](#).

**And I am telling you:** Lapan also poo pooped rumors that he might be following Kelly to the White House to take over the freshly vacant communications director position. "I have no plans to move," he said. "I have not been asked by anyone to change jobs and so that's where that stands." Still, Lapan couldn't help but chuckle at reporters' suggestions that he might have to

make some wardrobe changes, like upgrading from his no-frills suits to pinstripes, should he change his mind.

**LAW AND ORDER:** Possibly joining Lapan at DHS is John Mitnick, who the president nominated Wednesday to be the department's general counsel. Mitnick is currently the chief legal officer at the Heritage Foundation and previously served as associate general counsel for science and technology at DHS.

**YEAH, ABOUT THAT:** Coast Guard Commandant Adm. Paul Zukunft made some waves earlier this week when he said he would continue to support transgender service members in the face of Trump's threat to ban them. But Lapan said that should an official order come down from the White House, Zukunft would have no choice but to implement it. "This policy, when the Department of Defense develops it, will apply to the Coast Guard," Lapan said. He added: "What I'd say is that the commandant, clearly as a serving military officer, will follow the orders and directions of not only of the commander in chief but the secretary of Defense."

**PRIVATE EYES:** The Secret Service will use a drone to help keep an eye on the president when he goes on vacation at his golf club in New Jersey later this month, according to a Reuters report. The agency will operate a "small tethered unmanned aircraft system vehicle" during Trump's extended visit to the Trump National Golf Club in Bedminster, N.J., and is considering it a test for using drones as presidential protection. However, the fact that the drone would be flying within range of private residences surrounding the golf course could raise privacy concerns.

**SHIFTING GEARS:** Lawrence Kluttz is stepping down as communications director for North Carolina Rep. David Price, the top Democrat on the House Appropriations THUD subcommittee, our colleagues at Playbook report. Kluttz begins Aug. 10 as the speechwriter for Vincent Price, the president of Duke University (who isn't related to the House appropriator). ... Tyler Rushforth, formerly counsel to the Senate Environment and Public Works Committee, is now executive director of the American Trucking Associations' Intermodal Motor Carrier Conference.

#### **THE AUTOBAHN:**

- "Flying ace Sully makes case against privatization." The Associated Press.
- "California supreme court ruling may delay high-speed rail." The Eno Center for Transportation.
- "Buyers bet on infrastructure, with or without Trump." Bloomberg Gadfly.
- "NTSB finds 'blind spot' in SFO radar system following Air Canada near-disaster." The Mercury News.
- "Evacuations remain in effect after freight train derailment." The Associated Press.
- "German carmakers claim software upgrade deal at diesel summit." POLITICO Europe.

- "Trump's CEO brain trust hasn't done much." [Bloomberg](#).
- "Maryland Gov. Larry Hogan demands answers on airport noise complaints." [WAMU 88.5](#).
- "Hyperloop just broke its speed record. That was the easy part." [Quartz](#).
- "Self-driving cars are confusing drivers - and spooking insurers." [Wired](#).

**THE COUNTDOWN:** DOT appropriations run out in 58 days. The FAA reauthorization expires in 58 days. Highway and transit policy is up for renewal in 1,154 days.

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