



Legislative Bulletin..... June 21, 2012

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**Motion to Instruct Conferees on H.R. 4348 - Surface Transportation Extension Act of 2012, Part II
(Black, R-TN)**

Order of Business: Rep. Black announced her intention to offer a motion to instruct conferees on H.R. 4348 on June 20, 2012. The Motion to Instruct is allowed before conferees are appointed, or the House can instruct its conferees if they do not report within 20 calendar days and 10 legislative days after being appointed (or 36 hours after being appointed during the last 6 days of the session).

Summary: Rep. Black’s motion would move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4348 be instructed to reject section 31108 of the Senate amendment (relating to distracted driving grants), other than the matter proposed to be inserted as section 411(g) of title 23, United States Code (relating to a distracted driving study).

Currently the Senate passed Highway Bill, S. 1813, contains a provision that would grant the U.S. Department of Transportation \$78 million to coerce states to enact and enforce federal distracted driving laws; something that 39 states already have on their books. This Motion to Instruct (MTI) eliminates federal manipulation of state law through taxpayer funded distracted driving grants. Driving safety is a laudable governmental goal, any regulatory activity is [one designated for state and local officials](#) to determine—not the federal government. [Rep. Black’s motion](#) would strike the distracted driving grant funding language contained in the Senate passed bill while calling for a study to be conducted on all forms of distracted driving.

Organization’s Supporting the Black motion:

- ATR <http://costofgovernment.org/vote-alert-cogc-urges-house-eliminate-a164>
- CATO <http://www.cato-at-liberty.org/taking-a-stand-against-nanny-grants/>
- CEI <http://www.openmarket.org/2012/06/20/support-rep-diane-blacks-mti-to-halt-misguided-federal-support-for-distracted-driving-laws/>
- Heritage Action <http://heritageaction.com/2012/06/distracted-driving-most-important-transportation-issue-ever/>

NOTE: Motions to instruct are never binding upon conferees.

Additional Background: The last long-term authorization for highway, transit and safety programs was passed in 2005 and is known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The legislation expired Sept. 30, 2009. The federal highway programs and certain transit programs are directly funded through contract authority provided in authorizing legislation, unlike other federal programs, to which new federal funding can be provided through appropriations measures without prior authorization. The current surface transportation authorities expire June 30, 2012, and were last extended in September 2011.

To read the RSC Legislative Bulletin on H.R. 4348 as it came to the House floor, which extends programs under the Highway Trust Fund by three months (through September 30, 2012): http://rsc.jordan.house.gov/UploadedFiles/LB_041712_HR_4348.pdf.

Committee Action: A motion to instruct does not get referred to a committee.

Cost to Taxpayers: The motion itself would yield no new costs to taxpayers.

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**Motion to Instruct Conferees on H.R. 4348 - Surface Transportation
Extension Act of 2012, Part II
(Hoyer, D-MD)**

Order of Business: Rep. Hoyer announced his intention to offer a motion to instruct conferees on H.R. 4348 on June 20, 2012. The Motion to Instruct is allowed before conferees are appointed, or the House can instruct its conferees if they do not report within 20 calendar days and 10 legislative days after being appointed (or 36 hours after being appointed during the last 6 days of the session).

Summary: Rep. Hoyer’s motion would move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4348 be instructed to recede from disagreement to the amendment of the Senate. In other words the motion to instruct would ask conferees to adopt the Senate bill.

Conservative Concerns: Many conservatives are concerned that the Senate bill, Moving Ahead for Progress in the 21st Century Act (MAP-21; S. 1813), continues to spend more money than the Highway Trust Fund would take in. S. 1813 would reauthorize surface transportation programs for two years and maintain funding at current levels – authorizing \$109 billion over FY12 and FY13, \$85 billion of which is for highway programs.

Conservatives are concerned that S. 1813 enacts various mandates such as: over 30 mandates on the motor coach industry such as Driver Safety Fitness Ratings and the \$2 billion Electronic On-Board Recorders mandate; mandates spending of scarce highway dollars on BIKE PATHS, ROADSIDE FLOWERS, and “walking school bus” programs; requiring each State to hire a “BIKE AND PEDESTRIAN COORDINATOR”; and requiring States to incorporate “LIVABILITY” and “SMART GROWTH” policies, which have the effect of federal intrusion into local land use decisions.

Conservative are concerned that the Senate bill creates new costly federal transit regulatory bureaucracy and provisions that would grant the U.S. Department of Transportation \$78 million

to coerce states to enact and enforce federal distracted driving laws; something that 39 states already have on their books. The Senate bill also creates a Projects of National and Regional Significance Program, which would authorize \$1 billion in FY2013 for a program to fund “major projects of national and regional significance” based on certain criteria. Many conservatives would argue that these criteria include ambiguous cost mechanisms that indicate high speed rail would be preferred as an eligible project.

Lastly many conservatives are concerned the Senate bill continues to fund programs above dedicated revenue streams. The Senate bill will eventually lead to tax hikes or taxpayer bailouts. MAP21 locks in higher funding levels of states whose congressional delegations were successful in obtaining above-the-line earmarks.

NOTE: Motions to instruct are never binding upon conferees.

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