Policy Rundown

For ITS America Advocacy Trust and Innovation Trust

ITS America Policy Rundown November 16, 2017

Happy Thanksgiving from all of us at ITS America. Congress will be on recess beginning Monday, November 20th for Thanksgiving. The ITS America Policy Rundown will be back when Congress reconvenes the week of November 27th.

Administration News

Association Action Alert: Signatory Letter to Secretary Chao on Future of V2V

ITS America, American Association of State Highway Officials (AASHTO) and Institute of Transportation Engineers (ITE) issued a joint statement on November 1 in response to press reporting that USDOT was walking away from the draft Vehicle-to-Vehicle (V2V) Federal Motor Vehicle Safety Standard as envisioned under the last administration. In response to the same reporting, the U.S. Department of Transportation issued a Nov. 1 statement saying that it and the National Highway Traffic Safety Administration (NHTSA) "have not made any final decision on the proposed rulemaking" that would require automakers to start building vehicle-to-vehicle communications systems into their models. "Any reports to the contrary are mistaken," the USDOT statement added.

ITS America along with its Safety Spectrum Coalition partners will ask association members and third parties to sign a letter to Secretary Chao asking her to move forward with V2X. You’ll be receiving the letter in email shortly, similar in format and content to the Connected Vehicle Spectrum letter to President Obama in 2016 that 55 organizations as signatories. Please contact Steven Bayless at sbayless@itsa.org for more
ITS America Filed Comments With NHTSA on Automated Driving Systems 2.0 Guidance

ITS America filed comments with NHTSA on its Automated Vehicle 2017 policy update, noting that NHTSA changed focus from voluntary vehicle performance assessment in 2016 to vehicle design, validation and voluntary “self assessment” in 2017. ITS America noted a survey from our member AAA, that only 10 percent of U.S. drivers say they would actually feel safer sharing the roads with driverless vehicles. The comments from University of Michigan's Mcity noted that simulation and real world testing would require over 10 billion miles of automated operation in order to establish levels of safety assurance acceptable to the public. From Texas DOT, ITS America advocated for a process to begin standardization of data to support data sharing.

DOT Secretary Chao Makes First Public Statement on Connected Vehicle V2X

In a recent speech, USDOT Secretary Elaine Chao said, "in the not-too-distant future, vehicles will talk to one another and communicate with the infrastructure around them.” She added that “one of the biggest challenges facing our transportation infrastructure is to integrate these new technologies while ensuring legitimate concerns about safety, security and privacy [are addressed].” As we noted earlier in the Policy Rundown, two weeks ago, ITS America, American Association of State Highway Officials (AASHTO) and Institute of Transportation Engineers (ITE) issued a joint statement on November 1 in response to press reporting that USDOT was walking away from the draft Vehicle-to-Vehicle (V2V) Federal Motor Vehicle Safety Standard as envisioned under the last administration. In response to the same reporting, the U.S. Department of Transportation issued a Nov. 1 statement saying that it and the National Highway Traffic Safety Administration (NHTSA) "have not made any final decision on the proposed rulemaking" that would require automakers to start building vehicle-to-vehicle communications systems into their models. "Any reports to the contrary are mistaken," the USDOT statement added.
Legislative News

ITS America Supports Passage of AV START Act
and Calls for Report Language Clarifying
“Performance”

Yesterday, November 15, 2017, the ITS America Board of Directors’ Executive Committee unanimously approved policy recommendations from the ITS America Automated Vehicle Task Force on S. 1885, “American Vision for Safer Transportation through Advancement of Revolutionary Technologies ("AV START") Act” that serves as ITS America’s official policy position on the legislation. They are as follows:

- Support passage of S.1885 in the Senate. This vote firmly puts the task force on the record supporting passage of S.1885 out of the Senate.

- Support report language that clarifies the intent that “performance” in an automated vehicle context excludes the act of complying with traffic laws, thereby aligning it relatively more closely with the current federal responsibilities. State and local authority may be maintained in reference to operational safety laws and regulation of motor vehicles and their operators after automated vehicles have been introduced on public roadways.

- After having eight (8) conference calls since September that featured healthy debate and the sharing of ideas—including conversations with the lead drafters of the AV START Act and S. 1885 Nelson 1 (Mod2) preemption amendment and an in-person meeting in Montreal during the ITS World Congress—the Task Force took critical votes on November 13, 2017, that served as recommendations to the Executive Committee. Consideration by the Executive Committee was time sensitive. ITS America has been asked by senators to specifically provide a position on the Nelson preemption amendment and on the bill due to the unique makeup of the association—states, cities, MPOs, OEMs, tech, and research universities.

The Executive Committee recognized and thanked the leadership of Task Force co-chairs Darran Anderson of the Texas Department of Transportation, and Lauren Isaac with
EasyMile, and the members of the Task Force. Please contact Ron Thaniel, ITSA Vice President of Legislative Affairs, for more information on the bill.

**National Associations Representing State and Local Government Support Senate AV Bill**

National associations representing state and local governments sent a letter to Senators John Thune (R-SD), Bill Nelson (D-FL), and Gary Peters (D-MI) expressing support for S. 1885, "American Vision for Safer Transportation through Advancement of Revolutionary Technologies ("AV START") Act." The coalition wrote that: "We believe that the AV START Act’s approach appropriately establishes federal preemption by prescribing subject matters specifically to those contained in a safety evaluation report, thereby preserving the historical federal partnership with state and local governments.” Similar to ITS America, the associations urged further defining of the term “performance” to exclude the act of complying with traffic laws.


**ITS America Bill Snapshot**

The U.S. Senate Committee on Commerce, Science, and Transportation approved on Wednesday, October 4, 2017, by voice vote the AV START Act. Here is a bill snapshot:

- The most noteworthy change in the bill comes from an amendment from Ranking Member Bill Nelson (D-FL). It states that “No State or political subdivision of a State may adopt, maintain, or enforce any law, rule, or standard regulating the design, construction, or performance of a highly automated vehicle (HAV) or automated driving system with respect to any of the safety evaluation report subject areas (SER).” SER areas include system safety, data recording, cybersecurity, human-machine interface, crashworthiness, capabilities, post-crash behavior, account for applicable laws, and automation function. The
The bill keeps preemption that would stop a state from issuing a license for the operation or use of a highly automated vehicle in a manner that discriminates based on disability.

- The bill expands the number of FMVSS exemptions for HAV systems that NHTSA can grant from 2,500 to 15,000 vehicles in the first year, 40,000 vehicles in the second year, and 80,000 vehicles for any 12-month period following the second year. A manufacturer of a highly automated vehicle may petition the Secretary to expand the exemption to more than 80,000 vehicles in any 12-month period after the exemption has been in place for 4 years.

- The bill establishes a Highly Automated Vehicle Technical Safety Committee that will study system safety, automated steering and braking, crashworthiness, event data recording and data access and sharing, accessibility, and potential conflicts with existing FMVSS and provide recommendations on performance standards and harmonization of national highly automated vehicle safety standards.

- Under the Consumer Education, the Secretary is required to establish a working group to develop guidelines on consumer education efforts to improve the public’s understanding of advanced driver assist systems and automated vehicle technologies.

- The AV START Act requires manufacturers of highly automated vehicle systems to develop a cybersecurity plan.

- The bill does not include vehicles weighing 10,000 pounds or more (i.e. trucks and buses).

The AV START Act will next move to the full chamber. Parliamentary options are currently being reviewed including unanimous consent. Staff discussions will start soon with the House Committee on Energy and Commerce staff on the House passed H.R. 3388, Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act or the “SELF DRIVE Act.”

CBO AV START Act Cost Estimate
The Congressional Budget Office (CBO) estimates that implementing S. 1885, “American Vision for Safer Transportation through Advancement of Revolutionary Technologies (“AV START”) Act” would cost $22 million over the 2018-2022 period, assuming appropriation of the necessary amounts.

Click here for more information: https://www.cbo.gov/publication/53298

As reported previously by ITS America, the CBO cost estimate on H.R. 3388, Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act or the "SELF DRIVE Act" would cost $10 million over the 2018-2022 period, assuming appropriation of the necessary amounts.

Click here for more information: https://www.cbo.gov/publication/53067

**Senate Confirms Key USDOT Posts**

The Senate confirmed Derek Kan 90-7 on Monday, November 13, 2017, as U.S. Department of Transportation Undersecretary for Policy. Kan was a General Manager for Lyft in Southern California and has served on the Board of Amtrak since 2015. He previously served as a Policy Advisor to Senate Majority Leader Mitch McConnell (R-KY).

The Senate also confirmed Steven Bradbury 50-47 on Tuesday, November 14, 2017, as U.S. Department of Transportation General Counsel. Bradbury was a Partner at Dechert LLP in Washington, D.C., and previously served in the Department of Justice in the George W. Bush administration.

Diana Furchtgott-Roth is awaiting confirmation to be the Transportation Department’s Assistant Secretary for Research and Technology.

Cathy Gautreaux, the former Executive Director of the Louisiana Motor Transport Association is now the Deputy Administrator of the Federal Motor Carrier Safety Administration. The number-two position at FMCSA does not require confirmation by the Senate.

**ITS America Receives Briefing on Senate Broadband Deployment Bill**
Olivia Trusty, Professional Staff Member for Senate Commerce, Science and Transportation Subcommittee on Communications, Technology, Innovation and the Internet, briefed ITS America’s Advocacy and Innovation Trust on Monday, November 13, 2017, on S. 1988 “Streamlining Permitting to Enable Efficient Deployment of Broadband Infrastructure Act of 2017” or the “SPEED Act.” The SPEED Act was introduced by U.S. Senators Roger Wicker (R-MS) and Catherine Cortez Masto (D-NV) on October 20, 2017. It would accelerate the deployment of new broadband infrastructure to both rural and urban areas by streamlining the permitting process for telecommunications equipment that is installed in right-of-way, or on a building or other property owned by the Federal Government.

Click here to view the bill:

Next Gen Wireless Infrastructure Bill Staff Draft: ITS America Seeking Member Feedback

Senate staff have reached out to ITS America legislative affairs in hopes of gaining insight from our members on the Next Gen Wireless Infrastructure bill staff draft recently released by Senators John Thune (R-SD) and Brian Schatz (D-HI). The intent of the legislation is to streamline the siting process for building out next generation wireless infrastructure. The staff draft specifically would:

- Harmonize shot clocks for applications and deem granted
  - The Communications Act does not provide timeframes for state and local governments to act on siting requests. The proposed bill would legislatively impose timeframes – 60 days for collocation and 90 days for all other requests and includes deem granted provisions to enforce the shot clocks.

- Preserve the authority of state and local governments to require fair and reasonable compensation for attachment or access to their poles or other property. This section provides that state and local governments may charge fees for considering all siting requests, so long as they are based on actual and direct costs.
• Ensure statutory definitions cover current and future services – The proposed draft would change “personal wireless services” to “wireless services” which generally includes all forms of radio communication.

• Promote the deployment of broadband infrastructure by encouraging state and local authorities to communicate with wireless carriers and other stakeholders prior to the commencement of a highway project to determine whether to include broadband conduit at that time (similar to the provision in MOBILE NOW).

• Clarifying local cable franchising rules: The Cable Act grants state and local authorities a defined role in authorizing cable system facilities in the public rights-of-way. This section would clarify that franchising authorities may not require providers to obtain multiple franchises for different services offered by the same provider over the same facilities, and may not impose additional franchising or fee requirements for deploying equipment on cable system facilities already authorized to be in the rights-of-way.

• Require the FCC to publish state broadband deployment guidelines containing model laws for the state regulation of communications services.

ITSA legislative affairs is seeking feedback on the staff draft. The deadline for feedback has been extended until November 27, 2017. Please email feedback to ITSA Vice President of Legislative Affairs at rthaniel@itsa.org. Click here to view the staff draft: https://www.itsa.org/s/11-7-17-Thune-Schatz-Staff-Discussion-Draft.pdf

**ACTION ALERT: Urge Support for Technology Transportation Funding in an Infrastructure Bill**

With House and Senate transportation committees beginning to flesh out their priorities for an infrastructure package, ITSA urges urges the Advocacy and Innovation Trust to meet with members of Congress while home in their districts during the Thanksgiving recess. Explain how intelligent transportation technologies are positioned to solve many of our nation’s most critical transportation challenges while growing the economy and enhancing safety, mobility, accessibility, and
sustainability. Explain that the infrastructure bill is the vehicle to fully integrate intelligent transportation systems on a large scale into the nation’s transportation network and build the infrastructure necessary to accommodate the next generation of mobility.

Urge them to:

1. Support new funding for Fixing America’s Surface Transportation (FAST) Act—recognizing that Moving Ahead for Progress in the 21st Century Act (MAP-21) and FAST Act clarified that ITS improvements are eligible uses of most formula program funds. Specifically urge them to support new funding for the Intelligent Transportation Systems Program (ITS), Advanced Transportation and Congestion Management Technologies Deployment Program, Technology and Innovation Deployment Program (TIDP), and for the Surface Transportation Block Grant program (STBG) and Congestion Mitigation and Air Quality Program (CMAQ) – flexible programs that often fund deployment activities.

2. Provide new funding for a new transportation program that would fund ITS, congestion mitigation, and mobility improvements. Eligible projects would include capital and operational investments that improve system safety and performance. Examples include priced managed lanes; transportation demand management programs; strategic transit investments; advanced parking, freight delivery, and incident management systems; and programs to support the deployment of autonomous vehicles, including vehicle-to-vehicle, vehicle-to-infrastructure, and vehicle-to-pedestrian communications technologies. Point to the Bush-era Urban Partnership Agreements as an example of a tried-and-tested program.

**DeFazio Urges OMB to Finalize Life-Saving, Connected Vehicle-to-Vehicle Rulemaking**

Ranking Democrat on the House Committee on Transportation and Infrastructure Peter DeFazio (D-OR) sent a letter on November 7, 2017, to Director of the Office of Management and Budget (OMB) Mick Mulvaney urging him to act on a Notice of Proposed Rulemaking to bring connected vehicle technology, known as Dedicated Short Range Communications (DSRC) to all vehicles.
“This rulemaking follows decades of hard work to develop a unifying communication standard for the auto industry, assuring that new vehicles can seamlessly communicate,” said DeFazio. “That technology is now ready for deployment, potentially saving tens of thousands of lives per year. All that is needed is a rule to finalize the standards.”


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