POLICY RUNDOWN

For Advocacy Trust and Start-Up Members

March 12-23, 2018

Programming Note: With Congress leaving for a two-week recess, the Policy Rundown will be back on Friday, April 6.

Federal Administration Policy and Regulatory News

National Transportation Safety Board Begins Investigation of UBER Crash in Arizona

A National Transportation Safety Board (NTSB) team arrived in Tempe to investigate the crash earlier this week involving a self-driving Uber. NTSB is also investigating the non-fatal collision of a self-driving shuttle bus and a truck in Las Vegas in November, 2017.

NTSB also investigated the May 2016 crash of a Tesla Model S with the "autopilot" semi-autonomous feature. The Tesla in autopilot mode crossed paths and crashed into the back of a semi-tractor trailer truck, killing the Tesla driver -- a driving and crash scenario the autopilot system was not designed or advertised to automate or mitigate. NTSB found Tesla at fault, although an investigation by the National Highway Traffic Safety Administration (NHTSA) did not find any defects in the system design and, by implication, attributed the crash to human error. (NHTSA investigates problems or defects in vehicle equipment, but does not investigate the cause of the crash beyond this, leaving it to NTSB).

In the Model S Case, NTSB declared that Tesla's warnings and disclaimers aside, the carmaker bore some of the responsibility for the crash since the autopilot system did not forbid the the driver from misusing or abusing the system. "The combined effects of human error and the lack of sufficient system controls resulted in
a fatal collision that should not have happened," said Robert Sumwalt, chairman of the NTSB.

**ITS America Submits Comment to NHTSA on Regulatory Barriers to Automated Vehicle**

ITS America submitted comments to National Highway Traffic Safety Administration (NHTSA) as a follow up to its notice and March 6th public meeting on regulatory barriers in the existing Federal Motor Vehicle Safety Standards (FMVSS) on the testing, compliance certification and compliance verification of motor vehicles with Automated Driving Systems (ADSs) and certain unconventional interior designs.

In its comments, ITS America stated that it “agrees with NHTSA that further research and analysis should be conducted to look at how current FMVSS may (or may not) pose a significant barrier to Automated Driving Systems (ADS). ITS America also agrees with NHTSA that “...unconventional seating and flexible seating systems are worth investigating. In particular we see opportunities to revisit passenger seating arrangements that might support people with disabilities.”

Long standing member Virginia Tech Transportation Institute (VTTI) is conducting a study for NHTSA examining technical translations to existing FMVSS and related testing procedure approaches for emerging innovative and non-traditional vehicle designs. In a March 6th NHTSA public meeting on the topic, commentators suggested crashworthiness/occupant protection standards (FMVSS 200 series) are a limiting factor, especially given lack of “omni-directional” anthropomorphic test devices (ATD or crash test dummies are optimized for only certain types of crash scenarios). Commenters suggested that biomechanics and human injury potential might be computer simulated to support occupant protection testing for unconventional interior seating approaches but would still need to be addressed in FMVSS.

ITS America encourages members to engage in this work with VTTI, which is meeting on April 3 (full day) and 4 (half day) in Washington, D.C. to provide the VTTI research team with input surrounding FMVSS technical translations and test procedures. The meeting will also hopes to identify potential barriers for self-certification and compliance verification of innovative new vehicle designs precipitated by Automated Driving Systems (ADSs). Click here to register for the VTTI Automated Vehicle event.
Industry Analyst, Foundation, Think Tank, and Cable Industry Attack DSRC, Promote Broadband and Suggest New Technology Is the Automotive Future

The Open Technology Institute of the New America Foundation hosted a panel featuring Strategy Analytics, the Competitive Enterprise Institute, the National Cable and Telecommunications Association, Bloomberg, and ITS America member CISCO. All panelists, with the exception of CISCO, were generally critical of DSRC technology and the 2016 proposed Federal Standard for V2V and advocated for FCC action to revisit the need for 1) dedicated spectrum for ITS in general, or 2) DSRC V2X technology, or 3) both.

Mary Brown, Senior Director for Government Affairs at CISCO, defended the effort and the DSRC standard in reference to Cellular V2X (also referred to as 4G LTE release 14 V2X). “Every passing year ... the view about what should happen to the ideas of using radio to make us safer has becoming increasingly splintered, and now I count five mutually exclusive views.” She added that given support of most Auto OEMS, NHTSA and the state departments of transportation, “it [DSRC] does not feel dead to me.” (CSPAN Video Clip 00:34:20).

ITS America Briefs National Governors Association (NGA) on Safety Spectrum

At the request of the National Governors Association (NGA), ITS America (along with Safety Spectrum Coalition partner Automakers) briefed the governors’ staffs on March 20, 2018, regarding the status of FCC action on Vehicle-to-Everything (V2X) communications. Governors’ staff discussed the “Safety Sooner” Coalition (a coalition of 22 state and local transportation agencies) and prospects for FCC action that may compromise or delay the effort to deploy V2X.

FCC Adopts Order to Streamline Permitting for Wireless Infrastructure

On March 22, 2018, the Federal Communications Commission (FCC) adopted, by a vote of 3-2, new rules streamlining the wireless infrastructure siting review process to facilitate the deployment of 5G and next-generation wireless facilities. Commissioners Jessica Rosenworcel and Mignon Clyburn, both Democrats, dissented mainly because of concerns expressed by Native American tribes.
According to the FCC, the Order focuses on ensuring the Commission’s rules properly address the differences between large and small wireless facilities and clarifies the treatment of small cell deployments. Specifically, the Order:

- Excludes small wireless facilities deployed on non-Tribal lands from National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) review, concluding that these facilities are not ‘undertakings’ or ‘major federal actions.’ Small wireless facilities’ deployments continue to be subject to currently applicable state and local government approval requirements.

- Clarifies and makes improvements to the process for Tribal participation in Section 106 historic preservation reviews for large wireless facilities where NHPA/NEPA review is still required.

- Removes the requirement that applicants file Environmental Assessments solely due to the location of a proposed facility in a floodplain, as long as certain conditions are met.

- Establishes timeframes for the Commission to act on Environmental Assessments.

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**Legislative News**

**Omnibus Includes Large Increases for Transportation Infrastructure**

As Policy Rundown heads to press, President Trump tweeted this morning, March 22, 2018, that he may veto the $1.3 trillion spending bill Congress just passed. He cited the bill’s lack of funding for the wall along the U.S.-Mexico border and that it does not extend protections for Deferred Action for Childhood Arrivals (DACA), which President Trump had sought to cancel. Reports yesterday were that the President intended to sign the bill. As Congress has left Washington for a two-week recess, a veto could set up another government shutdown. H.R. 1625 (115) is the largest federal spending increase in years and would keep the government operating through September, 2018.
ITS America will continue to review the 2000+ page spending bill and provide updates. MEMBERS: as you review the bill, please flag any concerns or questions.

Read the Omnibus Appropriations Budget Act here.

**Omnibus: Department of Transportation**

The Department of Transportation will receive $27.3 billion in discretionary appropriations for Fiscal Year 2018. This is $8.7 billion above the FY 2017 enacted level. The total budgetary resources, including offsetting collections, provides $86.2 billion for FY 2018.

**Omnibus: Roads and Bridges**

The Omnibus includes $47.5 billion for the Federal-aid Highways Program, including $45 billion from the Highway Trust Fund, which is consistent with the authorized level in Fixing America's Surface Transportation Act or FAST Act. This is a $3.5 billion increase over FY 2017. The Surface Transportation Block Grant Program will receive $1.98 billion of the new money for the Federal-aid Highways Program. The bill continues a provision to allow old, unused earmarks to be re-purposed for transportation projects.

**Omnibus: Safety and Technology**

The National Highway Traffic Safety Administration will receive $947 million, an increase of $36 million. The Federal Motor Carrier Safety Administration will receive $844.8 million, an increase of $201 million. Key research and deployment programs are funded at authorized levels in the FAST Act, including Intelligent Transportation Systems (ITS Program) at $100 million; Technology and Innovation Deployment Program at $67.5 million; Advanced Transportation and Congestion Management Technologies Deployment Program at $60 million; and Highway Research and Development Program at $125 million.

**Omnibus: Self-Driving Vehicles**

Included in the Federal Motor Carrier Safety Administration budget is $100 million for the highly automated vehicle research and development program, which includes $60 million for demonstration grants to test the feasibility and safety of self-
driving vehicles and $38 million to research self-driving cars, including cyber security.

**Omnibus: Unmanned Aircraft Systems**

The bill includes $18 billion for the Federal Aviation Administration, which is $1.6 billion above the FY 2017 level. It includes more than $100 million to further support the integration of Unmanned Aircraft Systems.

**Omnibus: TIGER**

The bill triples the size of the popular Transportation Investment Generating Economic Recovery (TIGER) Program. For FY 2018, the TIGER program will receive $1.5 billion, a $1 billion increase. President Trump's budget called for eliminating the TIGER program.

**Omnibus: Bus and Rail**

The bill provides $13.5 billion for the Federal Transit Administration, which is a $1 billion increase. This includes a total of $2.6 billion for Capital Investment Grants ("New Starts") to fully fund all current agreements and fund all new projects expected to be ready for grant agreements. The spending bill includes $3.1 billion for the Federal Railroad Administration, which is $1.3 billion. This includes $650 million to Amtrak for the Northeast Corridor and $1.3 billion for the National Network. The bill includes $863 million in grants to support the implementation of Positive Train Control (PTC).

**Omnibus: MOBILE NOW**

The spending bill includes Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act or the MOBILE NOW Act, which requires a state to (1) identify a broadband utility coordinator to facilitate the broadband infrastructure right-of-way efforts within the state; (2) register broadband infrastructure entities that seek to be included in those facilitation efforts; (3) establish a process to electronically notify such entities of the state transportation improvement program on an annual basis; (4) coordinate statewide telecommunication and broadband plans and state and local transportation and land use plans, including strategies to minimize repeated excavations that involve the installation of broadband infrastructure in a right-of-way; and (5) ensure that any existing broadband infrastructure entities are not disadvantaged. MOBILE NOW states that this
requirement is not a mandate or requirement that a state install broadband infrastructure in a highway right-of-way.

**Omnibus: Broadband**

The Omnibus includes $600 million for rural broadband, stating the funding is targeted to areas that currently lack access to broadband service. This new program is in addition to the current USDA broadband loan program, which provides $29.8 million in loans annually, and the Community Connect broadband grant program, which is funded at $30 million.

**Opinion: Fixing America's infrastructure: The road forward**

By Senate Environment and Public Works Chairman John Barrasso (R-WY)


**Opinion: Infrastructure is not a Republican or Democratic issue – it's an American issue**

By House Transportation and Infrastructure Chairman Bill Shuster

“There are no Republican roads or Democratic airports. Personal ideology has no bearing on whether your train is on time or if the milk makes it to the shelf at your local grocery store. A modern, efficient transportation system benefits urban and rural America and addresses regional concerns while having a national impact.” Read more here. [https://transportation.house.gov/news/documentsingle.aspx?DocumentID=402307](https://transportation.house.gov/news/documentsingle.aspx?DocumentID=402307)

**ITS America Calls for an Infrastructure Bill that Prioritizes Investments in Intelligent Transportation Technologies**

In anticipation of the Senate Committee on Commerce, Science, and Transportation hearing on the Administration’s infrastructure plan on March 14, 2018, ITS America President and CEO Shailen Bhatt sent a letter to the Committee urging that the infrastructure plan prioritize investment in intelligent transportation technologies.
ITS America put forth six key recommendations:

1. Leverage existing FAST Act programs: Increase funding for FAST Act programs. Intelligent transportation technologies, including vehicle-to-infrastructure, are eligible uses of most FAST Act highway program funds.

2. Create grants for emerging technologies that support congestion relief: Provide new funding for intelligent transportation deployment activities that support congestion relief.

3. Expand opportunities for smart communities: Build on the successes of the 2015 Strengthening Mobility and Revolutionizing Transportation (SMART) Cities Challenge administered by the U.S. Department of Transportation by including new federal funding to expand opportunities for communities – large and small/urban and rural – to compete for resources that will fund innovative and sustainable smart transportation projects.

4. Increase development of Electric Vehicle (EV) charging infrastructure: Additional development of EV charging station corridors based on federal and state incentive projects as well as public private partnerships. Continue to look at new technologies such as inductive charging to speed the deployment of EVs.

5. Develop additional opportunities for broadband deployment: Provide new federal funding for broadband in unserved areas – both rural and metropolitan – to support the deployment of intelligent transportation applications that depend on connectivity.

6. Provide investments to stabilize the Highway Trust Fund and more resources for intelligent transportation technologies: Provide new and long-term investments to stabilize the Highway Trust Fund, increase federal funding for intelligent transportation technologies, and provide a multi-faceted approach to leveraging public and private resources.
Virginia General Assembly Fails to Pass Ban on Handheld Cell Phone Use

Efforts to further restrict the handheld use of cell phones while driving failed in the Virginia General Assembly as attempts to reconcile differences between versions passed by the House of Delegates and the Senate were not successful. The House version reportedly would have slightly tightened current law to ban any cell phone use that "substantially distracts a driver," while the Senate bill would have banned all handheld cell phone use while driving. Current law only prohibits text entry while driving.

The Delaware DMV Commences Mobile Driver License Pilot Study

The Delaware Department of Transportation announced the start of a Delaware Division of Motor Vehicles mobile driver license (mDL) six-month pilot study to test user acceptance and new innovative features associated with a mDL. Delaware is one of the first states to consider using this new technology. In an attempt to address any issues that arise before full adoption and implementation, features of the mDL to be studied include: enhanced privacy for age verification, law enforcement use during traffic stops, business acceptance, ease of use, and secure access. Delaware hopes mDL will be a secure credential used in a seamless manner by consumers, businesses and law enforcement.

Maryland Lawmakers Consider Raising Fines for Texting and Driving

In Maryland, the current law in place for texting and driving permits fines of $75 to $175, depending on the offense. However, some lawmakers reportedly believe that the fines are too low and are an insufficient deterrent to handheld cell phone use by drivers. Del. Frank Turner, (D- Howard), is sponsoring House Bill 42, which would raise the maximum fine for texting and driving to $500. Opponents of the bill say a $500 fine could cause legal issues for those who are unable to pay. The Maryland House of Delegates passed the bill last week and the Senate Judicial Proceedings Committee held a hearing on March 20.

Utah Legislature Approves Bill Allowing for Tolling on More Roads

Earlier this month, the Utah Senate reportedly approved amendments previously passed by the state House of Representatives to SB0071 that would remove the restrictions on
roads that can be tolled. According to press reports, the bill also would allow modernized toll collection through newer electronic tolling methods, including “cameras that read license plates, deduct toll amounts from online accounts set up by drivers, or send bills to car owners’ homes.”

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