

NSTA Legislative Update

January 12, 2010

- **Tax Credits for Commercial Motor Vehicle Safety Technologies:** Congressman Mike Thompson (D-CA) and Congressman Geoff Davis (R-KY) introduced the Commercial Motor Vehicle Advanced Safety Technology Tax Act of 2009 (HR 2024) in April. This legislation creates a tax credit of up to \$1,500 for each qualified commercial vehicle advanced safety system, including: brake stroke monitoring systems, lane departure warning systems, collision warning systems or vehicle stability systems. Private school bus operators are eligible for the credit. The legislation has 29 cosponsors. Senators Stabenow and Voinovich introduced the identical bill in the Senate, S. 1582, on August 5. The bill has attracted one cosponsor, Senator David Vitter (D-LA). The issue is likely to be considered as part of the overall SAFETEA-LU debate. NSTA has joined a coalition to advocate for the passage of this bill. Other coalition members include the United Motorcoach Association, American Trucking Association, American Bus Association, Motor and Equipment Manufacturing Association (MEMA), Commercial Vehicle Safety Alliance and ITS America, among others.
- **Motorcoach Safety:** On December 17, the Senate Commerce, Science, and Transportation Committee unanimously approved the Motorcoach Enhanced Safety Act of 2009 (S.554), legislation sponsored by Senator Kay Bailey Hutchison (R-TX), Ranking Member on the Committee, and Senator Sherrod Brown (D-OH). Congressman John Lewis has introduced the same bill in the House (HR 1396). The bills are essentially the same as last year's bill with the exception of new standards for remanufactured motorcoach tires. Due to Senator Hutchison's intention to run for Governor and therefore her potentially short remaining tenure, she has expressed a desire to move this bill quickly and by unanimous consent, however, a floor schedule for such action has not yet been determined. It is clear, however, that House Transportation and Infrastructure Committee Chairman Jim Oberstar (D-MN) does not want to move it outside of SAFETEA-LU. As a result, SAFETEA-LU will still be the likely endgame for the bill.

Congressman Bill Shuster (R-PA) and Congresswoman Eddie Bernice Johnson (D-TX) introduced the Bus Uniform Standards and Safety Act of 2009 (BUSES Act HR 1396) in February addressing motorcoach safety issues and occupant protection issues. Congressman John Carter (R-TX) recently joined Congresswoman Jean Schmidt (R-OH), Congressman Lloyd Doggett (D-TX), Congressman Glenn Thomson (R-PA), Congressman Robert Latta (R-OH), Congressmen Jimmy Duncan (R-TN), and John Mica (R-FL) as a cosponsor. The motorcoach industry participated in drafting the bill and supports it.

- **Second Stimulus Bill:** The Congressional Budget Office (CBO) has released its cost estimate of the second economic stimulus bill of this Congress as passed by the House on December 16. Overall, the cost of the bill would be \$64.9 billion over the next ten years assuming that the reduction in the Troubled Asset Relief Program (TARP) spending authority will save \$75 billion.

The bill would redirect money from TARP into programs for "Main Street" projects such as shovel-ready road improvements. It includes \$48.3 billion set aside for infrastructure projects. That amount includes \$27.5 billion for highways and \$8.4 billion for transit and \$2.1 billion for clean-water infrastructure. The measure also includes \$500 million for airport improvements, \$800 million for Amtrak, and \$100 million for ship construction. It would set aside \$26.7 billion to prevent the layoffs of public sector employees, including teachers, police and firefighters.

The bill would also extend SAFETEA-LU through Sept. 30, 2010, and permitting 100% Federal share on transportation projects through the fiscal year. The legislation would also restore lost interest to the highway trust fund, repeal a restriction that blocks the Highway Trust Fund from earning interest and

ensure that fuel tax exemptions are taken from the general fund instead of the trust fund. The Senate is also preparing its own second stimulus bill which is likely to be quite similar. We understand it is likely to extend SAFETEA-LU through December 31, 2010. Senate consideration is expected in February. The spending breakdown is as follows:

Infrastructure Spending:

The second stimulus bill contains new infrastructure spending, delivered virtually the same way the first stimulus infrastructure funding was given out, as follows:

\$27.5 B – highways

\$8.4 B – transit

\$2.1B – water infrastructure

\$715 M – Corps of Engineers construction

\$500 M – airport improvements

\$800 M – Amtrak

\$100 M – ship construction

Other major spending:

\$23 B – Education Jobs Fund

\$1.18 B – Law enforcement jobs

\$500 M – Firefighter Jobs

\$200 M – Americorps and National Service Trust

\$500 M – Summer Youth Employment

\$300 M – College Work Study

\$270 M – Parks and Forestry Workers

\$750 M – Job Training for High Growth Fields

\$41 B – Six month extension of unemployment benefits

\$12.3 B – Extension of COBRA subsidy

\$354M – Small Business Loans

\$23.5 B – FMAP Extension – Medicaid

\$2.3 B – Child Tax Credit

\$305 M – Assistance Eligibility

- **Preserving the Charter Bus Final Rule:** Senator Patty Murray (D-WA) included very damaging language in the final FY 2010 Department of Transportation, Housing and Urban Development and Related Agencies Appropriations bill signed into law in December preventing enforcement of the FTA charter service rule in Seattle. The bill also contains a provision directing the DOT Inspector General to conduct a review of the charter bus rule and its impacts on costs and services. The Coalition of Private Passenger Transportation Organizations, of which NSTA is a member, and operators across the country worked with Senator Murray through the fall and were successful in persuading her to limit the provision to Seattle, as opposed to all of Washington State, the original Senate provision. This provision will severely impact private school bus and motorcoach companies operating in the Seattle area and sets a very negative precedent. The move is a major attack on Congress' strong 35 year history to protect school buses against unfair federally subsidized competition. In January, COPPTO is focused on consideration of possible legal action on the provision, outreach to the IG's office to try to ensure the report issued is balance and a renewed advocacy effort on Capitol Hill to protect the rule from further assaults.

In another affront, Congressman Adam Schiff (D-CA) and Congressman David Dreier (R-CA) from Southern California issued a "Dear Colleague" letter in May to all Members of the U.S. House of Representatives asking them to support legislation that would essentially render the recently revised Charter Service Rule ineffective. The letter was precipitated because of a conflict over transportation service to Rose Bowl events. NSTA, UMA and the Coalition of Private Passenger Transportation Organizations (COPPTO), have sent letters to all members of Congress voicing concern and have met

with Congressional staff. The Coalition has met with Congressman Dreier and Congressman Schiff to help them understand the impact on private operators of such a move. Congressman Dreier has backed off the initiative but Congressman Schiff continues to have concerns. The Coalition is also assisting California operators in their attempts to strike an agreement with the Rose Bowl on a number of events at the venue going forward. A new coalition has been launched to fight unfair government competition, called the Business Coalition for Fair Competition by Senator John Thune (R-SD) and Congressman Jimmy Duncan (R-TN). They introduced the "Freedom from Government Competition Act of 2009" in June. NSTA, UMA and COPPTO will make preservation of the charter rule and its provisions a high priority during consideration of the reauthorization bill.

- **School Bus Policy Statement and NPRM:** On June 26, the Federal Transit Administration (FTA) withdrew its Notice of Proposed Rule Making (NPRM) to revise its school bus regulations. While citing the many positive comments (including from many NSTA members and the Coalition of Private Passenger Transportation Organizations (COPPTO)), FTA based its withdrawal on the claim that many commenters misunderstood FTA's objectives to rectify a significantly outdated regulatory scheme. However, the Final Policy Statement on FTA School Bus Operations Regulations issued in September of 2008 was NOT withdrawn. The Policy statement preserves a strict interpretation of tripper service and confines the Rochester interpretation to the Western District of New York. This Policy remains in place. NSTA met with FTA Administrator Rogoff in September to discuss the school bus rule. Administrator Rogoff indicated at the meeting that the Policy Statement would be reviewed by the new administration, along with all previous Policy Statements. This issue may also be considered as part of the reauthorization bill.
- **Federal Funding Request for School Bus Public Education and Awareness Campaign:** On December 2 and 3, NSTA President Donnie Fowler and former President Terry Thomas joined other representatives of the American School Bus Council (ASBC) in Washington DC to seek agency and Congressional support for \$5,000,000 in federal funding for the design and implementation of a two-year national public education and awareness campaign to promote the safety, environmental, economic, energy and academic benefits of increased school bus ridership. The group met with Administration officials, including Kelly Greenman, Environmental Policy Analyst at the Department of Transportation (DOT), and Jim Blubaugh, Manager of the Innovative Strategies Group, Office of Transportation and Air Quality, at the Environmental Protection Agency (EPA). The team also had meetings in the offices of key Members of Congress, including Congressman Mike McMahon (D-NY), Congressman John Mica (R-FL), Senator George Voinovich (R-OH), Senator Ben Cardin (D-MD), Senator James Inhofe (R-OK), Congressman Phil Hare (D-IL) Congressman Bob Etheridge (D-NC), Congressman Jerry Costello (D-IL), Congresswoman Judy Biggert (R-IL), Congressman Howard Coble (R-NC), and Congressman Jim Oberstar (D-MN). ASBC is working on generation of House and Senate support letters to be signed by multiple Members to Secretary LaHood asking him to fund the campaign from existing transportation resources. We are also considering possibilities for funding the campaign from safetea-lu or stimulus bills.
- **DERA:** On December 8, applications closed for the next round of funding for the Diesel Emission Reduction Act (DERA). This round contains \$32 million in fiscal 2009 funding but we anticipate that EPA will also have an additional \$32 million in fiscal 2010 funding. The applications will again be managed in the Regional offices of EPA. Additional funding totaling \$28 million in each year is available to help fund state programs, for technology development and to help fund the SmartWay loan program. Contractors may apply for grant funding either through their school districts or through an eligible non-profit entity, like NSTA. In addition, Congress is continuing to work on funding for fiscal year 2010. In addition, there is continuing speculation about the possibility of another major jobs bill that could be assembled in the late winter that could include significant additional funding for the DERA program. We are continuing to work with EPA, the DERA Coalition in Washington, and congressional office to support such additional funding.

- **Climate Change and Copenhagen:** On December 18, the official end of the two-week climate summit in Copenhagen, negotiators for the U.S., China, India, Brazil and South Africa announced they had reached agreement on limiting carbon emissions. The deal was brokered by last minute intense negotiations between the President Obama and Premier Wen Jiabao of China in which each country agreed to set domestic cuts in emissions that would be subject to international verification in exchange for a commitment for developed countries to establish a fund to assist developing countries with climate adaptation programs. The fund would be capitalized by total contributions of up to \$100 billion per year from developed countries.

The major stumbling block was disagreement between the U.S. and China on the question of openness and transparency. China and other developing nations have been resisting outside verification of their carbon reduction activities that the U.S. says is critical to reach an agreement and persuade Congress to pass climate legislation. At the eleventh hour, Chinese negotiators agreed to language on international verification that was acceptable to the U.S.

Broad strokes of an agreement between the U.S. and China that could lead to a broader agreement started to emerge in late December after Secretary of State Hillary Rodham Clinton pledged U.S. participation in a joint global fund for poor countries of up to \$100 billion annually by 2020 – if developing nations committed to international verification. A few hours later, Chinese Vice Foreign Minister He Yafei said that China would commit to “transparency” and new channels of open communication in its carbon reduction activities. The comments signal a major shift in the Chinese position. China had previously signaled a willingness to reduce their carbon intensity by 40 to 45 percent by 2020. This represents a commitment to improving their energy efficiency without, necessarily actually reducing total emissions.

Negotiators were unable, however, to craft an agreement that covered binding commitments of all nations to carbon reduction targets so much work remains. Most observers believe this sets the stage for further intense negotiations next year and into 2011 to find consensus on what each country agrees to do to meet a long term goal of cutting carbon emissions. Any agreement at the international level would still need to be both approved by the United States Senate and implemented through domestic legislation. The House has already passed a bill that tracks what the Obama Administration is offering in negotiations but the bill’s prospects are much in doubt in the Senate.

- **Employee Free Choice Act:** Card check/labor law reform legislation remains a priority for President Obama and the Democratic Congress. Congressman George Miller (D-CA) introduced the Employee Free Choice Act (HR 1409) on March 10 and it has since gained 227 cosponsors. Democrats need votes from every Caucus member to pass it this time around and currently do not have 60. Senator Edward Kennedy (D-MA) introduced the bill in the Senate and it currently has 40 cosponsors. NSTA remains an active member of the business coalition opposing EFCA, the Coalition for a Democratic Workplace, which continues to champion the issue. While it appears the votes do not exist for the card check portion of the bill, efforts are underway now to craft a labor law reform compromise bill which could include other elements of EFCA including binding arbitration, compressed voting periods and requiring employers to provide union access to their property during working hours. It is unclear if anything will be brought up on this issue in 2010.
- **SAFETEA-LU Reauthorization:** SAFETEA-LU programs are continuing to operate under a series of extensions, the third one in effect now which extends programs to February 28, 2010. In the House passed second stimulus bill, SAFETEA-LU is further extended to September 30, 2010. The Senate will likely act on their own second stimulus bill in February and we are hearing their bill is likely to extend SAFETEA-LU further to December 31, 2010. All indications are that the comprehensive bill will not be resolved before November elections and will likely be pushed back to a lame duck session or into 2011. The House passed second stimulus bill also contains provisions to bolster the Highway Trust Fund’s health, including recapturing of lost interest, the ability of the HTF to earn interest, and a

provision to ensure fuel tax exemptions come from the GF rather than the HTF. The school bus fuel tax exemption, as well as all other fuel tax exemptions would remain intact, but the cost of them would be borne by the General Fund instead of the Highway Trust Fund. The Senate is likely to include this provision in their second stimulus bill as well.

PAC REPORT:

The current balance of the NSTA PAC as of January 11, 2010 is \$14,839.85