

ARVC NATIONAL ISSUES BULLETIN

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*An e-mail service for members of the National Board of Directors, the Chairman's Club, the Public Affairs Committee and the Business Forum by ARVC Consultants Aubrey King (301.464.8060) and David Gorin (703.448.6863), who can provide more details on any of the issues reported here. Comments or suggestions are always welcome. **New information added since the last edition of the NIB is in bold.***

HIGHLIGHTS

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New Private Recreation Group Starts
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Bush Administration Proposes Highway Reauthorization Policy
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ARVC Proposes Unfair Competition Position to Forest Service

ARVC has recently urged the United States Forest Service to adopt a policy making clear that revenue from the recreation fee program should not be used to support projects or activities that would compete unfairly with private, commercial businesses in providing visitor services, such as campgrounds. ARVC consultant Aubrey King on July 14th wrote Jim Bedwell, Director of the Forest Service Recreation Program, suggesting that the following policy be explicitly recognized by the agency.

In determining projects, programs and facilities to be funded by revenue generated by recreation fees, Forest Service staff will work closely with Recreation Advisory Councils and local gateway communities to ensure that such projects, programs and facilities do not unnecessarily duplicate or compete unfairly with local businesses in gateway communities, such as commercial campgrounds, convenience stores, gift shops, service stations, restaurants or other businesses. Every effort must be made to ensure that visitor services on the national forests supported or enhanced by recreation fee revenue do not have a negative economic impact on local commercial businesses.

In his response the same day to King, Bedwell replied that pending Forest Service policy statements would “support the thinking you have captured in your document.”

New Outdoor Recreation Study Group Begins Work

A group of 18 well known figures from major national organizations – a group one observer has characterized as the “recreation establishment” – has been formed and held its first meeting to consider and develop recommendations in eleven months for the future of outdoor recreation in America. The Outdoor Resources Review Group (ORRG) is strictly a private sector endeavor after earlier attempts to get Congressional or Presidential authorization were unsuccessful, although Senators Jeff Bingaman (D-NM) and Lamar Alexander (R-TN) are honorary co-chairs. At its inaugural meeting on July 14th, the ORRG heard background historical, contemporary and financial overviews of the status of outdoor recreation at the Federal, State and local levels. Funding questions were raised but not answered at this stage of the ORRG’s work. It was suggested by some ORRG members that the

eleven month work schedule should be expedited to produce at least some major recommendations by November for consideration by the new President's natural resources transition team. The ORRG may also wind up recommending that a more official Federal Study Commission be established to take a more comprehensive look at outdoor recreation challenges. Future ORRG meetings are scheduled for late September, November, January and March. ARVC will monitor the work of the ORRG and urge that the private sector role in providing outdoor recreation be fully considered.

Travel Promotion Act

The major tourism industry continues to seek more cosponsors of the companion Senate and House Travel Promotion Acts. So far, a majority of the House and nearly half the Senate are cosponsors. H.R. 3232 has 230 cosponsors and S. 1661 has 47 cosponsors. But no hearing has yet been scheduled in the House and the Senate bill has been dormant since 11/07 when it was reported out of committee. (For a list of House and Senate cosponsors, go to www.tia.org)

S. 1661, *The Travel Promotion Act* was introduced June 19, 2007, by Senators Byron Dorgan (D-ND), Daniel Inouye (D-HI) and Ted Stevens (R-AK). The bill was approved by the full Commerce Committee on June 27, 2007, despite strong opposition from Senator Jim DeMint (R-SC) who maintains that international marketing is "not a legitimate Federal role." No floor vote has been scheduled in the Senate. The bill has **46** cosponsors. A companion bill, H.R. 3232, was introduced July 31, 2007, in the House by Reps. William D. Delahunt (D-MA) and Roy Blunt (R-MO). The House bill was referred to the Energy and Commerce Committee, the Judiciary Committee and the Homeland Security Committee. No committee hearings or markup have been scheduled. Industry efforts have been focused on obtaining additional cosponsors for H.R. 3232, which now has **224** cosponsors.

A significant industry effort has been underway for the past year and a half to develop support for two broad goals. In September, 2006, the Department of Commerce's U.S. Travel and Tourism Advisory Board published *Restoring America's Travel Brand: A National Strategy to Compete for International Visitors*. In January, 2007, the new Discover America Partnership (formed in September, 2006, by the Travel Industry Association, the Travel Business Roundtable and other industry corporations) published *A Blueprint to Discover America* to advocate modernizing and securing U.S. ports of entry for more recreational and business travel and a national marketing campaign to increase international visitation to the U.S.

S. 1661 and H.R. 3232 would establish a private corporation to promote and market the U.S. as an international travel destination. The corporation and its programs would be financed by public and private sector funds. The Federal share would be funded by a new fee on visitors from visa waiver countries. ARVC worked closely with Senate staff drafting the bill and made several recommendations that were incorporated in the bill as

introduced, including a prominent role for state tourism directors, strong representation for rural areas and small businesses, an enhanced role for the new Under Secretary of Commerce for Tourism Promotion that would entail making an annual report to Congress on the facilitation of international travel to the U.S. and a stronger research role for the Office of Travel and Tourism Industries.

The Omnibus Appropriations Bill passed by Congress in late December, 2007, (signed into law as PL 110-61) contained several positive provisions pertaining to tourism but it said nothing about the Travel Promotion Act.

The Bush Administration remains opposed to any new tourism initiatives that would relax what it regards as essential security requirements or require Federal budget support for new marketing initiatives. A particularly difficult issue that has historically split major portions of the industry and remains a challenge is the identification of a stable, long term Federal funding source.

Tourism Development Legislation

With no new cosponsors since last fall and no companion Senate legislation, this bill appears to be dead for this Congress. If the Travel Promotion Act moves, there may be a possibility of including some portion of it in that legislation.

The Improving Public Diplomacy through International Travel Act, H.R. 3670, was introduced in the House of Representatives on September 26, by Representatives Sam Farr (D-CA), Jon Porter (R-NV), William Delahunt (D-MA) and Roy Blunt (R-MO). It was referred to the House Energy and Commerce Committee and to the Foreign Affairs Committee. The bill has 21 cosponsors, but no new ones since November 9, 2007. There is no companion bill in the Senate.

H.R. 3670 would authorize a \$10,000,000 per year five-year competitive matching grant program to promote international travel to the United States. Grants would range from \$150,000 to \$1,000,000. Beginning with Canada in the first year, Mexico, the United Kingdom, Japan and Germany would be successively phased in during the following years.

Eligible grant recipients are not defined but they would have to match 100 percent of the grant, with not more than 25 percent of the match provided through in-kind goods and services.

Immigration Reform

Although it remains a highly contentious local issue in many communities and in the presidential campaigns and is likely to return to the national stage in 2009, significant

immigration legislation appears dormant for 2008 and the remainder of the 110th Congress.

The issue of illegal immigration appears, however, to continue to generate passionate debate and there have been a variety of attempts in different cities and counties to enact punitive legislation targeting illegal immigrants.

The WSTPC has supported comprehensive immigration reform legislation that would provide a legal route for foreign workers to participate in the economy, many of whom provide a vital and stable workforce for the hospitality industry.

Administration Intensifies Push for National Park Centennial Initiative

The National Park Centennial Initiative remains stalled in Congress because of partisan differences and an inability to identify alternative revenue sources to “offset” the additional \$100 million per year cost of the Initiative. The need for an offset is more acute in the House, which has less latitude in identifying such offsets. In the past month, the White House and the Office of Management and Budget have joined the Interior Department in a strong effort to urge Congress to move the Centennial Bill. First Lady Barbara Bush has told House Majority Leader Steny Hoyer that the Centennial Initiative is one her top personal priorities and she asked his help in scheduling a House vote on it. The WSTPC continues to work with the interindustry coalition led by the National Park Conservation Association in support of the Centennial Initiative.

H.R. 3094, the National Park Centennial Fund Act, introduced by Representatives Nick Rahall (D-WV) and Raul Grijalva (D-AZ), full committee and subcommittee chairs respectively, was marked up and approved by the House National Resources and Public Lands Committee on May 7, 2008. “Visitor enjoyment” is included in this final legislation as a necessary factor for centennial projects promoting health and physical fitness, but it is hoped that this visitor enjoyment provision will be further strengthened in line with S. 2187 in the Senate before final enactment.

S. 2817, the National Park Centennial Fund Act, to authorize and implement the Centennial Initiative was introduced by Senators Ken Salazar (D-CO), Max Baucus (D-MT), Susan Collins (R-ME), Norman Coleman (R-MN) and Jon Tester (D-MT). It combines elements of the Administration proposal and the industry coalition to which the WSTPC belongs, especially recognizing “visitor enjoyment” as a major purpose of the Centennial Initiative. The bill expressly includes a “Visitor Enjoyment and Health Initiative” as a major part of the overall program.

The main hurdle facing Centennial Initiative legislation remains the difficulty of finding an “offset” for the \$1 billion in additional Federal funding that would be authorized.

The 2007 Omnibus Appropriations Bill, P.L. 110-61, provides \$125 million in 2008 funding for the Centennial National Park Initiative/Challenge. In addition, in direct response to suggestions by ARVC and the National Alliance of Gateway Communities, the Omnibus contains the following language regarding Centennial cooperative agreements: " *SEC. 125. The Secretary of the Interior may enter into cooperative agreements with a State or a political subdivision (including any agency thereof), or any not-for-profit organization if the agreement will serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Department of the Interior; and (2) all parties will contribute resources to the accomplishment of these objectives. At the discretion of the Secretary, such agreements shall not be subject to a competitive process.*" (Non-Federal contributions to such agreements may be "in-kind" or cash.)

SPECIAL NOTE: It must be realized that the Centennial provisions in this appropriations bill only apply to the 2008 Federal Fiscal Year. It remains essential for Congress to enact permanent authorizing legislation to establish an ongoing multi-year program. Authorizing legislation remains stalled, primarily because of an inability to identify nearly a billion dollars in budget offsets to fund the overall program.

ARVC continues its strong support of the Centennial Initiative, which promises an historic infusion of funds to maintain and improve national parks and the visitor experience. As a member of an unprecedented coalition of industry and environmental organizations, ARVC has been instrumental in securing the coalition's support for legislative language that would ensure that state tourism offices and gateway communities qualify as partners with the NPS in sponsoring centennial projects and other language ensuring that the enhancement of "visitor enjoyment" would be a prime objective of the Centennial Initiative.

In official comments to Congress ARVC has supported the Centennial Initiative while urging that: (1) the initiative should more explicitly have as a goal to improve and enhance the visitor experience on the national parks and increase visitation on those lands; (2) the initiative should encourage more interagency collaboration and coordination with other Federal land agencies; (3) the initiative should encourage more intergovernmental collaboration and coordination with state tourism offices and gateway communities; and (4) the initiative should not rely on Federal funding from commercial permit and license fees or on fees paid to other Federal land agencies.

The May 2007 Interior Department report on the President's National Park Centennial Initiative (*The Future of America's National Parks: A Report to the President by the Secretary of the Interior Dirk Kempthorne*) follows the major ARVC recommendations made in an earlier letter to Secretary Kempthorne and at a meeting with NPS Deputy Director Dan Wenk. Although brief -- more a summary of goals, objectives and strategies -- four goals and examples pertaining to tourism are mentioned as the report commits the Initiative to:

Provide inspiring, safe and accessible places for people to enjoy – the standard to which all other park systems aspire.

Focus national, regional, and local tourism efforts to reach diverse audiences and young people and to attract visitors to lesser-known parks.

Increase visitation by 25 percent at lesser-known parks through a national tourism effort aimed at helping people to discover the breadth of parks and experiences.

Use the Alaska National Parks Marketing Partnership as a model to reach new audiences and promote off-season visitation.

The President's \$2.4 billion National Park Service budget for Fiscal Year 2008 called for the largest increase in park operations funding ever proposed and leveraged public-private investments that could generate as much as \$3 billion to help the Parks prepare for their 100th birthday in 2016. The proposed budget included 3,000 new seasonal employees, continues increases for park maintenance and targets specific cultural and natural resource improvements. This initiative started with the President's recommendation of a \$230 million increase in fiscal 2008 over 2007 in park operations funding.

This was proposed as the first financial infusion for the President's National Parks Centennial Challenge. It pledges \$100 million in discretionary funds for parks each year of this ten-year period and another \$100 million a year to match equivalent donations for signature projects and programs. Combined with as much as \$100 billion in private donations, it could mean \$3 billion for the parks over the next ten years.

First NPS Centennial Projects Announced

On April 24, 2008, Interior Secretary Kempthorne announced the initial wave of 110 projects to be funded under the NPS Centennial Initiative. These projects will involve 114 private sector partners in 38 states. Overall, \$53 million will be invested in these projects: \$24.6 in Federal funds and \$28.4 million in matching private sector funds. A joint marketing initiative in Alaska between the private sector Alaska Travel Industry Association and the national parks in Alaska was not approved as one of these initial centennial projects.

Recreation Fee Program

On June 18th the House Subcommittee on National Parks, Forests and Public Lands held an oversight hearing on implementation of the Federal Recreation Fee Program as authorized by the Federal Lands Recreation Enhancement Act of 2004 (FLREA). The House Hearing was dominated by critics of the program, such as the Western Slope No-Fee Coalition, who urged that FLREA be repealed. The program was strongly defended

by Agriculture Under Secretary Mark Rey. Subcommittee Chairman Raul Grijalva (D-AZ) expressed concern over the program but did not indicate whether he would support repeal.

The Senate Energy and Natural Resources Committee planned hearing on S. 2438, the Fee Repeal and Expanded Access Act, scheduled for April 15, 2008, was postponed and has not yet been rescheduled. Although it is believed that Congress will be reluctant to eliminate nearly \$90 million in fee revenue for the land agencies, the outlook is uncertain and some Congressional changes in the fee program are being considered.

Senators Max Baucus (R-MT), Mike Crapo (R-ID) and Tester on December 10, 2007, introduced FREAA, which would, as the title suggests, virtually eliminate recreation fees for all Federal land agencies except for the National Park Service entrance fees. No companion bill has yet been introduced in the House.

President's 2009 Budget Proposals for Federal Land Agencies

As in recent years, President Bush's proposed 2008 budget would increase national park funding operations and maintenance funding while sharply cutting the other Federal Land Agencies. Congress is expected to restore much of the cuts but it will be constrained by overall budget ceilings and the threat of Presidential vetoes in an election year.

Following are the President's salient budget proposals (Fiscal 2008 appropriations are in parentheses):

NPS Operations	\$2.132 billion (\$1.971 billion)
National Forest System	1.345 billion (1.506 billion)
FS Recreation and Heritage	237.0 million (262.6 million)
FS Trails	50.0 million (76.4 million)
BLM Recreation	59.1 million (64.1 million)
National Wildlife Refuge Operations	434.1 million (434.0 million)
Federal Side of LWCF	42.5 million (129.7 million)
State Side of LWCF	-0- (25 million)

House Appropriations Subcommittee Approves Higher Lands Funding

On July 9th, the House Appropriations Committee shelved work indefinitely on a 2009 Interior Appropriations Bill. This further reduces the likelihood that Congress will not pass a final 2009 appropriations bill this year but will instead enact a "continuing resolution" to extend 2008 appropriations for the land agencies into 2009. Prospects for a 2009 bill have been diminished even more because of the probability of Republican attempts to attach bills to open up more Federal lands for energy development, which many Democrats would support. The 2009 deadline for full passport identification for western hemisphere travel remains in place.

Earlier, on June 25th, the House Appropriations Committee had approved the recommendation of its Subcommittee on Interior for funding levels either comparable to or substantially higher than the President's 2009 Budget, as shown by the following selected totals:

NPS Operations	\$2.125 billion
NPS Washington, DC, Mall (new)	100 million
National Forest System	1.508 billion
FS Recreation and Heritage	278.5 million
FS Trails	78.9 million
BLM Recreation	65.7 million
FWS Operations	469.0 million
Federal Side of LWCF	132.2 million
State Side of LWCF	25.0 million

A vote by the full Appropriations Committee is expected in July although it is still believed unlikely that Congress will pass final Fiscal Year 2009 appropriations bills until after the 2008 elections or even until 2009 to avoid threatened Presidential vetoes of appropriations bills that exceed the President's budget. Congress is expected instead to pass continuing resolutions or "CRs" that would continue 2009 funding at 2008 levels until final appropriations bills are passed.

Facilitation of International Travel: WHTI

The State Department will soon begin issuing plastic "passport cards," which will be acceptable identification for land and sea travel between the U.S., Canada, Mexico and the Caribbean. While relatively expensive (\$75 for adults) they will be more convenient to use than regular passports. They will not be valid identification for international air travel or overseas sea travel.

Meanwhile, a growing number of states bordering Canada and Mexico are issuing or considering enhanced driver's licenses that would meet DHS identification requirements. Washington State in February was the first state to have such a new license and New York and Vermont are expected to follow soon in the next few months. It has been proposed in Arizona and Michigan is also considering it. To qualify as an "enhanced license," proof of U.S. citizenship, in addition to other identification requirements would have to be established.

Public accounts indicate that the new proof of citizenship requirements have not had a significantly negative impact on Canadian visitation, possibly because the U.S. has implemented only a relatively "soft" enforcement policy of issuing warnings to those without such proof but not turning anyone away yet. DHS continues to plan on requiring passport identification in June, 2009.

The Departments of State and Homeland Security on March 26th announced the final rule for the land and sea portion of the Western Hemisphere Travel Initiative (WHTI), requiring travelers to present a passport or other approved secure documents proving citizenship and identity for all land and sea travel into the U.S., effective June 1, 2009. Air passengers are already required to present a WHTI-secure document for travel into the U.S. The Travel Industry Association and the Travel Business Roundtable expressed concern that the new WHTI rules are not accompanied by a credible plan to inform travelers of the changing requirements.

Effective January 31, 2008, the Department of Homeland Security began enforcing a requirement that everyone when arriving at land and sea ports of entry must present proof of citizenship. As of that date, travelers over the age of 15 must show either passports or birth or naturalization certificates to prove citizenship and government-issued photo IDs such as a driver's license to prove identify. Early reports did not indicate significant congestion or delays at land or sea ports of entry although the DHS initially implemented a "soft" enforcement regimen with oral warnings given those without the required documents.

P.L. 110-61 included an amendment by Rep. Louise Slaughter (D-NY) that delays until June, 2009, implementation of the Western Hemisphere Travel Initiative passport identification requirement for land and sea arrivals. (NOTE: The new 1/31 proof of citizenship requirement does not violate the letter of this law because passports are not mandatory if other proof of citizenship is produced.) The Omnibus Appropriations Bill also included language withholding funds from the Department of Homeland Security to implement a passport ID requirement until the DHS reports on its feasibility to Congress.

Continuing the implementation of the Western Hemisphere Travel Initiative (WHTI), since September 30, 2007, the State Department and the Department of Homeland Security has been enforcing a requirement that U.S. citizens must have passport identification to fly to Canada, Mexico, Bermuda and other Western Hemisphere countries. Both departments. On January 31, 2008, similar identification will be required at all land and sea ports of entry into the U.S. At that time, U.S. and foreign citizens will need to present either a WHTI-compliant document or a government-issued photo ID, such as a driver's license, plus proof of citizenship, such as a birth certificate. There will be alternative procedures for children under the age of 15, who will only have to present certified copies of their birth certificates. A certified birth certificate will also suffice for children, ages 16-18, traveling under adult supervision with educational, sports, social, cultural or religious groups.

DHS and the State of Washington are implementing a pilot program that will enhance the security of state driver's licenses and "potentially serve as an acceptable alternative document for crossing the United States' land and sea borders." DHS describes this pilot program as "one possible compliance alternative to WHTI requirements."

Facilitation of International Travel: Visa Waiver Program and Ports of Entry Processing

The DHS Customs and Border Protection Office (CBP) has announced 18 new international airports that will be part of the Model Ports Program, joining Houston's George Bush International Airport and Washington Dulles International Airport. TIA and TBR used this as an opportunity to urge those airports to adopt industry recommendations to facilitate the handling of international arrivals.

The State Department has signed visa waiver MOU agreements with Slovakia, Hungary and Lithuania that place those three countries on track for visa-free travel to the U.S. and designation as VWP members later this year.

It should be noted that under the 9/11 Commission Act, as enacted last year, the U.S. must have a program by June 30, 2009, biometrically identifying and registering all outbound travelers from the U.S. before new countries can be added to the VWP. That program is now mired in controversy over whether the U.S. government or the airlines should administer it. (see following story)

P.L. 110-61 provided \$40 million for DHS's newly authorized "model ports" program; 200 new U.S. Customs and Border Protection officers; establishment of an international registered traveler program and funds for development of a fully automated electronic travel authorization system

On August 3, 2007, President Bush signed into H.R. 1/S. 4 (The 9/11 Commission Act) as P.L. 110-053. The large and complex bill included several provisions especially supported by the travel and tourism industry:

- (1) Beginning July 1, 2009, it allows the Secretary of State to waive the previous requirement that a country could not qualify for the visa waiver program if its visa rejection rate for U.S. travel exceeded 3%. The new rejection rate could be as high as 10% provided certain other requirements are met, provided certain security requirements are met by the country in question and that country is cooperating with the U.S. anti-terrorism program. This means that within the next 24 months, leisure travelers from such major tourism markets as Korea, Brazil and Russia could qualify for the visa waiver program.
- (2) The new law also creates "model ports" at the top 20 international inbound airports in the U.S. to focus on improving efficiencies when processing international travelers as they enter the country and authorizing the DHS Customs and Border Protection Service to hire 200 more officers at those airports.

Congressional Opposition to DHS Fingerprint Identification Plan

Top Congressional committee chairmen and leaders are siding with the airline industry and proposing to prevent the Bush Administration from implementing its proposal to require airlines to fingerprint international visitors to the U.S. before they return home. The airlines claim such requirement would cost them \$12 billion over ten years – an enormous financial burden when most of them are again confronting bankruptcy because of soaring fuel costs.

ARVC has joined TIA and eight other national and regional tourism organizations in submitting June 23rd comments to the DHS regarding its proposal for the Collection of Alien Biometric Data Upon Exit from the United States at Air and Sea Ports of Departure. Along with other recommendations, the comments stress that the collection of exit data from international travelers is an inherently governmental responsibility and should not be delegated to airlines or other private sector entities. The comments also recommend that the air exit system be convenient and easily understood by travelers, that a well-funded outreach campaign be developed to enhance traveler compliance and convenience and that significant compliance costs be paid by the Federal government.

To implement the requirement mandated by the 9/11 Commission Act to identify outbound international travelers, the DHS is proposing that airlines collect fingerprints from all those passengers. The airlines and other travel industry organizations have opposed this and suggested that the government should take the responsibility for fingerprint collection. The DHS says that if these fingerprint procedures are not in place by June 30, 2009, “the department may not be able to extend VWP privileges to new countries.”

Federal Highways Final 2008 Appropriations

PL 110-61, the Omnibus Appropriations Bill, set total funding for the Federal highway program at \$41.216 billion, which would honor the full commitment to capital investments in the highway infrastructure made by Congress in the 2005 SAFETEA-LU reauthorization legislation. Unfortunately, the bill falls short of fully funding public transportation by \$134 million.

The Omnibus Appropriations Bill does not include a provision approved by a House-Senate Conference Committee that would have given some protection to transportation enhancements from State budget cuts. Under the earlier conference committee provision, States required to make future transportation spending rescissions would have had to impose rescissions on all programs equally, which would have prevented States from taking a disproportionate rescission from the transportation enhancements program, as some have recently done.

The WSTPC, through the National Tourism Coalition for Highways, has consistently urged full Federal funding as authorized by SAFETEA-LU for the highway program.

President's 2009 Proposed Highway Budget

President Bush's 2009 budget proposals fall short of full funding for the Federal highway program, as well as the Federal transit program. The 2005 SAFETEA-LU highway authorizing legislation guaranteed \$41.2 billion for highways in 2009, while the Administration provides only \$39.4 billion. The Administration maintains that SAFETEA-LU authorization levels are being met over the entire lifetime of the bill, but this still leaves funding short of the promised 2009 level. Transit programs would be funded at a level \$200 million below SAFETEA-LU authorizations.

Senate Moves to Avoid Highway Trust Fund Shortfall

The Senate Appropriations Committee on July 9th moved to alleviate the projected shortfall in funding for the Federal Highway Trust Fund. The Transportation Appropriations Bill (S. 3261), as approved by the Senate committee, includes an \$8 billion transfer from general revenue that ensures full funding of \$41.2 billion for the highway program as provided in SAFETEA-LU. The measure must still be approved by the full Senate and by the House of Representatives. While final passage is not guaranteed, it is expected to occur in late September just before adjournment of the 110th Congress.

Although this short term "fix" should close the highway funding gap for the 2009 fiscal year, coinciding with the end of SAFETEA-LU, which authorizes the current Federal highway program, it highlights the critical importance of the next highway reauthorization bill. As it considers the next reauthorization bill, Congress will be severely challenged to ensure that the program responds to the deteriorating transportation infrastructure and other national transportation needs, with sufficient funding. (See following story on Administration 2009 reauthorization proposals.)

Concern over a looming gap between Federal Highway Trust Fund expenditures and revenue have been intensified because of the decline in motor fuel tax revenue due to the decline in miles driven caused by rising gas prices.

An effort to meet the looming trust fund shortfall with an amendment to the Federal Aviation Administration Reauthorization Bill were blocked in May when the Senate was unable to overcome a filibuster on that bill led by Senator Ted Stevens (R-AK), who objected to including highway measures in an aviation bill.

Congressional action to offset a potential \$3.2 billion shortfall in the Federal Highway Trust Fund has been led by Senator Max Baucus, D-MT, chairman of the Senate Finance Committee and the Environment and Public Works Subcommittee on Transportation and

Infrastructure, and Senator Charles Grassley, R-IA, ranking minority member of the Finance Committee.

The President's original budget estimate projected a fiscal year 2009 shortfall of at least \$3 billion in the Federal Highway Trust Fund, which, because of the nature of highway project obligations, will mean a program reduction of \$12 billion by October 1, 2008. To correct this deficit, the Administration is proposing to borrow up to \$3.3 billion from the Mass Transit Account in the Trust Fund. **These estimates were later raised to show a 2009 shortfall closer to \$8 billion.**

For nearly a year, highway financing experts have warned Congress that motor fuel taxes to pay for surface transportation programs will soon not meet demand. In August, 2007, the Treasury Department predicted that allocations as projected by SAFETEA-LU would outstrip gas taxes deposited into the Highway Trust Fund by \$4.3 billion by the start of fiscal year 2009.

Bush Administration Proposes Highway Reauthorization Policy

DOT Secretary Mary Peters on July 29 released the Administration proposal for the next highway reauthorization. Reflecting the widespread concern that the 18.4 cents per gallon Federal motor fuel tax that has traditionally funding the highway program will be inadequate in the future, the proposal would essentially deny funding from the Federal Highway Trust Fund to virtually all "non-highway" programs. All programs related to recreation and tourism would have their direct funding eliminated. Scenic byways and recreational trails could would have to compete for funding under broader program categories. Transportation enhancements would be eliminated. Funding for Federal land roads would be continued but that category of funding would include national park roads and park transit projects, forest roads, public land roads, refuge roads and Indian roads, as well as Department of Defense and Corps of Engineer roads, which would have to compete for (probably) less money.

The Administration proposal would use the Federal motor fuel tax to provide most Federal highway funding while also utilizing more toll roads, fees for vehicle miles driven, congestion pricing and partnerships.

Although truly a "lame duck" proposal that was immediately rejected by House Transportation and Infrastructure Chairman Jim Oberstar (D-MN), Secretary Peters has expressed a legitimate point of view held by many observers and shows clearly the political challenge facing those who want to continue many "non-highway" programs with Federal highway money.

National Surface Transportation Policy and Revenue Study Commission

The National Surface Transportation Policy and Revenue Study Commission released its Report to Congress on January 15, 2008, following a year of hearings and study and was immediately the subject of two hearings by the Senate Committee on Environment and Public Works. The major recommendations of the Commission:

- There must be a strong Federal role and support for a national transportation system.
- There must be a significant increase in investment in investment to preserve our system and modernize it for the future.
- The user fee concept, i.e. the motor fuel tax, is an essential element in providing the necessary revenue support, with 25-40 cents per gallon increase in the Federal motor fuel tax (now 14.5 cents) recommended.
- Transportation enhancements should be subjected to a new Environmental Stewardship Program that would receive seven percent of surface transportation program money. (It is likely that this would result in a substantial cut in transportation enhancement money – a major source of funding for hundreds of tourism projects.)
- The Federal Lands Highway Program should be continued with 100 percent Federal money.
- There would no longer be guaranteed financial set-asides for recreational trails and scenic byways as dozens of individual programs would be eliminated as separate entities and would have to compete for money from the Environmental Stewardship Program and/or other sources.

The National Tourism Coalition for Highways, founded by the WSTPC and other tourism organizations, earlier submitted a statement to the Commission regarding the importance of tourism and the impact of highway policy, stressing the scale of the tourism industry and the critical importance of safe and efficient highways to the industry and the direct benefits of programs such as transportation enhancements, national scenic byways, recreational trails, and traveler information systems.

The Commission was established by SAFETEA-LU to prepare recommendations for the next highway reauthorization legislation in 2009. The twelve member commission was chaired by DOT Secretary Mary Peters but had no tourism industry representatives. Nine of the twelve signed the final report with Secretary Peters dissenting especially from the recommendation for higher motor fuel taxes.

Energy Outlook and Aviation Industry in Crisis

A coalition of some 175 transportation and tourism corporations and organizations have asked President Bush to call a special session of Congress beginning on August 11, 2008 for the sole purpose of debating national energy alternatives and enacting a coherent national energy policy. The letter was signed by former American Airlines CEO Bob Crandall and Business Travel Coalition Chairman Kevin Phillips, along with airlines, hotels, travel agents, travel management companies and trade associations.

Concern continues to mount over the condition of the commercial aviation industry and the intense economic pressures resulting from escalating fuel costs.

On June 17th, the Travel Industry Association held an Air Travel Summit in D.C. that focused on the difficulties facing aviation and the impact on travel. No substantive decisions or policy recommendations were produced at the Summit, which agreed that the travel community is strongest when all components work together to respond to short term issues, particularly rising fuel costs, and to develop a long-term plan for the next Administration. It was also agreed that there should be greater emphasis on the impact of aviation problems on small businesses, destinations and travelers. Some in attendance suggested that the travel community also needs to give comparable priority attention to surface transportation issues, especially Federal highway policies.

Travel Summit participants agreed to schedule a staff-level meeting with aviation industry staff and then to reconvene a meeting with travel community CEOs and aviation community CEOs.

Funding for National Park Service Tourism Office

ARVC continues to urge adequate funding for the National Park Service Office of Tourism at the highest levels of the Department of Interior, including the Assistant Secretary for Fish and Wildlife and Parks, the NPS Deputy Director and with key Congressional staff.

It remains a difficult challenge, however, to convince the NPS to fund adequately the Tourism Office. Regional leaders remain resistant to the notion of a stronger national tourism office and appear to prefer handling tourism issues and programs through the regions.

New National Park Service Tourism Plan

The proposed National Park Service Tourism Plan appears to be gaining traction in the agency and there is prospect for implementation to begin in the near future, although funding for the plan remains in question.

ARVC continues to urge that the National Park Service adopt the proposed National Tourism Strategic Plan drafted by the NPS Office of Tourism and its National Tourism Council. The proposed tourism plan outlines concrete steps for the NPS (1) to engage gateway communities, parks and tourism partners to proactively identify and address areas of common interest; (2) to establish and maintain an exchange with tourism and community partners, NPS, the American public and international guests capitalizing on the promise of a high quality experience; (3) to create innovative visitor enhancement strategies; (4) to proactively create expectations of and fulfill high quality visitor experiences; (5) and ensure NPS professional excellence in visitor service.

New Approach to Funding Emergency Forest Firefighting

On July 9th, the House of Representatives approved H.R. 5541, the FLAME Act, guaranteeing about \$500 million per year to fund Federal agencies' emergency fire fighting costs. The FLAME Act provides money to cover the average cost of fighting major fires in the preceding five years, which would be about \$500 million. This money would not come from regular agency appropriations and Congress would still have to appropriate as needed to pay for other non-catastrophic fire fighting costs. On July 11th, Senators Harry Reid (D-NV) and Barbara Boxer (D-CA) introduced S. 3256, a counterpart to the H.R. 5541.

Separately, Senate Appropriations Interior Subcommittee Chairman Diane Feinstein has asked the full Appropriations Committee to approve \$910 million in emergency fire fighting money for fiscal year 2008, which would not count against regular agency appropriations.

House Natural Resources Committee Chairman Nick Rahall (D-WV), National Parks and Public Lands Subcommittee Chairman Raul Grijalva (D-NM) and Appropriations Interior Subcommittee Norman Dicks introduced H.R. 5541, the FLAME Act, which would authorize the Flame Fund (the Federal Land Assistance, Management and Enhancement Fund) in the U.S. Treasury – an appropriated supplemental fund for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands. Following an April 10th hearing, the House Natural Resources Committee on April 17th approved the FLAME Act and it is now awaiting consideration on the House floor, where passage is likely. Although there is no Senate legislation yet on this issue, there has been considerable interest in the issue by several western senators and there appears to be a reasonable prospect of final enactment this year.

A February 1st letter by WGA Chair and Wyoming Governor Dave Freudenthal) and the National Association of State Foresters urged Congress to enact a budget set-aside for fire fighting so it will not be such a drain on other agency spending.

For more than a decade, the cost of fighting wildfires on Federal lands has been a growing burden on the operating budget of the Forest Service. In 1995, fire fighting costs were about 15 percent of the operating budget, while in 2008 those costs are projected to be nearly 45 percent. This budgetary pressure has now attracted the attention of Congress and several western senators from both parties. Senators Bingaman (D-NM), Baucus (D-MT) and Craig (R-ID) are also trying to devise an alternative budgetary approach through creation of a separate emergency fund or some other approach.

Congress Asks GAO to Study Moving Forest Service to Interior

On July 31st, ARVC consultant Aubrey King was part of a conference call between 7-8 recreation industry representatives and staffers from the General Accountability Office (GAO), who are conducting a Congressionally requested study of issues pertaining to the possible move of the Forest Service to the Department of the Interior. The consensus view of the recreation industry representatives was one of skepticism. Concern was expressed that the move might alter the traditional multiple use mission of the FS and diminish its commitment to providing outdoor recreation opportunities. On behalf of ARVC, King expressed particular concern that as part of the Department of the Interior, the Forest Service would be less responsive to complaints of unfair competition from gateway communities and commercial businesses such as RV parks and campgrounds.

The GAO is expected to complete its draft study by the end of 2008 with public release expected in the early spring of 2009.

House Appropriations Interior Subcommittee Chairman Norman Dicks (D-WA) last spring asked the GAO to study moving the Forest Service and the Environmental Protection Agency to the Department of the Interior to create a new Department of Natural Resources. Although often proposed in the past, this reorganization may now be viewed more favorably as a means to address the budget difficulties encountered by the Forest Service in recent years and the drain of fire fighting costs on that agency's operating budget. Timbering, mining and grazing interests are likely to be skeptical towards merging the Forest Service with other land agencies.

Small Business Health Insurance Plans

As the 110th Congress winds down and the nation heads towards a Presidential Election just weeks away, Members of Congress and the Senate are "dropping in" legislative proposals and bills that will fortify their re-election campaigns and stake out some positions on issues important to their constituents.

One of the areas of special interest to ARVC and small business interests is in the area of health insurance and the ability for small businesses to band together to form groups to secure reasonably priced health coverage for association or group members. Over the last few years, there have been many efforts to pass legislation

to allow Association Health Plans so that organizations like ARVC can create pools of members and negotiate favorable insurance rates for their members.

Past efforts have not been successful as health insurance interests have successfully blocked these efforts. Other legislative efforts to carve out special health insurance legislation that would benefit small business or at least level the playing field between small and larger business in competing for employees and in providing health benefits have also not been successful. Legislation based on tax credits or tax incentives requires corresponding plans to raise the revenue lost through the tax breaks from other sources. So not much progress has been made in addressing the issue of health insurance access and cost for small business and the self-employed.

In recent weeks, two new legislative initiatives have been on the table.

SHOP - Small Business Health Options Program – S 2795 – has been introduced by Sen. Olympia Snowe of Maine and several Senate colleagues. According to the co-sponsors, the bill would

1. Allow small business and the self-employed to join purchasing pools.
2. Lead to administrative cost savings.
3. Increase consumer choice.
4. Preserve state regulation of health insurance
5. Provide tax credits to small business to encourage and assist them in providing health insurance to their employees.
6. Stabilize and reduce health care costs.

A second bill – **CHOICE - Cooperative for Healthcare Options to Improve Coverage for Employees” (Small Business CHOICE) Act of 2008 – has been introduced by House Small Business Committee Chairman Nydia Velasquez of New York. According to the supporters of CHOICE, the bill would**

1. Help small businesses offer health insurance to employees through a refundable tax credit of 65%.
2. Minimize risks for insurance companies by letting small firms pool their employees with those of other businesses in voluntary health cooperatives.
3. Self-employed individuals would save \$5,000 per year on health coverage costs. Other small firms would save more than 34%.

The Small Business Legislative Council (SBLC) board has decided not to put too much energy into the SHOP or CHOICE legislation at this time although that could change in September and most certainly will change following the November election.

Many of the associations supporting the SHOP legislation have also signed on to CHOICE so this is not exactly a rationale picture at the moment. Common wisdom in Washington at this time is that that nothing is going to happen on this

issue in this Congress. With a new President coming - and a new Congress - it would seem unlikely that an initiative of this kind at this time would have much traction until the new President is in office and setting his agenda.

In response to the leadership of one state campground association that sought ARVC support for the SHOP legislation, ARVC Public Affairs Consultants David Gorin and Aubrey King recommended that ARVC hold off taking a position on these bills at this time.

King and Gorin have reviewed both SHOP and CHOICE. The legislation is complicated and it is hard to tell whether they would work or not. Over more time ARVC will have a better chance to understand the value of the different approaches.

When Members of Congress and Senators are home during the coming election season, ARVC member should take every opportunity to let our legislators know that addressing health insurance issues for small business is a high priority for our industry. We should be letting them know we expect action on this issue in the 111th Congress.

Americans with Disabilities

On July 25th, the House passed legislation that modifies the Americans with Disabilities Act (ADA). Senate action on this legislation (or a Senate companion bill) is expected shortly. H.R. 3195 expands the nature of impairments to which the law would apply;. The bill also reverses the Supreme Court's interpretation that could consider "mitigated measures" (such as eye glasses) when determining whether an individual is disabled. The legislation also creates a shift in the burden of proof to the employer when the parties are litigating whether someone has suffered from discrimination based on disability.

The original definition of a disability remains "physical or mental impairment that substantially limits one or more major life activities of such individual. The House bill provides that "substantially limits" means "materially restricts." It also provides examples of what constitutes "major life activities." The compromise does allow consideration of eyeglasses and contact lenses as a mitigating measure.

The legislation, if passed by the Senate and signed by the President overturns several Supreme Court decisions interpreting the ADA in such a way that people with obvious disabilities from epilepsy to missing limbs have nonetheless been found by a court not to be disabled.

Sign of Things to Come? Paid Leave? Surtax?

The House approved H.R. 5781 last week. It would provide four weeks of paid parental leave for *federal workers*. Please note that it is limited to the birth or adoption of a child;

it is not available for all family and medical leave purposes. The Senate will likely consider this bill but it is equally likely that a filibuster would be mounted and sustained.

Recently the House for a second time considered and rejected an idea that had surfaced earlier in this Congress - a surtax on the "wealthy." It was to be an offset (raising funds when Congress spends funds) to a proposal increasing veterans' education benefits. The proposal called for an additional .5 percent (that's "point 5") tax on individual incomes over \$500,000 and married couples incomes over \$1 million. "Pass-through" small business owners (i.e. sole proprietors, partners and S Corporation shareholders) pay tax on business income on the individual rate schedule and many pay at the top rate.