

2010 Legislative Issues



111th Congress, Second Session

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Infrastructure Policy Priorities

- Providing new, stable sources of funding for the federal Highway Trust Fund (HTF) and ensuring that our nations' roads and bridges are properly maintained.
- Addressing our nation's water infrastructure investment shortfall and searching for a dedicated source of funding for rebuilding the country's water and wastewater systems.
- Encouraging the expansion of broadband to rural and underserved areas.
- Providing adequate federal funding to improve America's air transportation system.

Addressing America's Highway Investment Crisis

Key facts:

- The federal highway program is facing immediate and long-term challenges stemming from the fact that the current sources of highway funding are insufficient to support the level of investment the nation needs.
- Congress must identify new sources of highway funding. All funding options, including an increase in the gas tax highway user fee, must be given serious consideration.
- AED is playing a leading role in the highway debate, thanks in part to *Start Us Up USA!*, an unprecedented and highly successful grassroots campaign to urge Congress to enact a multi-year highway reauthorization bill.

America's surface transportation infrastructure crisis threatens the U.S. economy, our national security, the environment, and public safety. The statistics speak for themselves:

- TRIP, a national transportation research group, reports that 33 percent of America's major roads are in poor or mediocre condition, that 25 percent of our bridges are structurally deficient or functionally obsolete, and that 36 percent of our major urban highways are congested.
- The Texas Transportation Institute, one of the nation's leading authorities on congestion issues found that congestion cost the U.S. economy \$87.2 billion in 2007 in the form of wasted fuel and productivity. The total amount of wasted fuel topped 2.8 billion gallons – three weeks' worth of gas for every traveler. The amount of wasted time totaled 4.2 billion hours – nearly one full work week (or vacation week) for every traveler.
- The U.S. Chamber Foundation has predicted a \$1 trillion gap between what will be spent on transportation infrastructure at all levels of government over the next ten years and what we need to spend to actually improve system performance.
- A Transportation Construction Coalition (TCC) study found that poor road conditions contribute to 22,000 highway fatalities each year, or more than half (53 percent) of all deaths on our roads. These crashes cost the U.S. more than \$217 billion each year.

The 2005 highway authorization law, called the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), expired at the end of September. Since that time, the highway program has been operating under a series of short-term extensions, only adding to the volatility in construction markets, wreaking havoc on state Departments of Transportation, and extending the equipment industry downturn. Unfortunately, Congress (with the exception of a few lawmakers) and the administration haven't made highway reauthorization a priority.

On March 18, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The law extends the highway program through the end of 2010, giving lawmakers more time to write a new multi-year bill. The HIRE Act also transfer \$19.5 billion from the general fund to the

Highway Trust Fund to ensure sufficient resources for federal surface transportation programs through the end of the year and increase the funding baseline for future transportation bills. Additionally, it restores lost contract (spending) authority from the \$8.7 billion rescission SAFETEA-LU required on Sept. 30, 2009.

AED, with most of our industry partners, has been advocating that to help pay for greater investment in transportation, Congress should support a modest gas tax increase. This user fee is a fair and fiscally responsible way to provide additional revenue needed to maintain and improve the roads and bridges we all use, every day. Of course, all other options should be on table, including the use of public-private partnerships, bonding, and when the technology is ready, the creation of a Vehicle Miles Travelled Tax (VMT).

Most in Congress acknowledge that a user fee increase is inevitable to fund the Highway Trust Fund (HTF). Unfortunately, nobody in Washington has the political will to support a broad tax increase at this time. With the current extension expiring at the end of the year, AED is going to continue to urge Congress to enact multi-year highway reauthorization legislation. One possibility is that Congress will enact a multi-year bill that increases spending in the immediate term through bonds or other borrowing and that increases user fees a few years in the future.

AED is playing a more visible role in the process than ever before, thanks in large part to a thriving partnership with the Association of Equipment Manufacturers (AEM). Last year, AED and AEM joined forces to launch *Start Us Up USA!*, a grassroots campaign to urge Congress to take swift and decisive action on the equipment industry revitalization effort, including a multi-year highway legislation, and other infrastructure and tax policies that will create jobs and spur economic recovery. The partnership has by all accounts been highly successful in keeping the pressure on Congress to enact multiyear highway and educating policymakers on the fact that while the broader economy appears to be showing signs of recovery, the equipment industry economic situation has continued to worsen.

As part of the *Start Us Up USA!* campaign, we launched a comprehensive website (www.StartUsUpUSA.com), held four rallies and "idle equipment" caravans across the country (Las Vegas, Chicago, D.C., and San Antonio), commissioned an IHS Global Insight economic study, and participated in scores of meetings with key policymakers and congressional staff. The campaign also resulted in thousands of letters and emails from distributors to Congress and the Obama administration about the need for a long-term highway bill.

Additionally, AED is a leading member of the steering committee of the U.S. Chamber's Americans for Transportation Mobility (ATM) coalition which brings together the major players in the transportation construction industry and business community. The ATM is working to bring the nation's dire infrastructure needs to the public's attention and move the discussion outside of Washington, to the people who are affected by it most: the traveling public and businesses that use the nation's roads every day. AED is also a leading member of the Transportation Construction Coalition (TCC), a group of national associations and labor unions with a direct market interest in federal transportation programs.

AED's increased visibility is due to members of the Highway Infrastructure Task Force (HIT), which is comprised of leading equipment distributors from around the country whose companies are directly affected by federal and state highway investment. The additional resources provided to

AED's Washington program by HIT members have been used to support AED's involvement in the ATM, conduct a comprehensive study of the impact of the highway program on equipment distributors, and undertake public relations and advertising to elevate the visibility of the highway crisis.

HIT funds allowed AED to, for the first time, quantify the impact of government highway spending on AED members. The study, which was authored by Professor Stephen Fuller of George Mason University in Fairfax, Virginia, found that 6.4 percent of the average highway contractor's annual budget is attributable to equipment acquisition and dealer-performed maintenance costs. From this Fuller estimated that 6.4 cents of every dollar spent on highway construction is spent at equipment dealerships and that the market impact of the \$39.1 billion 2007 federal highway program was \$2.5 billion.

Improving America's Underground Infrastructure

Key facts:

- The nation is facing a water infrastructure investment crisis underground that mirrors the highway infrastructure crisis above ground. Multiple industry and government studies have documented a water infrastructure deficit of hundreds of billions of dollars.
- Congress should reauthorize and boost funding for the Clean Water and Safe Drinking Water State Revolving Loan funds, and create a Clean Water Trust Fund to support water infrastructure investment.
- The federal government should encourage and, as appropriate, invest in underground broadband infrastructure to support economic development, particularly in rural communities.

Our nation's water infrastructure needs are dire. Recent studies underscore the need for action in the face of an imminent crisis. Additional infrastructure investment is necessary to curb the approximately 1.26 trillion gallons of untreated wastewater entering the nation's waterways every year as a result of aging pipes and overstressed water systems. This untreated water affects us locally and nationally, from public health concerns to environmental conservation. The American Society of Civil Engineers gave the nation's drinking water and wastewater infrastructure a D-, the lowest grade of any infrastructure category. The time is long overdue for substantial investment in water infrastructure projects.

Federal water programs are currently funded by the State Revolving Funds (SRF) established by the Clean Water and Safe Drinking Water Acts. Through the SRFs, the EPA provides grants to states, which in turn make loans to communities. As the communities repay the loans over time, the funds "revolve" and are redistributed to other communities as a new loan. Communities that use SRF money must match it according to an 80/20 ratio. The requirement that states add money to federal government funding means, as a practical matter, that the actual value of the investment resulting from the SRF program is considerably more than the congressionally authorized level.

Early last year, the House of Representatives approved the Water Quality Investment Act (HR 1262) with strong, bipartisan support. The legislation authorizes \$19.4 billion over the next five years for wastewater infrastructure and water quality-related programs. A primary part of the legislation is the authorization of nearly \$14 billion over five years for the Clean Water SRF which provides low-interest loans and grants to local communities for construction of wastewater treatment facilities.

The \$19.4 billion included in the legislation for federal sewer construction and nearly \$14 billion for the Clean Water SRF will take a necessary step towards addressing an infrastructure crisis that threatens public health, the environment, and the economic vitality of communities across the country. With tens of billions of dollars worth of ready to go water projects around the country, there is every reason to believe that investing in water infrastructure will have an immediate and positive effect on the broader economy. The \$14 billion provided for sewer construction in the SRF bill would create an estimate \$1.68 billion in equipment market opportunity over the next five years.

Unfortunately, the Senate has not finished the job on SRF reauthorization. The Water Infrastructure Financing Act (S. 1005), which was reported by the Senate EPW Committee on May 14, would

authorize \$14.7 billion for the Drinking Water State Revolving Fund (SRF), \$20 billion for the Clean Water SRF over the next five years, and authorize \$1.85 billion for a nationwide grant program to address combined sewer overflows. Additionally, the legislation would provide \$60 million per year for grants to states and municipalities to reduce lead in drinking water and \$50 million to address agriculture-related water quality issues. By comparison, in recent annual appropriations bills the sewer and drinking water programs have received less than \$1 billion each. There is a strong possibility that the Senate will complete consideration of S. 1005 in the coming months.

While enactment of water infrastructure bills would be good news for the industry, they would only get us part of the way toward the goal of increased investment. Each year, Congress will still have to appropriate money for the program. Without a dedicated revenue source, that means water infrastructure will be competing with a host of other discretionary federal programs and funding will be subject to the whims of Congress. Consequently, Rep. Earl Blumenauer (D-OR), a senior member of the House Ways & Means Committee and long-time infrastructure advocate, introduced the Water Protection and Reinvestment Act of 2009 (HR 3202). Blumenauer's bipartisan bill would establish a Water Protection and Reinvestment Fund to support investments in clean water and drinking water infrastructure.

Blumenauer's legislation would finance the Water Protection and Reinvestment Fund (WPRF) by imposing a four-cent tax on water-based beverages (excluding milk and alcohol), a 3 percent tax on water disposal products (i.e., soaps and detergents, toiletries, toilet tissue, water softeners, and cooking oils), and a 0.5 percent tax on pharmaceutical products. Additionally, the legislation would levy a 0.15 percent tax on corporate profits over \$4 million. Like the Highway Trust Fund (HTF), which provides a dedicated source for surface transportation projects, the Water Protection and Reinvestment Fund will only be permitted to be used to finance water infrastructure projects.

As a member of the Clean Water Council, Water Infrastructure Network, and the Sustainable Water Infrastructure Coalition, AED will continue to advocate for funding and initiatives to improve our nation's water infrastructure.

Another area that shows significant promise for expanding equipment markets is broadband infrastructure. The Federal Communications Commission (FCC) has made broadband expansion a top priority and recently announced a blueprint for a national broadband plan. Equipment distributors serving utility contractors in rural areas would greatly benefit from broadband deployment to rural areas and AED will continue to promote the expansion of broadband to underserved areas.

Building America's Airports

Key facts:

- With air travel rapidly increasing, airport improvements to enhance capacity are sorely needed.
- The FAA has been operating under a series of short-term extensions resulting in airport construction funding staying flat.

Congestion continues to be a major problem as airport delays receive increased media attention. Not only does this take a toll on the traveling public, but delays also affect the efficiency of the national economy. The Commission on the Future of the U.S. Aerospace Industry has estimated that the cost of aviation delays to the U.S. economy will exceed \$30 billion annually by 2015. Without improvement, the combined economic cost of delays over the next decade will total more than \$170 billion. According to the American Association of Airport Executives and the Airports Council International (ACI), two additional miles of runways at the 25 top delay-prone airports would take care of virtually all the delays in our nation's aviation system.

The system is currently overloaded, and without new airport construction, the problem will only get worse. Flight delays continue to worsen every year. ACI estimates that the amount needed for construction is close to \$15 billion annually. Some progress has been made: Since 2001, the Federal Aviation Administration (FAA) has built over 10 miles of runway at 10 different airports, and more projects are slated at an additional seven airports through 2010.

However, Congress has not enacted a new FAA reauthorization bill in years. The current program has been operating under a series of short-term extensions. While the excise taxes that fund the Airport and Airway Trust Fund (AATF), such as those on airline passenger ticket purchases and aviation fuel, have been extended, this is only a temporary fix. Congressional action is needed to ensure that funding continues. Without a continued flow of funds to the trust fund, the FAA's ability to carry out AIP and other programs throughout the agency may be in jeopardy, compounding the safety and management challenges facing the agency.

Last year, the House of Representatives approved FAA reauthorization legislation and the Senate recently passed its own FAA bill. The House and Senate must now meet to reconcile considerable differences between the two pieces of legislation. AED will continue to encourage Congress to address the congestion challenges facing America's airports by increasing funding for airport construction.

Tax Policy Priorities

- Protecting the use of LIFO, a tax and accounting method used by large and small companies in inventory intensive industries throughout the economy.
- Resolving the uncertainty surrounding the estate tax to help family businesses plan for the future.
- Protecting the profitability of companies that do business with the government by repealing the government contractor withholding tax.
- Encouraging capital formation and investment by making capital gains tax cuts permanent.
- Encouraging economic growth through tax incentives.
- Bringing permanent parity to the tax treatment of construction and farm equipment.

Protecting the Use of LIFO

Key facts:

- LIFO is tax and accounting method that has been used by large and small companies in inventory-intensive industries for three-quarters of century to mitigate the impact of inflation.
- Repealing LIFO would result in a massive tax increase on hundreds of thousands of businesses and could force many smaller ones to close.

LIFO (which stands for “last in, first out”) is an inventory accounting method used by companies throughout the U.S. economy to determine both book income and tax liability. Primarily, LIFO is used to manage the costs of inflation. If inventory costs are rising, LIFO is a more accurate way of measuring financial performance and calculating tax. LIFO takes into account greater costs of replacing inventory, thereby giving a more conservative measure of the financial condition of the business and the economic income to which tax should apply.

LIFO is not a tax loophole. When inventory costs are rising, using the LIFO method will mean less tax liability in a given year than under the FIFO (“first in, first out”) method. However, if prices fall, the taxpayer would repay the LIFO benefit through greater tax liability. Moreover, taxpayers may not change between LIFO and FIFO without Internal Revenue Service (IRS) approval, thus once a company elects to use the LIFO method, it assumes the risk of artificially increased tax liability if inventory costs should fall.

AED’s spring 2009 Government Affairs Survey determined that approximately one-third of our members use LIFO, that AED members collectively have \$2.8 billion in combined LIFO reserves, and that repeal would cost equipment distributors more than \$900 billion. However, LIFO’s use is not limited to the equipment industry. LIFO is used by manufacturers, mining companies, and energy producers, as well as by wholesaler-distributors, retailers, and other types of companies that sell every imaginable product. Literally hundreds of thousands of large and small American companies that maintain inventories use LIFO.

LIFO isn’t something new; rather LIFO has been used and accepted as a legitimate accounting method by accountants, tax lawyers, the IRS, and Congress since the 1930’s. In fact, when LIFO was officially recognized almost three quarters of a century ago, Congress imposed a financial reporting conformity requirement making the use of LIFO for financial reporting a condition of its use for tax purposes.

Last year, AED was successful in ensuring that LIFO repeal was not used by Congress to pay for spending priorities, such as comprehensive health care legislation. However, on Feb. 1, 2010 President Obama sent his 2011 budget proposal to Congress. In it, the president once again proposed repealing LIFO in order to help trim the budget deficit. AED and others have since renewed efforts to save LIFO.

Repealing LIFO would force companies currently using this method to report their LIFO reserves as income, resulting in a massive tax increase for large and small businesses spread across the economy. Additionally, repealing LIFO would mean potentially higher future tax bills and would make it harder for companies to manage inflation.

Congress should reject any effort to repeal LIFO, and AED will continue to educate lawmakers on the huge impact repeal would have on the equipment industry and the economy as a whole. AED is an active member of the steering and lobbying committees of the LIFO Coalition, a group of more than 120 trade associations representing hundreds of thousands of businesses, formed to oppose efforts to repeal LIFO.

Resolving the Uncertainty Surrounding the Estate Tax

Key facts:

- In 2010, the estate tax is fully repealed for one year, but will return in 2011 with 55 percent top rate and \$1 million exemption.
- The uncertainty surrounding the estate tax is making it difficult for family-owned companies to plan for the future.
- Permanently resolving this uncertainty would free up resources that family-owned businesses are continuing to devote to estate planning because of the uncertainty surrounding repeal.

Congress must work towards a reasonable solution to end the uncertainty surrounding the estate tax once and for all, so that family businesses do not continue to incur massive estate planning charges as the estate tax rate continues to fluctuate year after year.

The estate tax vanished in 2010 because the Senate, preoccupied with health care legislation, failed to address the controversial tax before the end of the year. Under the 2001 Bush tax cuts, the estate tax top rate has gradually dropped, while the exemption level has increased throughout the decade. However, the 2001 law required the estate tax to disappear in 2010 for one year before returning to pre-2001 levels in 2011, a 55 percent top rate and \$1 million per-person exemption.

The repeal of the estate tax does not necessarily mean lower taxes for all small business owners. Currently, heirs receive what is known as "stepped-up basis" on assets they inherit. As a result, when heirs sell inherited assets, they pay capital gains taxes only on the difference between the value when inherited and the value at the time of the sale. In 2010, stepped-up basis is replaced with a "carryover basis" system for assets after the first \$1.3 million. Carryover basis will result in heirs paying capital gains taxes on the difference between the value of assets when sold and the value when originally purchased. For some, the tax bill will be greater than if the estate tax were left in place.

Most Republicans and several moderate Democrats do not want the estate tax to return to pre-2001 levels in 2011. It is expected that that Sens. Blanche Lincoln (D-AK) and Jon Kyl (R-AZ) will offer legislation that would permanently cap the top estate tax rate at 35 percent with a \$5 million per-person exemption (indexed for inflation).

In April of last year, a similar proposal was approved by the Senate 51-48 as an amendment to the budget resolution. The Senate amendment was taken out during conference between the House and Senate, and the final budget resolution allowed for the estate tax rate and exemption to be frozen at 2009 levels (similar to HR 4154). Many leading industry groups view the Lincoln-Kyl proposal as a reasonable solution to resolve the uncertainty surrounding the estate tax.

However, this year's congressional agenda is already starting to fill up and members of Congress do not like to take tough votes on controversial issues in election years, making it uncertain whether the estate tax will be considered in 2010. There is also a core group of more liberal Democrats that are content with allowing the estate tax to go away for one year in anticipation of the tax returning to pre-2001 levels in 2011.

Although AED continues to support full repeal, the association will work towards a reasonable solution to end the uncertainty surrounding the estate tax once and for all.

Repealing the Government Contractor Withholding Tax

Key facts:

- Section 511 of the Tax Increase Prevention Reconciliation Act (TIPRA) (P.L. 109-222), which was enacted in 2006, imposes a new withholding tax on government contractors starting in 2012.
- The tax will harm small companies and individuals doing business with the government and drive up contract administration costs, while having little positive impact on the federal budget.

The contract withholding tax, found in Section 511 of the 2006 Tax Increase Prevention Reconciliation Act (TIPRA), requires that beginning in 2012 federal, state and local governmental entities whose annual expenditures exceed \$100 million withhold three percent of all payments made to any individual or company that has provided goods or services to the government (the implementation date was deferred to 2012 in the 2009 economic stimulus bill). These withholding amounts are sent to the federal government and credited against government contractors' future tax liability.

Although the intent is to "catch" those who might be evading their tax liability, AED believes that the tax will actually hurt the cash flow of small companies and individuals doing business with the government. Furthermore, Sec. 511 would drive up contract administration costs, while having little positive impact on the federal budget. While doing little good, Section 511 will have a significant and negative impact on companies that do business with the government. The new law effectively forces government contractors to make interest free loans to the federal government for amounts that in some cases will exceed contractors' profit margins. According to AED's 2006 Cost of Doing Business Report, the net before tax profit of the typical equipment distributor is just 3.4 percent, while the Associated General Contractors reports that most general contractors make less than a three percent profit on construction contracts.

Sec. 511 will dramatically affect government contractor cash flow and reduce the amount of money available for payroll, new business investment, and everyday expenses. Small businesses will be particularly affected, and many may have to take on increased debt to mitigate the impact of Sec. 511. Others will have to change the way they price government contractors or may simply choose to stop serving government customers. Organizations representing state and local government officials have called the new law an unfunded mandate and said that it will increase the costs of administering contracts at all level of government. This, in turn, will reduce the resources available for critical public services and infrastructure investment.

The Congressional Budget Office (CBO) estimates that the new law will raise \$7 billion over five years. However, \$6 billion of that amount would be raised in the first year and represents contractors' advance tax payments to the government via the three percent withholding (i.e., money that the government would have collected anyway.) Additionally, the U.S. Department of Defense (DOD) estimated in spring 2008 that it will cost it DOD alone \$17 billion over five years to implement the withholding tax, proving that the costs of the tax far outweigh and benefit to the federal treasury.

At the beginning of the 111th Congress, legislation to repeal the three percent withholding tax was introduced in the House and Senate respectively by Kendrick Meek (D-FL) (HR 275) and Arlen Specter (R-PA) (S. 292). Both bills have significant bipartisan support, as HR 275 has 135 cosponsors and S. 292 has 13 cosponsors. AED will continue to urge Congress to repeal Section 511 along with our partners in the Government Withholding Relief Coalition.

Making Capital Gains Tax Cuts Permanent

Key facts:

- Reducing taxes on capital returns is a proven method to spur economic growth and job creation by encouraging investment and expanding the pool of available capital.
- Permanent capital gains tax cuts would provide certainty for investors and a much needed boost to a sluggish economy.

The Jobs and Economic Growth Act of 2003 reduced the maximum capital gains tax rate for individuals to 15 percent through 2008. Net capital gains previously subject to a 10 percent tax rate are were taxed at 5 percent through 2007 and are now not taxed at all in 2008. During the 109th Congress, the capital gains tax provisions of the 2003 tax law were extended through the end of 2010.

The 110th Congress passed its economic stimulus act to help the economy, yet overlooked the capital gains issue. Reducing capital gains taxes has proven to help the economy time and again. A report prepared by Dr. Allen Sinai, chief global economist at Decision Economics Inc., and released by the American Council for Capital Formation in December 2007 analyzed the effect these cuts had on the economy. A few of the findings:

- Individual and business tax reductions from 2001-2004 (including capital gains cuts) managed to spark an economy that faced major crises: terrorist attacks, natural disasters, costly wars in the Middle East, and high prices for gasoline and crude oil.
- Benefits from the tax cuts included a low unemployment rate, relatively low inflation and interest rates, strong growth in corporate profits, job creation, high stock markets, and a federal budget deficit that was relatively low as a percentage of GDP.
- The tax cuts worked because they raised after-tax disposable income, which increased consumption, raised national income and corporate profits. The desired effect on business spending continued to multiply, further increasing incomes and profits, and raising consumer spending.

With the obvious benefits of capital gains tax cuts and the need for a boost to the slowing economy, AED will continue to urge Congress make lower capital gains tax rates permanent along with many other provisions from the Bush tax cuts that expire at the end of the year.

Stimulating Economic Growth and Creating Jobs

Key facts:

- On March 18, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The HIRE Act reinstates the \$250,000 Sec. 179 expensing level for one year and creates incentives for companies to hire new workers.
- AED is playing a leading role in promoting the new capital investment incentives to the construction industry, including the extension of the 50 percent depreciation bonus.
- Congress extended and expanded the temporary, targeted home purchase tax credit originally proposed by AED in January 2008 and the net operating loss carryback incentives from the American Reinvestment and Recovery Act.

On March 18, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The HIRE Act reinstates the \$250,000 Sec. 179 expensing level for one year (an AED priority) and created incentives for companies to hire new workers. Employers will receive a Social Security payroll tax exemption for certain workers hired in 2010 and an additional \$1,000 income tax credit for every new employee kept on the payroll for one year.

AED also continues to lead the effort to reinstate the depreciation bonus provision from the American Reinvestment and Recovery Act (ARRA), which allows businesses to write off 50 percent of new equipment purchases. The incentive expired at the end of 2009. AED's DepreciationBonus.org Web site is the "go-to" resource for contractors and others seeking information about the depreciation bonus.

Additionally, in the beginning of November, AED scored a major victory as other key tax provisions were passed by Congress and signed into law by President Obama. The legislation included the extension and expansion of two other tax provisions from ARRA relating to net operating loss (NOL) carryback and home purchase tax incentives. Under the new law, companies of any size are permitted to carryback NOLs from 2008 or 2009 (not both) for up to five years (ARRA limited NOL carryback to businesses with less than \$15 million in revenue.) Companies that already took advantage of NOL carryback provision from ARRA for 2008 may also benefit from the new law for NOLs from 2009.

In addition to the NOL carryback provision, the new law extended and expanded the successful home purchase tax credit from ARRA (an idea originated by AED) that was set to expire on Dec. 1, 2009. First-time home buyers may now take advantage of an \$8,000 credit until May 1, 2010 (buyers must enter a binding contract before May 1 and close by July 1). The residence must be purchased for less than \$800,000.

The new law also raises the income limits for those eligible to take advantage of the home purchase tax credit to \$125,000 individuals or \$225,000 for couples. Additionally, people who have lived in their current home for at least five years would also become eligible for a new \$6,500 tax credit if they buy a new house.

AED will continue to monitor economic conditions and propose additional job creation legislation, including the extension and expansion of current provisions, as necessary.

Equalizing Tax Treatment for Construction and Farm Equipment

Key facts:

- Prior to Fall 2008, tax law treated farm and construction equipment differently. Construction equipment had a five-year depreciation life, while farm equipment was depreciable over seven years.
- Sec. 505 of the Emergency Economic Stabilization Act temporarily shortened the depreciation life for farm equipment to five years.
- Congress is in the process of extending the shortened depreciation for farm equipment through 2010. AED urges Congress to make this commonsense change to the tax law permanent.

Until fall 2008, the depreciable life of farm and construction equipment differed. Farm equipment had a seven-year depreciable life, while construction machinery was depreciated over five years. Given that construction equipment is often used on farmers and agricultural equipment is sometimes used on construction sites, this anomaly in the tax law made no sense and put farmers at a disadvantage. According to the Farm Bureau Federation, making the change to a five-year depreciable life of farm equipment would increase farm income by \$800 million annually.

Buried among the obscure tax provisions in the economic rescue bill signed by President Bush in fall 2008 was language shortening the depreciation life for farm equipment to five years. Under Sec. 505 of the Emergency Economic Stabilization Act, the new five-year depreciation life applies to "any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business." The equipment's original use must commence, with the taxpayer claiming the shortened depreciation life, after Dec. 31, 2008 and the equipment must be placed in service before January 1, 2010. Congress is in the process of extending the shortened depreciation for farm equipment through 2010.

AED will be working with our industry partners to extend the farm equipment depreciation provision and make it permanent.

Other Legislative Priorities

- Improving access to credit for small equipment distributors.
- Protecting the right to secret ballot votes in union organizing elections.
- Protecting distributors from frivolous product liability lawsuits.
- Helping America achieve energy independence.
- Making health insurance affordable for small businesses.
- Dealing with the challenge of global warming.

Improving Access to Credit for Equipment Distributors

Key facts:

- Eighty-one percent of AED members report having lost sales due to lack of credit.
- Obama administration proposals and pending legislation will help to get credit flowing again.
- AED has also urged the Small Business Administration (SBA) to reconsider the scope of the Dealer Floor Plan Pilot Initiative Program (DFP Pilot Program) by expanding it to include nontitled property registered under the Uniform Commercial Code (UCC) filing system.

An AED survey conducted in 2009 found that 81 percent of AED members have lost sales in the previous year due to qualified purchasers' inability to secure financing. By all accounts, the situation has only gotten worse over the course of last year. Consequently, AED has been hard at work educating Congress and the administration about the credit crisis in our industry.

It appears someone has been listening. Last fall, President Obama unveiled a combination of Treasury Department and Small Business Administration (SBA) initiatives that include providing new government capital to community banks for the purpose of spurring lending to small businesses. The initiative would provide Treasury capital to smaller banks through the Troubled Asset Relief Program (TARP). In the 2011 budget, the administration also proposed \$17.5 billion in Small Business Administration 7(a) loan guarantees and \$7.5 billion in guaranteed lending for commercial real estate development.

Additionally, on Oct. 29, 2009 the House approved the Small Business Financing and Investment Act. The legislation would encourage more small business lending, including providing greater support by the Small Business Administration to help facilitate small business lending. The legislation awaits action by the Senate.

AED has also urged the Small Business Administration (SBA) to reconsider the scope of the Dealer Floor Plan Pilot Initiative Program (DFP Pilot Program) by expanding it to include nontitled property registered under the Uniform Commercial Code (UCC) filing system. The DFP Pilot Program provides access to capital through the SBA's 7(a) loan program for floor plan financing. It allows dealers to borrow against their inventory and, as each piece of collateral is sold, the loan advance against the product is repaid. Unfortunately, the program is limited to titleable inventory; nontitled inventory, such as construction equipment, does not qualify for the DFP Pilot Program. This bias against construction and many other types of equipment prevents dealers from taking advantage of the floor credit program.

AED believes the UCC filing system, used by construction dealers, actually provides more consistency and security for lenders on a state-to-state basis. Equipment registered under the UCC filing system should not be excluded by the SBA and should qualify for financing under the DFP Pilot Program. AED is continuing to monitor the situation and will take action where necessary to ensure that nontitled property is treated fairly by the SBA.

Protecting the Right to Secret Ballot Votes in Union Organizing Elections

Key facts:

- The so-called "Employee Free Choice Act" would take away the right to secret ballots in union elections.
- Alternatives to "card check" are as bad, if not worse than EFCA in its current form.

The Employee Free Choice Act (EFCA or "card check") has been a top labor legislative priority for many years. The legislation would eliminate the right to secret ballots in union elections, effectively allowing unions to organize by petition and exposing workers to unprecedented intimidation. The legislation would also require binding arbitration in some cases for initial union contracts, meaning that government bureaucrats (not business owners or employees) would have the final say on terms and conditions of employment.

One of the most surprising developments in 2009 was that EFCA was never considered by the House or Senate. Some of the credit goes to AED, which, as member of the Coalition for a Democratic Workplace's steering committee, is playing a leading role in efforts to defeat card check.

It appears "card check" is dead for now. Members of Congress do not want to vote on such a controversial issue in an election year. However, with liberal interest groups spending millions of dollars on advertising and big labor pressuring moderate Democrats, EFCA could pop up at some point in the future.

The good news is that it is likely that EFCA's "card check" provision will be dropped from any new proposal. However, word on the Hill is that card check could be replaced with other provisions permitting greater union access to the workplace, quick elections (also known as "ambush elections"), and mail ballots. All of these alternatives will give unions significant organizing advantages. Combine these new proposals with EFCA's controversial binding arbitration provision and EFCA could be even worse than it was with the card check provision.

AED believes that in these unprecedented economic times, the last thing Congress should do is pass a law that could have unintended consequences detrimental to our economy. Studies suggest that EFCA will result in substantial job loss and actually slow the economic recovery. AED strongly urges Congress to protect the right to secret ballot and reject EFCA.

Protecting Distributors from Frivolous Lawsuits

Key facts:

- Equipment distributors frequently find themselves as defendants in product liability lawsuits despite having had no role in the design or manufacture of the equipment that caused the injury.
- Distributors must therefore bear the burden of high insurance costs and potentially devastating jury verdicts.
- With the Democrats controlling Congress and the White House, AED will work to ensure that legislation supported by the trial lawyers to make it easier to sue businesses is not enacted.

For more than 20 years, AED has pursued legislation that would protect product sellers and renters from lawsuits in cases in which they have merely sold a manufacturer's product and had no role in causing an injury. Legal fees and insurance premiums to protect dealers from liability and potentially crippling jury verdicts are staggering. The costs have a significant, negative impact on a company's bottom line and on its ability to hire new workers. The high cost of litigation quite often makes it cheaper for insurance companies to settle and pay-off a plaintiff than to go to trial, despite the distributor-defendant's innocence of any wrongdoing in the mishap.

A recent AED survey found that approximately one-quarter of AED members had been hit with a product liability claim in the prior three years. Of the claims, more than 80 percent settled prior to trial. Fifty-nine percent of the companies that were the target of product liability claims reported that those claims caused their insurance rates to go up, with 35 percent reporting that their liability insurance rates increased by 15 percent or more as a result of the claim.

Unfortunately, given the Democrats substantial majorities in Congress and control of the White House, there will not be an opportunity for meaningful tort reform in the near future. More concerning is the possibility that the Democrats will reward the trial lawyers who donated millions of dollars to their takeover of Congress and the White House, by making it easier to bring a lawsuit against a business. Legislation eliminating mandatory, pre-dispute arbitration clauses in consumer, employee, and franchise contracts is expected to be considered is pending in Congress. The result of anti-arbitration legislation would be more lawsuits, more time spent in court, and more power in the hands of unpredictable juries awarding large damages.

AED will continue to work with lawmakers in both parties to encourage Congress to enact balanced product liability reform legislation and to protect fair and efficient alternatives to litigating in court, such as arbitration.

Helping America Achieve Energy Independence

Key facts:

- Energy policy has significant economic and national security implications.
- AED supports legislation to improve our nation's energy production and transmission facilities and to reduce our dependence on foreign oil.

America continues to rely on foreign countries to supply the bulk of our energy resources. Unless the nation takes steps to develop additional energy production facilities, we face serious long-term shortages. Continuing instability in the Middle East, South America, and Africa, and increases in domestic demand, combine to underscore the importance of weaning our country off its dependence on foreign energy sources.

Dependence on oil from foreign sources is irresponsible, particularly when a significant amount of recoverable oil lie beneath the Arctic National Wildlife Refuge (ANWR) and off our coasts, particularly in the Gulf of Mexico. Capitalizing on domestic oil production is a key component in developing a comprehensive strategy for American self-reliance in energy production, as is indentifying other sources of oil (e.g., shale in the western United States).

In Feb. 2010, President Obama announced \$8.33 billion in loan guarantees to construct two new nuclear reactors near Waynesboro, Georgia. According to the administration, 3,500 construction jobs will be created by the Waynesboro project. However, nuclear projects, such as that in Waynesboro, are anything but "shovel ready." Plans must still be approved by the Nuclear Regulatory Commission (a process which can take several years), and nuclear plant construction often encounters cost overruns and construction problems.

The \$8.33 billion nuclear loan guarantee is the first in what is expected to be \$54 billion worth of loans to construct new reactors. Seven to 10 nuclear reactors are anticipated to be funded through the program. Additionally, the highway reauthorization debate has important implications for these issues. A multi-modal approach to reducing congestion and increasing transportation capacity will serve national environmental and energy objectives by improving air quality, reducing carbon emissions, and reducing fuel consumption.

As the debate moves forward, AED will continue to encourage the adoption of proposals to encourage the development of new power generation facilities and help America make use of its natural resources. Additionally, AED will continue to monitor the expansion of the nuclear loan guarantee program, as it could be a significant market opportunity for equipment distributors.

Making Health Insurance Affordable For Small Businesses

Key facts:

- Congress and the administration spent the greater part of 2009 and the first quarter of 2010 focused on health care reform. Unfortunately, key lawmakers drafting the legislation took little interest in the concerns of small businesses.
- AED remains committed to enacting common sense and economically sound insurance market reforms that increase access, expand choice and spur competition for private insurance, and creating marketplaces that provide greater transparency and more efficient approaches for purchasing insurance.

According to the U.S. Census Bureau, 47 million Americans lacked health insurance in 2006. A primary factor in the growing number of uninsured is the erosion of employment-based health insurance, stemming from a weak economy and the rising cost of health insurance coverage. According to the Henry J. Kaiser Family Foundation, in 2008 employer health insurance premiums increased by five percent – two times the rate of inflation. The annual premium for an employer health plan covering a family of four averaged nearly \$12,700. The annual premium for single coverage averaged over \$4,700. Rising health insurance costs have had a significant impact on AED members and their employees, with 85 percent of respondents to AED's 2007 government affairs survey reporting that they have had to reduce benefits or ask workers to shoulder more of the costs of health insurance in recent years.

Throughout to 2009 and the beginning of 2010, health care legislation consumed the nation's capital. After months of intense negotiations, on Nov. 7, the House narrowly approved sweeping health care reform legislation (HR 3962), 220-215. Thirty-Nine Democrats joined all but one Republican in opposition to HR 3962. While a key victory for President Obama and House Speaker Nancy Pelosi (D-CA), the narrow vote margin in the House provided little momentum as the Senate prepared to consider its own legislation.

It took nearly a month of debate before, on Dec. 24, the Senate approved the Patient Protection and Affordable Care Act (HR 3590). For weeks it appeared that Senate Democrats were not going to be able to round up the necessary 60 votes to enact the legislation before Christmas. However, after intense negotiations Senate Majority Leader Harry Reid (D-NV) agreed to drop the controversial "public option," provide restrictions on federal dollars funding abortions, and eliminate a Medicare buy-in provision allowing 55-64 year-olds join the Medicare program.

Similar to the House legislation, the Senate bill contains many provisions that will be detrimental to small business, including a small business health insurance tax, an employer mandate, and new paperwork burdens. Particularly disturbing is a provision that singles out the construction industry. An amendment offered by Senators Jeff Merkley (D-OR) that was included in the final version of the Senate health care bill creates a special employer mandate that targets construction firms.

The provision requires construction companies to help provide coverage or pay penalties if they have more than five employees, instead of the 50-employee threshold for most other companies. Unfortunately, the Senate approved HR 3590 on December 24 along party lines (60-39). AED joined our construction industry partners in garnering opposition to the Merkley amendment and if

the provision becomes law, we will work to repeal the unfair language that discriminates against our industry.

AED believes Congress must enact meaningful and sustainable healthcare reform. However, we believe there are better pathways to more affordable and accessible healthcare for America's small business community than what we have seen proposed by either House or Senate Democrats. AED's priorities include enacting common sense and economically sound insurance market reforms that increase access, expand choice and spur competition for private insurance, and creating marketplaces that provide greater transparency and more efficient approaches for purchasing insurance. Additionally, health care reform legislation must improve affordability and provide for sustainable cost containment by eliminating wasteful spending in the overall health care system.

Dealing With the Challenge of Global Warming

Key facts:

- As the climate change debate moves forward, lawmakers must ensure that legislation is driven by science, not emotion, and that it does not undermine U.S. competitiveness.

Climate change policy has received considerable attention in Washington since the Democratic takeover of Congress in 2006.

On June 26, the House of Representatives handed Speaker Nancy Pelosi (D-CA) a major victory by passing American Clean Energy and Security Act (HR 2454), in a 219-212 vote. The vote was a nail-biter, with Pelosi, President Barack Obama, and former Vice-President Al Gore, putting significant pressure on House members up until the vote to ensure the bill's passage. In order to pass the legislation, Pelosi needed the help of several Republicans who crossed party lines to support HR 2454. Forty-four Democrats voted against the bill.

The legislation, which was more than 1,200 pages long, mandates a 17 percent cut in greenhouse gas emissions by 2020 and an 83 percent cut by 2050, reductions that will be accomplished by putting a price on carbon dioxide pollution through a cap-and-trade system. Additionally, the bill requires that 20 percent of our electricity be generated from renewable sources by 2020; it also calls for increased efficiency standards.

The National Black Chamber of Commerce estimates that the bill could result in \$170 billion annual drop in gross domestic product (GDP) in 2015, \$350 billion in 2030, and \$730 billion in 2050, and a net loss of 2.3 million to 3 million jobs – despite all the "green" jobs the legislation's proponents claim it will create.

The Senate, preoccupied with health care, has not focused on climate change. However, legislation to regulate greenhouse gas emissions and slow global warming is still a priority for Senate Environment & Public Works Chairman Barbara Boxer (D-CA). Sens. Joe Lieberman (I-CT), John Kerry (D-MA), and Lindsey Graham (R-SC) are working on a climate change bill that will reduce greenhouse gases in a way that has fewer negative economic repercussions.

The bipartisan plan would impose an economy wide cap on carbon emissions that would begin in 2012, with a target of reducing carbon pollution 17 percent by 2020 and 80 percent by 2050. Additionally there would be separate caps on carbon emissions by the electric utilities and manufacturing sectors, which would have to buy pollution permits from the federal government. The proposal would also create a single federal system to cap emissions, preempting separate state limits, a provision favored by the business community.

Given the questions that still loom about whether climate change is happening, whether human activity is responsible, and whether the rest of the world is willing to join the United States in limiting greenhouse gas emissions, it seems unlikely that Congress will turn to another transformative, controversial issue in an election year. As the process moves forward, AED will work to ensure that whatever legislation emerges from the process balances environmental needs with sound science, and does not unfairly undermine U.S. economic competitiveness.

Regulatory Priorities

- Promoting responsible, reason-based regulatory policy.

Promoting Responsible, Reason-Based Regulatory Policy

Key facts:

- The activities of federal agencies affect markets for the products that AED members sell and impact equipment distributors' costs of doing business.
- AED will continue to monitor agency action to ensure that new regulations and enforcement policies are not unduly burdensome to the equipment industry.

AED is regularly monitoring rulemakings and guidance set forth by agencies that have a direct impact on our member companies. When necessary, AED weighs in with comments and urges our members to do so. In this way, the equipment industry can speak with a collective voice in the rulemaking process. Whether or not you like what an agency is doing, it is important to comment: If you do not participate in the rulemaking process, it is much more difficult to challenge a final rule after it is issued.

As the Obama administration continues to settle in, it is more important than ever to closely monitor the rulemaking process. As often happens, when an administration is unable to accomplish its goals legislatively, it turns to other means to implement policy priorities. Already, the Obama administration is attempting to circumvent Congress in many areas. For example:

- Using the National Labor Relations Board (NLRB) and the Department of Labor to implement many of the policies embodied in the Employee Free Choice Act (EFCA), including giving greater access to unions at the workplace.
- Issuing findings through the Environmental Protection Agency (EPA) that will allow the agency to proceed to create greenhouse gas emission standards.
- Reconsidering by the Occupational Safety and Health Administrations (OSHA) of ergonomic regulations, including a new rulemaking revisiting the definition of work-related musculoskeletal disorders (WMSDs).
- Using regulations to change Employee Retirement Income Security Act preemption laws, making it easier for states to impose health insurance mandates on companies.

Please contact AED's Washington Office if there are regulatory issues you would like to see added to our list.

Appendices

- I. Using AED's Grassroots Tool, *AEDaction.org*
- II. Writing Letters to Your Members of Congress
- III. Meeting with Your Members of Congress
- IV. 2010 Federal Election Contribution Guidelines
- V. Submitting Comments to an Agency Docket
- VI. How a Bill Becomes a Law

Appendix I: Using AED's Grassroots Tool, aedaction.org

Thanks to AED member contributions to the Washington Education Fund (WEF), members can take part in the legislative process more easily and efficiently than ever before! www.AEDaction.org provides an interactive, online tool system to increase member knowledge about and participation in key legislative initiatives.

The site is continuously updated, giving users the latest information on issues affecting the industry and providing members insight into the voting record of their representatives in Congress. Visit AEDaction.org, where you can:

Sign Up for Legislative Alerts

Members can access statements from the Washington office on current legislative priorities and progress on Capitol Hill. Additionally, selected alerts will be accompanied by a "message" feature that allows members to quickly send correspondence to their senators and representatives encouraging appropriate action. This feature is a great opportunity for members to keep up to date on AED's legislative priorities.

View Congressional Voting Scorecards

Members can see how their representatives have voted on legislation of specific interest to equipment distributors. The AED Bill Scorecard organizes key legislation and voting records of all members of Congress. The scorecard is a great tool to reveal whether your local representatives are supporting AED initiatives. In addition, the site offers the "MegaVote" weekly update where you can sign up to receive weekly e-mails on how local legislators voted on a variety of issues.

Locate the "Experts" in Your Representative's Capitol Hill Office

AEDaction.org helps members locate and contact key congressional staff such as schedulers, legislative directors, and transportation and tax legislative assistants. Utilizing this tool allows members to know exactly who is impacting their representative's policy decisions on the Hill. In addition, the feature makes communication with congressional offices more efficient and effective.

Learn Capitol Hill Basics

The site also contains a section built to inform members about the legislative process, offer expanded biographical information of members of Congress, and even features tips on how to construct effective correspondence to a representative, senator, or congressional staffer. Additionally, AED members can see if their representative or senators sit on important committees that impact transportation issues.

The strength of any organization is dependent on the participation of its members. With AEDaction.org you now have the power to get involved in AED's key issues and affect the political process, all at the same time! The Washington Office is open to advocating new issues that have an impact on your day to day business so please don't hesitate to contact us.

Appendix II: Writing Letters to Your Members of Congress

AED members are frequently called upon to contact their elected representatives in the Senate and House of Representatives to express positions on legislative issues affecting the equipment distribution industry. If you prefer to create your own letter rather than using "aedaction.org", one of the most effective ways to do so is to fax a personal letter to your representative and senators on company letterhead. Some tips to follow:

In the first paragraph of your letter, state your position in your company, the name of your company, what your company does, how many individuals your company employs, and where your company is located (including branches). It helps our efforts if you also state that you are a member of the Associated Equipment Distributors, the trade association representing the construction equipment distribution industry.

In the second paragraph, state the purpose for your letter. Be sure to ask for some specific action from your member of Congress. For example, "I am writing to ask that you oppose HR 800, the Employee Free Choice Act, which would eliminate the right to secret ballots in union organizing elections."

In the third paragraph, give some very brief background on the issue and the best arguments in favor of your position. Additional information about all of AED's legislative objectives is available at our Web site or by contacting our Washington office.

In the fourth paragraph, reiterate your request for action by the member of Congress.

In the fifth paragraph, thank the member of Congress for his/her consideration of your opinion.

Fax your letter to your representative and/or senators (due to security concerns, all mail to Capitol Hill is irradiated, a process that causes substantial delays in mail reaching the Hill.) If you are uncertain who they are, you can find out by visiting www.congress.org. You can also e-mail your letter or note to Congress. Use www.AEDaction.org to identify the legislative director in your representative's or senators' offices. Once you have the person's name, you can easily figure out what their e-mail address is. For House employees it's FIRSTNAME.LASTNAME@mail.house.gov; for Senate employees it's FIRSTNAME_LASTNAME@SENATORSNAME.senate.gov.

Once you've sent your letter, follow up with a phone call. Speak to the senator or representative's legislative director or the legislative assistant responsible for the issue you are concerned about and offer to answer any questions he or she might have.

Sample Letter

[DATE] [MONTH] [YEAR]

The Honorable [YOUR REPRESENTATIVE], M.C.
United States House of Representatives
Washington, D.C. 20515

OR, IF WRITING TO A SENATOR,

The Honorable [YOUR SENATOR]
United States Senate
Washington, D.C. 20510

BY FAX

Dear Representative [or Senator] [LASTNAME]:

I am the [YOUR TITLE] of [YOUR COMPANY], a company based in your district [OR state] involved in the sale and servicing of the equipment used in road and bridge, commercial, residential, and industrial construction. Our company employs [X] individuals. We are active members of the Associated Equipment Distributors, the trade association representing the construction equipment distribution industry.

I am writing to urge you to oppose the Employee Free Choice Act (EFCA). The EFCA violates basic principles of democracy and individual liberty on which our country was founded and should not be enacted into law.

EFCA would replace the private ballot with a scheme called "card check" which allows a union to organize if a majority of workers simply sign a card. Under this system, paid union organizers – not the federal government – oversee the process, and the workers' choice is ultimately made public to the employer, the union organizers and co-workers. EFCA will take federally-protected private ballots from the hands of American workers replacing them with a scheme where their votes are made public, leaving them vulnerable to coercion and intimidation.

Card check is not the only concern I have with EFCA. The legislation would also permit a government arbitrator to impose a two year contract on employers and employees – even if neither party consents to the contract terms. In doing so, EFCA would place the fate of a company and its employees in the hands of a federal bureaucrat, who may lack business experience and know little to nothing about the company, its business operations and the industry in which it operates.

During these unprecedented economic times, the last thing Congress should do is pass a law that could have unintended consequences detrimental to our economy. Studies suggest that EFCA will result in substantial job loss and actually slow the economic recovery. Now is not the time to take the drastic step of undermining the integrity of the unionization process.

For the foregoing reasons, I urge you to vote both against the bill should the bill be brought to a vote. Please do not hesitate to contact me at [INSERT PHONE AND E-MAIL] if you require further information about this issue. Thank you for considering my comments.

Sincerely,

[YOUR NAME]
[YOUR TITLE]

Appendix III: Meeting with Your Members of Congress

Remember that this is your government that you elected to represent you. Meeting with your representatives is an opportunity to help educate lawmakers about issues that affect your company, your industry, and the nation as a whole.

By meeting with your representatives, you not only help your government to represent you better, you also reinforce AED's legislative work in a very important way. You are demonstrating to your members of Congress that AED's membership is politically active and concerned, not just about the issues facing our industry, but also about the issues facing our nation. As you meet with your representatives to discuss legislation and policy issues, keep the following in mind:

Reinforce the impact that laws and policies have on you, your company, and your employees.

Members of Congress spend a great deal of time in Washington discussing the theoretical implications of certain laws; however, they do not have a lot of exposure to the practical ramifications of those laws. Demonstrate to your representatives how a change in the law can improve or harm your productivity, and describe the impact that this will have on the economy in your district and state. If possible, use specific examples and anecdotes wherever possible.

Tell your representatives how many employees you have.

It is important that you establish yourself in the member's mind, not just as a constituent and voter, but also as a representative of other voters in your district or state. Doing so will reinforce your credibility in discussing the regional economic impact of national legislation. Members of Congress will be more likely to listen to you and to support AED's priorities if they understand exactly how many people are affected by laws that affect your business.

Ask members to support AED's legislative positions.

Throughout the year, AED's Washington office works with officials in the executive and legislative branch and with business and industry representatives to implement AED's policy priorities. It is imperative, however that individual AED members also articulate their support for AED's positions to their representatives, to demonstrate to Congress the breadth of support for our agenda.

Keep in touch.

Be sure to get two business cards from every person with whom you meet. Keep one for yourself and write your name on the back of the other and give it to one of the members of AED's Washington team so they can follow up.

Appendix IV: 2010 Federal Election Contribution Guidelines

Every two years, the Federal Election Commission (FEC) adjusts the contribution levels for inflation. With control of Congress up for grabs in 2010, it's useful to know how much you, as an individual can give to candidates and committees. The columns below show the contribution limits for individuals. Note that in addition to giving directly to a candidate's committee, you can also give to a national party (such as the Republican National Committee) or to a state, district or local party.

Information from the FEC is below. If you have questions on these limits, or for further information, visit the FEC's Web site: <http://www.fec.gov>.

	TO EACH CANDIDATE OR CANDIDATE COMMITTEE PER ELECTION	TO NATIONAL PARTY COMMITTEE PER CALENDAR YEAR	TO STATE, DISTRICT & LOCAL PARTY COMMITTEE PER CALENDAR YEAR	TO ANY OTHER POLITICAL COMMITTEE PER CALENDAR YEAR	SPECIAL LIMITS
INDIVIDUAL MAY GIVE:	\$2,400	\$30,400	\$10,000 (COMBINED LIMIT)	\$5,000	\$115,500 OVERALL BIENNIAL LIMIT: <ul style="list-style-type: none"> • \$45,600 TO ALL CANDIDATES • \$69,900 TO ALL PACS AND PARTIES

Appendix V: Submitting Comments to an Agency Docket

As AED continues to monitor actions of federal agencies, we will be calling upon our members to submit comments on regulatory proposals that may affect equipment distributors.

Interacting with agencies involves a slightly different process than interacting with Congress. An agency will publish what's called a "Notice of Proposed Rulemaking" (NPRM) in the *Federal Register*, which can be accessed at: <http://www.gpoaccess.gov/fr/index.html>. This document contains the proposed rule, the reasons why the agency has proposed the rule, and information on how to submit comments.

When AED reports on these proposed rules, we will include a link to the text of the notice. Members can then read the agency's justifications for its proposed rule and the agencies evaluation on the parties the rule will affect.

Agencies often do not appreciate the extent to which a rule may affect your business. This is why federal law generally requires agencies to publish proposed rules and accepts comments from the public. The comment period is your opportunity to tell federal agencies whether their data and assumptions are correct or incorrect.

Though an agency must consider all comments, it does not necessarily have to make any changes to its proposed rule in response. Often, however, the agency will make note of comments it receives as part of the preamble to its final rule. An agency may explain the type of comments it received and discuss why it did or did not adopt changes in response to those comments.

To file comments, read the first part of the NPRM. Information on the "docket" will be located there, including the docket number, where and to whom comments should be submitted, and the due date by which the agency must receive all comments. Include this information prominently in your comments so that the agency will place them in the appropriate docket. Then you may either mail your comments or file them electronically. Each agency has an electronic filing procedure usually detailed in the NPRM. Make sure you submit your comments by the filing date; otherwise, the agency may not consider your comments.

Remember that comments to dockets are made public and can be viewed by everyone. You may wish to look at comments submitted and write a short note in support of those comments, or you may wish to draft your own. A sample document is included. AED staff would be happy to help members who wish to file comments with the agency.

Sample Docket Comment

[DATE] [MONTH] [YEAR]

AGENCY NAME
AGENCY ADDRESS
RE: [DOCKET ID NUMBER]

To Whom It May Concern:

These comments are in response to the Notice of Proposed Rulemaking published by the [AGENCY NAME] in the Federal Register on [INSERT DATE].

[INSERT INFORMATION ON YOUR COMPANY]

This rule affects us because [INSERT EFFECT IT WOULD HAVE ON YOU]

Because of this, we [SUPPORT/DO NOT SUPPORT] this proposed rule. We believe the agency is [CORRECT/INCORRECT] in its assertions about how this will affect the equipment industry and our company.

[INSERT ANY ADDITIONAL FACTS RELATED TO THE RULEMAKING WHICH YOU MAY HAVE]

Thank you for considering our comments. If you have additional questions, I can be reached at [INSERT PHONE NUMBER].

Sincerely,

[NAME]
[TITLE]

Appendix VI: How a Bill Becomes a Law

From Idea to Committee

Believe it or not, it is tough to get a law passed; the legislative process is complicated and confusing. If you want the short version, go to YouTube and watch the old ABC television educational video entitled "How a Bill Becomes a Law" at:

<http://youtube.com/watch?v=mEJL2Uuv-oQ>

Getting Your Idea to Congress

Bills originate several different ways. A citizen or organization may present an idea to a senator or representative. Other bills, such as the upcoming highway reauthorization bill, are "renewals", meaning they must be passed to keep the government operating.

If the senator or representative thinks an idea is good, he or she will then have staff draft legislative language to accomplish the objective.

The sponsor (the senator or representative who has "authored" the bill) then presents the bill before Congress. Using the example of the Water Resources Development Act (WRDA), which was enacted in 2007, the sponsor was House Transportation and Infrastructure (T&I) Committee Chairman James Oberstar (D-MN). The co-sponsors included T&I Ranking Member John Mica (R-FL). Once a bill has been introduced, it is given a reference number for tracking. With each new Congress, the numbering system begins anew.

The bill is also given a prefix of "H.R." or "S." depending on whether it originated from the House of Representatives or the Senate. For instance, WRDA was assigned the number H.R. 1495.

Heading to Committee

Traditionally, the bill is assigned to a committee based on its subject matter. For instance, WRDA fell under the jurisdiction of the House T&I Committee, which oversees the Subcommittee on Water Resources and Environment. The committee will determine whether or not the bill is worthy of becoming a law. The committee usually relegates the bill to a subcommittee, which has specialized knowledge on the bill's topic. The subcommittee may spearhead fact-finding exercises like holding hearings. Witnesses testify on the potential impact of the proposed legislation.

After fact-finding, the subcommittee will hold a markup, which is a forum for members to express their views on the bill, and make any changes (called amendments). Following markup period, the committee votes on the bill.

The bill is now ready for the next step, going before the floor of the chamber in which it was introduced. This action brings about another round of wrangling and debate.

Floor or Committee?

We brought a simple idea to the brink of legislation on the House or Senate floor. Hold the presses! An additional stop may be required.

Other Committee Review

Congressional committees have jurisdiction over various aspects of proposed legislation. More than one committee may be involved, particularly if the bill is complex or controversial. For example, some bills will need to go through the Ways & Means Committee if the bill includes tax issues.

The finance committees make sure the funding mechanisms contained in a bill will work. In our case, H.R. 1495 did not need to make any additional stops for committee review, and went straight to the House floor for a vote.

Floor Action

Once the committee process is complete, the bill goes to the floor where all members of the House and Senate have the opportunity to debate the bill, make amendments, and vote on it.

Conference Time

Once legislation passes a floor vote in both chambers, the two versions of the bill go to a conference committee where representatives from both parties in the House and Senate negotiate differences. When compromise is reached, the conference committee composes a report containing the new provisions, which is submitted to both chambers for vote. Once passed once again by the House and Senate, the bill is "enrolled" and sent to the White House.

The Buck Stops Here – Or Does It?

The president may either veto the legislation or sign the bill into law. If the bill doesn't pass muster by the president it goes through another step in order to become a law.

The President's Desk, and Beyond

Now we look at the final step—gaining the president's signature or, conversely, surviving a presidential veto.

When a bill has been approved by both the House and Senate, it is presented to the president for signature, which transforms the legislation from bill to law. The president, however, can choose to veto the legislation, i.e., block it from becoming law. The president has ten days to decide whether to sign legislation into law or to veto a bill.

If a veto is exercised the "override" process begins. A vetoed bill returns to both the House and Senate, respectively, for vote. If two-thirds of each chamber votes for the bill's passage, it becomes law (designated as "public law" or "P.L.") despite the president's objections. If the bill fails to garner the requisite votes it "dies" and the full process, from the introduction of the bill forward, must begin anew.

Thus concludes the journey of a bill.



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