The Surface Transportation Bill

Why is the reauthorization so vital and what can we do to help it get funded?

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The reauthorization of the Surface Transportation Bill is critical for addressing the outdated and deteriorating infrastructure in the United States. Unfortunately, the outlook for passage this year is bleak with Congress lacking the appetite to pass another bill requiring significant funding as the mid-year election approaches in November.

From a right of way perspective, delaying reauthorization only deepens the problems facing our country's infrastructure. Since right of way is purchased well ahead of construction, timing becomes an issue in addressing these challenges. In addition, professional development for right of way personnel requires significant investments, and without a stable job environment these assets are difficult to maintain.

As with all comprehensive transportation bills, it comes down to funding. Regardless of how Congress decides to fund the billions of dollars required, the key will be to bring transparency to this process and avoid the earmarks that typically find their way into these sorts of bills. There are plenty of legitimate projects our nation needs in place of special interest deals.

Beyond funding, reauthorization provides an opportunity to improve efficiency. For example, allowing agencies to develop a plan for acquisition that maximizes their staff and consultants would allow for a more streamlined and effective method for managing resources.

Significant investments are needed to rebuild our nation's aging transportation system. Our industry can and should play an important role in advocating for a timely and responsible reauthorization of the surface transportation bill.

William S. Bacon
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Reauthorizing the Surface Transportation Bill is vital to every American without regard to their trade affiliation. We need an immediate infusion of cash to save our rapidly deteriorating transportation infrastructure. That cannot be disputed, and every conceivable means of conveying that message to Congress should be used.

However, I have real questions as to whether the reauthorization of the bill will actually impact the right of way industry. Of course, any new funding for transportation and transit projects has the potential for some money to trickle down to our industry. However, I have two observations that lead me to be somewhat pessimistic about ever seeing any significant amount.

First, so much of the to-be-appropriated money is, of necessity, going into maintenance and repair of existing infrastructure. Yes, there will be some new right of way needed for this work, but in the context of the massive amount of new transportation and transit construction needed to meet capacity demands that will not be funded, what actually does trickle down to right of way acquisition will likely not be much.

Second, one can scan the entire proposed reauthorization bill and will not find the term "right of way." This is essentially true with past authorizations of transportation and transit programs, including subsequent appropriations bills. A scan of the touted 136-page National Transportation Policy Report titled, "Performance Driven: A New Vision for U.S. Transportation Policy" from 2009 also reveals no mention of right of way acquisition.

Focusing on the second point in particular, as it relates to public dollars for transportation and transit, the right of way industry is clearly an afterthought. We are like the asterisk that the Commissioner of Baseball added to Roger Maris' 61 homers - worth noting, but not really important in the grand scheme of things.

One would believe that at a time when money is scarce and generally insufficient to undertake even minimal construction projects, a good portion of whatever money is available would be well spent to buy right of way. Having right of way already in hand ought to bolster arguments for applying a fair share of future appropriated funds to new and badly needed state highway construction projects.

Yet even the idea of devoting money exclusively for right of way does not have legs in Congressional circles. The increasingly-popular Congressional practice of specifically naming the projects that are to be funded in the actual appropriation bills takes virtually all discretion away from State Departments of Transportation.

Ignoring the benefits of advanced acquisition of right of way is a time-worn practice. Our county would certainly benefit if Capitol Hill could recognize the importance of allocating money specifically for right of way in these authorization measures and appropriations bills.

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Please be assured, I am a "glass is half full" person and have been all my life. I continue to be optimistic, but also believe that we must all face the harsh realities of the times in which we live and use them as motivators.

It is well documented that the U.S. Transportation Trust Fund is in crisis and nearly bankrupt. The Trust Fund has survived only because Congress has provided five short-term funding extensions of the authorization of the Surface Transportation Authorization Act of 2009, since SAFETEA-LU, the prior law, expired in September 2009. This last extension, which was approved in March 2010 and expires at the end of this year, was mired in an unprecedented shutdown of the U.S. Department of Transportation for two days. Never in the history of the Trust Fund's fifty or so years of existence has something so dramatic and ominous occurred.

The bill's inability to pass through Congress is directly related to the present Administration's reluctance to consider alternatives to the gas tax and fund this $500 billion, six-year economic lifeline, which many claim is little more than enough to maintain our existing infrastructure. The Trust Fund has been historically underinvested and currently does not have adequate revenue streams to meet existing commitments made by the Federal Government.

According to the Committee on Transportation and Infrastructure, U.S. House of Representatives, "If this is not corrected, there will be massive cuts in transportation investments beginning later this year, which will cause crippling job losses, a deepening of the economic recession, and further deterioration of the nation's surface transportation system." We have already seen states like Missouri, Utah, Nevada, Florida, Texas, North Carolina, Oklahoma and Pennsylvania, among others, either cancel or delay projects due to the uncertainty of federal funding.

The bill itself has numerous well-intended objectives and initiatives and has the potential to be landmark legislation if funded adequately. Particularly, the bill calls for the creation of a National Transportation Strategic Plan, consolidation or termination of 75 other programs, emphasis on state recipient accountability and performance-based requirements for reimbursement, livability and place-based policies, emphasis on multimodal and transit alternatives and specific initiatives for high speed rail, among other redeeming initiatives.

Since the Federal Interstate Program was completed, many have accused the U.S. Department of Transportation and recipient States of losing their focus.

Pursuant to the proposed bill mandate, U.S. Secretary of Transportation Ray LaHood recently unveiled "Transportation for a New Generation," a draft version of the Transportation Strategic Plan, and should be commended, as it is hoped that this document will provide the vision and direction and "… develop and implement policies and programs that will transform our transportation infrastructure into a truly multimodal system that provides travelers and businesses with safe, convenient, affordable, and environmentally sustainable transportation choices."

In the U.S., our transportation system is the backbone of our economy and is critical for the movement of people and goods for sustainable economic growth. The price we will ultimately pay as a country, a community and a society for inaction (not funding the bill) may be more costly than any gas tax ever imagined. As pointed out by a collaborative study by the Nevada Department of Transportation, of the Vehicle Miles Traveled Road-User Fee (VMT), the "Consequences of no action …roads and highways will deteriorate, resulting in unsafe driving, increased vehicle wear and tear and maintenance costs, increased accidents, increased congestion, increased delay and drive frustration, loss of productivity, longer commute times, increased pollution and degraded air quality, reduction in economic activity, and potential loss and migration of jobs and industries, as well as loss in tourism…."

An increased gasoline tax has no political support, yet those funding alternatives, such as the VMT, which is the consensus funding choice by numerous studies and endorsements, including the National Surface Transportation Infrastructure Finance Commission, Oregon DOT and AASHTO, proposed by Secretary LaHood and the Transportation and Infrastructure Committee Chairman Congressman Oberstar (MN) and Ranking Member Congressman Mica (FL), et al, have been largely ignored by the White House.

"This isn't a right of way issue; this is an overall economic sustainability issue."

Additional funding alternatives exist and are either being considered or used in several states and in Europe. Public Private Partnerships have been used successfully in Florida and across the U.S. and should become a staple as part of the transportation funding puzzle. Innovative, high tech tolling and interstate tolling are potential options and should be approved for use. Additionally, a National Infrastructure Bank has been introduced in Congress for consideration, as similar public-private models are successfully being used in Europe and should be vigorously explored here in the U.S. This has seen little support to date.

The trillion dollar question is, "What can we do to get the bill funded?" Our country's sustainability is at stake here. All appropriate options should be utilized in tandem, including a temporary gas tax, until some of these very viable alternatives are implemented, after which the gas tax should be eliminated.

You may be asking what you can do to get this bill funded. Get involved and demand accountability from your representatives. Find out who currently supports the bill and support them in November. Call your local Congressperson and Senators and ask why these funding mechanisms have not been included in the bill. Support only those who are willing to invest in our country, not those who bleed it dry by introducing bills that divert dollars from the Transportation Trust Fund masked as jobs bills.

This is not a conservative or liberal issue; this is a quality of life issue. This isn't a right of way issue; this is an overall economic sustainability issue. Get the bill funded and passed and right of way projects will follow. Transportation investment is a proven way to put Americans back to work.