



Transportation's Essential Questions

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We are entering what I think will almost certainly emerge as one of the most interesting and challenging periods for the transportation sector in a long time - probably since transportation was deregulated three decades ago.

At the same time, we are on the cusp of a watershed moment in political history when the executive branch will transition to new management at the same time the legislative branch undergoes its own shake-up.

But far more important than political affiliations to the future of our transportation system, and thus to the future of our country, is what I will call seriousness of purpose. Whether you're interested in federal support for increased port development, or an investment tax credit for the Class I railroads, or broader access to private capital in our highway system, or any other public policy issue affecting a particular mode, the question is whether there will be an effective consensus on dealing with essential questions in a fresh, timely and relevant way.

Think about this: The surface transportation bill that was enacted two years late in 2005 will expire at the end of September 2009. The new administration that we'll elect in November will have been in office for only eight months by then, and it will have spent a good part of that time getting staffed up. What do you think the chances are that Congress will get its work done by the end of September 2009? I think the answer is zero.

So we will be back in extension-land again. And if new ideas were badly needed back in 2003, at the beginning of that two-year delay, they are desperately needed now.

Why? Because of all of the many challenges facing our transportation systems. Congestion is strangling the economy while a softening demand for gasoline is sending the Highway Trust Fund into deficit territory. There appears to be little interest in raising the gas tax. So what will we do? How long will it take the government to figure it out? How much will the delay cost us in terms of lost economic activity?

We're in a similar fix right now with aviation programs. Congress was supposed to have reauthorized the Federal Aviation Administration programs by October 2007. Yet, despite increasing national frustration with congestion in our airways, it now appears we will simply get extensions of old legislation until sometime in 2009.

Given the economic challenges America is facing at the moment, this almost routine failure of Congress to engage meaningfully, in a timely way, on legislative obligations that should be treated as nothing less than "make-or-break," is simply dispiriting.

There will have to be a much different quality of deliberation over the next surface transportation authorization than we have seen in past cycles if we are to establish effective responses to these challenges. It cannot be business as usual. We will have to ask ourselves fundamental questions about the nature and purpose of our transportation programs and the division of responsibility between the federal government, state and local governments and the private sector.

Is a system created for the purpose of connecting up the country with Interstate highways in the 1950s likely to address successfully the problem of urban congestion? Is today's federal-centric system better calibrated to deliver transportation improvements efficiently and responsively to localities than a system that vested greater resources and discretion in local governments?

What would happen if we simply deemed much of today's federal gas tax a state tax and allowed the states to use the proceeds as they saw fit? Why does federal law limit local discretion in the choice of tools for mitigating local congestion? How can we take greater advantage of the billions of dollars of private capital available for transportation infrastructure without compromising the public interest? If the vast majority of economists who have examined the issue believe pricing for use of transportation is the most obvious solution to the congestion problem, why isn't pricing more widely adopted?

The important unknown is whether Congress will be prepared to take up these questions in a fresh and creative way, listening carefully to industry, and will thus begin to find new and more effective solutions.

The answer depends, I believe, on whether industry communicates to Congress in an effective way its need for more timely and effective legislation.

-- Jeffrey Shane, a partner at the Hogan & Hartson law firm in Washington, D.C., left his position as undersecretary of policy at the Department of Transportation at the start of 2008 to enter private practice. He has worked in the transportation world in the public and private sectors for several years. This commentary was adapted from a presentation Sept. 11 in New York City at the Dahlman Rose & Co. First Annual Global Transportation Conference.