



Ken Orski, Washington, D.C., transportation consultant

An Interview with The Civic Caucus

8301 Creekside Circle #920, Bloomington, MN 55437

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Notes of the Discussion

Present : (All by phone) Verne Johnson (chair), Dave Broden, Janis Clay, Pat Davies, Paul Gilje, Sallie Kemper, Dan Loritz, Tim McDonald and Jim Olson

Summary of discussion - Consultant Ken Orski describes a new Congressional agreement on roads and transit funding for 2013 and 2014, including continued support for light rail transit (LRT) but without support for high speed bullet trains. He describes an unusual funding approach that has the effect of cutting back on private pension obligations. He sees major opposition to increases in the federal gasoline tax but suggests more public-private transportation projects. He also sees greater support for imposing tolls on new (but not existing) lanes.

A. Introduction of interviewee - Ken Orski is a public policy consultant and publisher of *Innovation Briefs*, a transportation newsletter now in its 23rd year of publication.

Orski has worked professionally in the field of transportation for over 30 years. He served as associate administrator of the Urban Mass Transportation Administration under President Nixon and President Ford (1974-78), and prior to that was a senior officer in the United States foreign service with assignments to the European Communities in Brussels and the Organization for Economic Cooperation and Development (OECD) in Paris, where he directed a program of inter-governmental cooperation in transportation. From 1978 to 1981 he served as vice president of the German Marshall Fund of the United States, a private foundation supporting transatlantic cooperation on issues of common concern to industrialized nations. Orski is a *magna cum laude* graduate of Harvard College and Harvard Law School.

B. Discussion - The Civic Caucus, seeking to gain an understanding about what should be done in Minnesota regarding transportation, invited Mr. Orski to provide his perspective on what is happening nationally at the local and federal levels.

Just this week Congressional House and Senate conferees have reached agreement on a two-year transportation bill, with final action by both bodies likely today, June 29. (The bill passed on June 29

and was signed by the President on July 5.) Passage was unexpected by many of those in the transportation policy community, Orski said. The bill runs through FY 2014, a year longer than anticipated. Many observers were concerned about what Congress might be faced with if the bill was extended only one year, coming back up after the election in such short order. There would have been very little money left in the highway trust fund by that point.

Compromise a surprise

The extent by which the House and Senate compromised was a surprise. For example, the House dropped its insistence on a new north-south oil pipeline. The Senate dropped language that would have added public money for Amtrak and high speed rail.

The compromise may have been pressured by politics of job creation, Orski said. Even though the bill isn't a major source of new jobs, lawmakers did not want to be seen as voting against a "jobs bill."

National financing for light rail transit (LRT) level remains steady

The House-Senate agreement includes \$1.9 billion in each of the fiscal years 2013 and 2014 for new LRT starts and extensions, which is approximately the same amount as available in 2011 and 2012. Cost sharing remains the same as in the past: 80 percent federal and 20 percent state-local.

National financing high speed bullet trains not included

The agreement does not include federal funds for high speed rail, such as between Chicago and the Twin Cities or between Los Angeles and San Francisco. A questioner asked about high speed rail serving as a way to reduce congestion in high traffic air corridors. Orski said that the Northeast Corridor (Boston to Washington) is about the only place where air congestion is so severe that the expense of high speed inter-city rail might be considered.

Using tolls to finance freeways is supported mildly

Certain amendments that were in the Senate bill, called the Bingaman amendments, were not included. They would have penalized certain aspects of public-private toll concessions. The compromise bill allows blanket authority to toll new capacity on the Interstates so long as current non-high-occupancy-vehicle, toll-free lane capacity is not reduced. It was noted that in a January 2012 newsletter Orski had predicted a substantial increase in support for tolling this year.

No increase in the federal gasoline tax

The agreement leaves per-gallon federal fuel taxes at the same level since 1988. 18.4 cents for gasoline, and 24.4 cents for diesel. Despite needs for transportation financing, there is strong opposition in Congress to increasing fuel taxes, Orski said. About \$18.8 billion of the agreement will be paid for by the general fund. Some House Republicans would have liked to reduce the federal role in financing transportation but the final bill maintains current spending levels.

Finance transportation by allowing pension deficits to increase?

House and Senate conferees agreed to an unusual—and doubtlessly controversial—approach to "finance" that portion of the agreement that relies on general funds. For every dollar of general funds assigned to transportation, the agreement provides for an "offset", i.e. a provision that adds tax revenue. The principal offset is a reduction in the amount that private employers must set aside for pensions for employees. Since pension contributions by employers are tax-deductible, reducing them will increase employers' taxable income and hence allow the government to collect more taxes.

Explore potential of public-private partnerships

Asked about new revenue sources for transportation that are being tried in states, Orski said he sees potential in new arrangements where the private sector might share ownership and operation of transportation facilities (highways and rail transit) with the public sector. In Denver, for example, he said, private funds are being used to help build the LRT system.

Transportation stakeholders often inflate estimates of transportation needs

You sometimes hear transportation advocates calling for \$2 trillion to \$3 trillion in new construction over the next five years, Orski said. Most such estimates are dismissed in Congress as self-serving. No acceptable definition of a national transportation need has been developed. The needs vary from state to state. When he travels around the nation, Orski said he is impressed with the quality of the roads in most states.

Some restrictions present on use of federal funds for operating expenses

The compromise bill deleted a provision in the Senate version of the bill that would have allowed a certain percentage of federal funds to be used to cover operating deficits in transit systems (the difference between total operating expense and that which is covered by the fare box.)

Twin Cities a model for transportation planning

Orski said he is not close enough to state level to judge what states have especially effective planning, but said the Twin Cities stands out, in part for the historical role played by the Metropolitan Council in planning. "The fact that you have this continual dialogue about transportation at the regional level bodes well," he said.

Other provisions of transportation agreement

- * Consolidates the number of highway programs by two-thirds; eliminates all earmarks (the previous bill contained over 6,300 earmarks)
- * Provides a total of \$101B in Highway Trust Fund (HTF) obligation authority, plus \$4.2B in general funds for transit.
- * Provides for supplementing the HTF with \$18.8B in general funds (\$6.2B in FY 2013, \$12.6B in FY 2014) and with \$2.4B from the Leaky Underground Storage Tank Trust Fund.
- * Provides for accelerating project delivery by setting a 4-year deadline for slow-moving projects and exempting certain projects from environmental review.

* Renames the "Transportation Enhancement" program as the "Transportation Alternatives " program. Restricts funding eligibility of certain projects (such as museums). Eliminates "Recreational Trails," "Safe-Routes-to-School" and "Complete Streets" as stand-alone programs. Combines the latter into the Alternatives program and funds it with a set-aside amounting to 2 percent of total federal highway program.

* Strikes out Senate provision that would require automakers to equip cars with "Event Data Recorders" that record and store the vehicle's operation immediately before and after an accident. House conferees expressed concern that this would constitute an invasion of motorists' privacy

C. Conclusion

"I don't see any major transportation programs that will disappear as a result of the bill," Orski said in closing. Federal support for high speed rail is gone. But beyond that I think the federal presence is being maintained, with some reform in the transportation program, to the better."

The chair thanked Orski for the visit today.