Actionline

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Improving America's Infrastructure

By Congressman Geoff Davis (R-KY)

Rep. Geoff Davis

Editor's Note: ACPPA periodically invites leading members of Congress to write columns for Actionline *on legislative topics to allow our readers to hear directly from people making decisions on Capitol Hill. This month's guest columnist is Rep. Geoff Davis, who is serving his fourth term representing Kentucky's 4th Congressional District. He serves on the powerful House Ways & Means Committee, which has jurisdiction over tax, trade, and health care policy, and in the House GOP leadership as deputy whip. The views expressed by Rep. Davis do not necessarily reflect those of ACPPA.*

In September, President Obama visited the greater Northern Kentucky area to rally support for his bill, the American Jobs Act. The President claims his bill will get Americans back to work in part by funding critical infrastructure needs.

The President used the Brent Spence Bridge as the backdrop for his speech. This functionally obsolete corridor between Northern Kentucky and Cincinnati is also a major commercial artery connecting the Great Lakes with the Gulf of Mexico. It is out of date and over-capacity and must be replaced for our economy and our safety. Unfortunately, nothing in the President's proposed legislation necessarily helps us to build a new bridge.

According to *Transportation Weekly,* under the President's plan, Kentucky would receive $422 million for highway spending and Ohio would receive $900 million. Even if both States dedicated all of their funds to this one project, this is far short of the estimated $2.3 billion price to complete the project.

The 2009 stimulus bill failed to encourage the economy to recover or to address our most urgent infrastructure needs, and the President's American Jobs Act would have the same result. Instead of doubling down on the same bad policies, we need a different approach.

To build and repair America's transportation network, lawmakers in Washington and States need to prioritize the limited available funds for the projects that matter most. We must develop a rational process whereby critical infrastructure needs, like the Brent Spence Bridge, can be objectively identified and funded based upon merit. We need a new long-term highway bill that incorporates these principles to repair and replace our aging infrastructure.

Congress should also end the requirement that States spend ten percent of the federal transportation dollars they receive on "transportation enhancements," such as beautification, historic preservation,

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transportation museums and even flower beds and turtle tunnels. This will give States more flexibility to fund the projects that are needed most.

Duplicative and burdensome regulations are another factor holding back both infrastructure improvement and job creation. Even if the Brent Spence Bridge project was fully funded, construction would not be ready to begin until at least 2015. The project began working through the regulatory framework in 2005.

Construction of the I-35W bridge in Minnesota took eleven months. While there are many reasons why this should not become a model used in every case it does show that many of the delays and impediments to efficient completion of major infrastructure projects are imposed through regulation.

To overcome these regulatory hurdles, the President should expedite major projects by waiving certain rules and fast-tracking permits and reviews. This would be a short-term fix for projects like the Brent Spence Bridge, but Congress must also reform the regulatory code to remove or simplify unnecessary, duplicative, and overly-costly rules that delay and sometimes stop major projects.

That is why the House has been voting to repeal the most burdensome rules that are hindering private sector growth. We passed the bipartisan TRAIN Act (Transparency in Regulatory Analysis of Impacts to the Nation). This bill would require an interagency review of the cumulative impacts of Environmental Protection Agency (EPA) rules on jobs, energy prices and other factors. If signed into law, the TRAIN Act could help us eliminate some of the unnecessary rules holding up infrastructure projects.

To reform the regulatory process going forward, the House will also consider my bill, the REINS Act, to require congressional approval for any new economically-significant rules.

The President is correct that maintaining and improving our infrastructure is a part of the foundation of economic growth, but there are better ways to accomplish those shared goals than one-time increases in funding. I will continue to work with members of both parties to pass a new highway bill that prioritizes funds for our nation's most critical infrastructure needs based on merit; to remove the mandatory ten percent set asides forced on States; and to streamline the regulatory process.

I look forward to working with ACPPA members to enact a new highway bill that improves our infrastructure while removing regulatory impediments to project delivery.

House Votes to Protect Coal Ash from Burdensome Regulation

On October 14, The House approved the Coal Residuals Reuse & Management Act (H.R. 2273), which establishes a federal baseline for the state regulation of coal ash.

The bill would halt the Environmental Protection Agency's (EPA) current plan to regulate coal ash as a hazardous waste, which would have an adverse impact on the concrete production industry by removing a long recycled element from the supply chain, driving up consumer energy costs, and threatening jobs and economic growth. The measure would give states the option to implement their own coal ash management program for certification by the EPA. States that chose not to do so would then have the EPA serve as their certifying authority.

ACPPA joined a coalition of industry groups expressing support for the legislation in an October 11 letter to House leaders. The letter cited a June 2011 study from Veritas Economic Consulting warning that up to 316,000 jobs could be lost under the EPA's reclassification scheme.

H.R. 2273 ensures the ongoing beneficial use of coal combustion residuals and strengthens state regulatory authority over these materials in a manner that protects public health, the environment, and jobs.

Bipartisan Coal Ash Recycling Bill Introduced in Senate
Following the passage of the Coal Residuals Reuse & Management Act in the House, a bipartisan group of senators including John Hoeven (R-ND), Kent Conrad (D-ND), Michael Enzi (R-WY), Rob Portman (R-OH), Ben Nelson (D-NE), and John Boozman (R-AR) introduced a Senate version of the legislation (S. 1751).

To encourage your Senators to follow the House's lead and pass this important legislation, be sure to visit www.ACPPA-Action.org.

Water Investment Legislation Proposed

A bipartisan group of lawmakers, including Rep. Nick Rahall (D-WV), House Transportation & Infrastructure Committee ranking member, and Reps. Tom Petri (R-WI), Tim Bishop (D-NY), and Steve LaTourette (R-OH), recently introduced the Water Quality Protection & Job Creation Act (H.R. 3145). The legislation calls for a $13.8 billion investment over five years in the Clean Water State Revolving Fund (SRF).

ACPPA joined with our allies at the Water Infrastructure Network, in a letter to the bill's sponsors praising its introduction and pledging to work with them to help secure its passage into law.

The bill provides a substantial commitment to our nation's water infrastructure, which has been critically neglected for far too long. In addition to providing SRF funding, the legislation would authorize additional options for long-term, alternative financing mechanisms including:

- Assistance for rural communities to gain access to financing wastewater infrastructure
- Principal forgiveness and negative interests loans under the clean water SRF
- Incentives for energy and water-efficient technologies and practices

The bill could create more than 370,000 jobs according to an Associated General Contractors study that found that every $1 billion of water infrastructure funding creates more than 28,500 jobs.

A summary of the legislation is available through the T&I Committee here.

Be sure to urge your lawmakers to sign on as a cosponsor to HR. 3145 by visiting ACPPA-Action.org.

Contractor Withholding Tax Repeal Sails Through House

In a rare moment of bipartisan unity, the House approved, 405-16, legislation (H.R. 674) to repeal the three percent government contractor withholding tax scheduled to take effect in 2013.

While bipartisan support has long existed for abolishing the burdensome requirement, the challenge was finding a way to offset the tax's $11 billion in projected revenues. H.R. 674 is paid for by adjusting the income qualifications for determining eligibility for certain healthcare-related programs, such as Medicaid. The Obama administration supported both repeal of the three percent government contractor withholding tax and the offset.

Now that the repeal has cleared the House, it is critical that the Senate follow the House's lead and eliminate this unnecessary tax. To encourage your senators to pass the measure please visit www.ACPPA-Action.org.

House Passes Bill to Alter Portland Cement Regulations

On October 6, the House passed legislation that forces the Environmental Protection Agency (EPA) to rewrite proposed regulations governing the Portland cement industry.

The Cement Sector Regulatory Relief Act of 2011 (H.R. 2681) requires the EPA to issue new regulations within 15 months of enactment that would establish maximum achievable control technology standards and identify non-hazardous secondary materials used as fuels. Portland cement manufacturers affected by the new rules would be given five years to comply. EPA's current proposed regulations impose controls that are too strict for the cement industry to comply with in a cost-effective manner.

The legislation now moves to the Senate. Despite bipartisan support, the measure will face an uphill battle from many Democrats who see the provisions as an attack on the EPA's efforts to control pollutants.

ACPPA Submits Comments to State Dept. on Keystone XL Pipeline Project

The Keystone XL pipeline project will have significant economic and national security benefits and is in the nation's best interests, ACPPA told the U.S. Department of State.

A recent State Department environmental impact analysis showed no significant impact along the project's proposed corridor. The department is now conducting a national interest determination that examines the project's full range of benefits, expected by December.

In its comments, ACPPA said, "Keystone XL will ensure a stable supply of oil from our closest ally and trading partner. In addition to reducing energy costs and lessening our dependence on natural resources from politically unstable or hostile countries, the project will generate considerable economic activity and create jobs along its route and in the manufacturing sector."

Upon approval, the Keystone XL pipeline is expected to bring more than 1.2 million barrels of oil per day to United States markets and create more than 100,000 American jobs.

Highway Bill Moving Forward

Word on the Hill indicates that top leaders in the GOP-controlled House, including Speaker John Boehner (R-OH), have granted permission for Transportation & Infrastructure Committee Chairman John Mica (R-FL) to seek additional revenue sources to fund a multiyear highway bill.

The change in tone is significant because House Republican leadership has consistently said they would not bring a highway bill up for consideration that spends more than the HTF can support. Accordingly, the budget resolution passed by the House earlier this year called for the program to be cut by about 35 percent (from $41 billion to $27 billion). It now appears that GOP leaders consider $27 billion to be the floor, not the ceiling, and that if Mica can identify other politically feasible offsets, the House bill could invest more than originally anticipated.

While that is certainly good news, their top choice for increasing investment could create friction with their Democratic counterparts in the Senate. The House GOP is said to be looking for additional funding by collecting royalties on expanded domestic energy development. Senate Environment & Public Works Committee Chairman Barbara Boxer (D-CA) has indicated that growing production in areas such as the Arctic National Wildlife Refuge and off the coast of California is a non-starter in the upper chamber.

If Congress does not identify additional resources the highway program could be cut by more than 30 percent next year as the gas tax and other highway user fee revenues are insufficient to support current investment levels. The Federal Highway Administration estimates the reductions would cost 490,000 jobs nationwide. Transportation advocates in the Senate have identified offsets to maintain the highway program at current funding levels. However, if the Finance Committee does not act quickly, those resources might be claimed by another committee for non-transportation purposes.

Congressional action during the past month indicates a growing sense of urgency among lawmakers that a new highway bill is needed. Many on the Hill view highway reauthorization as a potential tool to combat the stubbornly high unemployment capable of attracting bipartisan support. And, there is growing hostility toward further extensions.

On October 20, Boxer announced that the Senate EPW would hold a markup of the Senate's version of the highway bill on November 9.

According to the EPW committee, the bill, called Moving Ahead for Progress in the 21st Century (MAP-21), "holds spending at current levels plus inflation, greatly increases leveraging of federal dollars, and modernizes and reforms the nation's transportation systems to help create jobs and build the foundation for long-term prosperity." The committee released an outline of MAP-21 this summer, but has yet to put forward a bill for public inspection.

The recent activity is positive and suggests that after a long period of inaction, a highway bill may be within reach. Whether lawmakers will find the political will to reach a compromise acceptable to both chambers before the current extension expires on March 31, 2012 is another question.

Bipartisan Effort Launched to Change Rulemaking Process

On September 22nd, a bipartisan, bicameral group of lawmakers introduced the Regulatory Accountability Act of 2011 (H.R. 3010, S. 1606). The legislation contains significant reforms to the federal regulatory process to reduce burdens on job creators, particularly small businesses.

The Regulatory Accountability Act of 2011 attempts to restore the need for regulations to be narrowly tailored and impose the least public burden by:

- Increasing public participation in shaping the most costly regulations before they are proposed.
- Requiring that agencies must choose the least costly option unless they can demonstrate a need to protect public health, safety, or welfare.
- Giving interested parties the opportunity to hold agencies accountable for their compliance with the Information Quality Act.
- Providing for on-the-record administrative hearings for the most costly regulations to insure that agency data is well tested and reviewed.
- Restricting agencies' use of interim final regulations where no comments are taken before a regulation takes effect and providing for expedited judicial review of whether that approach is justified.
- Providing for a more rigorous test in legal challenges for those regulations that would have the most impact.

Encourage your lawmakers to support the Regulatory Accountability Act of 2011 by visiting ACPPA-Action.org.