

DAILY NEWS CLIPS

FEDERAL NEWS CLIPS

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CONFEREES: FEDERAL TRANSPORTATION FUNDING IN STATE OF CRISIS

By Noah Brode
National Public Radio
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With the current federal transportation funding plan scheduled to expire July 1, speakers at the International Bridge Conference in Pittsburgh on Monday declared a crisis situation in the maintenance and repair of the nation's dilapidated bridges.

"If ever there was a crisis, it is now," said Kirk Steudle, President of the American Association of State Highway and Transportation Officials (AASHTO). He said Congress should pass a new transportation funding bill this year, rather than continually relying on extensions of the "SAFETEA-LU" funding formula.

Steudle said it's become a challenge just to maintain the nation's bridges, many of which were built 40 to 70 years ago.

"Construction and rehabilitation costs have escalated dramatically in the past ten years," said Steudle. "Meanwhile, our primary funding mechanism, the federal gas tax, has not been increased since 1993, and states, such as my home state of Michigan, are facing severe budget shortfalls."

The AASHTO President was just one of many speakers to call for a federal transportation funding overhaul.

Federal Highway Administrator Victor Mendez said another SAFETEA-LU extension would be the tenth "Band-Aid" in the law's history. Mendez said he supports transportation legislation by Senators Barbara Boxer (D-CA) and James Inhofe (R-OK), a rare bipartisan bill introduced last week. However, he said transportation funding historically hasn't been a partisan issue.

"People have been able to come from both parties, and come up, and actually develop a solution that works pretty well, or has worked pretty well in the past," said Mendez. "This year, however, things are a little more intense, and maybe quite a bit more partisan, so we'll see what's going to happen there."

The country's bridges are deteriorating at an alarming rate, according to Construction Risk Management CEO Timothy Galarnyk. He said the U.S. experienced thirty bridge collapses between 1980 and 2009, but bridges are collapsing more often in recent years.

"In the 29 months from January 1, 2010 until June 1, 2012, there were 22 bridge collapses or failures in this country," said Galarnyk. "That's one bridge collapse or failure every 1.3 months."

Galarnyk called for the federal government to invest an additional \$250 billion per year into transportation infrastructure.

The International Bridge Conference has been held in Pittsburgh for the past 29 years and continues through Wednesday.

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CARDIN ASSERTS POLITICS HOLDING UP TRANSPORTATION BILL

Cumberland Times-News (MD)

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Provision would help finish North-South Highway

A provision designed to help speed completion of the North-South Highway is part of a transportation bill passed by the Senate but stalled in conference committee by a U.S. House of Representatives minority with a political agenda, U.S. Sen. Ben Cardin said Sunday on a visit to Cumberland.

"If they want to make this work, we can get it done," said Cardin. The trouble, according to the senator, is that some in the House don't want to get it done. "They don't want to pass the bill."

No additional funding for the highway project is included in the current bill.

Right now, a temporary three-month fix is in place to continue most transportation funding and Cardin is worried a new temporary bill will be put into place, meaning further cuts in transportation funding. A minority of Republican House members essentially wants to permanently slash federal participation in most highways projects, and members are getting their way.

"Speaker (John) Boehner should exercise his leadership and allow the will of the majority to prevail," Cardin said. "This is a jobs bill, the chamber (of commerce) and labor both support it; this is not a philosophical issue and shouldn't be a political one," Cardin said.

Cardin did say he talked to members of the House-Senate conference committee Saturday and that there were some encouraging signs. The conference committee, made up of members of both houses, is trying to work out the differences. But a deal needs to be made in days, said Cardin.

Cardin said one of his proposals to ensure local control of funds has support among the conferees.

Cardin's amendment to remove the toll credits for the highway system and another provision he authored would reduce the state match from 20 percent to 10 percent.

The North-South Highway would run from Interstate 68 near Cumberland to Corridor H in Grant County, W.Va., and north into Pennsylvania.

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LEVELING THE RYO PLAYING FIELD

By Howard Riell

Convenience Store Decisions

June 11, 2012

In recent years, roll-your-own tobacco machines have surfaced at various retail locations putting convenience stores at a competitive disadvantage on price.

America, and in particular its lawmakers, remains caught in a love-hate relationship with tobacco. That push-pull has resulted in very well-publicized attempts to dissuade Americans from using tobacco, or at least smoking it. A byproduct of this tug-of-war has been across-the-board tax increases on all things tobacco.

In the wake of the 2009 shift in tax rates, pipe tobacco is taxed at a significantly lower rate than roll-your-own (RYO) tobacco or factory-made cigarettes. As entrepreneurs will, many roll-your-own manufacturers have switched to pipe tobacco, as have consumers. Commercial roll-your-own machines have soared in popularity, giving Americans the chance to save money by using them to make RYO cigarettes with pipe tobacco.

As a result, the federal General Accounting Office (GAO) estimates a significant loss in revenue collection. A report by the Centers for Disease Control and Prevention (CDC) contends that the state of Florida, for instance, missed out on \$63 million in tobacco-tax revenue from April 2009 to August 2011 because of a loophole in a federal law that went into effect in 2009. The law made it possible for consumers of RYO cigarettes to pay less in taxes because the type of tobacco they used—pipe tobacco—could be reclassified into a lower tax rate. The tax difference amounted to an estimated \$21.95 per pound. The result, according to CDC, was the state lost more than twice as much tobacco tax revenue than any other state.

Texas was next, with an estimated \$31 million in lost tax revenue. Nationally, the total amount of state and federal tax revenues not collected in this period exceeded \$1.3 billion, according to the CDC report. Eleven states each missed out on at least \$10 million in tax revenues.

Closing the Loophole

NACS is among the groups leading the charge for change. The association is urging its members to call on Congress for support of legislation that would close a de facto tax loophole that is allowing customers to mass-produce their own cartons of cigarettes with the lower-taxed pipe tobacco. The legislation would provide regulatory certainty that is compromised by the use of lower-taxed pipe tobacco in RYO machines.

“We want a level playing field,” said Corey Fitze, director of government relations for NACS.

Jason Miko, a spokesperson for the National Coalition of Associations of 7-Eleven Franchisees, pointed out that in February the group reached out to the Arizona House, which was considering HB 2717, a bill that came to be known by its short title, “Cigarette Manufacturers.” It would essentially level the playing field between convenience stores and others that sell traditional cigarette packages and establishments that offer roll-your-own machines for rent.

7-Eleven store owners in Arizona were sent a legislative action alert by the coalition asking them to contact their elected representatives in the State House and ask them to support the bill.

At the same time, Bruce Maples, chairman of the National Coalition, sent a letter to Arizona House Speaker Andy Tobin asking him to take a leadership role on this issue and see the bill through. The coalition also sent a 7-Eleven franchisee from the Phoenix area to testify to the House committee of jurisdiction the day the bill was due to come up for a vote. “The bill was pulled from the agenda that very day,” Miko said.

In March, Maples and others traveled to Washington, DC for a series of meetings on Capitol Hill to fight for franchisee rights. “Against the backdrop of NACS’ Annual Day on Capitol Hill, the Coalition delegation met with key House and Senate staff members, on both sides of the aisle, to discuss a variety of issues, including the roll-your-own issue,” Miko recounted.

Congresswoman Diane Black has introduced H.R. 4134, a bill that would close the so-called loophole in the Internal Revenue tax code relating to the installation of RYO cigarette manufacturing machines at retail locations. The legislation would apply only to cigarettes manufactured through these machines after the bill is enacted, so it would not retroactively punish retailers who have been utilizing these machines by forcing them to pay taxes on goods they have already sold.

NACS is encouraging members of Congress to support the bill, which would clarify that retailers who permit consumers to use commercial RYO machines to produce cigarettes are classified as “manufacturers” of tobacco products.

The passage of this legislation will help Florida and the rest of the country resolve this economically damaging situation and allow retail businesses nationwide that follow the rules to continue to grow.

Garnering Support

So where is the RYO category going?

“This is a battle that is going to come down to the wire,” Maples said. “It could trail off and die, or it could take off like gangbusters. The price disparity on the tax, where they price it as pipe tobacco versus taxing it as RYO cigarettes, is huge. H.R. 4134 is the bill we want to make sure everybody supports.”

It is of interest to note that several states are also moving forward on their own, Miko said, introducing legislation to address this issue, which in most cases is expected to pass and be signed into law. Lawmakers in Tennessee, for example, recently passed legislation that requires RYO tobacco retailers to pay a cigarette tax and a \$500 yearly licensing fee for each RYO machine used. Under the law, those businesses would have until July 1, 2013 to comply.

Still, the various involved parties are gearing up, once again, for the inevitable legislative clash. An April 17, 2012 legislative action alert by the National Coalition of Associations of 7-Eleven Franchisees told members the following:

“As responsible retailers, we offer cigarettes that are sold with their proper tax assessments; our licensing fees to offer such products are reflected in those prices as well. However, commercial roll-your-own cigarette machines have recently begun to proliferate, allowing customers in establishments with these machines the ability to produce their own cigarettes at a significant cost savings as they do not pay the additional taxes and the commercial establishments are not subject to additional licensing fees,” the alert said. “An individual who buys cigarettes at our stores pays significantly more (due to taxes and our licensing fees) on his carton of cigarettes than an individual who rolls his own at an establishment offering commercial rolling machines.”

The coalition praised Rep. Black of Tennessee and urged retailers to continue contacting their state representatives to drive change. “It is important that we gain sponsors for and pass this legislation that will level the playing field for convenience stores across America,” the alert said.

Retailers Taking Action

In an announcement published by the U.S. Food and Drug Administration, the agency said it intends to issue a “deeming regulation” sometime during the summer of 2012 to cover other tobacco products. The statement by the FDA was included as a part of a solicitation announcement in which the agency is seeking a contractor to identify a list of all tobacco product advertisements in the U.S.

“In short, this announcement means that the FDA plans to issue a proposed regulation covering other tobacco products such as cigars, cigarillos, e-cigarettes, hookahs and possibly smokeless tobacco products,” said Tom Briant, executive director of the National Association of Tobacco Outlets (NATO). “The extent of the proposed regulation is not known at this time, but could have a severe impact on the way tobacco retailers do business.”

The hope is that this tax loophole covering roll-your-own products will also be addressed.

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DONOVAN NEEDS TO PROVIDE ANSWERS

Editorial by The Day (CT)

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Connecticut House Speaker Christopher Donovan, a candidate for the Democratic congressional nomination in the 5th District, needs to answer questions about alleged corruption in his campaign for Congress.

Mr. Donovan says that federal investigators have urged him not to comment about the ongoing investigation. But Mr. Donovan can only interfere with the investigation if he knows something, and so far he has invoked the know-nothing defense. The Speaker contends if those on his staff did anything illegal, he was unaware. That in itself is an indictment.

The other reason a politician clams up when his campaign is under investigation is the danger of saying something incriminating. As a candidate for high office, such an excuse will certainly not do. Mr. Donovan at least needs to answer every question he can. His contention that answering any question about the matter could hinder the investigation is a self-serving stretch.

The FBI alleges that the Donovan campaign accepted multiple maximum contribution checks of \$2,500 from several pass-through donors, knowing that they were intended to hide the true source of \$20,000 in political contributions. The FBI affidavit reports that one source was ostensibly a "roll-your-own" tobacco shop hoping to use the accumulated donations to gain the speaker's influence in killing a proposed new state cigarette tax on such products. In reality, the big donor was an undercover FBI agent pretending to represent a smoke shop.

The FBI affidavit alleges that two co-conspirators helped put together the donations and conceal from federal election authorities the true source of two groups of \$10,000 payments. Citing sources, the Hartford Courant has identified those alleged co-conspirators as Paul Rogers, a former employee of a Waterbury smoke shop, and Ray Soucy, a Department of Corrections supervisor, labor union activist and Donovan supporter.

The Courant reports a third co-conspirator named in the affidavit is Joseph Nassi, who allegedly packaged the series of contributions used to mask the true donor. Before joining the Donovan for Congress campaign, Mr. Nassi was on the state payroll, receiving an \$110,000 salary as chief policy counsel in the House speaker's office. He left that job to become Mr. Donovan's campaign manager.

Under arrest in the scandal is Robert Braddock Jr., the Donovan campaign finance director. The FBI alleges he conspired to hide the source of the \$20,000 in political contributions.

The existence of an FBI sting strongly suggests investigators had serious suspicions about the integrity of the Donovan campaign. The FBI is not in the business of randomly undertaking sting operations targeting campaigns. Investigators, we conclude, suspected corruption.

Mr. Donovan has dismissed Mr. Braddock, Mr. Nassi and Sara Waterfall, who worked in the campaign's finance office.

The contention that this skullduggery was going on in his campaign and Mr. Donovan had no hint something was amiss stretches credibility. The \$2,500 in checks arrived in April and again in May. Those familiar with congressional campaigns say such donations get the attention of the candidate, with a personal thank you and often a phone call or a meeting. This is particularly true in a tough primary campaign, which the speaker now faces.

Does Mr. Donovan normally contact such large donors? Did he try to contact these individuals? Was he successful? What was the conversation? Did these donations raise any red flags? What steps had Mr. Donovan taken to send the message to the leaders of his campaign organization to play within the rules?

These and related questions deserve answers.

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