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HIGHWAY SPENDING BILL RUNNING OUR OF GAS AS HOUSE, SENATE NEGOTIATIONS STALL

By Keith Laing
The Hill
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Advocates for a new federal transportation bill think even bumping negotiations up to Senate Majority Leader Harry Reid (D-Nev.) and House Speaker John Boehner (R-Ohio) may not be enough to save the measure from this year's legislative scrapheap.

Traditionally in bicameral negotiations, issues that cannot be resolved by conferees are bumped up to the leaders of the respective chambers.

But the pointed shots taken recently by the leaders of the conference committee -- that for a month has been attempting to negotiate an agreement between the House and Senate on the bill -- has caused some transportation advocates to ponder whether a deal is any longer possible, even if Reid and Boehner assume the helm of the talks.

"I think the bill's dead," a transportation industry source said to The Hill on Friday. "I don't think they can fix what they have in front of them. Kicking it up to the leadership probably gives it a chance…but every time they get to the five-yard line, they move the goal posts back."

Lawmakers have until June 30 to reach a deal on transportation spending before the current funding mechanism for road and transit projects runs out.

The leaders of the 47-member conference committee from their respective chambers, Sen. Barbara Boxer (D-Calif.) and Rep. John Mica (R-Fla.) sharply criticized each other last week in tones uncharacteristic of the first month of negotiations among the highway conference committee.

Boxer said that the House lacked "urgency" and "leadership" in the highway negotiations. Mica countered that the Senate "appears unwilling to compromise at all" on House provisions, like mandating the approval of the controversial Keystone XL oil pipeline.

The escalation of the public rhetoric between the chambers' leading negotiators caused Associated General Contractors of America spokesman Brian Turmail to worry Friday that the tradition of bumping intractable issues up to leadership may not work in the contentious highway negotiations.

"If it required four people to get in a room to get a deal, we would've already had a deal," he said. "Our sense is the leadership has obviously been involved, but I don't know if it's as simple as 'if leadership gets [more] involved, you'll automatically get a break.'"

A House GOP aide told The Hill that all of the issues involved in the transportation negotiations that fall under the lower chamber's Transportation and Infrastructure Committee's jurisdiction were still being handled by members of the panel who are on the conference committee.

The aide said provisions dealing with the appropriation of revenue from fines generated by the 2010 Gulf Coast oil spill were the only thing in the highway negotiations that is strictly at the leadership level thus far.

Boxer gave a similar report during a photo op with construction equipment last week, saying the conference committee was still negotiating issues dealing with the Senate Environment and Public Works, Commerce and Finance committees' respective jurisdictions.

"The state of play is that we are negotiating in good faith," Boxer said, though she added that her message to the House was "get your act together to get this done."

If Congress does not reach an agreement by June 30, the federal funding for road and transit projects – and government's ability to collect the 18.4 cents-per-gallon gas tax that supports it – will run out. The House has passed an additional extension that would carry transportation funding through Sept. 30, but that measure would have to also be approved by the Senate to become law.

The AGCA and other transportation groups dubbed the Transportation Construction Coalition (TCC) ran ads last week urging the conference to help the panel come to a consensus.

Two of the members, freshmen Reps. James Lankford (R-Okla.) and Steve Southerland (R-Fla.), said the advertisements helped them dig further into their positions.

"I've yet to have a person hang up and not say stick to your guns," Lankford said in a conference call with reporters. "I'm quite pleased that they're running these ads against us because they've emboldened our base."

But Turmail said Friday that the ads were working as the transportation coalition intended.

"They were intended to raise awareness that there's a deadline coming up and get constituents involved," he said.

Lankford and Southerland said they would continue to insist on provisions that were included in the original five-year, $260 billion transportation bill that was approved by the House Transportation and Infrastructure Committee, despite criticism from Democrats on the panel about the fact that the legislation was never approved by the full lower-chamber.

Turmail said the transportation coalition did not have a preference between the chamber's proposals, but said the group's members were ready for Congress to make a compromise.

"We've got a lot of members who are frustrated that the deal is not done," he said. "If you're a contractor, the most important thing is for your state to have certainty in its transportation funding."

Acknowledging that may not come in the next two weeks however, Turmail added: "if it were that easy, we would already be talking about getting a six-year bill when this expires."

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WHY CAN'T CONGRESS AGREE TO FIX ROADS?

Hartford Courant Editorial (CT)
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Much to the surprise of many observers, Congress' approval rating has ticked up, according to a Gallup Poll released recently, to a sub-anemic 17 percent. We wonder if those 17 percent are paying attention.

Consider, for example, Congress' inability to produce a federal transportation funding bill for more than three years. Instead of passing a comprehensive, long-term bill that states can rely on to put out construction contracts, Congress has forced the country to bumble along on a series of 90-day extensions of the bill that expired in 2009. The most recent extension runs out on July 1.

Whether there will be a bill by then appears to be up to the Republican-led House of Representatives.

Bridges In Crisis

The Senate passed a bipartisan bill in March that provides $109 billion over two years, co-sponsored by two unlikely political bedfellows, liberal Barbara Boxer of California and conservative James Inhofe of Oklahoma. The House has been unable to pass a bill. Some GOP members want the bill to include the controversial Keystone Pipeline, among other off-the-point addenda. Also, it being an election year, some observers think the Republicans are holding up the bill to embarrass President Obama.

Would that they were motivated by the greater good, by the opportunity to provide jobs and improve the movement of people and goods. The Interstate Highway System is aging and in need of work; the construction industry is also in need of work. Speakers at the International Bridge Conference in Pittsburgh this week said the need for maintenance and repair of the nation's dilapidated bridges, many built between 40 and 70 years ago, has reached the crisis stage.

The federal government must also help build transit systems, as governments around the world do, to take pressure off the highways and lessen pollution and foreign oil dependency.

The House should simply pass the Senate bill, which will continue funding at slightly above current levels for two years. According to the transportation advocacy group T4 America, it will increase Connecticut's highway repair funding from about $120 million to $150 million.

U.S. Can't Get Out Of Its Own Way

But even the Senate bill does not resolve the two major problems that underlie the nation's surface transportation policy. The first is money. The Highway Trust Fund, the major source of federal transportation funding, is going broke. According to two Government Accountability Office studies, states have been getting more money back from Washington than they've been sending in, forcing Congress to replenish the fund over the past four years with $30 billion from other sources.

The problem is that the highway fund is primarily supported by the federal gas tax. Receipts are down because many of us are driving more fuel-efficient cars, among other reasons. But the tax, 18.4 cents a gallon, has not been raised since 1993, and there is no political will to raise it today. Some transportation planners have offered an alternative, a tax on vehicle miles traveled, but that too has little political support.

The Senate bill this year relies on some one-time revenue sources, so future bills will need a more sound revenue base.

An option might be to create a coherent national, multi-modal transportation plan, something that has been lacking since the completion of the Interstate Highway System. If there were such a thing, it would be possible to create a capital plan to support it, and pay for it out of general revenues.

But that would take a broader vision and stronger leadership than we've seen from Congress over the past three years, and that's a shame. The country that built the intercontinental railroad and the greatest highway system in the world now cannot get out of its own way. It is thus no wonder that more than eight of 10 Americans have a low opinion of Congress. Many of them were just caught in traffic.

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LIGHT UP YOUR PORTFOLIO WITH THIS TOBACCO STOCK

By Guillaume Desjardins
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Imperial Tobacco, one of the world's leading tobacco companies, offers significant growth prospects as well as being one of the most defensive areas in consumer staples, Olivier de La Ferrière, fund manager at KBL Richelieu Gestion, told CNBC.com.

The valuation of Imperial Tobacco [IMT-GB 2386.00 8.00 (+0.34%)], the owner of brands such as Gauloises, Drum or Davidoff, is trading at discounted levels due to its lack of exposure to emerging markets, de La Ferrière explained.

While 51 percent of competitor British American Tobacco's (BAT) [BTI 97.93 --- UNCH (0)] net profit comes from emerging markets and 44 percent for peer Philip Morris [PM 87.73 (---)], emerging markers contributed just 23 percent to Imperial Tobacco's profit in 2011.

"This is what justifies the valuation discount, but it is simplistic, because (Imperial Tobacco) is the leader in the Roll-Your-Own (RYO) segment, which is interesting due to its strong growth and higher margins than the rest of the sector," de La Ferrière said.

The company is a strong cash flow generator which offers a potential increase in shareholder return.

The free cash flow payout ratio—the annual dividend per share divided by free cash flow per share—is currently at 75 percent, but could eventually reach 100 percent, de La Ferrière explained, thanks to solid dividends and an increase in its buyback program.

"A positioning makes sense," de La Ferrière said, as the stock currently trades below 2400 British pence and could, in the medium term, go up 20 percent and reach a price target of 2900 pence.

In the long term, the company could even be an acquisition target, de La Ferrière said, mentioning Imperial Tobacco's competitors Japan Tobacco [JAPAF 5585.00 --- UNCH (0)] and BAT as potential suitors. However, such a move could cause antitrust concerns in Europe, he said.

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SHUTTING DOWN SMALL BUSINESS – AGAIN

Opinion by Vin Suprynowicz
Las Vegas Review-Journal
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Jeffrey Armstrong is a soft-spoken guy. He was schooled in Boston, though a slight lilt still betrays his Caribbean origin - Barbados, actually. The kind of guy who remembers his customers' names, he's the owner and sole proprietor of "The Smoke Zone," a rented storefront next to the Quiznos at 901 S. Rancho Drive just north of Charleston Boulevard - though it's one of several similar RYO (roll your own) Filling Stations in Southern Nevada.

The basic pitch? Cheap cigarettes.

The brunette pays about $26 per carton at the Paiute tribal smoke shop, on the reservation north of town, for Smokin' Joes, which are relatively loosely packed and thus fast-burning. Quality control? A little spotty.

Armstrong advertises cartons at $21 plus sales tax, packed by a machine in his shop that's adjustable for degree of firmness, allowing you to create a cigarette that will burn longer than a Smokin' Joe, "so you actually smoke less, which saves you even more money."

I called the Wal-Mart Supercenter on West Charleston. A carton of Marlboro "100s" now costs $49.70, there.

I don't smoke. Armstrong said the regulations governing tobacco distribution are such that he was reluctant to hand the brunette a free sample, but a customer who was in the process of "rolling her own" carton cheerfully handed one over. The brunette found it a bit harder to draw than her usual brand, leading to the discussion of the ability to adjust the air pressure with which the machine packs the tobacco, as well as the higher relative humidity of the pipe tobacco being used.

Ah, yes, the machine. It dominates the waiting area of the small shop, a red steel box a bit smaller than an upright piano.

Armstrong insists he neither manufactures nor sells cigarettes - a legal fine point the importance of which will soon become obvious.

"I sell you the tobacco," he says, holding up a big Ziploc plastic bag that holds 8 to 9 ounces of the brown shag. "And I sell you the empty tubes," he says, taking down from the shelf and displaying a carton of filter cigarettes that turn out to be, well, empty.

The buyer then dumps the tobacco in the chute at the top of the machine, positions the box full of empty paper tubes in a slot in the side, punches the video control screen a few times, and - voici - the machine goes to work chopping the pipe tobacco, spitting it into the little paper tubes one at a time via compressed air, and dropping them into a tray down below, where the purchaser gathers up the finished cigarettes and packs them neatly back into the cardboard carton. Processing a carton's worth appears to take about 10 minutes.

"I never touch the tobacco or the cigarettes," Armstrong says, smiling. For a small fee to use his machine - included in the per-carton price - you've just rolled your own.

Why are they so much cheaper? The rough-cut pipe tobacco is taxed at a lower rate. But the federal government does impose a hefty tax on cigarette manufacturers, which is not paid by those who roll their own. The entrepreneurs responsible for the RYO Filling Stations discovered a niche in the law and introduced their perfectly legal, cost-saving service.

Needless to say, Big Tobacco was not pleased.

"Now lawmakers, backed by Big Tobacco and convenience-store chains, want to declare such shops to be manufacturers," reported Mike Esterl in The Wall Street Journal on March 16. "That would subject them to the same taxes and regulations as the broader cigarette industry, likely snuffing them out. ... Hundreds of such shops - mostly or entirely focused on the roll-your-own machines - have opened since 2009, when Congress increased" tobacco taxes.

Big Tobacco doesn't employ all those lobbyists so they can just sit back and let something like the RYO revolt transpire. Under a Senate bill passed a few days before Esterl's piece ran in the Journal, "Any retailers making roll-your-own machines available to customers would be treated like mainstream cigarette manufacturers."

Rep. Diane Black, R-Tenn., introduced a separate bill, House Resolution 4134, amending the definition of a tobacco manufacturer to include "any person who for commercial purposes makes available for consumer use a machine capable of producing tobacco products."

Would that include the little palm-sized gadgets I used to watch kids employ to roll their own cigarettes, of various kinds, back in my college days?

If I rent out construction gear, am I suddenly a construction contractor?

RYO Machines LLC of Ohio, the largest maker of the machines, has hired its own lobbyists and lawyers. "The company and affected tobacco shops say they have no way of complying with the regulatory requirements of being a cigarette manufacturer," The Journal reports.

"I'm David fighting Goliath,'' said Phil Accordino, part-owner of Girard, Ohio-based RYO Machines, which began manufacturing the nearly 5-foot-high contraptions in 2008. The company has sold about 1,900 machines to tobacco shops in more than 40 states, including roughly 1,000 last year. Stores pay a bit more than $30,000 for each machine, which takes two to three seconds to roll a cigarette - roughly a thousand times slower than machines at big cigarette manufacturing plants.

The Alcohol and Tobacco Tax and Trade Bureau declared in 2010 that retailers with roll-your-own machines are manufacturers, but RYO secured a preliminary injunction in a federal court in Ohio. RYO also has won injunctions in a handful of states, including Connecticut and Wisconsin.

The likelihood they'll win in the end? Come on.

Big Business and Big Government working hand in hand to stymie the creative destruction of true capitalism, ain't capitalism. Instead, it's a corrupt, protectionist economic system that the dictionaries recognize as fascism or state socialism.

Our politicians say they're desperately searching for ways to create jobs. The RYO entrepreneurs came up with $30,000 apiece to buy these rolling machines, then probably invested twice that much again in rent, advertising, business licenses, sign permits, everything else our hostile modern regulatory state now requires of a start-up business - all on the presumption they could rely on the law remaining the same.

Yet the minute Mr. Tobacco Lobbyist rang Your Favorite Congresscritter, it was "Change the law to destroy a specific legal business, shut down a thousand-odd small businessmen and women, crush their dreams and throw them back on the street? Yes sir, yes sir, three bags full!"

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