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HIGHWAY BILL CONFEREES FACE DAUNTING SCHEDULE

By Oliver B. Patton

Trucking Info

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House and Senate conferees last week began work on the highway bill under considerable pressure of time and necessity.

Counting today, the conferees have 19 working days left before the current extension expires June 30. Their staffs, who do much of the detail work in the conference process, probably will be working close to 24-7.

A bet that they could finish negotiations by then would not be wise, according to many close watchers.

Transportation Secretary Ray LaHood has predicted that there will not be a bill, and American Trucking Associations President and CEO Bill Graves is nearly as pessimistic.

But Hill insiders say that if the conferees can find a way to compromise on tough issues such as funding and the Keystone XL Pipeline, there's a chance they can follow through with a bill sometime this year that at least begins the process of reforming the federal highway program.

"I think they are going to work as hard as they can between now and the deadline to get a bill done," said veteran transportation policy analyst Norma Krayem of the Washington, D.C., legal services firm, Patton Boggs. "If they can't get through (the issues) it won't be from lack of trying."

Many moving parts

The conference process has many moving parts. Under traditional practice, conferees negotiate the details of the legislation that brought them together -- in this case the Senate's two-year, \$109 billion bill, and the House's 90-day extension of the current program.

Trouble is, the House's extension does not contain the highway bill that was reported out by the Transportation and Infrastructure Committee. The full House was not able to pass that measure, which includes reforms that transportation experts say are needed to modernize the federal program -- many of which are similar to provisions in the Senate bill.

The Senate believes its bill should be the basis for the final bill, but is willing to incorporate House priorities in order to win House approval, said a senior Senate aide who could not speak on the record.

Keystone XL

It will be difficult to get there, though, unless there is an agreement on a controversial provision of the House extension that would force the Obama administration to change its regulatory approach to the northern portion of the Keystone XL Pipeline.

That segment of the line, which would move oil from Canadian tar sands in Alberta to Steele City, Neb., is a political lightning rod pitting Republicans against Democrats over jobs, fuel prices, environmental concerns and the presidential election. It is not a purely partisan issue, however, since both labor interests and some Democratic legislators support the line.

The project, which must be approved by the State Department because the line crosses the U.S.-Canada border, has been stalled over concerns about the initial proposed route. It would have traversed Nebraska's environmentally sensitive Sandhills region.

Nebraska is in the process of approving a revised route that takes the line to the east of that region. TransCanada, the pipeline company, already has proposed this change to the State Department. The State Department has said it is open to the revision, and TransCanada says it anticipates approval in the first quarter of next year.

Whether or not that happens remains to be seen. A senior Republican aide in the House, who could not speak on the record, gave 50-50 odds on approval due to opposition from environmental interests who believe that the oil would diminish demand for electric cars.

Meanwhile, the House transportation extension bill has a provision that would take review authority away from the State Department and give it to the Federal Energy Regulatory Commission.

Compromise Possible?

Whether or not there can be compromise on this point is anyone's guess at this point, but that's what it will take to clear the way for the highway bill.

"It's probably true that until Keystone gets resolved, the rest can't get resolved," said Mary Phillips, senior vice president for legislative affairs at ATA.

Compromise is a rare commodity on Capitol Hill these days, but it does happen.

Sen. Barbara Boxer, D-Calif., describes the House's pipeline provision as a "poison pill," but she also said, "We need to meet in the middle." Boxer chairs the Senate Environment and Public Works Committee, is one of the co-authors of the Senate bill and is one of the key negotiators on the bill.

She and her Republican counterpart, Sen. James Inhofe of Oklahoma, can claim a recent success based on compromise. The two are polar opposites on practically any political issue -- like Mars and Venus, as Boxer put it -- but they agree on infrastructure and fashioned a highway bill that passed the Senate with a strong bipartisan, 74 - 22 vote.

"If Inhofe and Boxer can agree, these conferees can agree," Boxer said in remarks last week at a meeting of the Coalition for America's Gateways and Trade Corridors.

Trucking Provisions

Trucking interests favor completion of the pipeline but are focused on the main prize -- the highway bill. It is important for the industry that the conference negotiations include truck-related provisions that are in both the Senate-passed bill and the House T&I Committee's bill.

While portions of the bills overlap (both contain a drug and alcohol clearinghouse, for example), each contains provisions that don't show up in the other.

The Senate bill would mandate electronic onboard recorders, which ATA supports and the Owner-Operator Independent Drivers Association does not. The House bill lacks that provision. The House bill, on the other hand, would mandate a study of the 34-hour restart provision of the new hours of service rule, while the Senate bill does not.

The Senate bill also contains provisions that would help states focus resources on freight corridors, a first for the highway program.

Other major provisions of both bills are aimed at reforming the federal program by eliminating earmarks, speeding up the construction process and consolidating programs at the Department of Transportation.

If the conferees cannot finish work by the end of June, Congress will have to pass another extension, the tenth since the highway program officially expired in October 2009. That extension could be relatively short, if the conferees are close to agreement, or it could push the deadline out to the lame duck session following the election in November.

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DEMOS, GOP USING UNPOPULAR BILLS TO HURT OTHER PARTY

CBS News

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Congress is producing little this election year that will become law, yet both parties are churning out bills designed to make the other side look bad.

Take a look at separate measures that would protect women from violence, keep student loan rates low and build roads and bridges. Each is a widely shared goal and seemingly easy to enact. But the proposals are caught in pitched battles, each party adding language that infuriates the other.

As a result, the Democratic-led Senate and Republican-run House are writing legislation that dies right away or is assured of going nowhere in the other chamber. Instead of laws, the bills generate grist for fundraising pitches and campaign attack ads.

"It was, 'Let's put a bill on the floor that we know Republicans will never support, designed specifically to fail, so we can then spend the week talking about this on the Sunday talk shows and speeches on the floor and missives from the campaign,'" Sen. Marco Rubio, R-Fla., complained last week after GOP senators voted in virtual lockstep to block Democrats' student loan bill.

The constant wrangling is doing little to appease voters. In this month's Associated Press-GfK poll, only 18 percent gave favorable grades to Congress. That was slightly better than last summer, but still dreadfully low.

The student loan bill underscored the partisan positioning afoot.

Want to keep interest rates on subsidized Stafford loans from doubling for 7.4 million undergraduates on July 1? If you were a House Democrat, you had to vote for a GOP bill financed by obliterating a preventive health program created by President Barack Obama's cherished health care overhaul.

If you were a Senate Republican, you had to support a Democratic bill financed by boosting payroll taxes on upscale owners of some privately owned companies — a nonstarter for most Republicans.

Not surprisingly, there were few takers, and neither chamber produced a bill that had any prospect of final approval.

Democrats denied their motivation was producing fodder for campaigns. But they accused House Republicans of doing just that with a highway bill that requires construction of the Keystone XL oil pipeline from Canada to the Texas Gulf Coast, which Obama and many Democrats have opposed for environmental reasons.

"We ought to quit taking jabs at one another to score political points," said Rep. Nick Rahall, D-W.Va.

The tactic has been given the nickname "poison pill" because it sometimes causes the demise of the legislation to which the provision is attached.

"They do it because, in part, voters are not fully informed about legislation and a lot of votes are difficult to understand," said Marc Meredith, a political scientist at the University of Pennsylvania who has studied voters' decision making. "You can put members of Congress in a tough spot because voters aren't fully informed about why members voted in a certain way."

Shortly after the House voted April 27 to approve the GOP student loan bill, paid for by cutting Obama's health overhaul and supported by just 13 Democrats, Republicans sent news releases to dozens of congressional districts.

Democrats decided "protecting the Democrats' government takeover of health care was more important than helping future college graduates," the releases said.

Democrats argued it was wrong to cut health care programs to keep student loan interest rates from growing. Yet they were happy to use the tactic after two-thirds of Republican senators voted against a Democratic bill extending programs to protect women from violence and adding new protections for gays and transgender people.

Republicans said Democrats purposely inserted those provisions to make it impossible for many GOP senators to vote "yes." But that didn't stop a fundraising email by House Democrats' campaign arm accusing the GOP of "trying to derail the Violence Against Women Act."

"We can't let Republicans Etch A Sketch away their destructive war on women," it added. That was a reference to a remark by a top aide to GOP presidential hopeful Mitt Romney about the candidate's ability to recalibrate his positions for the general election.

The parties often disagree over whether a provision is a purposeful poison pill or simply a demonstration of the majority's ability to write bills reflecting their own priorities.

A GOP measure the House will debate this week renewing violence against women programs drops the Senate-approved language protecting people based on their sexual orientation. It would make it harder for abused illegal immigrants to stay in the U.S. unless they cooperate in investigations about their allegations.

That language is "a poison pill and obnoxious" and will cause many Democrats to oppose the overall bill, said Rep. Jerrold Nadler, D-N.Y. "It's changing the law in a way we can't accept because it will make more women get battered" because their cooperation would make them vulnerable to further abuse from their spouses, he said.

Rep. Sandy Adams, the bill's chief sponsor, said that provision was not a poison pill. Adams, R-Fla., said it was included to try reducing fraudulent claims of abuse "so the money we're providing goes to victims and their services.

"At the end of the day, I'd hope everyone agrees that we want these services provided for our victims," she said.

Other instances in which one side included language sure to cause the other party to oppose a bill that otherwise seemed destined for approval include:

—A bill last summer financing Federal Aviation Administration programs. House Republicans inserted language overturning an agency rule making it easier for airline and railroad workers to unionize;

—Last winter's bitter fight over extending Social Security payroll tax cuts through 2012. An early Senate Democratic bill financed the cost with a tax on people earning over \$1 million a year, while a GOP version trimmed the federal bureaucracy and extended a pay freeze on civil servants.

—Bills financing the Iraq war under President George W. Bush, into which House Democrats put language forcing troop withdrawals.

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SENATORS PUSH MEASURE TO CLOSE LOOSE TOBACCO TAX LOOPHOLE

Convenience Store News

May 11, 2012

Senators are pushing legislation to close a tax loophole that gives an advantage to loose pipe tobacco and retailers with roll-your-own (RYO) machines.

Yesterday, U.S. Sens. Dick Durbin (D-Ill.), Frank Lautenberg (D-N.J.) and Richard Blumenthal (D-Conn.) introduced the Tobacco Tax Equity Act to close loopholes in the tax code that allow tobacco companies to avoid the federal cigarette and RYO tobacco tax. Pipe tobacco is currently taxed at a lower rate than cigarettes, leading some companies to offer the option of purchasing pipe tobacco and allowing customers to roll their own cigarettes to avoid paying the federal cigarette tax.

"The current loopholes in the taxes on tobacco products encourage the use of products like pipe tobacco, smokeless tobacco, and 'nicotine candies' as a cheap source of tobacco, particularly among young people," Durbin said in a statement. "This difference in tax rates doesn't make sense, and we are already seeing tobacco manufacturers abusing them by changing the labels on their products to avoid paying the higher tax. This bill will stop tobacco manufacturers from gaming the system and protect more children and teens from this dangerous habit."

RYO has grown in popularity as adult smokers face increasing cigarette excise taxes in many states as they continue to battle economic challenges.

Blumenthal added that this measure "equalizes the federal tax rate for all tobacco products to that of cigarettes" and is expected to generate more than \$1b billion in revenue.

The Tobacco Tax Equity Act would create tax parity by establishing the tax rate on all tobacco products at the same per unit level as cigarettes. Under current law, small cigars and RYO tobacco products are taxed at the same level as cigarettes; however, cigars, smokeless tobacco and pipe tobacco are taxed at a lower rate.

The tax disparity was a one of the four key points convenience store leaders brought to federal lawmakers at the NACS 2012 Day on Capitol Hill in March, as CSNews Online previously reported.

According to NACS -- the Association for Convenience and Fuels Retailing -- background information, RYO cigarette tobacco has been taxed at \$24.78 per pound while RYO pipe tobacco has been taxed at \$2.83 per pound dating back to 2009.

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U.S. SENATORS INTRODUCE LEGISLATION TO CLOSE TOBACCO-TAX LOOPHOLE

NACS Online
May 14, 2012

The bill alleges that tobacco companies are avoiding federal cigarette and roll-your-own (RYO) tobacco taxes.

Last week U.S. Senators Dick Durbin (D-IL), Frank Lautenberg (D-NJ) and Richard Blumenthal (D-CT) introduced the Tobacco Tax Equity Act, which seeks to close loopholes in the tax code that allow tobacco companies to avoid the federal cigarette and roll-your-own (RYO) tobacco tax.

“The current loopholes in the taxes on tobacco products encourage the use of products like pipe tobacco, smokeless tobacco, and ‘nicotine candies’ as a cheap source of tobacco, particularly among young people. This difference in tax rates doesn’t make sense, and we are already seeing tobacco manufacturers abusing them by changing the labels on their products to avoid paying the higher tax. This bill will stop tobacco manufacturers from gaming the system and protect more children and teens from this dangerous habit,” Durbin said in a statement.

“These loopholes are another egregious example of tobacco companies putting the bottom dollar over public health the well being of our children,” added Lautenberg. “This legislation will stop big tobacco from exploiting loopholes that cheat the government out of tax dollars. If companies won’t do what is right, then we will by working to pass this bill and close the loopholes.”

“Incredibly, the tobacco industry continues to seek profits by addicting children and avoiding taxes,” said Blumenthal, adding, “This bill equalizes the federal tax rate for all tobacco products to that of cigarettes. It will generate more than a billion dollars in revenue, and help prevent young people from beginning a deadly addiction.”

The senators say that the Tobacco Tax Equity Act would create “tax parity” by establishing the tax rate on all tobacco products at the same per unit level as cigarettes. Under current law, small cigars and RYO tobacco products are taxed at the same level as cigarettes; however, cigars, smokeless tobacco and pipe tobacco are taxed at a lower rate.

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