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SENS. BOXER, INFOE DELIVER TRANSPORTATION PROPOSAL TO HOUSE

By Ashley Halsey III

Washington Post

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In a rare conciliatory gesture, two U.S. senators — one a conservative Republican, the other a liberal Democrat — hand-delivered a critical transportation funding plan to their colleagues in the House on Tuesday.

Their symbolic mission was intended as a show of good faith in a Congress where trust has been in short supply. But it underscored the growing desperation of some legislators and construction industry leaders, who have predicted disastrous consequences if funding issues are not resolved before a June 30 deadline.

“The unemployment situation is bad, and it’s only going to get worse if we don’t get this straightened out,” said Jack Basso of the American Association of State Highway and Transportation Officials. “The construction industry is at 14.2 percent, and the actual job numbers are going down.”

In addition to supporting, by one estimate, 2.9 million construction jobs, the proposal is designed to avert an impending funding crisis when the Highway Trust Fund runs out of money in the next fiscal year.

Diplomacy required that the thick document delivered by Sens. Barbara Boxer (D-Calif.) and James M. Inhofe (R-Okla.) be called a proposal rather than a bill, to indicate that it was negotiable. In fact, it was a bill passed by the Senate that they said had been modified to incorporate some issues raised by the House.

“It’s an offer that reflects a lot of their comments,” Boxer said after she and Inhofe visited the office of House Transportation and Infrastructure Committee Chairman John L. Mica (R-Fla.).

She declined to release the proposal. Mica spokesman Justin Harclerode said, “We are taking a look at that proposal and will discuss it with our conferees.”

The transportation bill has provided a case study of a dysfunctional Congress, the failures of those who seek to find a middle ground and the struggle House Speaker John A. Boehner (R-Ohio) has faced in capitalizing on his party's majority in the House.

Old-timers have peppered the debate with reminders that sustaining the nation's transportation system always had been a bipartisan effort, even when the two parties were at loggerheads on the burning issues of the day.

The current discord is fueled by a pair of changes that dramatically altered the equation.

One was the elimination of earmarks, the pet projects of individual members that proved to the folks back home that the lawmaker was worthy of reelection. The almost 7,000 earmarks in the last long-term transportation bill were the grease that got it approved.

Without earmarks to protect, members have been liberated to wage battle on matters of principle, such as funding for bike and pedestrian programs or how to pay for urban mass transit.

Some see federal transportation funding in terms of highways and bridges, others believe just as strongly that inner-city light rail systems and bike paths are essential to the mix. That conflict helped derail the House transportation bill when GOP members from urban areas defected to defend mass transit.

The elephant in the room has been there ever since the last major transportation bill passed in 2005, and its presence has loomed larger since that bill expired in 2009, leaving state transportation planners who rely on a federal master blueprint to limp along on a series of temporary extensions.

The pachyderm no one wants to acknowledge is that there's little agreement on where to get enough money to pay for transportation, and that gets to a much more fundamental divide between the two parties.

Everyone agrees that the traditional source of transportation funding — the Highway Trust Fund, which is bankrolled by the federal gas tax — is projected to run out of money. All those temporary extensions have dipped into the general fund for support.

Nobody pretends that the Senate bill in conference provides the long-term answer. It cobbles together money from a variety of sources — draining a couple of funding wells that can't be revisited — for a two-year bill. In the past, long-term transportation bills covered five or six years.

Everyone says that the two-year bill buys time for the fractious Congress to find a better funding solution, but there's little evidence that it will be able to achieve in the next 18 months what it hasn't done since 2009.

The prospect of raising the 18.4 cents-per-gallon gas tax draws a bipartisan chorus of boos. Mutterings about charging tolls throughout the interstate highway system send members of both parties to the barricades. And the Republican proposal to raise revenue by opening new territory in the arctic and offshore to oil exploration has drawn skepticism and push back from environmentalists and many Democrats.

The House bill, crafted with major reforms and streamlining of the federal system, went down in flames within weeks this year as the urban-rural schism split Republican ranks. Rather than see his members tarred by charges of ineptitude, Boehner found a way to punt. He had the House pass yet another temporary extension, sending it to the conference committee to be married to the bipartisan two-year Senate transportation bill.

The maneuver allowed for negotiation in conference over the Senate bill.

Staff members have been meeting in private discussions for weeks, and lawmakers also are said to have attended some sessions in droves. The public rhetoric that has emerged has been more of the same.

Boxer and the Democrats say they are open to compromise on anything they think will win ratification in the Senate. House Republicans say the Senate hasn't been willing to negotiate or been open to the serious reforms they propose.

"We will move the Senate bill as close to the House bill as we can without tanking it," said a senior Senate committee staff member, who called the Boxer-Inhofe visit "a respectful gesture" to the House. "It's not every day that senators go over to the House to deliver a bill."

Basso's organization joined other major transportation groups and 50 local chambers of commerce, traditional Republican bastions, in pressing for final approval of the proposal delivered by Boxer and Inhofe.

The White House piled on the pressure Saturday in President Obama's weekly radio address.

"Congress should have passed a bill a long time ago to put thousands of construction workers back on the job rebuilding our roads and our bridges and our runways," the president said.

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REID, GOP BRAWL OVER HIGHWAY BILL

By Russell Berman, Alexander Bolton and Keith Laing

The Hill

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Congressional negotiations over a highway bill took an acrimonious turn on Tuesday as Senate Majority Leader Harry Reid (D-Nev.) accused House Majority Leader Eric Cantor (R-Va.) of thwarting the legislation in a bid to harm the economy.

Reid leveled the volatile charge hours after the top Senate negotiator on the bill, Sen. Barbara Boxer (D-Calif.), announced she had made a bipartisan offer to House Republicans to break an impasse in a House-Senate conference committee.

Reid and other leading Democrats have grown frustrated with the House GOP's inability to pass a multiyear transportation authorization bill, which Democrats say would create hundreds of thousands of jobs. Federal surface transportation programs expire on June 30, and another short-term extension is likely if negotiators cannot reach an agreement.

The Senate leader chalked up the Republican resistance to tensions between Cantor and Speaker John Boehner (R-Ohio) and a feeling among some Republicans that not moving a highway bill would be better for their party politically because of the damage it would do to the White House.

"You have heard, as I heard, that there's a battle going on between Cantor and Boehner as to whether or not there should be a bill," Reid told reporters during his weekly press conference. "Cantor, of course — I'm told by others that he wants to not do a bill and make the economy worse because he feels that's better for them.

"I hope that that's not true," Reid said.

His charge caught aides and reporters off guard. While tensions between Boehner and Cantor over deficit talks have been well-known, Cantor has not played a particularly active role in the highway bill, which had been a Boehner priority.

Reid's comments drew blistering denials from aides to both Boehner and Cantor.

"That's bulls--t," Boehner spokesman Michael Steel said. "House Republicans are united in our desire to get a sensible, reform-minded transportation bill done, including job-creating energy initiatives like Keystone."

The House-approved bill includes language mandating that the Obama administration approve the Keystone XL pipeline that would run from the Canadian province of Alberta to the Gulf Coast.

Cantor spokeswoman Laena Fallon said: "Leader Reid's claims are ridiculous and patently false. Rather than making up stories that have no basis in reality, Leader Reid should follow the House's example and focus on pro-growth measures that will get the economy going and get people back to work."

A spokesman for Reid did not respond to a request to elaborate on his accusation of a feud between Boehner and Cantor over the highway bill.

Fallon noted that her boss on Friday expressed support for the negotiations.

"I'm hopeful that the conference committee can come to a solution prior to the expiration of the authorizing language in place right now, but, again, very mindful we don't want to allow for any shutdown of any program at the end of this month," Cantor said.

The Senate has passed a two-year, \$109 billion reauthorization of transportation programs with bipartisan support, led by Boxer and conservative GOP Sen. James Inhofe (Okla.). Boehner had pushed Republicans in the House to pass a more expansive five-year reauthorization with a bevy of GOP reforms, but he could not bring enough conservatives and centrists onboard. Instead, GOP negotiators are fighting to include provisions reducing environmental regulations that they attached to short-term

highway extensions. Chief among the Republican priorities is language mandating the approval of the Keystone oil sands pipeline.

With prospects for a conference committee agreement diminishing, Boxer said on Tuesday that she and Inhofe had delivered an offer to House Republicans on the transportation provisions of the bill. It did not include the Keystone pipeline.

“Right now, we delivered our transportation [proposal] to them,” she said. “The other [issues] we’ll deal with after we do that. This is a transportation bill.”

She disputed reports that the talks had broken down. “That’s not what happened at all today,” she said.

“Sen. Inhofe and I delivered a proposal to the House today that reflects a lot of their proposals,” Boxer continued. “It’s an offer that reflects their wishes ... because it’s been four weeks and we’ve listened to them. We got a very warm reception over there, and we’re excited because we think this is going to move the process forward.”

House Republicans, however, were noncommittal. “We are taking a look at that proposal and will discuss it with our conferees,” said Justin Harclerode, spokesman for the lead House GOP negotiator, Rep. John Mica (Fla.).

Earlier Tuesday, the second-ranking House Democrat, Minority Whip Steny Hoyer (Md.), assailed Republicans over their negotiating position on the highway bill, saying their unwillingness to compromise was hurting the economy.

“It’s not our way or the highway, it’s our way or no highway. No jobs, no progress, no consensus, no agreement,” Hoyer, the No. 2 House Democrat, told reporters at his weekly Capitol briefing on Tuesday.

Freshman Rep. James Lankford (R-Okla.), a member of the conference committee, said there were “a lot of issues that we’re far apart on” but that both sides were committed to getting an agreement. He said he gave the Senate credit for a passing a long-term bill but that the House needed to be included in negotiations. “It is an interesting conversation for the Senate to say, ‘We have a bipartisan agreement, so the House should take it.’ There is a difference between bipartisan and bicameral,” Lankford said.

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CONSTRUCTION-JOBS LOSS REIGNITES DEBATE ON HIGHWAY BILL

By James Rowley

Bloomberg BusinessWeek

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The loss of 28,000 construction jobs in May, the sector’s worst drop in two years, reignited a debate in Congress about stalled legislation to extend federal highway construction and transportation programs set to expire June 30.

House Democratic Leader Nancy Pelosi demanded that Speaker John Boehner allow a vote in the Republican-controlled House on a two-year, \$109 billion measure passed by the Democratic-controlled Senate on a 74-22 bipartisan vote.

Congress has approved a series of short-term extensions of federal highway and transportation programs, and the latest ends June 30. House Republicans are demanding a provision to allow construction of the Keystone XL pipeline linking Canadian oil fields to Gulf Coast refineries.

Republicans should “stop stalling on the transportation bill, create jobs now, bring it to the floor,” Pelosi of California told reporters in Washington today. The “shameful” loss of construction jobs last month makes it “urgent for our country to build our infrastructure,” she said.

The 28,000 drop in construction jobs last month is the largest in two years, according to an analysis by the Associated General Contractors of America. The trade group also said a 1.4 percent drop in public construction spending in April constrained overall construction growth that month to 0.3 percent.

Pelosi and second-ranking House Democrat Steny Hoyer of Maryland called a press conference after Boehner and House Republican leaders lambasted President Barack Obama’s economic record.

April’s Gain

The Republicans cited the weak May employment numbers as further evidence that the president’s policies failed to spur the job growth. The Labor Department reported that the number of jobs grew by 69,000 last month, less than the most pessimistic forecast and smaller than April’s revised gain of 77,000.

Boehner of Ohio made an election-year plug for Republican proposals to cut spending, reduce regulation and avoid a year-end tax increase when Bush-era tax cuts expire.

“Elections have consequences and we believe that the policies that we have advocated over the last three and a half years would have our economy in a much better place than it is today,” the speaker told reporters.

Boehner said passing an extension of federal transportation programs “would put more Americans back to work.” Republicans are demanding inclusion of the Keystone pipeline provision because the project “would create nearly 20,000 jobs immediately,” he said.

Permit Rejected

Earlier this year, Obama rejected TransCanada Corp. (TRP)’s permit application to build the pipeline, citing environmental concerns in Nebraska. The company has reapplied and Nebraska officials are reviewing the rerouted pipeline’s potential impact on an environmentally sensitive region.

Hoyer said that even though many senators support the pipeline, “it did not hold them up from passing” the highway bill.

Pennsylvania Republican Bill Shuster said yesterday that Senate Democratic negotiators have been “a brick wall” when Republicans have demanded their provisions.

Unless a deal is reached by June 30, Shuster said Congress would consider another short-term extension. "I don't think anyone wants to see a halt to construction across the country," he said.

Texas Representative Pete Sessions, chairman of the House Republican campaign effort, said Democratic claims that Republicans were obstructing the highway bill to hurt Obama's re-election chances were "hogwash."

Sessions said Boehner is working toward an agreement on the highway legislation because he "understands how important transportation infrastructure is on a long-term basis."

The bill is S. 1813.

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LETTER: CLOSE LOOPHOLE FOR SOME CIGARETTES

Letter to the Editor by Wes Carruthers, president, Tennessee Fuel and Convenience Store Association
Knoxville News Sentinel
June 5, 2012

I witness daily the effect roll-your-own cigarette manufacturing stores have on businesses. I am writing to bring this important issue to light as it affects law-abiding retailers not only in Tennessee, but from coast to coast.

Roll-your-own operators are able to sell cigarettes at an alarmingly low cost by dodging state and federal laws and regulations while exploiting a tax loophole. Tobacco shop owners that sell cigarette cartons made in cigarette rolling machines in Tennessee pay \$22.60 less in taxes and government fees per carton. What's happening here is clear: Retailers who own RYO machines advantageously mislabel their product as "pipe tobacco" to evade taxes.

There are approximately 70 RYO machines in Tennessee. With each machine evading state excise taxes, sales taxes and master settlement costs, this adds up to millions lost to the state. On a national level the amount of money being lost through this tax loophole is astronomical.

In closing this tax loophole, we can also ensure tobacco products are sold in a responsible manner. With a growing number of these RYO manufacturing retailers, it is a concern to our community that these cigarettes do not comply with fire safety standards or bear the U.S. Surgeon General warning labels.

Retailers who have carefully abided by the law for years are losing revenue to those who choose to ignore the law. They are also losing jobs. The Census Bureau found that Tennessee convenience stores saw a decrease in employees from 1998-2009. This will only be exacerbated by RYO operators and their unfair practices.

With a thorough understanding of what is at risk for small-business owners and retailers in Tennessee and across America, U.S. Rep. Diane Black has come up with an easy solution to this problem. By

introducing House Resolution 4134, she will ensure no one is put at an unfair competitive disadvantage. H.R. 4134 closes this tax loophole, without raising taxes on any tobacco products.

Congress needs to protect our free and open market. I call upon fellow retailers and concerned citizens to urge their members of Congress to support this bill.

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AN UPDATE ON COMMERCIAL RYO MACHINE LEGISLATION

By Thomas A. Briant

CSP.net

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State legislatures continue to adopt bills that regulate commercial roll-your-own cigarette machines. So far during 2012, eleven states have enacted laws that range from licensing RYO retailers, to paying an equivalent tax that is assessed on traditionally manufactured cigarettes, to outright banning the operation of the commercial cigarette rolling machines.

The states that have enacted new laws this year include the following:

- Arkansas:** The new law that went into effect on January 1, 2012 prohibits the operation of commercial RYO machines in the state.
- Iowa:** This new law will go into effect on July 1, 2012 and requires RYO retail operators pay a per cigarette state tax, use only federal tax paid RYO tobacco that is listed on the state's directory of approved tobacco brands, maintain a secure meter on a RYO machine that will count the number of cigarettes dispensed by the machine, and restricts RYO machines to adult only facilities. The law also requires compliance with fire safe cigarette standards, but such compliance is delayed until January 1, 2014.
- Idaho:** Beginning July 1, 2012, the Idaho law requires that retailers have RYO machines annually certified by the state attorney general's office. The certification process includes a requirement that all tobacco used in the machine, regardless of how the tobacco is labeled, must be of a brand family that is listed on the state's directory of approved tobacco brands and all applicable state tobacco taxes must also be paid.
- Illinois:** As of August 1, 2012, RYO machine operators are required to pay the new cigarette tax rate of \$1.98 per 20 cigarettes with a credit for any OTP tax paid on the bulk tobacco used to make the cigarettes, to use only certified RYO tobacco that is listed on the state directory, to comply with federal and state labeling mandates for cigarettes, and provides that the attorney general will issue regulations for compliance with fire safe cigarette standards after January 1, 2014.

- Oklahoma:** On July 1, 2012, the use of RYO machines is prohibited in the state unless an operator obtains federal Alcohol, Tobacco Tax and Trade Bureau permit to operate as a cigarette manufacturer.
- South Dakota:** Effective July 1, 2012, RYO machine operators will be considered cigarette manufacturers under federal law and will need to comply with fire safe cigarette standards as of July 1, 2014.
- Tennessee:** The Tennessee law goes into effect on July 1, 2012 and requires a \$500.00 per machine registration fee and the use of tobacco listed on the state directory of approved tobacco brands, and mandates that prior notice be given to the state of any new machines to be purchased and operated. Then, effective October 1, 2013, the law will classify RYO operators as cigarette manufacturers and requires the collection of the state cigarette tax rate.
- Vermont:** As of July 1, 2012, commercial RYO machines will be banned in the state.
- Virginia:** Beginning July 1, 2012, commercial RYO machine operators will be considered cigarette manufacturers and, therefore, will need to comply with appropriate cigarette tax rates and other requirements of cigarette manufacturers.
- Washington:** The new law set to go into effect on July 1, 2012 will equalize the state excise tax on RYO cigarettes to the same \$3.025/pack on traditionally manufactured cigarettes, requires the use of cigarette tax stamps for RYO made products, and requires RYO stores to be licensed by the state.
- Wyoming:** As of July 1, 2012, the new law requires that any retail establishment possessing for operation a commercial "roll-your-own" tobacco machine will be classified as a cigarette manufacturer.

Originally published here: <http://www.cspnet.com/news/tobacco/articles/update-commercial-ryo-machine-legislation>