



**Weekly Washington Report  
Friday, April 18, 2008**

**Next Week in Congress**

The Senate returns next week to tackle a broad bill addressing veterans' benefits, a measure to overturn a Supreme Court ruling regarding the filing of discrimination lawsuits, and possibly a bill barring discrimination in the workplace on the basis of an employee's genetic information. On the House's schedule are a coast guard authorization bill, a measure to strengthen a pair of Small Business Administration programs, and possibly a bill to mandate disclosure of overseas contractor fraud.

**Financial Services**

Seizing on the predictable public angst that arises on April 15, the House passed the Taxpayer Assistance and Simplification Act of 2008 (H.R. 5719, 238-179) on Tuesday, after opponents nearly killed the bill by attempting to include language that would have prevented illegal immigrants from claiming the earned income tax credit and eliminated certain federal benefits to cities that fail to enforce immigration laws. The wide-ranging bill, among other provisions, prohibits the Internal Revenue Service (IRS) from hiring private debt collectors (an initiative passed by the House last year), increases disclosure on the use of money in Health Savings Accounts (HSA), and eases rules over the reporting of personal employee use of business cell phones.

The Congressional Budget Office estimates that H.R. 5719 will reduce the federal deficit by \$194 million and \$288 million over the next 5 and 10 years respectively. On Monday the Administration levied a veto threat against the bill, opposing the HSA and IRS provisions -- in the later case citing the need for increase taxpayer compliance, "These are tax dollars that are legally owed to the Government and are otherwise very unlikely to be collected by the IRS due to workload demands." Arguing against more detailed reporting of HSA withdrawals, the Administration stated, "These new burdens on HSA administrators are unnecessary for efficient tax administration, inconsistent with the flexibility purposely afforded HSAs at their inception, and could undermine efforts by employers, individuals, and insurers to reduce health care costs and improve health outcomes by empowering consumers to take greater control of health care decision-making."

One of the few appropriations bills that could move during the remainder of the 110<sup>th</sup> Congress is a Fiscal Year 2008 supplemental appropriations bill funding the wars in Iraq and Afghanistan, which may include additional funding for a variety of domestic programs to invigorate the economy. However, the Director of the Office of Management and Budget testified before the Senate Appropriations Committee on Wednesday that he will recommend that the President veto any supplemental appropriations bill that exceeds his request of just over \$108 billion -- the remainder

of the \$196 billion the President has requested for defense operations in Fiscal Year 2008 and the \$88 billion Congress has already funded.

If leaders in Congress follow through on inserting a second economic stimulus plan into the bill (the first stimulus having been signed by President Bush in February), and the President continues the hard-line stance on federal spending that exceeds his budgetary request that he demonstrated at the end of last year, the timeline for passing a supplemental could vary widely. However, Congressional business in the weeks leading up to Memorial Day is often spent debating defense or veterans issues to give members achievements to highlight in their districts over the Congressional Memorial Day recess. By definition supplemental spending bills address unforeseen or unpredictable events, and while the spending is tacked on to the annual budget deficit (and the federal debt), the bills themselves are immune from legislative budgetary rules.

Not waiting to see if increased financial assistance for unemployed workers will be coming in the supplemental/stimulus, on Wednesday the House Ways and Means Committee passed an extension of unemployment benefits, the Emergency Extended Unemployment Compensation Act of 2008 (H.R. 5749). Unemployment benefits are currently offered for 26 weeks. The legislation would extend that 13 weeks, with an additional 13 weeks for those out of work in states with unemployment rates over 6 percent.

The House Education and Labor Committee passed a measure this week, the 401(k) Fair Disclosure for Retirement Security Act (H.R. 3185), which aims to provide participants in 401(k)-style retirement plans a better idea of the fees they pay and the risks they are taking by investing. The bill mandates that administrators not only disclose all fees, but break them into distinct categories so plan participants can better understand where their money is going. It also provides an amount of legal protection for plans that include an index fund, which supporters argue are typically cheaper to manage and offer more moderate risk to investors. Opponents argue these new mandates are onerous on fund managers who often do not specify fees on an item-by-item basis.

Late in the week the Chairman and Ranking Member of the Senate Finance Committee released a tax extender package to address a number of expiring (and expired) tax provisions, including, among others, another one-year patch to blunt the reach of the alternative minimum tax, an extension of the expired research and development tax credit through 2009, and an extension of renewable energy tax credits. The bill does not list any budgetary offsets (although it is possible offsets can be announced closer to Committee mark-up) or an overall budgetary score of the bill.

## **Energy & Environment**

As the Senate prepares to debate a cap-and-trade global warming bill, possibly as soon as June, the President this week announced a White House initiative to begin reducing our nation's greenhouse gas emissions with a goal of halting the growth of GHG emissions by 2025, and begin reducing them thereafter. Citing work already done on a renewable energy development bill passed several months ago, and expressing a commitment to advancing alternative forms of energy, President Bush also stressed carbon sequestration technologies, along with the importance of nuclear power and properly dealing with the remnants of that process, stating, "we

must provide greater certainty on issues from licensing to responsible management of spent fuel." The President, whose proposal omitted talk of cap-and-trade or carbon tax strategies as well as mandatory emissions targets, stressed climate change must be not addressed on the backs of American taxpayers and consumers or at the expense of our national economy, saying, "The wrong way is to raise taxes, duplicate mandates, or demand sudden and drastic emissions cuts that have no chance of being realized and every chance of hurting our economy. The right way is to set realistic goals for reducing emissions consistent with advances in technology, while increasing our energy security and ensuring our economy can continue to prosper and grow."

In December the Senate Environment and Public Works Committee (EPW) approved , America's Climate Security Act of 2007 (S. 2191). Co-authored by Senators John Warner (R-VA) and Joe Lieberman (D-CT), the measure creates a cap-and-trade system to reduce the release of greenhouse gases by up to two-thirds of 2005 levels by 2050. Through 2031, the government would distribute, sell, and auction permission credits for specified levels of pollution to manufacturers, and apply proceeds to environmentally-friendly energy and conservation programs. Setting aside spending under S. 2191 that would be subject to annual appropriations, the Congressional Budget Office estimates the bill passed by the EPW Committee would increase deficits (or lessen surpluses) by \$15.4 billion from Fiscal Year 2009-2018. A companion bill to S. 2191 has yet to be introduced in the House.

### **Higher Education**

The Ensuring Continued Access to Student Loans Act of 2008 (H.R. 5715) passed the House Thursday by a vote of 383-27. The bill aims to deter students from taking out more expensive private loans by expanding the role of the Department of Education in ensuring higher education funding is available and increasing borrowing limits for students. Senator Edward Kennedy (D-MA) has sponsored a similar bill, S. 2815 in the Senate. Of the \$60 billion in federally-backed loans granted each year, only 20 percent are through the direct lending program. The White House supported the major provisions of H.R. 5715 in a Statement of Administration Policy released Wednesday, but expressed concern that increasing debt limits for students "may make it more difficult for some institutions to keep their Federal student-aid funds under the '90-10' institutional eligibility requirement. This '90-10' provision requires that no more than 90 percent of an institution's funding come from the Higher Education Act Title IV student aid programs."

After a hearing held on Tuesday, Senate Banking, Financing and Urban Affairs Chairman Christopher Dodd (D-CT) said while he supports both bills, it would be "almost miraculous" for a bill to pass the Senate swiftly enough to be effective. Dodd has taken a more direct, "complimentary" approach by calling on the Bush administration to instruct the Federal Financing Bank to encourage student loans by loaning money to banks for that purpose. John F. Remondi, Vice Chairman and CFO of student loan lender Sallie Mae testified before the Senate Banking Committee on Tuesday. The day after his testimony, Sallie Mae announced first quarter losses of \$104 million. "It's hard to imagine lenders will continue to make loans and sell them at a loss," said Remondi. In its first quarter statement, Sallie Mae noted that it, "delivered a record amount of student loans despite difficult economic conditions and tightened credit markets that dramatically increased the cost of funds. Under current conditions, however, loans can only be made at an economic loss. Reflecting this

environment, the company is assessing how best to balance its resources and its mission to provide access for higher education.”

### **Technology & Immigration**

After a Wednesday hearing of a House Judiciary Subcommittee, Congress does not appear any closer to increasing the number of H-2B visas before the summer tourist season begins in New England. H-2B visas allow foreign, unskilled workers to enter the U.S. on a seasonal basis to work jobs critical to the tourist economy that supporters argue will not be done by Americans. Many opponents of passing stand-alone expansions of the H-2B visa cap argue it should be done in the context of broad immigration reform (something Congress has attempted to tackle (unsuccessfully) on multiple occasions in the 110<sup>th</sup> Congress) or should not be permitted until more is done to clean up workplace abuses of H-2B workers.

In New England, restaurants, hotels, resorts, and other industries that rely heavily on visitors during warmer weather rely on H-2B visas to fill seasonal jobs. Supporters would like to see former recipients of H-2B visas who have returned to their home countries be allowed back into the U.S. and not count against the 66,000 H-2B cap. These “returning worker” exemptions were in place in Fiscal Year 2007 for H-2Bs issued in the three previous fiscal years. However, Congress failed to reauthorize it for Fiscal Year 2008. On January 3 (nearly 9 months before the new fiscal year) the United States Citizenship and Immigration Services (“USCIS”) announced it had reached its limit of 33,000 H-2B applications for the second half of Fiscal Year 2008, the critical summer season in New England.

Supporters are urging passage of two bills, H.R. 1843 and S. 988, to extend the returning worker provisions (H.R. 1843 would make the provision permanent). Supporters, like the American Hotel and Lodging Association, argue H-2B workers are vital to the success of season businesses, noting that, “Employers spend considerable time, money and resources to try filling seasonal and temporary jobs with American workers. Despite this substantial investment, they are unable to find American workers for these jobs...H-2B workers are a key component to operating during a hotel’s peak season, supporting full-time Americans and allowing those fulltime staff members to be employed year-round.” Opponents continue to decry worker abuse faced by many H-2B workers, who traditionally have little workplace leverage. The Southern Poverty Law Center released a report in 2007, *Close to Slavery*, detailing what they describe as, “widespread, systematic abuses faced by guest workers.”

On Monday USCIS held a random selection to choose the Fiscal Year 2009 H-1B visas for skilled immigrant workers up to the 65,000 cap, as well as an additional 20,000 H-1Bs for those with advanced degrees. Those that are selected will be notified no later than early June by USCIS, which late last week reported it received 163,000 applications during the five day window for applications starting on April 1.

A copy of the letter sent to the New England Congressional delegation from The New England Council supporting expansions of both the H-1B and H-2B visa programs can be found on our website at:

[http://newenglandcouncil.com/pdf/all/ltr\\_2008.03.31\\_H1B&H2Bvisas.pdf](http://newenglandcouncil.com/pdf/all/ltr_2008.03.31_H1B&H2Bvisas.pdf)

A patent law reform bill continues to be held up in the Senate, in part over proposed changes to damages awarded in patent infringement lawsuits that would take into account the relative value of the patented product in respect to value of the overall merchandise. The bill, the Patent Reform Act of 2007 (S. 1145), passed the Senate Judiciary Committee in July, however, it will most likely contain language of a manager's amendment when it comes to the Senate floor. The House passed its version of the Patent Reform Act in September.

## **Transportation**

Attempts to reauthorize the Federal Aviation Administration (FAA) continue to languish, notably over Senate disagreements on the best way to fund the modernization of our nation's air traffic control system. While the FAA continues to raise operational funding under a short-term extension, Senate negotiators have been unable to come to an agreement on a process, one that has pitted larger commercial airlines against small aviation groups and operators of private business jets, over who should bear the financial burden for the air traffic control upgrades. The reauthorization deadlock continues through what has become blistering criticism of the FAA on both sides of Capitol Hill for allowing a handful of commercial jets to operate without mandatory inspections in violation of safety regulation procedures. At a time when the airline industry is facing record fuel prices, and several major carriers are receiving negative public feedback over the grounding of jets for immediate safety inspections, it is possible the airline industry may face an even greater expansion of current safety standards and a passengers' bill of rights when an FAA reauthorization bill eventually moves.

The Senate spent the balance of its week grappling with a bill to provide updates to the highway bill passed in 2005. Initially billed as a "technical corrections" bill, debate snagged over the possible expansion of earmarks and the discovery of changes to a \$10 million earmark in the bill that were inserted after final Congressional approval. After beating back an attempt to send the bill to the Senate EPW Committee earlier in the week, and authorizing a Justice Department investigation into changes to the \$10 million earmark in the 2005 legislation, the Senate approved the final measure (H.R. 1195) on Thursday evening (88-2). On Monday, the Office of Management and Budget (OMB) released a Statement of Administrative Policy levied criticisms at the bill, stating, "the bill would not be a technical corrections bill, but would instead make substantial and harmful changes to current law," noting, "the majority of the bill is devoted to earmarks...The Administration urges Congress to restrict the bill to true technical changes."

## **Health Care**

The House Energy and Commerce Committee passed the Protecting the Medicaid Safety Net Act of 2008 (H.R. 5613) on Wednesday by a vote of 46-0. The bill blocks new regulations scheduled to take effect in May that will cut Medicaid funding to states, and grants \$25 million annually to prevent exploitation the program. The final bill phases in a new system of verifying Medicaid recipients' assets electronically, which would offset the bill's \$1.65 billion cost. However, on the Senate floor this week, Senator Charles Grassley (R-IA), Ranking Member of the Senate Finance Committee, argued that "We ought to let them move forward instead of just delaying all of these Medicaid regulations all at once." On Tuesday, the Bush administration lodged a veto threat in a letter from the Secretary of the Department of Health and Human Services.

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