

THE NEW ENGLAND COUNCIL

The Weekly Washington Report is organized by NEC committee category for weekly updates on specific issues relevant to our members, plus a report on general activity in Congress

FRIDAY, JANUARY 30, 2009

NEXT WEEK IN CONGRESS

The Senate faces a full week of work next week, beginning with a vote to confirm President Obama's nominee for Attorney General. The Senate will move to its economic stimulus bill (see below) in hopes of having the bill out of the Senate, through a conference committee, back through each chamber, and to the White House in the next two weeks. The House has another short week next week with a mid-week policy retreat shortening its legislative schedule. House leadership had slated a Fiscal Year 2009 omnibus spending bill (a large part of the federal government is currently funded through a continuing resolution) for debate but may delay that given the abbreviated time period. The House will tackle Senate changes to the State Children's Health Insurance Program and take another swing at delaying the transition to digital television.

BUDGET/APPROPRIATIONS

After approving a \$3 billion amendment to increase mass transit funding in the bill, on Wednesday the House passed a mammoth \$819 billion economic stimulus package by a vote of 244-188 with no Republicans supporting and four Democrats opposing the bill. Also added to the measure (H.R. 1) was an amendment to ensure that the funding allocated for transportation infrastructure is "stimulative" by the insertion of, "use-it-or-lose-it" provisions to require that 50 percent of the funds be obligated within 90 days." Of the \$819 billion package, the Congressional Budget Office estimates that \$525.5 billion (roughly 64% of the package) will be spent in Fiscal Years 2009 and 2010 (\$169.5 billion and \$356 billion respectively). Opponents continue to decry the unprecedented size of the bill (resetting a far larger baseline for future spending) and its reliance on government spending (instead of tax relief) to spur economic growth.

The measure now waits for the Senate to approve its version of a stimulus bill. After the Senate Finance Committee's inclusion of a nearly \$70 billion alternative

minimum tax fix the price tag of the Senate version (S. 1) is close to \$900 billion. The \$70 billion AMT patch brings the cost of the tax piece of S. 1 up to \$342 billion. While both H.R. 1 and S. 1 contain funding for a number of New England Council priorities (renewable energy and energy transmission programs; low-income heating assistance; mass transit; higher education assistance; and health and disease research) it is important to recognize that the joint House/Senate conference committee will likely still modify and introduce/eliminate a number of programs from the final package before it heads to the White House.

While the first week in February usually sees the release of the President's budget for the upcoming year, Fiscal Year 2009 appropriations are not yet finished, and the new administration will submit its FY2010 budget proposal later this spring. With Congress slated to be in recess the week of President's Day, it is possible another continuing resolution may be needed to keep the government running after the current CR expires in early March. Reports from the budget leaders in the new administration are clear that President Obama would like to see strong budgetary enforcement mechanisms, including a return to Pay-As-You-Go budget rules.

FINANCIAL SERVICES

After a rocky Senate Finance Committee confirmation hearing before the Senate Finance Committee last Wednesday, the Senate confirmed Treasury Secretary Timothy Geitner earlier this week, 60-34. Senators Susan Collins (R-ME) and Bernie Sanders (I-VT) were the only two members of the New England Senate delegation to vote against Geitner's nomination. Secretary Geitner, the former New York Federal Reserve head, will be saddled with responsibility for distributing the second half of the \$700 billion allocated under the Troubled Asset Relief Program. This will be done under the watchful eye of a Congress that believes the first half of the TARP initiative was not handled in accordance with its original intent. A clear sign of this frustration is a bill introduced by the Chairman and Ranking Member of the Senate Finance Committee this week that will help the Government Accountability Office monitor the remaining TARP money by mandating that, "any private entity that receives federal funds through [TARP] to give the GAO access to its books and records," hoping, "to strengthen the ability of [GAO] to make its assessments every 60 days of the government effort to try to rescue America's financial system."

A three-member majority of the TARP oversight board released broad recommendations this week for comprehensive reforms of the entire financial services industry. The majority recommendations included stronger oversight and authority related to credit and investment vehicles (including mortgages) like hedge funds and private equity funds. The report harshly criticized the current out-dated system, saying, "In recent years, however, the regulatory system not

only failed to manage risk, it also failed to require disclosure of risk through sufficient transparency... To compound the problem associated with uncontained and opaque risks, the current regulatory framework has failed to ensure fair dealings.” The panel specified eight specific recommendations for overall reform, including, “Identify and regulate financial institutions that pose systemic risk,” and, “Create a new system for federal and state regulation of mortgages and other consumer credit products.” The two-member minority recommendations, which include former Senator John E. Sununu (R-NH), cautioned against overbearing government regulation, reminding observers that, “the hallmark of past efforts to regulate the financial system has been that government regulation frequently fails. History has also repeatedly shown us that adding rigid new government regulations in the midst of a crisis to solve existing problems may be like the old military adage of armies being prepared to fight the last war.”

Rumblings have begun on Capitol Hill about the possibility of the creation of a federal “bad bank” that would be used to remove toxic assets from private financial institutions. While the talks appear conceptual in nature (including who would oversee such an institution and how to value still-deteriorating toxic assets), there is a strong sense among many members that a portion of the first half of the \$700 billion TARP initiative should have been used to directly mitigate foreclosures. It seems likely \$50 billion-\$100 billion of the second \$350 billion will be used to help struggling homeowners.

Earlier this week the House Judiciary Committee approved a bill that would allow bankruptcy judges to modify mortgages on primary residences (including the principal, interest rate, and term) in danger of foreclosure. Known as a “cram-down,” the measure includes traditional fixed-rate mortgages (as well as adjustable rate and non-traditional mortgages) but limits eligibility to current loans and includes a revenue-sharing provision if the owner sells the home within several years. The bill (H.R. 200) may be tacked onto the FY09 omnibus appropriations bill when it comes to the House floor.

HEALTH CARE

Several days of Senate debate ended with the approval of the State Children’s Insurance Program (SCHIP) reauthorization. On Thursday the Senate voted by a margin of 66-32 to reauthorize and extend the 1997 legislation which provides healthcare to low-income children and pregnant women who are ineligible for Medicaid services and cannot afford to purchase private insurance. Similar to the SCHIP bill passed by the House last week, the Senate bill gives states the option to cover American and legal immigrant pregnant women and children; expands coverage to include those children whose families earn less than 300 percent of the poverty level; and offers additional medical services. To pay for the SCHIP program, the Senate bill provides \$32.8 billion for the 4 ½ year reauthorization

program, and is offset by a \$0.62 federal tax on cigarettes and other tobacco products. The House is expected to approve Senate amendments to H.R. 2 next week and send the legislation to the president's desk for signature in short order.

Medicaid relief for states with deficits exacerbated by the economic recession is among the many elements stimulants included in the economic recovery package the House approved on Wednesday. H.R. 1 includes \$87 billion in federal assistance to states that have been forced to limit the number of new enrollees in the Medicaid program, or scale back on services covered under the Medicaid program. Additionally, the stimulus package extends the scope of the Consolidated Omnibus Budget Reconciliation Act (COBRA) to provide a federal subsidy for the continuation of group health coverage for unemployed workers who have separated from their place of employment under involuntary circumstances. Current law allows these unemployed workers to continue their preexisting group health coverage at their own expense, where individuals are required to pay 100% of the premium. H.R. 1 eases the burden of healthcare costs by providing unemployed workers with a 65 percent federal subsidy of COBRA benefits for up to a year. Additionally, the bill offers states the option of providing those who are unemployed and not eligible for COBRA benefits through Medicaid, and provides states that choose to do so with federal matching funds up to 100 percent. Older unemployed workers—those 55 years or older or those who have worked for a decade or more—are also provided with continued access to their group health coverage under this bill provided they pay the entire cost of their premium.

Earlier this week, Senator Tom Harkin (D-IA) whom Chairman Edward Kennedy (D-MA) tapped to chair the Prevention and Public Health working group, presided over a Health, Education, Labor, and Pensions Committee hearing on prevention and public health for high-risk populations. The hearing was one of a series looking toward comprehensive health care reform legislation. In his opening remarks, Harkin asserted that preventive public health efforts must be the, "central focus of any reform legislation." Speaking to the specific topic of high-risk populations, he added that this reform legislation is an opportunity, "to rectify some of the most outrageous inequities and pockets of neglect in our health care system." Panel witnesses spoke to the public health issues concerning particular neglected groups, including children, the elderly, individuals with disabilities, and those living in rural areas.

ENERGY/ENVIRONMENT

The Obama Administration has wasted little time in altering a Bush Administration prohibition on states moving to set standards for carbon emissions from automobiles separate from federal regulations. Earlier this week President Obama directed the Environmental Protection Agency to take another look at the

ability of states to enact their own emissions levels, saying, “the federal government must work with, not against, states to reduce greenhouse gas emissions. California has shown bold and bipartisan leadership through its effort to forge 21st century standards, and over a dozen states have followed its lead. But instead of serving as a partner, Washington stood in their way...I'm directing the Environmental Protection Agency to immediately review the denial of the California waiver request and determine the best way forward.” In addition, the President directed the Department of Transportation to begin work on aggressive enactment of the new gas mileage standards passed by Congress in late 2007, saying, “This rule will be a down payment on a broader and sustained effort to reduce our dependence on foreign oil. Congress has passed legislation to increase standards to at least 35 miles per gallon by 2020. That 40 percent increase in fuel efficiency for our cars and trucks could save over 2 million barrels of oil every day -- nearly the entire amount of oil that we import from the Persian Gulf.” It is likely that the chairs of both the Senate Environment and Public Works Committee and the House Energy and Commerce Committee will move quickly this winter/spring to introduce and approve cap-and-trade climate change bills.

A recent study headed by a senior scientist at the National Oceanic and Atmospheric Administration attempts to outline the long-term effects of carbon dioxide emissions on climate change. The study, led by NOAA senior scientist Susan Solomon, concluded that even if all carbon emissions ceased immediately, the effects of climate change would be largely irreversible for more than 1,000 years. “Our study convinced us that current choices regarding carbon dioxide emissions will have legacies that will irreversibly change the planet,” said Solomon. In particular, the study highlighted changes in rainfall patterns and the rising global sea level. Researchers used models as well as observations to determine the effects of halting production of CO₂ after various levels of buildup beyond the current concentration of 385 parts per million. More detailed conclusions can be found at: http://www.noaanews.noaa.gov/stories2009/20090126_climate.html

EDUCATION

The stimulus bill passed by the House earlier this week included several tax credits, one of which would raise the higher education tax credit from \$1,800 to a maximum of \$2,500. Under the bill, taxpaying college students and parents who are eligible for the “American Opportunity” tax credit will receive a 40 percent refundable credit equal to the first \$2,000 of out of pocket expenses spent on tuition and other related educational items during the 2009-2010 taxable year, plus an additional 25 percent of the next \$2,000 spent in the same manner. The enhanced credit creates a larger tax break for a greater number of students and their families, estimated to cost \$13 billion over the next several years. As drafted, the increased credit is temporary, effective only for 2009 and 2010.

The also bill increases the Pell Grant scholarship amount from \$4,850 to \$5,350 for the next school year and to \$5,550 for 2010, increases the unsubsidized Stafford loan limit to \$2,000, provides \$490 million for college work-study programs and \$50 million to the Department of Education. It requires Treasury to study how to coordinate education tax incentives with the Pell Grant program and the feasibility of requiring students to perform community service to be eligible for the incentives.

TRANSPORTATION

On Wednesday the House approved an amendment to the stimulus bill recommended by the Transportation and Infrastructure Committee, which has been urging leaders to include increased funding in the package for surface transportation. During debate on H.R. 1, the House agreed to amendments offered by senior members of the Committee to increase transit funding to \$12 billion, and as noted earlier, shorten the time line for ready-to-go highway and transit projects to begin from 180 days to 90 days.

Federal surface transportation programs under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA: LU) will expire on September 20, 2009. This prompted a hearing Tuesday on energy reduction and the environmental sustainability of surface transportation in the House Subcommittee on Highways and Transit. Witnesses emphasized the need for adequate federal funding to both sustain and improve intermodal public transportation networks, and reached a general consensus in their advice to the Committee that an effective federal transportation policy must be comprehensive and cover sufficient infrastructure, vehicle emissions and efficiency, and guidelines for future land use that encourage density.

TECHNOLOGY

The House and Senate versions of the economic stimulus include tax incentives for the introduction of broadband Internet technology in rural and underserved areas – the House dedicating \$6 billion to the initiative. Last week the Information Technology Industry Council, a collection of leading high tech companies, called on leaders of Congress to, “support investments in digital infrastructure...we know these investments will provide our nation with a near-term stimulus and long-term comparative advantage.” ITI estimates that \$40 billion invested in IT infrastructure in 2009 would return about 949,000 new domestic jobs. The request went beyond comprehensive broadband access to, “a smarter energy grid,” and, “health care IT (such as electronic medical records).”

###

