

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

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NEXT WEEK IN CONGRESS

The Senate will begin the week adding a broad public lands bill to a measure authorizing grants to protect historic battlefield sites, then trying to move the combined bill. The House will likely take up a bill to expand national service programs such as AmeriCorps. If both chambers are successful, they are likely to swap bills in hopes of passing both measures by week's end. Next week marks three full legislative weeks remaining before a two-week Easter recess. And although the President has not released his detailed budget proposal for Fiscal Year 2010, it is possible Congress may take up its own budget outline before Easter recess.

BUDGET/APPROPRIATIONS

On Wednesday, President Obama signed the Fiscal Year 2009 (FY09) omnibus appropriations bill. The omnibus package includes nine annual spending bills carried forward from the 110th Congress totaling \$410 billion in discretionary spending (an 8% increase over FY08). The full package totals over \$1 trillion when mandatory spending is included. Full year FY09 funding for veterans, defense and homeland security operations were included in an initial continuing resolution passed last fall.

With the close of the FY09 appropriations, attention turns to the FY10 budget process, with a number of relevant committees holding budget hearings with administration officials this week. Discussion has also begun over whether the majority should include reconciliation instructions into its budget. Reconciliation directs Congressional committees to report bills addressing specific issues, which could include healthcare reform and/or energy or climate change bills. Reconciliation usually involve either a reduction in spending or an increase in revenues. Reconciliation measures have the advantage of being protected against filibusters in the Senate.

HEALTHCARE

In 2001, former President George W. Bush issued an order limiting federal funding for embryonic stem cell research to certain stem cell lines already in existence at that time. On Monday, President Obama issued an executive order to revoking that ban, stating, “Research involving human embryonic stem cells and human non-embryonic stem cells has the potential to lead to better understanding and treatment of many disabling diseases and conditions... Advances over the past decade in this promising scientific field have been encouraging, leading to broad agreement in the scientific community that the research should be supported by Federal funds.”

The executive order allows the National Institutes of Health (NIH) to conduct “responsible” embryonic stem cell research to the extent permitted by current law. It also requires the NIH to develop a set of guidelines on embryonic stem cell research to be reviewed and updated as necessary. The President also signed a memorandum which directs Director of the Office of Science and Technology Policy to develop guidelines to ensure “scientific integrity” within all federal agencies, a move designed to enhance the public’s trust in the science which informs the policies instituted by the federal government.

On Tuesday, the Health subcommittee of the House Energy and Commerce Committee held a hearing titled “Making Healthcare Work for Families: Designing a High Performing Healthcare System.” The hearing focused on developing effective strategies to reduce healthcare costs and ensure greater quality of care for all Americans. While subcommittee members from both sides of the aisle agreed that action must be taken immediately to repair and upgrade the country’s healthcare system, different approaches to solving the problem were recommended. Subcommittee Chairman Frank Pallone (D-NJ) called for, “access to quality and affordable care for every American,” while Ranking Member Deal (R-GA) stressed the importance of medical malpractice reform and the importance of the private sector and market competition in providing health care. Glenn Hackbarth, Chairman of the Medicare Payment Advisory Commission testified that while the nation’s healthcare system has “tremendous resources” in its healthcare professionals and research institutions, care is “all too frequently fragmented” due to the lack of coordination between care providers. The Director of the Congressional Budget Office testified that a change in payment structure will lead to a change in care quality.

ENERGY/ENVIRONMENT

During a Senate Energy and Natural Resources Committee hearing this week, Acting Chairman of the Federal Energy Regulatory Commission Jon Wellinghoff testified in support of a federally directed, streamlined siting process for new electric lines. He stated, “There must be a mechanism to invoke federal authority to site the transmission facilities necessary to interconnect renewable power to the electric transmission grid and move that power to customer load...a single federal agency having the responsibility and the authority to make siting

decisions with regard to projects that affect the National interest is clearly the most efficient way to site major energy projects.” This view was countered by the Commissioner of the North Dakota Public Service Commission on behalf of the National Association of Regulatory Utility Commissioners, who argued that, “Finding and implementing solutions will require cooperation by, not confrontation among, the various stakeholders...These solutions will require the cooperation of all stakeholders, including State and federal government, and must not require ratepayers to bare the financial burden with the reward allocated to the owners of generation and/or transmission.” Issues of siting responsibility and eminent domain will continue to be at the forefront of debate as the Senate Energy Committee begins crafting a larger energy package that includes electric grid expansion and upgrades.

On Tuesday, the Environmental Protection Agency (EPA) released a proposal to create the, “first comprehensive national system for reporting emissions of carbon dioxide and other greenhouse gases.” The EPA estimates the proposal, created under authority granted in the Clean Air Act, will cover up to 90% of all greenhouse gas emissions in the nation produced from nearly 13,000 facilities. The new standards are applicable, “to suppliers of fossil fuel and industrial chemicals, manufacturers of motor vehicles and engines, as well as large direct emitters of greenhouse gases with emissions equal to or greater than a threshold of 25,000 metric tons per year.” In 2006, over 60% of all emissions were attributed to two sectors: electricity generation (power plants) and transportation (vehicle and engine manufacturers). The emissions reports, which EPA estimates will cost private sector businesses up to \$160 million in the first year, will begin in 2011 to detail previous year’s emissions. Public hearings on the rule will be held in California and Virginia in early and mid-April.

Energy Secretary Steven Chu testified before the Senate Budget Committee on Wednesday to offer support for President Obama’s proposed budget for the Department of Energy. When discussing the role nuclear power will play in the Administration’s energy strategy, Chu spoke largely of the issue of proper handling of nuclear material as a security issue, noting that the proposed budget will, “increase our efforts” to ensure proper disposal of nuclear material and prevent smuggling. Chu acknowledged that neither he nor President Obama believe the Yucca Mountain project is a “workable option” for storage of nuclear material, and the proposed budget signals the Administration’s intent to eliminate federal funding for the project and to pursue dry cask storage as an alternative. Addressing the need for an overall energy strategy, Chu noted that, “many approaches have to be used simultaneously,” and that a comprehensive energy plan will incorporate numerous strategies, including nuclear energy. Ranking Member Senator Judd Gregg (R-NH) questioned Chu’s commitment to nuclear options, noting past resistance to the opening of nuclear power plants. Chu assured the Committee that he supports increased lending authority for new nuclear power plants within the context of, “a long-term strategy that must include

the waste disposal plan,” as well as federal funding for research and development into reducing waste by closing the fuel cycle.

FINANCIAL SERVICES

It appears modifications to “mark-to-market” accounting rules may be forthcoming, with the heads of the Financial Accounting Standards Board (FASB) and the Securities and Exchange Commission (SEC) both noting changes may be issued during the second quarter, possibly even by early April. The rule requires financial institutions to value toxic assets at depressed current market rates (even if the assets are likely to recover in the long term) forcing institutions to show greater losses. Accounting procedure changes would not come from Congress but from the FASB and SEC. Federal Reserve Chairman Ben Bernanke noted his support for the idea, stating, “further review of accounting standards governing valuation and loss provisioning would be useful, and might result in modifications to the accounting rules that reduce their procyclical effects without compromising the goals of disclosure and transparency.”

Yesterday, the House Financial Services Committee voted out a bill to strengthen and expand the responsibilities of the Troubled Asset Relief Program’s special inspector general (IG). The bill, which passed the Senate in February, requires the IG to issue findings to Congress on how TARP-participating companies are using the money, allows the IG to expand and streamline hiring practices, and forces the Secretary of the Treasury to report to Congress when recommendations from the IG are not being followed. The Committee passed the bill by voice vote. In its Fiscal Year 2010 budget outline, the Obama Administration, being careful to specify they were not currently requesting the money, included a \$250 billion placeholder for a potential expansion of the \$700 billion TARP program. The reserve is predicted to support approximately \$750 billion in the purchase of toxic assets from struggling financial institutions.

A House-passed mortgage modification plan, the *Helping Families Save Their Homes Act of 2009*, has stalled in the Senate while supporters look for ways to round up a filibuster-proof 60 votes. The measure would allow bankruptcy judges to modify the terms of owner-occupied mortgages at risk of foreclosure – after an effort has been made by the homeowner and lender to refinance the loan. Additional modifications being discussed in the Senate are limiting qualifying loans to subprime or non-traditional mortgages and sun-setting the provision when the economy strengthens. The bill has been referred to the Senate Banking Committee and it seems unlikely to move before the Easter recess.

HIGHER EDUCATION

On Tuesday, President Obama’s remarks to the Hispanic Chamber of Commerce laid out a blueprint for, “a complete and competitive American education”. President Obama’s education strategy consists of several “pillars of reform”. He

described these pillars as: investing in early childhood initiatives; encouraging better standards and assessments; recruiting, preparing, and rewarding outstanding teachers; promoting innovation and excellence in America's schools; and providing every American with a quality higher education. In his remarks, the president was clear in tying the nation's economic progress directly to education. "For we know that economic progress and educational achievement have always gone hand in hand in America....the source of America's prosperity has never been merely how ably we accumulate wealth, but how well we educate our people," he said.

TECHNOLOGY

Almost halfway through the Obama Administration's review of federal cybersecurity, lawmakers and industry leaders are calling for a new coordinated strategy for addressing national online security issues. In the first of a series of hearings on the subject, the House Homeland Security Emerging Threats and Cybersecurity Subcommittee met on Tuesday to hear recommendations from government and private sector experts. Witnesses largely testified that the White House and Congress, not the Department of Homeland Security (DHS), should provide leadership and oversight for the various government agencies in executing a national cybersecurity strategy. Amit Yoran, who directed the National Cybersecurity Division of the DHS under the Bush administration, noted that it was fraught with, "administrative incompetence and political infighting," that precluded effectively addressing cybersecurity issues. Several witnesses also emphasized the significant role that the private sector has to play in developing technologies and the importance of securing the national cyber infrastructure as a whole, and not just the government networks. Lawmakers and witnesses agreed that innovation and funding must be matched by coordinated strategy and regulation.

The Senate Judiciary Committee, lead by Senator Patrick Leahy (D-VT), held a hearing this week on the recently introduced *Patent Reform Act of 2009*. The panel heard testimony from a number of stakeholders, including both large and small technology firms debating the merits of an open window on challenging patents and the need to create specific parameters courts must use when considering infringement lawsuits and resulting damages. Chairman Leahy stated that, "Our bill is intended to establish a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs, while making sure no party's access to court is denied." Leahy also said improvements to the bill have been made from the version introduced in the 110th Congress to remove, "the requirement that all patent applications be published 18 months after they are filed and we have removed the requirement for Applicant Quality Submissions." The bill is scheduled to be marked up by the Judiciary Committee on Thursday.

TRANSPORTATION

The Federal Aviation Administration (FAA) has been operating under several short-term extensions of the law which gives the FAA authority to raise and spend aviation tax revenue through the Airport and Airway Trust Fund. House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) introduced legislation to provide longer-term funding to the FAA for the agency to continue operational programs, and to develop passenger safety and oversight programs.

On Wednesday the FAA reauthorization—which would replace the most recent extension set to expire on March 31, 2009—was referred to a second House committee for review. *The Federal Aviation Administration Reauthorization of 2009* provides the agency with \$70 million for Fiscal Years 2009 through 2012. The reauthorization includes \$16.2 billion for the Airport Improvement Program, \$13.4 billion for FAA Facilities & Equipment, \$38.9 billion for FAA Operations; and \$1.35 billion for Research, Engineering, and Development.

TRADE

Yesterday, the Senate Finance Committee approved by voice vote the nomination of former Dallas Mayor Ron Kirk to become U.S. Trade Representative, sending the nomination to the full Senate. At a nomination hearing earlier this week Kirk touted the benefits of free trade but was careful to recognize the need to balance positive trade results with the negative aspects of trade such as loss of American jobs and encouraging looser international standards on environmental and worker protections. In prepared testimony, Kirk stated that, “We believe fundamentally that fair, open and transparent rules-based trade can act as catalyst to benefit working families and business, large and small, throughout this country... But I do not come to this job with what I have called in some of our meetings ‘deal fever’. I know that you want the referees at the WTO to call a foul when the rules are broken. And I agree. The first order of business for the Administration on trade is to ensure strong enforcement of the rules.” Despite revelations of problems with Kirk’s past tax record, his nomination seems likely to be approved by the full Senate.

Of the pending nation-specific trade agreements, a free trade deal with Panama seems to have the most momentum moving forward, although even that deal may be hung up over Panama’s reputation as a tax haven with strict bank secrecy regulations and rules discouraging organized labor. Pending deals with South Korea (concerns over American beef imports and auto trade practices) and Columbia (violence towards Columbian union members) are likely to see attempts at revisions before moving forward.

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