

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, MARCH 20, 2009

Two full legislative weeks remain before a scheduled two-week Easter recess. While the budget is expected to dominate floor time in both chambers the week of March 30, next week the Senate will debate a proposal to dramatically expand national service and volunteerism programs. In addition, the Senate may take up a bill to address public (and Capitol Hill) concern over compensation for employees of companies participating in federal financial assistance programs. The House will likely tackle a Senate-approved public lands bill and possibly a bill to provide assistance for the prevention and fighting of wildfires.

BUDGET/APPROPRIATIONS

Both the House and Senate Budget Committees are scheduled to mark-up their respective Fiscal Year 2010 (FY10) budget proposals next week, prior to the Obama Administration releasing its detailed FY10 funding request. If both committees are able to successfully pass budgets next week, it is likely both chambers would use the looming Easter recess as a back-stop to address the budget on the Senate and House floor the week of March 30. Still left undecided is the inclusion of reconciliation instructions in the budget – forcing specific Congressional committees to report filibuster-proof, but only temporary, measures on comprehensive health care reform or the creation of a cap-and-trade measure to limit greenhouse gas emissions. In addition, it is anticipated the Congressional Budget Office (CBO) will soon release its revised picture of the federal budget. This could complicate revenue and spending projections in the budget proposals if CBO's estimates differ from those of the Obama Administration.

As has become the norm over the last few years, the Administration will request a Fiscal Year 2009 supplemental spending bill for military operations in Iraq and Afghanistan. President Obama appears ready to send a \$75.5 billion appropriations request to lawmakers in the coming days, which will likely be modified with non-emergency projects affecting areas beyond war operations. In testimony before the House Budget Committee this week the Pentagon's Comptroller stated that, "In order to avoid funding problems and to maintain continuity of operations for the troops, we hope that Congress will enact this remaining supplemental prior to the Memorial Day recess."

HEALTHCARE

On Wednesday, the Senate Finance Committee Healthcare Subcommittee held a hearing centered on ways to measure and improve healthcare quality. Among the quality of care issues discussed were eliminating disparities, improving patient care and the overall value of health information technology. Carolyn Clancy from the Department of Health and Human Services testified that while important progress was being made in certain areas, the disparity of care with respect to availability and quality was either stagnant or dropping for at-risk populations. Senate Finance Healthcare Subcommittee Chair Jay Rockefeller (D-WV) stated there needs to be, “a clear set of national goals,” to coordinate healthcare quality on a national scale, and that employing Health Information Technology would not be enough in itself to improve quality of care. Dr. Brent James from the Institute for Healthcare Delivery Research at Intermountain Healthcare agreed, stressing that increasing the quantity of data collected through top-down mandates would not be effective and that quality measures should be embedded in bedside patient care. Witnesses and subcommittee members shared different perspectives, however, a consensus was reached that while healthcare quality improvements may be incentive-driven the current “fee for service” structure of healthcare compensation does not incentivize improvements in quality and can in fact have potentially detrimental effects on quality of care.

ENERGY/ENVIRONMENT

During a hearing before the House Science Committee this week, Energy Secretary Steven Chu called for the government to nurture the development of new renewable and energy-efficiency technologies, stating, “that the key to our prosperity in the 21st century lies in our ability to nurture our intellectual capital in science and engineering. Our previous investments in science led to the birth of the semiconductor, computer, and bio-technology industries that have added greatly to our economic prosperity. Now, we need similar breakthroughs on energy.” While some opposition did arise to the Administration’s plan to phase-out the Yucca Mountain nuclear waste repository, Chu reaffirmed his commitment to nuclear power, saying, “The potential there [for energy efficiency improvements] is huge, as is the potential to increase the use of existing technologies such as wind, solar, and nuclear.” Similar concerns over the Administration’s opposition to the Yucca repository were voiced by members of the Senate Energy and Natural Resources Committee hearing on Wednesday during questioning with the heads of the Nuclear Regulatory Commission and the Nuclear Energy Institute.

Interior Secretary Ken Salazar testified before the Senate Energy and Natural Resources Committee Tuesday to speak on energy development on public lands and the Outer Continental Shelf (OCS). In his testimony, Secretary Salazar

underscored the Administration's commitment to a comprehensive energy strategy, and the importance of including both sustainable energy sources and traditional sources such as oil, gas, and hydrocarbons in order to meet the country's energy needs. Responding to a question on the importance of nuclear power in any comprehensive energy plan, Salazar responded that while there are technological difficulties to iron out, Energy Secretary Chu strongly believes in the importance of nuclear power and that it is definitely "on his agenda." Several committee members expressed concern that the 180-day extension to the comment period for a five year plan to explore energy resources in the OCS was excessive and an unnecessary delay in tapping into domestic energy sources. The Secretary assured the committee that he and the Administration were committed to moving forward with off-shore energy development, but that the Atlantic region in particular merits further study and data collection.

The same day the Federal Energy Regulatory Commission (FERC) and the Interior Department signed a memorandum of understanding specifying each agency's powers over the development of offshore renewable energy projects. Interior will retain responsibility for wind-based projects and FERC will oversee the development of hydrokinetic power (using ocean currents to produce electricity). "Our renewable energy is too important for bureaucratic turf battles to slow down our progress," Secretary Salazar said.

On Monday, the Senate Agriculture Committee approved the nomination of Gary Gensler to head the Commodity Futures Trading Commission (CFTC). The CFTC came under fire last year for failing to adequately regulate and oversee trading under its purview last summer when oil and other commodities soared to historic highs. Some opposition has arisen to Gensler's nomination based on his previous employment with the Treasury Department where he opposed increased regulations in the derivatives market. However, during testimony before the Committee, Gensler stated that, "The current economic crisis clearly has shown that our financial and regulatory systems have failed the American people terribly...We have learned that there is no substitute for strong independent regulation and that transparency and accountability are essential throughout the system." Gensler also laid out four priorities for the CFTC, including strong enforcement of current regulations, preventing excess speculation, the creation of a regulatory structure for over-the-counter derivatives, and industry-wide reform of the financial services sector.

FINANCIAL SERVICES

Both the Senate Banking Committee and the House Financial Services Committee this week held hearings in preparation for drafting legislation to overhaul the structure of the nation's financial services industry, including creating a "systematic-risk" regulator empowered to monitor industry-wide threats. The regulator could be created by constructing a new agency from scratch, or by augmenting the responsibilities of the Federal Reserve or the

Federal Deposit Insurance Corporation (FDIC). The FDIC approach appears to be favored by Senator Chris Dodd (D-CT), the Chairman of the Senate Banking Committee, although the specific responsibilities, powers, and reach of such a regulator is still very much undetermined. The Administration is scheduled to release its draft overhaul proposal on Thursday.

The Senate Banking Committee also convened the week to hear testimony on the benefits and drawbacks to creating national insurance standards and an optional federal charter instead of the current state-to-state insurance regulations. In sharply divided testimony, opponents countered that national oversight would lead to a watering-down of strong state regulations, as well as reduce the number of entities judging the soundness of insurance companies. Supporters countered the current structure is a maze of state regulations that restricts the ability of insurers and increases costs to consumers.

On Monday, the President outlined a plan to increase small business access to credit, tapping funding through the Troubled Asset Relief Program (TARP) to give the Treasury the ability to purchase up to \$15 billion in securities backed by the Small Business Administration (SBA). The proposal also does away with SBA loan fees and requires TARP-participating companies to report on their small business loan activities. The program also increases loan guarantees that in combination with the other provisions, “will help provide lenders with the confidence that they need to extend credit, knowing they both have a backstop against their risk and a source of liquidity,” according to the White House.

The next day, both the Senate and the House passed a bill to reauthorize several Small Business Administration programs due to expire at the end of the week, including the Small Business Innovation Research program, which aims to strengthen business models in small, high-technology firms and include them in federal research and development activities. Lawmakers in both the House and the Senate emphasized the importance of innovation in fostering job creation and economic growth, and the large role small businesses play in the high-tech industry. Another key SBA program included in the bill is the Federal and State Technology Partnership Program, which seeks to increase the competitiveness of small, high-tech businesses and their role in the commercialization of new, cutting-edge technologies.

The nomination of former Washington Governor Gary Locke to be the Secretary of Commerce was approved by the Senate Commerce Committee on Wednesday, sending the nomination to the full Senate. While Governor Locke is regarded as a proponent of free trade, he assured Committee members he will use the tools at his discretion to strongly enforce existing trade laws. The Commerce Department oversees a wide swath of issues, including the National Oceanic and Atmospheric Administration, the census, extending access to and protecting our national cyber-infrastructure, as well as the transition (and the inevitable resulting challenges) to digital television in June.

HIGHER EDUCATION

On Wednesday the House passed the Generations Invigorating Volunteerism and Education (GIVE) Act by an overwhelming majority (321-105). The GIVE Act revises and expands a variety of community service programs under the National Community Service Act of 1990, and the National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973, and creates new service programs.

Among the newly created programs under the GIVE Act are the Campuses of Service program which provides funding to colleges and universities for the development of “service-learning” curriculum geared towards preparing college students for careers in public service, and the Innovative Service-Learning Programs and Research which provides funding for community learning opportunities to K-12, college, and graduate students.

Additionally, the GIVE Act increases the maximum Pell Grant award to \$5,350 (up from \$4,735) for the 2010-2011 school year for students who participate in national service programs. The bill also designates September 11th as a National Day of Service and Remembrance. “Public service and volunteerism provide the means through which Americans can give back to their communities while gaining the tools they need to achieve their own goals. The GIVE Act will create a frame work to develop national service programs that will improve their communities and enrich the lives of all of those who answer the call to serve,” said House Education and Labor Committee Chairman George Miller.

TECHNOLOGY

As the Senate Judiciary Committee delayed a mark-up of a comprehensive patent reform bill (S. 515), the House approved a bill (H.R. 628, 409-7) to increase the familiarity of federal judges with the intricacies and consequences of complex patent laws. According to the sponsor of the legislation, the bill, “will establish a pilot project in at least five district courts where judges will have the choice of opting-in to the new program to hear patent cases. Each of the test courts will be assigned a clerk with expertise in patent law or with the technical issues arising in patent cases.” The pilot program will last for 10 years and aims to increase the expertise among federal judges in patent law. The Ranking Member of the Senate Judiciary Committee has introduced a companion measure (S. 299) awaiting Senate action. The Committee has rescheduled yesterday’s mark-up of S. 515 for Thursday.

TRANSPORTATION

On Wednesday Congress approved yet another short-term reauthorization of the Federal Aviation Administration (FAA) aviation programs. The Federal Aviation

Administration Extension Act of 2009 reauthorizes FAA aviation programs through September 30, 2009. It provides \$3.9 billion to the FAA for the 2009 fiscal year.

Last week, the House Transportation and Infrastructure Committee approved the Federal Aviation Administration Reauthorization of 2009, introduced in early February. The reauthorization provides the FAA with \$70 million to fund operational, safety, and oversight programs from fiscal year 2009 through 2012. The longer-term FAA reauthorization has been slowed down by the Senate which has not introduced a FAA reauthorization bill yet. The bill is expected to be considered when legislators return from April recess.

TRADE

Former Dallas Mayor Ron Kirk was confirmed by the Senate this week as the new U.S. Trade Representative by a strong vote of 92-5. During his confirmation hearing last week Ambassador Kirk was hailed as a supporter of free trade but cautioned the Obama Administration would be reviewing provisions in pending free trade agreements with Panama, South Korea, and Columbia. The Panama agreement appears to have the most support in Congress, although concerns remain concerning Panama's strict bank privacy standards. North American Free Trade Agreement reforms are also likely to arise during the 111th Congress as they did during the President's recent trip to Canada and as they are likely to during his upcoming visit to Mexico.

With only two weeks before the G-20 summit in London, the World Bank released a study this week showing a rise in protectionist trade actions as worsening global financial conditions lead nations to restrict the importation of foreign goods. The study finds that, "since G-20 leaders signed a pledge in November 2008 to avoid protectionist measures, several countries, including 17 of the G-20, have implemented 47 measures that restrict trade at the expense of other countries." World Bank Group President and former U.S. Trade Representative Robert Zoellick stated, "leaders must not heed the siren-song of protectionist fixes, whether for trade, stimulus packages, or bailouts." Among other recommendations, the report calls for participating nations to increase the transparency of their trade policies by providing timely reports on new trade practices.

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