

# 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*

## **WEEKLY WASHINGTON REPORT** **FRIDAY, APRIL 24, 2009**

### **NEXT WEEK IN CONGRESS**

A conference committee merging House and Senate versions of the Fiscal Year 2010 Congressional budget is expected to approve the spending outline on Monday, allowing both chambers to make passing the budget a top priority next week. In addition, the Senate appears ready to tackle bills dealing with financial fraud, granting bankruptcy judges new ability to modify mortgage terms for troubled homeowners, and vote on the Administration's nominee to head the U.S. Department of Health and Human Services. The House will take up measures overhauling the billing and rate-setting practices of credit card companies and stream-lining the prosecution of hate crimes.

### **BUDGET/APPROPRIATIONS**

It appears budget negotiators have agreed to include reconciliation instructions in the final Congressional budget for Fiscal Year 2010, paving the way for an expedited process to address health care and student loan reform bills later this year. While the House included reconciliation in its budget, the Chairman of the Senate Budget Committee, as well as several Democrats in the Senate, voiced their opposition to using reconciliation for far-reaching policy changes. A formal conference will be held Monday evening (final budget conferees include two members of the New England delegation, Senate Budget Committee Ranking Member Judd Gregg (R-NH) and Congresswoman Rosa DeLauro (D-CT)). During the recent Congressional recess the Council released an updated breakdown of the House and Senate budgets, comparing them to the macro-budget released by the Obama Administration:

[http://newenglandcouncil.com/pdf/rep\\_webReports/rep\\_2009.04.13\\_2010BudgetUpdate.pdf](http://newenglandcouncil.com/pdf/rep_webReports/rep_2009.04.13_2010BudgetUpdate.pdf)

In the coming weeks, House and Senate appropriators will be tackling a Fiscal Year 2009 supplemental spending bill for continued Iraq and Afghanistan military operations. Earlier this month, President Obama submitted a request to Congress for an additional \$83.4 billion in funding, the majority of which (\$75.5

billion) would go the Department of Defense. The request announcement from the Office of Management and Budget stated unequivocally that, "This is the last planned war supplemental. Moving forward, the President is committed to honest budgeting and fiscal discipline in which these costs are accounted for in the budget -- and are clear for all to see." Given the symbolism surrounding the holiday, it is likely members will try to backstop passage of the supplemental up against the Memorial Day recess in four weeks.

## FINANCIAL SERVICES

Prior to 13 credit card companies' executives meeting with President Obama at the White House on Thursday, and 14 months before new Federal Reserve regulations governing credit card practices take effect, the House Financial Services Committee passed a bill (H.R. 627, 48-19) dubbed the Credit Cardholders' Bill of Rights which mandates a number of changes to credit card companies' billing and interest rate practices. The measure, similar to a bill approved by the House in the 110<sup>th</sup> Congress, is expected to come before the full House for a vote as early as next week but faces a tough test in the Senate (S. 414, passed by the Senate Banking Committee in March). The American Bankers Association continues to oppose the legislation, saying, "We recognize that the Committee has generally codified sweeping new credit card rules recently adopted by the Federal Reserve...Banks are working aggressively to implement the rules by the date set by the regulators." However, the Association believes the current bill, "will have a negative effect on lenders' ability to offer reasonably priced credit to consumers and may make matters worse for the broader economy."

A deal to grant bankruptcy judges new authority to modify the terms (including reducing the principal) of mortgages of troubled homeowners is still eluding Senate negotiators. The proposal (referred to as cram-down) would allow bankruptcy judges to help owner-occupants of primary homes in danger of entering foreclosure by setting manageable loan terms. The Senate is discussing a number of changes to the legislation passed by the House in March, including limiting the modifications to owners with subprime or non-traditional mortgages and sun-setting the provision after five years. Recently the National Association of Federal Credit Unions joined the Independent Community Bankers Association in opposition to the cram-down bill, further complicating an already difficult negotiation.

On Monday, Treasury Secretary Timothy Geithner testified before the Congressional Oversight Panel that even though as recently as January, "Treasury had already committed over half of the funds allocated for [TARP]. Today, Treasury estimates that there is at least \$134.6 billion in resources authorized under [the economic stimulus bill] still available." This is significant because it minimizes the likelihood, assuming scheduled debt repayment occurs, that the Administration will ask Congress for additional TARP funding. On

broader issues of bank health and overall lending, the Treasury Secretary stated that although, “the vast majority of banks have more capital than they need to be considered well capitalized by their regulators...concerns about economic conditions have created an environment under which uncertainty about the health of individual banks has sharply reduced lending across the financial system, working against economic recovery.” The Treasury Department begins briefing individual financial institutions today on the results of the “stress tests” performed on a number of banks over the last few weeks with full results expected to be released next Friday.

## HEALTHCARE

On Tuesday, the Senate Finance Committee approved the nomination of Kansas Governor Kathleen Sebelius for Department of Health and Human Services (HHS) Secretary by a vote of 15-8. The vote came three weeks after the Senate Committee on Health, Education, Labor, and Pensions (HELP) held a confirmation hearing for Sebelius. “Inaction [on national health reform] is not an option. The status quo is unacceptable and unsustainable,” Sebelius said at the HELP Committee confirmation hearing. She referenced her work to improve health care for low-income children, seniors, and those in rural areas as Kansas Governor, as examples of her commitment to health reform. Governor Sebelius is the, “right person to help create a lower cost, higher quality health care system that Americans need,” said Finance Committee Chairman Senator Max Baucus (D-MT) in statement released earlier this week. Governor Sebelius’ nomination should come before the full Senate next week.

On Wednesday, a Senate Homeland Security and Governmental Affairs Committee panel held a hearing on eliminating waste and fraud in Medicare and Medicaid. Subcommittee Chair Senator Thomas Carper (D-DE) expressed concerns over a large budget deficit, saying that, “reining in healthcare costs must be a priority.” He also estimated that at least 3 percent and as much as 10 percent of healthcare payments are lost annually to fraud and inappropriate payments. Senator Tom Coburn (R-OK) added the actual percentages may be even higher, and the keys to reducing system abuse lie in payment reform to increase transparency and stiffer penalties for those found guilty of abuse.

Kay Daly, Director of Financial Management and Assurance for the Government Accountability Office, reported that there were \$72 billion in improper payments from 22 federal agencies in FY08, an estimated \$36 billion of which account for improper payments from Medicare and Medicaid alone. Lewis Morris from the Office of Inspector General in the Department of Health and Human Services suggested that key steps toward reducing improper payments include increased scrutiny of providers before they are permitted to enroll, established payment methods that are market-appropriate rather than artificially inflated, penalties on errant processes, and additional deterrents to fraud. All of the hearing’s witnesses agreed that better compliance measures were needed, and several

witnesses recommended federal assistance to providers in establishing and improving compliance programs.

## ENERGY/ENVIRONMENT

The House Energy and Commerce Committee this week held four days of hearings, calling several dozen witnesses to begin the process of marking-up and approving a sweeping climate change and renewable energy bill. The bill, portions of which have yet to be written leading up to next week's mark-up, will be closely watched to see how emission allowances under the cap-and-trade program are distributed to energy producers (either for free, by auction, sale, or a hybrid), how resulting revenues are spent, and if consumers are protected from possible spikes in energy prices. Because various parts of the proposal are still under debate, the Congressional Budget Office is unable to estimate a possible cost of the legislation. Supporters of the bill hope to have it approved by the full Committee by Memorial Day.

Last Friday the Environmental Protection Agency (EPA) issued a proposed endangerment finding paving the way for Congress to act on climate change legislation this year, stating that, "the current and projected concentrations of six key greenhouse gases...in the atmosphere threaten the public health and welfare of current and future generations." The review was ordered by a 2007 U.S. Supreme Court case (*Massachusetts v. EPA*) which found that the Clean Air Act and its limits on air pollution include greenhouse gases (including carbon dioxide) and charged the EPA with determining to what extent emissions contribute to air pollution and therefore endanger public health. While the EPA's announcement does not include any regulatory proposals, it arms proponents of climate change legislation in Congress with strong evidence on the need to take action. The Director of OMB, Dr. Peter Orszag, stated that, "The President has made it clear that he wants to move the nation toward clean energy, and that part of that effort involves a legislative approach to reducing greenhouse gas emissions under a 'cap and trade' program. Such a program would be more effective and efficient than most types of regulation." The EPA will now seek public and stakeholder input in response to its endangerment finding.

On Wednesday, the Senate Committee on Energy and Natural Resources held a hearing on the establishment of a Federal Energy Efficiency Resource Standard (EERS) for retail electricity and natural gas distributors. Bills to amend the 1978 Public Utilities Regulatory Policies Act and establish an EERS have been introduced in both houses. Committee testimony estimates that the proposed legislation would save consumers \$170 billion over eight years by requiring 15 percent savings for retail electricity and 10 percent for natural gas. Several witnesses voiced their support for a Federal EERS on the grounds that it is technology neutral – it can be applied to any current source of energy generation – and the technology needed is largely available now. The Chairman of the Energy Committee also floated the possibility that companies meet federal

standards for lower emissions through reductions under a Federal EERS. However, industry representatives cautioned that any federal energy efficiency mandates should include funding support and incentivize increased efficiency rather than punish shortfalls, and that consumer behaviors patterns, such as energy usage and appliance efficiency, are beyond the control of the utility companies.

## HIGHER EDUCATION

On Tuesday, the President signed into law the Edward M. Kennedy Serve America Act (H.R. 1388). The landmark service legislation reauthorizes several national community service programs under the Corporation for National and Community Service, and creates new service initiatives for youth, older Americans and veterans. The Serve America Act establishes two new educational programs that will provide the funding needed for K-12 schools, and colleges and universities to promote student community service learning opportunities. Additionally, the legislation provides college students who choose to participate in national service programs with a \$615 boost in Pell grant funding for 2010-2011 school year. "We must prepare our young Americans to grow into active citizens, this bill makes investments in service learning" said President Obama in a speech to commemorate the legislation. "[H.R. 1388] is another step toward our goal of ensuring that every American receives an affordable education" he added. The Serve America Act was unanimously decided in the Senate to be renamed the Edward M. Kennedy Serve America Act, and was approved by the House on March 31 by an overwhelming margin of 275-149.

## TECHNOLOGY

Rumblings have begun that broad immigration legislation, not given significant time on Capitol Hill since the first session of the 110<sup>th</sup> Congress, may make a return this year. A Senate Judiciary Subcommittee has a hearing scheduled for April 28 to begin discussing what form a possible broad immigration measure could take. Any bill would almost certainly modify the H-1B and H-2B (seasonal workers) visa programs, two important sources of workers for high-tech and seasonally-dependent businesses throughout New England. As in 2007, the status of millions of undocumented immigrants will be central to any bill, especially with the U.S. unemployment rate well over 8%. The future (either elimination or expansion) of the E-Verify system would also receive significant attention. Given the "big-ticket" items, such as energy/climate change, health care, and education, the Administration has targeted for reform this year, as well time needed to complete the annual (FY10) appropriations process, it seems unlikely substantial headway could be made on immigration this year.

## TRADE

Comments this week by U.S. Trade Representative Ron Kirk breathed some life into what appeared to be a stagnant environment for the approval of several free trade deals in the coming months. Meetings between Obama Administration officials and Panama at the recent Summit of the Americas in Trinidad and Tobago continued in Washington this week to address concerns over Panamanian labor standards as well as the country's reputation as a tax shelter. Addressing another pending free trade deal, on Monday the Chairman and Ranking Member of the Senate Finance Committee sent a letter to President Obama urging his attention to the pending South Korean trade agreement. The senators noted that, "We understand that other trade initiatives, including trade agreements with Panama and Colombia, will likely be next in line for Congressional consideration...At the same time, we also urge you to begin the hard work of winning broad approval of the U.S.-Korea [Free Trade Agreement] without delay." They cited North Korea's recent missile launch as a further reason the U.S. should have an economic stake in the region. The South Korean trade agreement is opposed by many in Congress for Korea's treatment of U.S. beef as well as U.S. automobiles.

Moving off a policy stance staked out during last year's campaign, Ambassador Kirk stated that at this time President Obama is opposed to opening the North American Free Trade Agreement for renegotiation, instead opting to work with Canada and Mexico to create a set of trade principles. The President met with leaders of Canada and Mexico at the Summit of the Americas and has travelled to both nations during his first few months in office.

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