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Next

Week in Congress

The Senate will continue its work on a large package of tax extenders – which includes the expired research and development tax credit (see below). After voting on a number of amendments over the last few days, a vote on final passage is expected next week. Senators may then address a smaller \$17.5 billion jobs bill, approved last week by the Senate, but modified by the House before passage yesterday. Finally, the Senate may take up a measure to reform and reauthorize Federal Aviation Administration programs. The majority of noteworthy work in the House will continue to take place off the floor, with leadership on both sides whipping votes in support/opposition to the President's most-recent health care proposal. The House will also debate a measure creating a timeline for withdrawal of U.S. troops in Afghanistan and the impeachment of a federal judge.

Budget/Appropriations

The House cleared an amended \$17.5 billion jobs measure this week (H.R. 2847, 217-201), but President Obama's signature must wait until the modified bill clears the Senate. The Senate initially passed the measure on Feb. 24 (70-28), but the House changed the bill to satisfy members who wanted to see it comply with "pay-as-you-go" budget constraints – a hurdle the Senate chose to waive. The centerpiece of the package is a job-hiring provision that rewards employers with a Social Security payroll tax break on new employees and a tax credit if the employee is retained for one year.

Late last week, President Obama announced his four appointments to the Bipartisan National Commission on Fiscal Responsibility and Reform, naming Dave Cote, Chairman, CEO, and President of Honeywell; Ann Fudge, Chairman and CEO of Young & Rubicam Brands from 2003 to 2006; Alice Rivlin, former vice chair of the Federal Reserve Board and Director of the Office of Management and Budget; and Andy Stern, President of the Service Employees International Union. The 18-member Commission, headed by former White House Chief of Staff Erskine Bowles and former Wyoming Republican Senator Alan Simpson, is still awaiting appointments by the Speaker and Minority Leader of the House, as well as the Senate Minority Leader.

Healthcare

On Wednesday, President Obama outlined a revised [healthcare reform proposal](#) as well as an ambitious timeline for the legislation's completion. He called on Congress to send a finished bill to him within the next few weeks, but the Democratic leadership is working on its own set of adjustments to the Senate-passed bill, and Energy and Commerce Committee Chairman Henry Waxman (D-CA) thought it more likely that legislation would be finished "in the next month or two." White House Press Secretary Robert Gibbs said Thursday that the President hopes to see the House pass the healthcare overhaul by March 18. President Obama also pledged to consider key Republican issues in his revised healthcare proposal; including using undercover investigators to curtail fraud, raising Medicaid's provider reimbursement rates, reducing the number of medical malpractice lawsuits, and expanding the use of private healthcare savings accounts. This last measure angered several liberal Democrats, as it would permit insurance exchanges to offer high-deductible insurance plans.

When his bid for bipartisanship failed to garner GOP support for continuing the reform process, President Obama voiced his support for an up-or-down vote to preclude a Republican filibuster, although he did not use the phrase "budget reconciliation." Democratic leadership has openly discussed the likelihood of trying to pass portions of the healthcare overhaul through reconciliation, which would limit debate and require only 51 votes to pass the Senate, rather than the 60 needed to invoke cloture and stop a filibuster. Democrats in both chambers are hesitant to be the first to take up a budget reconciliation measure, and House party members are particularly wary of trusting the Senate to move on any bill passed by the House after it has failed to do so many times before. Congressman Bart Stupak (D-MI) said that he and as many as 11 other anti-abortion House Democrats would not be able to vote for the Senate version of the legislation because it fails to prevent insurance plans that receive federal funds from offering coverage for abortions. House Majority Leader Steny Hoyer (D-MD) suggested that the issue of abortion funding might be addressed in a separate bill or bills. Neither the President's nor the Democratic leadership's latest proposals have been scored by the Congressional Budget Office, but the Democrats hope to submit their language soon.

Health and Human Services Secretary Kathleen Sebelius met with the National Association of Insurance Commissioners as well as the CEOs of Aetna Inc., Cigna Corp., UnitedHealth Group Inc., Health Care Service Corp., and WellPoint Inc. on Thursday. Secretary Sebelius called the meeting to discuss strategies for lowering health costs in the wake of "jaw-dropping rate increases that people are seeing" in many places around the country. She called on private insurers to "shine a bright light" on their financial operations and increase transparency when raising premiums, asking companies to make their requests for rate increases available online, with supporting financial data, including executive salaries and losses. Three of the four CEOs present at the meeting have been invited to testify at a House committee hearing on March 23. President Obama's latest healthcare reform proposal would subject insurance companies to federal regulation in addition to state. Aetna CEO Ronald Williams explained after the meeting that "the increase in the premium is based on the increase in the healthcare cost," which rises as hospitals ask for increases and young, healthy people drop out of the insurance pool. The reforms proposed by the Democrats need to go further in reducing costs, he said. Congressman Peter Welch (D-VT) introduced legislation ([H.R. 4752](#)) Thursday that would require Medicare to negotiate prescription drug prices. Rep. Welch included the same measure in an amendment attached to the House's healthcare reform legislation, but the version passed by the Senate does not contain comparable language. The bill, which Rep. Welch says will save the taxpayers \$156 billion over 10 years, may reach the floor as early as next week.

Energy/Environment

As bipartisan negotiations in the Senate continue over a comprehensive energy bill that includes a meaningful reduction in greenhouse gases, the Senate Commerce Committee Chair introduced yet another hurdle to regulatory action expected in the coming weeks. Yesterday, Senator Jay Rockefeller (D-WV) introduced a [measure](#) (S. 3073) that specifies that for two years "the EPA can take no regulatory action and that no stationary source shall be subject to any requirement to obtain a permit or meet a New Source Performance Standard under the Clean Air Act with respect to carbon dioxide or methane, except for the widely-supported motor vehicle emission standards." The Chair stated he believes this two-year window gives Congress the time it needs to craft an appropriate legislative solution. A companion measure was also introduced in the House (H.R. 4753). Late last week, the Chairmen of the House Agriculture and Armed Services Committees introduced a measure ([H.J. Res 76](#)) to "nullify the EPA's controversial regulatory action and would prevent it from regulating greenhouse gas emissions coming from hospitals, schools and farms." The resolution is a companion measure to S. J. Res 26, introduced earlier this year by the Ranking Member of the Senate Energy and Natural Resources Committee and co-sponsored by 40 senators.

Broad details are beginning to emerge about a bipartisan effort to develop a carbon emissions reduction energy bill that does not include an economy-wide cap-and-trade program like the one contained in the bill passed by the House last year (H.R. 2454). While no official language has been introduced, a trio of senators, including Sens. John Kerry (D-MA) and Joe Lieberman (ID-CT), are seeking feedback on a proposal that addresses carbon reductions on an industry-by-industry basis, rather than a blanket carbon abatement program for the entire economy. The proposal is said to still include a goal of reducing GhG emissions by 17% of 2005 levels by 2020, and while it would impose a cap on emissions by electric utilities that would eventually expand to other industries, the transportation sector would be taxed on its reliance on carbon-emitting fuels. In addition, provisions from a Senate Energy and Natural Resources Committee bill (passed in 2009) may be included, such as incentives for nuclear energy research and generation, access to expanded oil and gas resources, and resources for carbon capture and sequestration programs.

The U.S. Department of Energy informed the Nuclear Regulatory Commission on Wednesday that it was formally withdrawing its license application for the construction of a unified nuclear waste storage facility at Yucca Mountain in Nevada. The President and Energy Secretary Steven Chu have made clear their opposition to Yucca Mountain as a viable solution for the responsible long-term oversight of nuclear waste, and on the same day announced the first meetings of the Blue Ribbon Commission on America's Nuclear Future will take place in Washington, DC on March 25 and 26. The Commission is charged with recommending a strategy (within two years) for meeting the nation's nuclear waste challenge. On Thursday, Secretary Chu faced continued bipartisan criticism during a Senate Appropriations hearing over the Energy Department's relatively modest pace at distributing economic stimulus funds from 2009. One of the biggest winners in the stimulus bill, the Energy Department indicates it has only spent about \$2.5 billion of the nearly \$33 billion tagged to jumpstart a number of renewable energy, energy efficiency, and electricity delivery improvement programs.

Financial Services/Fiscal Policy

Senate Banking Committee leaders have yet to introduce a financial services industry overhaul proposal, with negotiations continuing to center on the creation of a Consumer Financial Protection Agency (CFPA). While supporters initially intended for the agency to be a stand-alone, independent entity, the CFPA has become something of a legislative orphan, with various proposals (with a number of vocal supporters and opponents) housing the agency in the FDIC, the Treasury Department, or the Federal Reserve. Yesterday, Committee Chairman Chris Dodd (D-CT) released a [statement](#) addressing the idea the Agency could be housed at the Fed, saying "the critical question is will this office have the authority and independence it needs to prevent a replay of the abuses we have seen in recent years that burned so many Americans...while we haven't settled on the Fed as the place for this to be housed, there's a vast difference between what is being suggested today and the status quo that failed so miserably in the past."

However, the discussion over the CFPA is not the only policy still being negotiated. Earlier this week, a half-dozen influential financial services organizations, including the American Bankers Association and the Financial Services Roundtable, called on the Chairman and the Ranking Member of the Committee and the Ranking Member of the Senate Banking Committee, urging them to support legislation that would prevent the Federal Reserve from undermining the critical role played by the Federal Reserve, [saying](#) "While improvements are undoubtedly called for, changes that undermine either the independence of monetary policy or the Federal Reserve's supervision of financial institutions will lead to a weaker financial regulatory system." In addition, the American Insurance Association called on Committee leaders to recognize the insurance industry separately from the types of financial services companies responsible for the current economic downturn. In a letter to the Chairman and Ranking Member of the Committee, the AIA [stated](#) "Property-casualty insurers did not pose systemic risk during the recent crisis. Property-casualty insurance companies have remained competitive, stable and well-capitalized," therefore "AIA could not support 'one size fits all' legislative proposals that apply bank-oriented financial regulatory models and assumptions to the property-casualty sector." AIA particularly noted its objection to being subjected to a pre-funding of a resolution risk fund, saying "AIA could not support a resolution system that requires property-casualty insurers to pay for the resolution of non-insurers who engaged in behavior that put the broader financial system at risk, particularly where payments are assessed on a pre-event basis and do not differentiate among financial institutions and sectors according to that risk."

Derivatives reform will also be closely scrutinized when a Senate bill is introduced. Earlier this week, the

Commodity Futures Trading Commission head testified before a House Agriculture Committee panel that the CFTC will be providing language to the Senate as reform proposals are being written. Chairman Gary Gensler [stated](#) that “Chief among these recommendations are reforms to fiduciary standards for investment advisors and prohibitions on using misappropriated government information to trade in the futures markets.” Gensler elaborated that “Any person that offers investment advice to customers should be governed by the same fiduciary standard, regardless of whether the underlying financial instrument is regulated by the SEC or the CFTC.” The Chairman then proceeded to use a detailed reference to the movie *Trading Places*, a reference not often heard in Congressional testimony, to outline the need for the prohibition of using inappropriately obtained government information to trade in the commodities arena, a practice currently not banned. It is expected the Chair of the Senate Agriculture Committee will be offering specific bill language on derivatives reform in the coming weeks.

Technology

A revitalization of the expired research and development tax credit is part of a \$30 billion package of expiring tax provisions included in a much larger bill extending a variety of federal programs being debated in the Senate. The language is included in the substitute amendment ([S.A. 3336, Subtitle C, Section 131](#)) to the larger bill (H.R. 4213). The overall bill has dozens of pending amendments but is likely to see a final vote in the Senate next week. The substitute amendment, authored by the Chairman of the Senate Finance Committee, passed a significant test late Wednesday, with the Senate voting 60-37 (the minimum number of supporters needed) to waive a budgetary point of order against the measure seeking to off-set the cost of the legislation. Earlier this week, the Council [contacted](#) members of the New England Senate delegation in strong support of reviving the expired R&D credit and supporting the Administration’s efforts to extend it permanently.

Late last week, the Chairman of the Senate Judiciary Committee announced he has reached a tentative agreement with the Committee’s Ranking Member to move forward on patent reform legislation (S. 515). Chairman Patrick Leahy (D-VT) stated that he continues to prioritize a bill that will “address runaway damage awards that were harming innovation. We are close to a compromise that will address these issues.” The Chairman released greater details yesterday ([summary](#)), including details for a shortening of the window for the post-grant review process. House Judiciary Committee leaders, who have not moved a bill out of the Committee, seemed to react with caution. In a statement by the Chairman, two senior Democrats, and the Ranking Member, House members stated “With regard to the proposed Senate Judiciary Committee language released today, we believe a number of changes are essential before it could be considered by the House. We are hopeful our Senate Judiciary colleagues will consider these changes as part of their process.”

Two weeks before the Federal Communications Commission is set to release its National Broadband Plan, the House Energy and Commerce Committee yesterday heard from the lead agencies overseeing the awarding and distribution of over \$7 billion in economic stimulus funds to promote greater broadband access (the National Telecommunications and Information Administration at the Commerce Department and the Agriculture Department’s Rural Utilities Services). Both agencies have come under scrutiny for creating parameters for its first series of awards that many viewed as too restrictive and too burdensome. The criticism was acknowledged by the RUS Administrator on Thursday, saying “The challenges that RUS encountered while reviewing the applications for the first round of funding, as well as feedback we received from you and others, resulted in development of alternative approaches.” The House Energy and Commerce Committee Chair stated he is pleased to see the agencies have “reduced administrative burdens on applicants, streamlined the application process, and now allow satellite providers to play a role in providing broadband service to rural areas.” In mid-January both NTIA and RUS announced a mid-February through mid-March timeline for applications for the final \$4.8 billion left in stimulus broadband funding.

Transportation

Congressman Mike Castle plans to introduce legislation to designate the Northeast Corridor between Boston, MA and Washington, DC as a federally recognized high speed rail corridor. This official designation would allow the Corridor to receive Section 501 funding from the Passenger Rail Investment and Improvement Act along with the ten currently designated corridors. Representatives Michael Capuano (D-MA) and Joe Courtney (D-CT) are co-sponsoring the bill. [Read Rep. Castle’s press release.](#)

President Obama signed the Travel Promotion Act into law on Thursday after it passed the Senate last week. A January 2010 analysis by Oxford Economic suggests that the legislation could increase the number of international visitors to the U.S. by 1.6 million and create \$4 billion in new spending each year, including up to \$12 million in tax revenue in Massachusetts. Congressman William Delahunt (D-MA) introduced the bill in the House in order to help counteract the drop-off in international tourism to the U.S. after September 11, 2001. The measure would create an independent, non-profit Corporation for Travel Promotion, funded by a \$10 fee on non-visa international tourists and up to \$100 million in private funds, to promote international tourism and inform potential visitors of U.S. security and visa requirements. The board of the corporation would be appointed by the U.S. Secretary of Commerce, and include members from different areas of the travel industry. Critics of the legislation suggest that the fall in tourism should be repaired by addressing overly strict immigration policies or concentrating on regional promotion rather than launching a national public relations campaign.

On Wednesday, the House Transportation and Infrastructure Committee approved a bill ([H.R. 4714](#)) to expand the powers and funding of the National Transportation Safety Board (NTSB) in a reauthorization from fiscal years 2011-2014. The bill would provide annual funding increases, beginning with \$117.4 billion for 2011, nearly \$17 million more than requested by President Obama. NTSB’s workforce of about 400 would also increase by 66 in 2011. Its expanded authority would include the ability to issue preliminary safety recommendations before an investigation is complete, request information without a formal hearing, more easily subpoena witnesses, and coordinate with the State Department on overseas accidents. The bill would authorize a total of \$483.9 million for the NTSB between fiscal years 2011 and 2014, about \$75 million less than the version of the bill ([S. 2768](#)) passed by the Senate Commerce, Science, and Transportation Committee in November.

Early this week, Senator Jim Bunning (R-KY) filibustered several pending measures, including emergency unemployment benefits and a short-term extension of federal highway programs, over their failure to adhere to “pay-as-you-go” budget rules. Sunday’s expiration of the Highway Trust Fund’s current authorization forced the Department of Transportation to temporarily furlough almost 2,000 workers until a 30-day extension ([H.R. 4691](#)) of highway programs and unemployment benefits was passed on Tuesday. In the wake of these maneuverings, the Senate Committee on Environment and Public Works met on Wednesday for the first of a series of hearings on the importance of transportation investments to the national economy and job creation. Chairman Barbara Boxer (D-CA) stressed the correlation between transportation funding and jobs, saying, “Every \$1 billion in Federal money for transportation that is matched by state and local funds supports approximately 34,700 jobs.” The Committee also announced that they will continue working on a transportation reauthorization bill, Moving Ahead for Progress in the 21st Century (MAP-21), which would replace the transportation authorization that expired in September of 2009, and would plan federal funding for the industry over the next five years. Chairman Boxer hopes to finish this bill by the end of the year. The Committee expressed excitement over the bipartisan agreements on the issues, but questions over a funding source remain. Revenue from the gas tax, the current source of funding for the Highway Trust Fund, has been dwindling steadily, due in part to increasing fuel efficiency and overall use of public transport.

Higher Education

U.S. Education Secretary Arne Duncan testified on the Administration’s goals for education reform at a House Committee on Education and Labor hearing on Wednesday. Secretary Duncan encouraged Committee members to revise the focus of the Elementary and Secondary Education Act (ESEA) when it is reauthorized. ESEA, last authorized in 2002 as No Child Left Behind, “was extraordinarily loose on the goals... but very prescriptive on how you get there,” he said. He encouraged setting a high bar for students to ensure their readiness for higher education or a career upon graduating high school, and to allow educators the freedom to employ innovative teaching methods. Secretary Duncan included carefully measuring student progress, expanding learning time including after-school programs and tutoring, improving teacher effectiveness and ensuring access to art and music in the Administration’s plan for increasing student success. While Committee Chairman George Miller (D-CA) and Secretary Duncan agreed that they would like to see reauthorization completed this year, a draft of new legislation has not been released. On the Senate side, Health, Education, Labor and Pensions Committee Chair Tom Harkin (D-IA) pledged to complete the mark-up in May in order to have it ready for the Senate floor in June. The two members are working together, but Senator Harkin said Tuesday that he did not know whether they would end up introducing separate bills or a single bill.

President Obama urged Congress to complete work on a reauthorization of ESEA this year in a speech on education reform at the U.S. Chamber of Commerce. He detailed his plan to offer \$900 million in federal grants to states and school districts that aggressively reform or close failing schools. The School Turnaround Grants would be available to school districts who took any of four steps to reform a school with a graduation rate of 60 percent or less and consistently low performance: 1) implementing changes to the school’s curricula and structure; 2) dismissing the principal and at least half of the faculty; 3) reopening the school as a charter school; or 4) closing the school and redistributing the students among better-performing schools. President Obama supported a Rhode Island school board for voting to lay off the entire faculty of Central Falls High School, where only 7 percent of 11th graders passed state exams. The leadership of the American Federation of Teachers criticized the president for “scapegoating teachers” in his remarks, and the \$900 million addition to the original \$3.5 billion program authorized by the stimulus bill depends on Congressional action. Congressman William Delahunt (D-MA) announced Tuesday that \$1 million in federal funding will go toward a new Head Start Early Learning Center in Quincy, MA. Both Massachusetts and Rhode Island are finalists in the competition for Race to the Top grants for innovations in education, along with 13 other states and the District of Columbia. In a Thursday announcement, Secretary Duncan urged those states not chosen as finalists to apply for Phase 2 of the program’s grant awards.

The House passed legislation ([H.R. 4247](#)) Wednesday to enforce federal restrictions on using seclusion and physical restraint as disciplinary measures in schools that receive federal funding. Education and Labor Committee Chair Miller introduced the measure after the Government Accountability Office released a report last May on hundreds of alleged instances of student abuse through seclusion or restraint. Opponents of the legislation say that it amounts to unnecessary federal regulation of what is generally a state and local matter, and it will make schools more vulnerable to lawsuits.

Trade

The Obama Administration on Monday released its 2010 [trade agenda](#). The agenda stressed a focus on joining the Trans-Pacific Partnership, (a free-trade group including Singapore, New Zealand, Brunei, and Chile). At the same time, the agenda had little to say about the larger pending agreements with Panama, Columbia and South Korea. These three deals, which were signed under the Bush Administration, have failed to be approved by Congress. President Obama along with Trade Representative Ron Kirk have been cautious to push forward on these deals amid concern of the labor unions and their Congressional allies. In order to move forward the Administration is looking for certain changes from the three nations. With Panama, the Administration is seeking “an understanding of tax transparency rules”, as there is concern with banking secrecy practices. The Trade Office is working with the Columbian government, “to address violence against labor union officials to ensure that union rights in that country can be fully and freely exercised.” Lastly, the issue with South Korea is open access to the export of certain goods, specifically U.S.-made vehicles and U.S. beef.

On Wednesday, Trade Representative Kirk appeared before the Senate Committee on Finance regarding the Administration’s trade agenda. The Committee focus was on the trade agreements with Panama, Columbia, and South Korea. Ambassador Kirk offered no deadline but said that he was working with the President to finalize a list of requirements from the governments of these countries. The Committee stressed the need to finalize these agreements as the U.S. was losing its competitive edge in trade, noting that the E.U. had already finalized free-trade agreements with South Korea and Columbia. They also viewed the treaties as potential job creators, along with the revenue that would be made from the exporting of U.S.