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Congress Continues Jobs Push – Houses Passes Latest Bill

Congressional Democrats and the White House scrambled to keep their “jobs agenda” on track last week, pushing a confusing array of bills in an effort to circumvent obstacles, many of them raised within their own caucus. The Senate ended the week at work on a \$137.9 billion package of tax extensions and safety net programs (H.R. 4213), which Majority Leader Harry Reid (D-NV) hopes to pass this week. Democrats would still have to get the measure through the House and resolve any disagreements before it could be sent to President Obama. The bill before the Senate now grew out of a bipartisan package of tax breaks and longer-term economic safety-net extensions, assembled last month by Finance Committee Chairman Max Baucus (D-MT) and the panel’s ranking Republican, Charles Grassley (R-IA).

The centerpiece of the bill is nearly \$31 billion in “tax extenders” that would preserve through 2010 provisions including the research and development credit, a deduction for teachers’ out-of-pocket expenses, and incentives for producing biofuels. It also would extend tax breaks for people affected by natural disasters,

favorable tax treatment for farm equipment and tax incentives for investment in economically distressed areas. In addition to the tax breaks, the bill would extend the unemployment, health insurance subsidies, flood insurance and small-business provisions through December 31. Until last week, Senate Democrats had shown little urgency in addressing the tax extenders. The House passed a bill in December, but the Senate was consumed then with the health care debate.

Last week, the House also passed the Senate-version of "jobs bill" (H.R. 2847 - Hiring Incentives to Restore Employment Act) and sent it back to the Senate, after adding offsets demanded by the Blue Dog Coalition of Democratic fiscal conservatives, among others, along with some changes to satisfy the Congressional Black Caucus. The centerpiece of the \$17.6 billion package (originally \$15 billion) is payroll tax relief for businesses that hire new workers, which would cost \$13 billion over 10 years. The bill would extend through 2010 a law that allows small businesses to deduct up to \$250,000 in qualified expenses, double the current amount. It would modify and make permanent part of the Build America Bonds program for state and local governments. Finally, the bill would extend authority for surface transportation programs through December 31 and transfer \$19.5 billion from the general fund to the Highway Trust Fund. It also would direct 10 percent of the funds for specific transportation programs authorized under the bill to small businesses that are "controlled by socially and economically disadvantaged individuals."

The one measure that did make it to President Obama's desk last week is a small bill (H.R. 4691) providing short-term extensions of a number of programs that expired February 28, including extended unemployment benefits, federal health care subsidies for jobless workers, a delay in pay cuts for Medicare physicians and programs related to small-business loans, flood insurance and satellite TV broadcasts. The president signed the bill on March 2 (PL 111-144).

Troubled Homeowners Refinancing Program Extended

On March 1st, the President announced that borrowers with little or no equity on their homes will have another chance to take advantage of the federal refinancing program. The program, originally set to expire in June of this year, has been extended until June 2011. The administration moved to extend the program because, to date, it has reached less than 200,000 of the five million borrowers that it was intended to aid.

The program is aimed at helping those borrowers who, because of the weakened housing market, now own homes of diminished value or those who now owe more than their houses are currently worth. The program is set up to accommodate those who owe up to twenty-five percent more than their houses are worth. These borrowers are considered a greater foreclosure risk and, by offering lower payment options, the program is intended to lessen the risks of owners falling behind or defaulting on loan payments.

The program does not assist those who owe more than twenty-five percent and also only includes those loans backed by either Fannie Mae or Freddie Mac, the federal mortgage financing companies. It is the opinion of some housing consultants that the program will not reach as many borrowers as was hoped and that extending the program will not have a significant impact.

EPA Regulators Stymied by Uncertainty Surrounding Clean Water Act

As recently depicted in the New York Times article “Rulings Restrict Clean Water Act, Foiling E.P.A.,” the uncertainty surrounding the scope of the Clean Water Act’s reach has left thousands of the nation’s largest water polluters free from Environmental Protection Agency regulators.

The Clean Water Act was intended to end dangerous water pollution by regulating every major polluter. But today, regulators may be unable to prosecute as many as half of the nation’s largest known polluters because officials lack jurisdiction or because proving jurisdiction would be overwhelmingly difficult or time consuming, according to midlevel officials.

Because the Supreme Court, to date, has left uncertain which waterways are protected by the Federal government, some businesses are declaring that the law no longer applies to them. And pollution rates are rising. Companies that have spilled oil, carcinogens and dangerous bacteria into lakes, rivers and other waters are not being prosecuted, according to Environmental Protection Agency regulators working on those cases, who estimate that more than 1,500 major pollution investigations have been discontinued or shelved in the last four years.

The court rulings causing these problems focused on language in the Clean Water Act that limited it to “the discharge of pollutants into the navigable waters” of the United States. For decades, “navigable waters” was broadly interpreted by regulators to include many large wetlands and streams that connected to major rivers. But the two decisions suggested that waterways that are entirely within one state, creeks that sometimes go dry, and lakes unconnected to larger water systems may not be “navigable waters” and are therefore not covered by the act — even though pollution from such waterways can make its way into sources of drinking water.

Some argue that such decisions help limit overreaching regulatory efforts. But for E.P.A. and state regulators, the decisions have created widespread uncertainty. The court did not define which waterways are regulated, and judicial districts have interpreted the court’s decisions differently. As regulators have struggled to guess how various courts will rule, some E.P.A. lawyers have established unwritten internal guidelines to avoid cases in which proving jurisdiction is too difficult, according to interviews with more than two dozen current and former E.P.A. officials.

House Investigators Say Army Corps Flouts Modernization Rules

The Army Corps of Engineers is under fire for what House investigators say is a pattern of flouting congressional directives enacted in 2007 as part of a hard-won effort to modernize the agency. A report released March 3rd by the House Transportation and Infrastructure Committee said the corps has not met some requirements in the 2007 Water Resources Development Act (PL 110-114), which mandated increased transparency, accountability and modernization.

The 2007 law, enacted after almost seven years of wrangling and over a veto by President George W. Bush, authorized funding for hundreds of navigation, flood control and environmental restoration projects. It also included language intended to overhaul practices at the Corps of Engineers, including new requirements for independent reviews by the National Academy of Sciences or a similar organization for projects that were expensive or controversial.

According to the report, soon after the law was enacted the corps reported that 263 projects would be subject to this review process. But in a recent update, the corps stated that only 20 reviews were under way.

At a hearing on the topic last week, Transportation and Infrastructure Chairman James Oberstar indicated that some of the delay may not be entirely the corps's fault. He suggested that the National Academies and other bodies involved may be contributing to the slowdown. He also suggested that the White House Office of Management and Budget (OMB) is slowing down implementation of key provisions by inserting itself too much into the mix.

Testifying at the hearing, Jo-Ellen Darcy, assistant secretary of the Army for civil works, pledged to work with lawmakers to improve deficiencies. Oberstar thanked her for being "forthcoming" and heaped more blame on the administration, saying the corps has not had adequate resources and that President Obama's fiscal 2011 budget request is not enough. As part of his domestic spending freeze, Obama has asked for the corps's discretionary budget to be slashed by 10 percent, to \$4.9 billion from \$5.4 billion.

[Annual Federal Budget Process Starts Anew](#)

The annual federal budget process started anew with the February 1st release of President Barack Obama's proposed \$3.8 trillion budget for 2011. The federal government's fiscal year ends September 30, and every year, in early February, the President submits his proposed budget to Congress. From there, the battles begin as House and Senate committees hold hearings and vote to authorize legislation and appropriate money to operate the federal budget for another year.

President Obama is walking a tightrope as he seeks to inject the nation's economy with huge amounts of cash for job creation and relief from the nation's recession, but simultaneously begins to steer the nation down a course toward deficit reduction. To start down this latter course, the President is proposing to terminate or reduce 126 federal programs, which is expected to generate \$23 billion in savings next year and \$240 billion over the next 10 years. These terminations and reductions are causing considerable concern in Congress.

One of the biggest applause lines in President Obama's State of the Union address was his call to reduce earmarks. But the cheering faded quickly, and appropriators are already pushing back hard against the president's proposal to eliminate congressionally directed spending. Many members of Congress defend the earmarking process, arguing they understand the needs of their districts and states better than federal bureaucrats based in Washington. The amount of funding dedicated to congressional earmarks is up slightly in fiscal 2010 at \$15.9 billion.

Highlights of the President's Budget Proposal

The following table shows major proposals from President Obama's fiscal 2011 budget request by department and major agency. The totals by year are for discretionary programs. The column for regular fiscal 2009 funding includes supplemental appropriations but not the substantial funding provided under last year's economic stimulus law (PL 111-5). The stimulus funds are shown in a separate column.

Figures are in billions of dollars

DEPARTMENTS				
AGRICULTURE				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Lower cap on direct payments from \$40,000 per person to \$30,000 per person and reduce over three years adjusted gross income eligibility limits for some subsidies to \$250,000 or less for non-agriculture-related income and to \$500,000 or less for agriculture-related income. Reduce funds for the Market Access Program by \$166 million over five years. The program aids the promotion of U.S. farm exports. Save \$8 billion over 10 years by restructuring the federally subsidized crop insurance program.
\$25.3	\$6.9	\$27.3	\$25.8	
COMMERCE				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Provide \$1.3 billion for the Census Bureau. Most of the money for the 2010 census was provided in fiscal 2010, making this year's request for the bureau a reduction of more than 80 percent Provide \$2 billion for weather satellites and other systems to monitor changes in climate and global sea levels.
\$9.5	\$7.8	\$13.8	\$8.9	
DEFENSE				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Provide \$548.9 billion, a 3 percent increase, for the base Defense Department budget, which does not include overseas contingency funding for operations in Afghanistan and Iraq. Eliminate funding for additional Boeing C-17 transport planes and an alternative engine for the F-35 Joint Strike Fighter. Raise basic pay by 1.4 percent. Provide \$159.3 billion for operations in Iraq and Afghanistan and for Pakistan in fiscal 2011, as well as another \$33 billion in fiscal 2010 supplemental funding to pay for the U.S. troop buildup in Afghanistan. Include a \$50 billion per year placeholder figure for war operations going forward.
\$659.0	\$7.4	\$693.4	\$708	
EDUCATION				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Provide \$1.4 billion to expand Obama's "Race to the Top" program of competitive grants to states and schools. An additional \$950 million would be used for competitive grants to improving teaching. Convert the Pell grant program from discretionary to mandatory funding. Set the maximum grant at \$5,710, with automatic increases tied to inflation. (To allow comparison, annual amounts do not include Pell Grants.) Make the federal government the sole originator of student loans, phasing out the role of private lenders and ending their subsidies, saving an estimated \$87 billion.
\$41.4	\$81.1	\$46.8	\$49.7	
ENERGY				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Provide \$11.2 billion, a jump of almost 14 percent, for activities to maintain a secure and effective stockpile of U.S. nuclear weapons. Increase funding for energy efficiency and renewable-energy programs by 5 percent, to \$2.6 billion. Provide \$824 million, a 5 percent increase, for nuclear power programs, with a commitment to add \$36 billion, for a total of \$54.5 billion in fiscal 2011, for loan guarantees for new nuclear power generation.
\$33.9	\$36.7	\$26.4	\$28.4	
HEALTH AND HUMAN SERVICES				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Create a new \$2.5 billion emergency fund under the Temporary Assistance for Needy Families program of cash assistance to low-income families. Extend higher federal Medicaid funding for six months at a cost of about \$25.4 billion to head off state cuts in Medicaid enrollment. Provide \$6.6 billion, a \$1.6 billion increase, for federal assistance for child care. Increase funding for the National Institutes of Health by \$1 billion, to \$32.3 billion, with \$6 billion for cancer research. Increase funding for Head Start, the early-education program for low-income kids, by \$1 billion, to \$8.2 billion.
\$88.1	\$22.4	\$84.1	\$83.5	
HOMELAND SECURITY				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Provide \$734 million to deploy up to 1,000 new full-body scanning machines at airport checkpoints and new explosive-detection equipment for baggage screening. Reduce Coast Guard personnel by 1,100 to help pay for upgrading the agency's aging fleet of vessels.
\$42.5	\$2.8	\$43.3	\$43.8	
HOUSING AND URBAN DEVELOPMENT				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Reorganize 13 separate programs to streamline HUD's rental assistance bureaucracy. Eliminate funds for HOPE VI, the main source of money for projects to bulldoze and reconstruct public housing. Provide \$19.6 billion for the Housing Choice Voucher program of rental assistance to very low-income families.
\$40.1	\$13.6	\$43.6	\$41.6	
INTERIOR				
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	<ul style="list-style-type: none"> Double the inspection fees on oil facilities on the outer continental shelf and create a new fee for onshore oil and gas inspections, generating a combined \$30 million. Hold most programs relatively flat to accommodate a \$39 million decrease from fiscal 2010 for the department but provide increases for the Land and Water Conservation Fund and renewable-energy projects.
\$11.3	\$3.0	\$12.2	\$12.0	

DEPARTMENTS <i>continued</i>				
JUSTICE				<ul style="list-style-type: none"> ● Provide \$237 million for a maximum-security prison in Illinois to house detainees now held at Guantánamo Bay, Cuba, and provide \$73 million for costs of trying five alleged conspirators in the Sept. 11 attacks. ● Increase funding for the FBI by 6 percent, to \$8.2 billion.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$26.2	\$4.0	\$27.6	\$24.1	
LABOR				<ul style="list-style-type: none"> ● Plan for a 35 percent reduction, from \$126.8 billion to \$82.4 billion, in mandatory spending for federal unemployment benefits, reflecting an expectation that current extended benefits will not be renewed. ● Require employers that do not offer retirement plans to enroll employees in Individual Retirement Accounts. ● Increase support for training programs that prepare workers for "green" jobs and services.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$12.9	\$4.8	\$14.3	\$14.0	
STATE & OTHER INTERNATIONAL AID				<ul style="list-style-type: none"> ● Increase foreign assistance, with a majority of the increase going to combat zones. ● Provide \$4 billion in assistance for Afghanistan and \$3.1 billion for Pakistan for governance, reconstruction and other development activities. Also, provide \$2.6 billion to support ongoing activities in Iraq and prepare the State Department to assume responsibility for key programs that have been carried out by the Defense Department. ● Provide \$8.5 billion, up from \$7.8 billion in fiscal 2010, for programs to improve global maternal and child health and to combat HIV/AIDS, tuberculosis and malaria.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$50.0	\$0.6	\$52.4	\$55.8	
TRANSPORTATION				<ul style="list-style-type: none"> ● Create a \$4 billion infrastructure fund for large-scale transportation projects. ● Provide \$1.1 billion for high-speed and intercity passenger rail, in addition to \$8 billion in the stimulus law. ● Delay enacting a new surface transportation bill into spring 2011. ● Provide \$1.3 billion, more than a 30 percent increase, for the FAA's Next Gen air traffic control program, aimed at moving from ground-based radar surveillance to a satellite-based system.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$19.8	\$48.1	\$21.8	\$22.8	
TREASURY				<ul style="list-style-type: none"> ● Provide \$5.9 billion, a 5 percent increase, for IRS enforcement, including hiring 2,000 more people. ● Increase funding for the Securities and Exchange Commission by 12 percent, to \$1.3 billion, and for the Commodity Futures Trading Commission by 54 percent, to \$261 million.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$12.6	\$0.3	\$13.6	\$13.9	
VETERANS AFFAIRS				<ul style="list-style-type: none"> ● Increase discretionary appropriations for the VA from \$53.1 billion to \$57 billion, with much of the funding devoted to veterans' health care. ● Appropriate \$53 billion in advance fiscal 2012 funding for veterans' health care, in line with a two-year budget cycle required for those programs under a law enacted last year (PL 111-81).
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$47.8	\$1.4	\$53.1	\$57.0	
MAJOR AGENCIES				
CORPS OF ENGINEERS				<ul style="list-style-type: none"> ● Give priority in allocating construction money to dam-safety work, projects that reduce significant risks to human safety and projects that will complete construction during 2011.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$11.9	\$4.6	\$5.4	\$4.9	
EPA				<ul style="list-style-type: none"> ● Reduce spending for the agency by 3 percent, to \$10 billion. However, the EPA received \$7.2 billion in extra funds under the stimulus law, and it has not yet spent all of that. ● Allocate \$1.3 billion, a 14 percent increase, for grants to states and tribes that implement environmental programs.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$7.7	\$7.2	\$10.3	\$10.0	
NASA				<ul style="list-style-type: none"> ● End funding for the Constellation Program, initiated under President George W. Bush to send astronauts back to the moon and on to Mars. ● Provide \$6 billion over five years to the commercial space industry to create a new vehicle to carry humans to and from the International Space Station.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$17.8	\$1.0	\$18.7	\$19.0	
NATIONAL SCIENCE FOUNDATION				<ul style="list-style-type: none"> ● Increase funding for the NSF by 8 percent, to \$7.4 billion. ● Create a \$766 million, cross-agency research initiative focused on renewable technologies and complex environmental- and climate-system processes.
FY 2009	FY 2009 stimulus	FY 2010 estimate	FY 2011 request	
\$6.5	\$3.0	\$6.9	\$7.4	