

WASHINGTON UPDATE

LEGISLATIVE AND PUBLIC POLICY DEVELOPMENTS

MAY 29-JUNE 11, 2010

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ECONOMIC REGULATION AND OVERSIGHT

Wall Street Firms Mildly Affected by Financial Reform

According to *The Politico*, “traditional banking giants” such as Citigroup, J.P. Morgan Chase, Bank of America, and Wells Fargo will be hit the hardest by financial reform legislation. Because these traditional banks focus on consumer lending and other retail activities, the debit card fee cuts and increased oversight by the new consumer regulator could have a tremendous impact on their bottom line. However, if Sen. Blanche Lincoln’s (D-AR) derivatives language, which requires banks to spin off their derivatives trading desks, remains in the bill, Wall Street banks such as Goldman Sachs and Morgan Stanley will be seriously impacted by the legislation as well. However, Sen. Lincoln’s language will likely be dropped from the bill, in which case the Wall Street banks may be minimally affected by the legislation.

[The Politico](#), June 1.

Financial Reform Conference Committee Slated to Start Next Week

On Thursday, the House and Senate began their attempt to reach a compromise in an effort to overhaul regulation of financial institutions. Under consideration is a 1,974 page bill that includes 300 pages of changes that were made by Senate Banking Chair Chris Dodd (D-CT) and House Financial Services Chair Barney Frank (D-MA) after the Senate passed its financial reform legislation. The bill largely reflects the Senate bill with some additions and alterations.

Unlike most conference committee meetings, the 43-member meeting is open to the public and the media. After hearing opening statements on Thursday, the conference committee adjourned until Tuesday, June 15. A compromise piece of legislation should reach President Obama's desk by July 4.

The biggest points of controversy include the proposed consumer protection agency and the tougher language in the Senate-passed bill regarding derivatives. There will also be debate about what Congress should decide and what it should delegate to regulators. For example, the House bill gives the Federal Reserve the power to ban big firms from trading for their own profit while the Senate bill directs regulators to write such rules.

One controversial provision was written by Senator Blanche Lincoln (D-AR), which would force banks to spin off their derivatives trading desks. Although many analysts expected Sen. Lincoln's provision to be watered down or removed from the bill completely, Senate Majority Whip Richard J. Durbin (D-IL) said Lincoln is in a stronger bargaining position to keep her provision after winning the Arkansas Democratic primary run-off election on Tuesday.

The financial reform bill emerging from Committee must once again pass both the House and the Senate. The House must pass the conference report by a simple majority. The House passed its version of the bill by five votes and a few of those members are no longer in the House (Rep. Abercrombie (D-HI) resigned to run for governor, Rep. Wexler (D-FL) resigned, and Rep. Murtha (D-MA) passed away). And, if the Senate demands to keep some of its sections, it would only take a few House members to switch sides to doom financial reform. In the Senate, 60 votes are required for approval. Four Republicans voted in support of the Senate bill and two Democrats voted against it. With the Senate split 59-41, at least one Republican will need to support the legislation.

[The Atlantic](#), May 31; [NPR.org](#), June 1; [NPR.org](#), June 2; [The Hill \(Briefing Room Blog\)](#), June 2;

[The Wall Street Journal](#), June 2; [The Wall Street Journal](#), June 9; [The Hill \(On the Money Blog\)](#), June 10;

[The Politico](#), June 10; [The New York Times](#), June 10; [Reuters](#), June 10; [CQ Today](#), June 10.

Obama Pushing Small Business Initiatives

On Friday, in a speech in the White House Rose Garden, President Obama called on Congress to pass initiatives to encourage small business hiring, including a fund entitled the Small Business Lending Fund. This \$30 billion fund would direct money towards small and medium-sized banks with assets under \$10 million. This money would come from the fund that bailed out Wall Street financial institutions. President Obama also urged Congress to eliminate capital gains taxes for investments in small businesses, provide tax relief to small start up companies, and create a new state small business initiative.

[The Politico \(The Whiteboard\)](#) (Video of Obama's speech); June 11;

[The New York Times \(The Caucus Blog\)](#), June 11; [The Associated Press/Google](#), June 11; [Reuters](#), June 11.

Legislation Introduced

H.R.5502 : To amend the effective date of the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009.

Sponsor: [Rep Maffei, Daniel B.](#) [NY-25] (introduced 6/10/2010)

Committees: House Financial Services

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Financial Services.

H.R.5510 : To amend the Emergency Economic Stabilization Act of 2008 to allow amounts under the Troubled Assets Relief Program to be used to provide legal assistance to homeowners to avoid foreclosure.

Sponsor: [Rep Kaptur, Marcy](#) [OH-9] (introduced 6/10/2010)

Committees: House Financial Services

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Financial Services.

H.R.5511 : To amend the Federal Deposit Insurance Act to codify the Transaction Account Guarantee Program of the Federal Deposit Insurance Corporation.

Sponsor: [Rep Marshall, Jim](#) [GA-8] (introduced 6/10/2010)

Committees: House Financial Services

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Financial Services.

BANKRUPTCY AND CORPORATE LAW MATTERS

A New Tax Hits Some Investors, Spares Others

After years of saber rattling, the House on Friday finally passed a bill that will raise taxes on "carried interest," or the income that managers of investment partnerships receive from selling assets. "Carried interest" refers to tax provisions that have been used for years by partnership organizers to convert their own pay from ordinary income into capital gains. At current rates, that meant their compensation often qualified for a top tax of 15 percent, versus the 35 percent income tax for high-earning workers. The bill, known as the "American Jobs and Closing Tax Loopholes Act of 2010," is the latest version of a proposal first drafted by House Ways and Means Chairman Sandy Levin (D-MI) and Senate Finance Chairman Max Baucus (D-MT). It would subject 75 percent of the partnership organizers' profits to the higher tax rates starting in 2013, and 50 percent to the higher rates until then. A last-minute change delayed the law's effective date to January 1, 2011. Until then, it had been scheduled to take effect immediately. The Senate proposal would raise the tax to as much as 33 percent by 2013. The House's proposal would raise the rate to 35 percent.

A House-approved tax increase on investment managers would be trimmed, while a levy on oil companies would be quintupled under a revised jobs measure announced today by Senate Democrats. The plan would raise the effective tax rate on fund managers' share of profits to between about 31 percent to 33 percent, less than the 35 percent approved last month by the House. Fund managers now often pay about 15 percent. Oil companies would make up some of the revenue difference through an increase, from eight cents to 41 cents, in the tax on every barrel of oil produced. Lawmakers will begin debating amendments to the plan while aiming for a final vote by early next week. Baucus expressed confidence that he had the votes to fend off attempts to further alter the tax on investment fund managers' profits. A bill to eliminate capital-gains taxes on many investments in small businesses could come to the House floor as early as Thursday.

A group of Senate Democrats negotiating a softer tax hike on real estate and venture capital fund managers was nearing agreement late Monday, after a lengthy meeting in Senate Foreign Relations Chairman John Kerry's (D-MA) Capitol office. Democratic aides said 60 votes were nearly in sight for a huge package of tax breaks, unemployment benefits, physician payments and other measures. The proposal is expected to raise nearly two-thirds of the roughly \$15 billion in revenues from the carried interest tax. Industry officials argue it has not been properly vetted, hence the last minute objections; Democratic aides who worked on the plan said it has been part of the carried interest language for some time. The "enterprise value" tax is designed to prevent investment-services partners from cashing out their stakes in a firm before being subject to the new, higher tax on carried interest, or their share of profits from the sale of assets. But industry groups argue the move is a punitive tax increase on the "goodwill," or brand-name value a fund partner has brought to a firm over the years, and would affect numerous small businesses, not just Wall Street titans.

H.R.4213; [The Wall Street Journal](#), May 29; [CongressDaily](#), June 8; [Bloomberg](#), June 8;

[The Washington Post](#), June 8; [The Wall Street Journal](#), June 9; [The Wall Street Journal](#), June 9.

President Obama: End Dependence on Fossil Fuels

President Obama on Wednesday called on Congress to roll back billions of dollars in tax breaks for oil companies and pass a clean-energy bill that he says would help the nation end its dependence on fossil fuels. Obama predicted that he would find the political support for legislation that he said would dramatically alter the way Americans fuel their homes and cars, including placing a price on carbon pollution, even though such legislation is politically divisive and remains bogged down in the Senate.

The proposal to roll back oil company tax breaks is something Obama has discussed in the past, and included in his most recent budget proposal, but it has not been a White House talking point of late. Now with the spill casting big oil in the worst possible light, calling for the elimination of oil company subsidies may be one more way for Obama to show the public he wants to hold the industry accountable.

[The Associated Press](#), June 2.

Deficit Worries Loom Over Bill's Fate

Last Friday's 215-204 House vote on a sprawling package of tax and spending extensions was closer than it looked, boding ill for final passage and casting doubt on Democratic leaders' ability to pass other expensive legislation before Election Day. Some voted against the bill because they said it contained too many "special interest" provisions and did not do enough to curb corporate tax breaks.

Caterpillar, Inc., the Peoria, Illinois-based heavy equipment maker, came out in opposition to a huge package of tax breaks, unemployment benefit extensions and other provisions today, citing \$14.5 billion in proposed tax increases on multinational's overseas operations. While supportive of provisions like an extension of the research and development tax credit and deferred taxes on overseas lending activities, Caterpillar CEO James Owens said the negatives outweighed the positives. "Regrettably, the international revenue raisers in the bill will hurt the U.S. economy and jobs," Owens wrote to Senate Finance Chairman Max Baucus (D-MT) and ranking member Charles Grassley (R-IA). He wrote that the provisions would make it harder for Caterpillar, dependent on exports, to compete abroad.

Amendments to aid homebuyers and Gulf Coast businesses with oil spill-related losses will be on tap as the Senate continues its consideration of a \$140 billion package of tax breaks, unemployment benefits and physician payments. President Obama, in a White House meeting with the bipartisan leaders of Congress, urged action on the extenders package. Senate Republicans' alternative to the extenders bill would renew tax breaks for businesses and families, extend unemployment insurance through November and prevent Medicare physician payment cuts through 2012 -- a year longer than the Democrats' plan.

[CongressDaily](#), June 3; [CongressDaily](#), June 8; [CongressDaily](#), June 10; [CongressDaily](#), June 11.

G-20 Fails on Bank Tax, Calls for Joint Principles

The Group of 20 nations (G-20) failed to agree on a proposal to impose a global tax on banks that was aimed at making the financial industry shoulder the cost of bailouts, settling instead for a common set of guidelines. European governments and the U.S. have advocated a bank tax be adopted in every major country to prevent lenders from relocating to jurisdictions that don't charge the levy. The International Monetary Fund was asked by the G-20 last year to recommend how to tax the industry.

[Bloomberg Businessweek](#), June 5.

Bankruptcy No Help For Many

Bankruptcy filings are nearing the record of 2 million in 2005, when a new law took effect that was aimed at curbing abuse of the system. Filings could reach 1.7 million this year, says law professor Robert Lawless, but few experts believe that debtors are now gaming the system. Instead, concern exists about a growing number of Americans who need bankruptcy protection but cannot get any benefit from it or simply cannot afford to file. As their financial problems worsen, that hurts everyone because it can hinder the economic turnaround. Bankruptcy laws changed in 2005 because filings skyrocketed and credit card companies and banks wanted to weed out deadbeat borrowers. The law made it harder -- more expensive and more restrictive -- for individuals to file Chapter 7 bankruptcy, which erases most debts.

[USA Today](#), June 8.

Legislation Introduced

H.R.5486 : To amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Sponsor: [Rep Levin, Sander M.](#) [MI-12] (introduced 6/9/2010)

Committees: House Ways and Means

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

BROADBAND, BROADCAST, AND INTELLECTUAL PROPERTY

Federal Agencies Launch Campaign to Educate Consumers on Marketing Fraud

On June 1, federal government agencies including the Federal Trade Commission (FTC), the Federal Bureau of Investigation, the Homeland Security Department's Immigration and Customs Enforcement, U.S. Postal Inspection Service, and U.S. Secret Service initiated a public awareness campaign aimed at educating consumers about marketing fraud occurring through mail, electronic mail, and telemarketing services. The scams at issue involve entities fraudulently persuading consumers to provide personal data in exchange for rewards, yet not actually delivering the promised products or services. The federal agencies' campaign includes warning consumers to be cautious when providing financial details, such as bank account or credit card numbers, via telephone or electronic mail.

[Congress Daily National Journal](#), June 1.

Rep. Markey Drafts Spectrum Bill

Rep. Ed Markey (D-MA) has drafted a spectrum bill that would mirror the National Broadband Plan's goal of making 500 MHz of spectrum available for mobile broadband in ten years through voluntary incentive auctions.

[Communications Daily](#), June 1.

Opposition to the FCC Broadband Agenda Mounting

A coalition of public interest groups is concerned that the FCC may treat wireline and wireless broadband differently under its "third way" reclassification regime. Meanwhile, a majority of House members, including 173 out of 177 Republicans, penned a letter to FCC Chairman Julius Genachowski expressing their opposition to the reclassification of broadband as a Title II common carrier service. House Speaker Nancy Pelosi supports the FCC's plan, however.

[Communications Daily](#), June 1; [The Washington Post \(Tech Blog\)](#), June 2.

FTC Holds Workshop on Child Privacy on the Internet and Other Technological Devices

On June 2, the Federal Trade Commission (FTC) held a roundtable workshop entitled, "Protecting Kids' Privacy Online: Reviewing the COPPA Rule," on whether the FTC should modify its rule from 2000 implementing the Children's Online Privacy Protection Act of 1998 (COPPA). The FTC rule requires Internet websites to gain parental consent before gathering personal data from children under 13 years of age. While the FTC must review its rules implementing COPPA every five years, the agency did not adopt any updates in 2005. Now the FTC is considering whether to extend the rule to other technological devices with increasing popularity, such as mobile phones, interactive television, and interactive gaming, as well as new techniques for age verification.

[FTC Press Release](#), June 1; [Congress Daily National Journal](#), June 1; [Congress Daily National Journal](#), June 2; [BNA \(Electronic Commerce & Law Report\)](#), June 2.

FTC Rejects iSAFE Proposal for “Safe Harbor” Under COPPA

On June 2, the FTC sent a letter to Internet safety education group iSAFE, unanimously rejecting the group’s proposed “safe harbor” program, which would have allowed companies to sign up for a self-regulatory program as a means of complying with COPPA. According to the FTC, the proposal failed to satisfy the agency’s requirements for a safe harbor program, such as providing “substantially similar” requirements to the FTC’s rule implementing COPPA, providing an independent method for evaluating participants’ compliance with the safe harbor program, and offering “effective” incentives for participants’ compliance with the program.

[FTC Letter to iSAFE](#), June 2; [FTC Press Release](#), June 8; [Congress Daily National Journal](#), June 8; [BNA \(Electronic Commerce & Law Report\)](#), June 9.

Technology Companies Form Coalition to Develop Network Management Guidelines

A diverse group of telecom and technology companies including Google, Microsoft, Intel, Verizon and Comcast have formed an independent technical coalition to develop guidelines for network management.

[The Washington Post \(Tech Blog\)](#), June 9; [Fierce Wireless](#), June 9.

Senate Commerce Committee Approves TV Advertisement Loudness Bill

On June 9, the Senate Commerce, Science, and Transportation Committee unanimously approved the Commercial Advertisement Loudness Mitigation Act (CALM Act), which requires the Federal Communications Commission (FCC) to adopt the Advanced Television Systems Committee’s recommended rules prohibiting broadcasters from airing television advertisements at volumes significantly louder than regular programming. Broadcasters and cable operators would need to comply with the legislation within one year of its passage. The bill still needs full Senate approval. The House of Representatives passed a similar bill last year, yet the House would need to vote again as the Senate version has slight changes.

S. 2847; H.R. 1084; [Multichannel News](#), June 9; [Broadcasting & Cable](#), June 10.

Senate Commerce Committee Approves Online Shopping Bill

On June 9, the Senate Commerce, Science, and Transportation Committee approved the Restore Online Shoppers’ Confidence Act, which would protect consumers from “aggressive” online sales strategies by requiring certain online companies to clearly disclose the terms of sales offers and to gather billing information directly from consumers instead of online affiliates. The bill would also restrict the use of “negative option” marketing, where a consumer’s failure to proactively do something, such as cancel a sales agreement, is viewed as consent to be charged. The FTC would be responsible for enforcing the legislation. The bill still needs full Senate approval. No companion bill has been officially introduced in the House.

S. 3386; [Bureau of National Affairs \(Electronic Commerce & Law Report\)](#); June 9; [CQ \(Bill Analysis\)](#), June 9.

Legislation Introduced

H.R.5496 : To repeal the public telecommunications facilities assistance program.

Sponsor: [Rep Wilson, Charles A.](#) [OH-6] (introduced 6/9/2010)

Committees: House Energy and Commerce

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Energy and Commerce.

H.RES.1424 : Providing for consideration of the bill (H.R. 5072) to improve the financial safety and soundness of the FHA mortgage insurance program, and providing for consideration of motions to suspend the rules.

Sponsor: [Rep Perlmutter, Ed](#) [CO-7] (introduced 6/8/2010)

Committees: House Rules

House Reports: [111-503](#)

Latest Major Action: 6/9/2010 Passed/agreed to in House. Status: On agreeing to the resolution Agreed to by recorded vote: 239 - 172 (Roll no. 340).

ENERGY AND ENVIRONMENT

Murkowski Climate Regulations Cap Resolution Fails

Senate Majority Leader Harry Reid (D-NV) brought S.J.Res. 26 to the floor for a vote this week after striking an unanimous consent agreement with Senator Murkowski (R-AK). The resolution to revoke the Environment Protection Agency's (EPA) authority to regulate green house gases (GHG) under the Clean Air Act was blocked by a vote of 47-53. All 41 Senate Republicans voted for the resolution's passage, as well as six Democrats, including Sens. Evan Bayh (D-IN), Mary Landrieu (D-LA), Blanche Lincoln (D-AK), Ben Nelson (D-NE), and Jay Rockefeller (D-WV). Discussions continue as to whether or not similar legislation will be brought up in the House. Lawmakers on both sides of the aisle, including Reps. Earl Pomeroy (D-ND), Joe Barton (R-TX) and Rick Boucher (D-VA), have introduced legislation in the House to address whether or not EPA should have the authority to regulate GHG.

S.J.Res. 26; [The New York Times](#), June 9; [CQ Today](#), June 10; [The Washington Post \(Blog\)](#), June 10; [The Wall Street Journal](#), June 10; [The New York Times](#), June 11.

Climate and Energy Legislation Update

Senate Democrats and the Administration are optimistic that energy and climate legislation will proceed to passage this year in the wake of the failure of the resolution offered by Sen. Lisa Murkowski (R-AK). Members in both the House and Senate agree that the failure of S.J. Res. 26 increases pressure on Congress to legislate on GHG emissions. A handful of Republicans who voted for the passage of the S.J. Res. 26, are open to specifically crafted climate legislation. Sen. Murkowski, along with members in both the House and Senate, maintain that Congress and not the EPA should have a hand in shaping national energy policy.

The Senate will most likely begin floor debate on climate and energy legislation in July; however, details of the legislation continue to be worked out as Senators introduce energy legislation in addition to the Kerry-Lieberman proposal and the Senate Committee on Environment and Public Works Committee-passed climate legislation, S. 1733. On Wednesday Sen. Richard Lugar (R-IN) introduced S. 3464, energy efficiency legislation that does not include a cap and trade mechanism and has garnered the support of both Sen. Lindsey Graham (R-NC) and Sen. Lisa Murkowski (R-AK).

S.J. Res. 26; S. 1733; S. 3464; [The New York Times](#), June 9; [The New York Times](#), June 10; [CQ Today](#), June 10; [E&E Publishing](#), June 11; [The New York Times](#), June 11; [The Hill \(Blog\)](#), June 11.

Oil Spill Update

Congress this week continued a marathon of hearings on the Gulf Coast oil spill, which began on April 20. Committees who held hearings this week include the House Committees on Energy and Commerce, and Natural Resources, and the Senate Committees on Homeland Security, Health, Education, Labor and Pensions, Energy and Natural Resources, and Environment and Public Works.

The House passed S. 3473 by a vote of 410-0 on Thursday. The bill, which also cleared the Senate this week and is expected to be signed by President Obama, would remove monetary limitations on government administered funding from the Oil Spill Liability Trust Fund to use in clean up efforts in the Gulf. Lawmakers have continued to introduce legislation aiming to lift the cap on their liability if an oil spill occurs. House Speaker Nancy Pelosi (D-CA) stated Friday she is in favor of completely eliminating a liability cap for damages caused by an oil spill.

BP continues its efforts to fully plug the leak, which is now reported to be releasing up to 50,000 barrels of oil per day into the ocean. In response to outrage from the public and Republican Members of Congress for not having met with Tony Hayward, C.E.O. of BP, President Obama has scheduled a meeting next Wednesday between the Administration and BP board members. It is still unclear whether Mr. Hayward will attend the meeting.

Additionally, after EPA's release of a full list of ingredients in dispersants used by BP in clean up efforts in the Gulf, public-health advocates have begun pushing for stronger chemical safety laws and the modernization of the Toxic Substances Control Act of 1976.

S. 3473; [E&E Publishing](#), June 9; [CQ Today](#), June 10; [E&E Publishing](#), June 11; [CQ Today](#), June 11; [The New York Times](#), June 11; [CQ Politics](#), June 11.

Grid Security Bill Passes House

A bill granting the Federal Energy Regulatory Commission the authority to issue emergency orders to protect the national power grid if under cyber threat, physical attack, geomagnetic storms, or electromagnetic pulses, passed the House on Wednesday by a bipartisan voice vote. The "Grid Reliability and Infrastructure Defense Act" (GRID Act), was introduced by Rep. Edward Markey (D-MA) in April and was previously reported out the House Committee of Energy and Commerce by a unanimous vote in May. The GRID Act has been referred to the Senate Committee on Energy and Natural Resources.

H.R. 5026; [E&E Publishing](#), June 8; [CQ Today](#), June 9; [FoxNews.com](#), June 10; [CNN Politics](#), June 10.

Legislation Introduced

S.3460 : 10 Million Solar Roofs Act of 2010

Sponsor: [Sen Sanders, Bernard](#) [VT] (introduced 6/7/2010)

Latest Major Action: 6/15/2010 Senate committee/subcommittee actions. Status: Subcommittee on Energy. Date of scheduled hearing. SD-366. 2:30 p.m.

S.3464 : A bill to establish an energy and climate policy framework to reach measurable gains in reducing dependence on foreign oil, saving Americans money, improving energy security, and cutting greenhouse gas emissions, and for other purposes.

Sponsor: [Sen Lugar, Richard G.](#) [IN] (introduced 6/9/2010)

Latest Major Action: 6/9/2010 Referred to Senate committee. Status: Read twice and referred to the Committee on Finance.

H.R.5478 : Green Railcar Enhancement Act of 2010

Sponsor: [Rep Blumenauer, Earl](#) [OR-3] (introduced 6/8/2010)

Committees: House Ways and Means

Latest Major Action: 6/8/2010 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.5479 : CARE Act

Sponsor: [Rep Rahall, Nick J., II](#) [WV-3] (introduced 6/8/2010)

Committees: House Natural Resources

Latest Major Action: 6/8/2010 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

H.R.5481 : To give subpoena power to the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.

Sponsor: [Rep Capps, Lois](#) [CA-23] (introduced 6/8/2010)

Committees: House Natural Resources; House Transportation and Infrastructure; House Judiciary

Latest Major Action: 6/8/2010 Referred to House committee. Status: Referred to the Committee on Natural Resources, and in addition to the Committees on Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.5487 : Water Resources Research Amendments Act of 2010

Sponsor: [Rep Napolitano, Grace F.](#) [CA-38] (introduced 6/9/2010)

Committees: House Natural Resources

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

H.R.5499 : To amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill.

Sponsor: [Rep Mica, John L.](#) [FL-7] (introduced 6/10/2010)

Committees: House Transportation and Infrastructure; House Budget

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.5505 : To authorize the Secretary of Energy to establish monetary prizes for achievements in designing and proposing nuclear energy used fuel alternatives.

Sponsor: [Rep Burgess, Michael C.](#) [TX-26] (introduced 6/10/2010)

Committees: House Science and Technology; House Ways and Means

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the Committee on Science and Technology, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.5506 : To amend the Outer Continental Shelf Lands Act to require that treatment of the issuance of any exploration plans, development production plans, development operation coordination documents, and lease sales required under Federal law for offshore drilling activity on the outer Continental Shelf as a major Federal action significantly affecting the quality of the human environment for the purposes of the National Environmental Policy Act of 1969, and for other purposes.

Sponsor: [Rep Connolly, Gerald E. "Gerry"](#) [VA-11] (introduced 6/10/2010)

Committees: House Natural Resources

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

H.R.5508 : To provide for the development of solar pilot project areas on public land in Lincoln County, Nevada.

Sponsor: [Rep Heller, Dean](#) [NV-2] (introduced 6/10/2010)

Committees: House Natural Resources

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

H.R.5513 : To amend the Outer Continental Shelf Lands Act to require payment of royalty on all oil and gas saved, removed, sold, or discharged under a lease under that Act, and for other purposes.

Sponsor: [Rep Pingree, Chellie](#) [ME-1] (introduced 6/10/2010)

Committees: House Natural Resources

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

H.R.5515 : To amend the Federal Power Act to establish a regional transmission planning process, and for other purposes.

Sponsor: [Rep Sensenbrenner, F. James, Jr.](#) [WI-5] (introduced 6/10/2010)

Committees: House Energy and Commerce

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Energy and Commerce.

H.R.5518 : To amend the Internal Revenue Code of 1986 to allow the energy investment tax credit and the credit for residential energy efficient property with respect to natural gas heat pumps.

Sponsor: [Rep Titus, Dina](#) [NV-3] (introduced 6/10/2010)

Committees: House Ways and Means

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

IMPLEMENTATION OF HEALTH CARE REFORM

GOP Stalls Nomination for Leader of Medicare

On April 19, Dr. Donald Berwick, a Harvard pediatrician and the founder of the Boston-based Institute for Healthcare Improvement, was nominated by President Obama to be Administrator of the Centers for Medicare and Medicaid, the agency which oversees the two federal programs. Since then, Dr. Berwick has been the subject of attacks from conservative and Republican critics, including Sens. Pat Roberts (R-KS), John Barrasso (R-WY) and others. Much of their criticism center on Berwick's stated admiration for Britain's National Health Service.

His nomination is subject to Senate approval, a process that will begin with a confirmation hearing in the Senate Finance Committee. As of yet, no date for that meeting has been set, and the Committee's Chairman, Sen. Max Baucus (D-MT) has expressed doubt that it will happen before the July 4 Congressional recess.

[The Wall Street Journal](#), June 4; [The Washington Post \(Post Politics Blog\)](#), June 8; [NPR.org](#), June 9; [The Los Angeles Times \(Editorial\)](#), June 9; [The American Spectator \(Blog\)](#), June 11.

Obama Administration Begins Mailing \$250 "Doughnut Hole" Checks to Seniors

The Obama administration began mailing \$250 checks Thursday to seniors who hit the Medicare prescription drug "doughnut hole" - a notorious gap in coverage - as part of the health overhaul. "Doughnut hole" is the term used for a gap in prescription drug coverage under Medicare Part D. The tax-free, one-time rebate is the first tangible benefit of the new health-care law and the initial step toward phasing out the coverage gap for Medicare recipients with Part D drug coverage and who do not qualify for additional assistance. In most cases, the plan covers 75 percent of drug costs, up to \$2,830. Once seniors hit that limit, they must pay all their own costs until total spending reaches \$6,440 in a year. Democrats are re-launching efforts to promote the overhaul to coincide with sending the checks.

[The New York Times](#), June 6; [The Wall Street Journal](#), June 9; [Roll Call](#), June 10; [The Hill \(On The Money Blog\)](#), June 10; [The Hill \(Briefing Room Blog\)](#), June 10; [The Politico](#), June 10; [Reuters](#), June 11.

U.S. to Begin Handing out Grants to Reduce Medical Malpractice Suits

The Federal Government will soon begin to offer \$25 million worth of grants designed to reduce medical malpractice lawsuits. The program was part of a compromise offered by the President last year during the health care debate. The grants will be offered by the Department of Health and Human Services, in the form of demonstration programs aimed at reducing preventable injuries, improving communication between doctors and patients, ensuring patients are compensated more quickly and reducing liability insurance premiums.

[The Wall Street Journal](#), June 11.

Legislation Introduced

H.R.5491 : To amend the Internal Revenue Code of 1986 to provide a refundable credit for taxpayers with long-term care needs.

Sponsor: [Rep Carney, Christopher P.](#) [PA-10] (introduced 6/9/2010)

Committees: House Ways and Means

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.5504 : To reauthorize child nutrition programs, and for other purposes.

Sponsor: [Rep Miller, George](#) [CA-7] (introduced 6/10/2010)

Committees: House Education and Labor; House Budget

Latest Major Action: 6/10/2010 Referred to House committee. Status: Referred to the Committee on Education and Labor, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

LABOR AND PENSIONS

FTC Continues Delaying Enforcement of Red Flags Rule; Senate Bill Suggests Exemptions

On May 28, the Federal Trade Commission (FTC) announced another delay of the enforcement of the “red flags” rule. The rule is essentially the FTC’s implementation of the Fair and Accurate Credit Transactions Act, and would require law firms and other entities opening lines of credit with clients to create and implement programs aimed at monitoring and preventing identify theft. The American Bar Association and other trade organizations oppose the rule, particularly the broad definition of who qualifies as a “creditor.” The FTC extended the date of compliance from June 1 to December 31, 2010. According to FTC Chairman Jon Leibowitz, the delay is intended to allow time for Congress to consider adopting legislation addressing issues related to the red flags rule.

On May 25, Sens. John Thune (R-SD) and Mark Begich (D-AK) introduced a bill which would exempt law firms, accounting firms, and health care providers with less than 20 employees from the red flags rule. The legislation would also exempt businesses which know all clients on an individual basis, perform services exclusively in or around clients’ residences, have not experienced any identify theft incidents, or operate a type of business where identity theft is rare. The bill was sent to the Senate Committee on Banking, Housing, and Urban Affairs.

The FTC previously delayed the compliance date in response to a similar bill passed by the House of Representatives in 2009. The original enforcement date was November 1, 2008.

[S. 3416](#) ; H.R. 3763; [FTC Press Release](#), May 28; [IPLaw360.com](#), May 28;

[BNA \(Electronic Commerce & Law Report\)](#), June 1; [BNA \(Electronic Commerce & Law Report\)](#), June 1.

ESTATE TAX

Barclays Wealth Sees Scramble on U.S. Tax Burden

Without action from the U.S. Congress, taxes on dividends will more than double to about 40 percent next year for individuals earning more than \$200,000 and couples with annual incomes of more than \$250,000. Also, if nothing else happens between now and next year, the estate tax rate is going to increase to 55 percent, and families worth more than \$2 million will be subject to it. So, people are looking at a very significant increase in their potential tax burden. Normally, there is also something called a Generation Skipping Transfer Tax (GST). This applies to money that someone might leave to a grandchild to circumvent taxes that would be applicable if the money had instead gone to a son or daughter. Under current law, there is no GST, so 2010 is the time for people to set up and fund trusts that will last for the lifetime of a child, grandchild or great grandchildren.

[Reuters](#), May 28.

Sen. Grassley Urges Senate Majority Leader Reid to Act on the Estate Tax

Sen. Chuck Grassley (R-IA) on Wednesday urged Senate Majority Leader Harry Reid (D-NV) to act on making changes to estate tax law before it reverts back to pre-2001 levels in 2011. The senator warned that no action would mean thousands of small business owners and farmers would be subjected to the tax. Sens. Jon Kyl (R-AZ) and Blanche Lincoln (D-AR) have hatched a bipartisan plan that would create a permanent 35 percent tax on estates worth more than \$5 million. But without Reid backing the proposal, Grassley said the Senate Finance Committee is unlikely to bring the bill forward. Lawmakers were supposed to be close to a deal on the tax a few weeks ago, but that agreement apparently fell apart. During those negotiations, Kyl said there was some disagreement on how to pay for the bill. However, today, Grassley said offsets were no longer an issue, but did not say what offsets were being used to pay for the bill.

[The Hill](#), June 2.

Estate Tax Relief Legislation Submitted by Rep. Thompson

Rep. Mike Thompson (D-CA) has introduced legislation that would bring tax relief to family farmers, ranchers, and open space landholders. His bill would allow family farms and ranches to pass down their land and farms and preserve California's strong agricultural heritage. Sen. Diane Feinstein (D-CA) introduced companion legislation in the Senate.

The Virginia Farm Bureau would like to see the federal estate tax rate remain at zero. However, if Congress does decide to re-impose the tax, the organization believes it at least should be indexed for inflation and have a much larger exemption before tax is due.

[The Farm Press](#), June 3; [The Daily Democrat](#), June 4.

HIGHER EDUCATION

High Court to Decide if Medical Residents are Considered Students

This week, the Supreme Court agreed to take a case challenging the Internal Revenue Service's (IRS) assertion that medical residents, and the teaching hospitals that train them, must pay social security taxes on the residents' stipends. The dispute centers on whether medical residents are considered to be students or workers for payroll tax purposes – a 2004 regulation from the Treasury Department took away the student exemption for medical students who work more than 40 hours per week.

The case is an appeal from the Mayo Clinic of Rochester, Minnesota, and the University of Minnesota, which says the IRS should not have made it collect taxes. The argument will take place this fall or this winter. Interestingly, if Supreme Court nominee Elena Kagan is confirmed, she could not take part in the case because she signed the government's brief defending the IRS.

[The Associated Press/Google](#), June 1; [The Chronicle of Higher Education](#), June 1;

[Minneapolis/St. Paul Business Journal](#) (MN), June 1; [Inside Higher Ed](#), June 2; [The Minnesota Daily](#), June 2.

House Committee to Examine 'Credit Hour'

The House of Representatives Education and Labor Committee will hold a hearing on Thursday, June 17, that will evaluate how regional accrediting agencies define the "credit hour" when determining the quality of academics at higher education institutions. There are concerns that the Department of Education is setting "too lax a standard" on the amount of time students spend on course work in exchange for course credit.

[House Committee on Education & Labor](#); [Inside Higher Ed](#), June 11.

Legislation Introduced

H.R.5488 : Charter School Transparency and Accountability Act

Sponsor: [Rep Baca, Joe](#) [CA-43] (introduced 6/9/2010)

Committees: House Education and Labor

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Education and Labor.

H.R.5492 : Fresh Start Act of 2010

Sponsor: [Rep Cohen, Steve](#) [TN-9] (introduced 6/9/2010)

Committees: House Judiciary

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

H.R.5495 : To build capacity and provide support at the leadership level for successful school turnaround efforts.

Sponsor: [Rep Payne, Donald M.](#) [NJ-10] (introduced 6/9/2010)

Committees: House Education and Labor

Latest Major Action: 6/9/2010 Referred to House committee. Status: Referred to the House Committee on Education and Labor.