Loyola Consumer Law Review

Volume 11 | Issue 2 Article 3

1999

Consumer Issues Facing the 106th Congress

Martha A. Sabol

RECENT LEGISLATIVE ACTIVITY

by Martha A. Sabol

Consumer Issues Facing the 106th Congress

"A new congressional election brings a new Congress. And a new Congress brings hope that U.S. policy will change for the better."[1]

Introduction

The November 1998 election produced few changes to the face of Congress. The election resulted in forty new House members, twenty-three Democrats and seventeen Republicans.[2] The election, as well, resulted in eight new members to the Senate, four Republican and four Democrat.[3] Ultimately, the result is that the 106th Congress will remain in the hands of the Republicans.[4]

Each party has expressed what it feels must happen to move needed legislation into law. Republicans indicate that legislative progress depends on the result of President Clinton's impeachment inquiry.[5] Democrats, on the other hand, state that in order to pass critical legislation, Republicans must look to bipartisan solutions to issues still on the table from the 105th Congress and new issues not yet addressed.[6] Lawmakers on either side, however, agree that both Republicans and Democrats must focus their attention on agreeing to issues in order to pass major legislation that will impact American consumers, versus focusing on the "bones of contention" that have existed between party lines and have prevented the passing of needed laws.

Agreeing to what issues must be addressed is not easy to do. The President believes that Congress should address the issues of social security, improving education and passing the Patient's Bill of Rights.[7] The Senate, on the other hand, would like to see a tax cut and a means to control government spending.[8] Additionally, the House offers a five-point agenda for the 106th Congress including Social Security, cutting taxes, increasing defense spending, the war on drugs, and education.[9]

Regardless of the differences in opinion in legislation issues and practices, most lawmakers agree that the time to pass legislation is short. National Republican Senatorial Committee Chairman Mitch McConnel of Kentucky stated that Congress will have only six to eight months to make an impact and set a unified agenda.[10] Mr. McConnel indicated that by March 2000 the issues for Congress will be influenced by the year 2000 presidential election and will be set by the Republican Presidential nominee and not by Congress.[11]

With the particular issues aside,

the American people are expecting results. Consumers will be looking to their newly elected representatives in the 106th Congress to pass critical legislation that will impact them and their families. This article will consider some of these issues facing the new 106th Congress and the impact they may have on American consumers.

The Social Security Program

Government projections indicate that social security will begin to experience deficits in approximately twenty years and that all accumulated social security surpluses will be exhausted in the year 2032.[12] Many lawmakers, therefore, want to address this issue now and begin reform efforts in the next year to establish a more solid financial base for the "baby boomers" who will begin to retire in fifteen years.[13] "Older Americans need and deserve reassurances that the program on which they depend will be there for them," stated Republican Jim Bunning of Kentucky.[14] "Younger Americans need to know that they will get a reasonable rate of return on their contributions to the program," continued Bunning.[15]

President Clinton did not initially have a set plan to fix the social security problem and instead looked to Congress to come up with creative solutions.[16] The House Ways and Means Committee, who oversees the social security effort, was under pressure to come up with a specific reform plan.[17] Republican Bill Archer of Texas, Chairman of the House Ways and Means Committee, stated that although the Committee is charged with bringing forth reform legislation, a specific proposal from the President is needed to ensure this legislation gets the attention it needs.[18]

As a result of mounting pressure for involvement, President Clinton held a conference in December 1998 to address the Social Security Program. During the conference, President Clinton urged Congress to work toward compromise.[19] He opened the session by stating, "[w]e should begin this process on common ground, agreeing above all on the importance of acting and acting now."[20] Many reform options were discussed at the conference, including: reducing benefits, raising the retirement age, and introducing a tax that would require the wealthy to pay more tax on their income.[21] One reform suggestion proposed that the government invest Social Security money in the stock market to maximize the return on money invested in the Program.[22] Republicans suggested going a step further and proposed that workers should be provided with a "personal savings account" which would allow them the opportunity to invest their social security tax in the stock market.[23]

President Clinton remained silent after the December conference as to the reform effort he favors most. However, the White House indicated that it supported establishing private savings accounts.[24] Yet, Chief Economic Adviser Gene Sperling stated that the President would probably not favor any "radical privatization" that would replace the Social Security Program.[25] The issue of privatization is adamantly opposed, as well, by critics in labor unions, women's groups and liberals who believe that private investment accounts are not the answers.[26]

The President finally announced his proposal during his State of the Union speech on January 19, 1999.[27] In his speech, the President proposed leaving the social security plan as it exists currently but assigning more than half of the projected federal budget surplus expected over the next fifteen years to finance the program.[28] The President stated that up to $700 billion of the surplus would be invested in the stock market.[29] In addition, the President's plan called for the establishment of Universal Savings Accounts, funded by the federal budget surplus, which people could use to invest themselves.[30] The plan was a disappointment to many Republicans who wanted to see a more progressive plan for privatization of the Social Security Program.[31] However, supporters claim that the President's proposed plan will deliver the most significant change in social security financing since the program was created and will result in a solvent Social Security Program by the year 2055.[32]

Although the issue of social security reform is already being hotly debated, it is still uncertain what action Congress will take, if any.[33] Despite the consensus to address the Social Security Program, it is clear that an answer is not yet available. Any resolution will most likely require an increase in taxes, a result that is unacceptable to GOP, or a decrease in benefits, a result that is unacceptable to Democrats.[34]

Medicare Reform

Many lawmakers believe that reforming the nation's health-care system for senior Americans is a more serious problem than social security. Supporters of reform efforts believe that the increases in Medicare costs are less predicable than social security costs and the growth of the system poses a more serious threat to the budget.[35] A commission headed by Republican Bill Thomas of California and Senator John Breausx of Louisiana plans to recommend proposals in February 1999 that will require Congress to make some tough decisions.[36]

In the President's State of the Union speech on January 19, 1999, the President proposed to devote fifteen percent of the federal budget surplus to the Medicare program over the next 15 years.[37] Congress, however, will be debating whether delaying the qualifying senior Americans for Medicare or reducing the benefits senior citizens receive will be the best approach to reform Medicare.[38]

The Federal Surplus

Republicans in Congress believe that the government will run a surplus of $1.6 trillion over the next decade.[39] Therefore, supporters plan to move for a tax cut that could involve hundreds of billions of dollars and would allow American consumers to receive a share of the surplus.[40] Previous attempts in the 105th Congress were met with party opposition and threat of a veto by President Clinton.[41] Not much is expected to change in regard to this opposition but supporters plan to try again to reduce taxes on capital gains, reducing the marriage penalty, eliminating and reducing the inheritance tax for large estates, and reducing tax rates.[42]

President Clinton, however, has other plans for the surplus. Clinton and Democratic leaders have suggested using the surplus to support the ailing Social Security Program.[43] It has also been suggested that the excess be used on spending proposals to issue tax cuts on bonds in order to subsidize new school construction.[44]

House Ways and Means Committee Chairman Bill Archer stated in a committee meeting that there is a chance to see a tax cut pass the 106th Congress if a budget resolution is addressed and agreed to early in the year.[45] In his address, Archer indicated that only fifty-one votes would be required in the Senate to move a tax cut along under reconciliation.[46]

How the issue of a tax cut plays out, however, is in question mostly because the Republicans' desire for a tax cut is in direct opposition to President Clinton's plan to reserve the surplus for Social Security.[47] Regardless, Republican Bob Ney stated that Republicans will aggressively push for some tax cuts and at least attempt to have the Congress consider proposals to revamp the Internal Revenue Code.[48]

The Patient's Bill of Rights

Republicans and Democrats agree that new regulations are needed for managed-care plans but disagree as to the scope of the regulations. President Clinton may attempt a renewal of his previous push for new regulations for managed-care plans and HMO's. Past initiatives included allowing consumers to sue employer provided health plans by lifting a federal restriction that prevented such an action.[49] Republicans, on the other hand, will probably offer a less aggressive plan for reform.[50]

President Clinton, sees the Patient's Bill of Rights as the number one concern of Congress. In a White House meeting held shortly after the November elections, President Clinton and top Democratic leaders stated that, "[w]e believe the best way to start is by taking up the Patient's Bill of Rights."[51] He continued, "[i]n the last session, the bill lost by only five votes in the House and we now have five more Democrats coming into the House."[52] Exit polls conducted among voters, however, indicated that American consumers are not as concerned with managed care reform as the President.[53] Pollster Bill McInturff reported that education, Social Security, and ethics in government were more important to the American voters in this last election.[54] However, McInturff stated that the polls showed that voters are concerned with the available of quality health care in general and that this issue could gain momentum if the economy were to slow.[55]

Health Insurance Association of America's President Charles Kahn stated that the polls do not suggest that Congress should walk away from health care reform together.[56] And, in fact, with the American Medical Association's support of President Clinton's plan, it will be difficult for Congress to avoid this important issue.

Campaign Finance Laws

In 1998, the House was successful in its efforts to pass laws to reform campaign finance laws. The Senate, however, was not so agreeable to the proposals. House reformers proposed a prohibition on "soft money" that comprises unregulated corporate or personal contributions to campaigns.[57] It is anticipated that reformers will attempt to pass prohibitions again this term.[58]

The reason for the interest in this legislation is that it is believed that the two political parties, the Democrats and the Republicans, have reemerged in the 1998 elections as dominant players. As a result, ads funded by unregulated soft money allowed the parties during the election to reach beyond advertising limits and air negative advertising.[59] In fact, researchers at the Annenberg Public Policy Center indicated that 60% of the ads that appeared after September 1, 1998 were "pure attack."[60] Researchers claim that the direct result of negative advertising was lower voter turn out.[61]

Soft money funding of ads will become a greater influence in the upcoming elections in the year 2000, supporters of the legislation predict.[62] As a result, advertising will become more negative. It is expected that unions, corporations and other special interest groups who were in the past prevented from contributing to campaigns will give even larger sums of unregulated soft money which will be used by the parties to air negative ads.[63] A supporter for legislation, Fred Wertheminer stated that, "the money that is coming in is coming in from interest groups whose goal is simple: to get public policy decisions to benefit them."[64] Wertheminer continued, "[v]ery often that comes at the expense of the voter, the taxpayer," and therefore legislation is required to stop this negative ad movement.[65]

Tobacco Legislation

Legislation to form an agreement between the states and cigarette manufacturers failed in the 105th Congress. The failed legislation provided a substantial financial settlement for states in return for them dropping any pending law suits against tobacco companies.[66] The bill failed as a result of GOP and tobacco industry opposition.[67] Some of the Clinton administration blamed Democrats' unwillingness to back applying limits on cigarette-makers liability in lawsuits.[68] Without limits, supporters claim, legislation is sure to fail.[69]

President Clinton, however, has made his message clear. He wants legislation passed that would guarantee federal regulatory power over cigarettes and an increase in the per-pack tax.[70] Additionally, the President is pushing another spin on the agenda and is demanding that money be spent on anti-smoking programs.[71]

As a result of the failed legislation in the 105th Congress, states on their own began negotiating settlement terms with tobacco manufacturers.[72] Four states have already reached independent deals with tobacco manufacturers in a settlement worth $40 billion. The remaining forty-six states signed a separate settlement for $206 billion that will distribute the settlement money over a span of twenty-five years beginning in the year 2000.[73]

The agreement opens the door for states, as well as for Congress, to move forward with legislation. There is nothing in the agreement that would prevent Congress and the individual states from passing legislation to raise taxes in order to put cigarettes out of reach of teenagers.[74] Likewise, the agreement stipulates that tobacco companies agree not to oppose any future legislation aimed at reducing teen smoking.[75] The settlement even allows $2 billion to be set aside to support anti-smoking programs and an additional $1.45 billion will be reserved and spend more than five years on a national anti-smoking programs for teens.[76]

The President indicated in his State of the Union speech that the Justice Department was in the process of preparing to sue cigarette manufacturers to collect hundred of billions of dollars the federal government has spent in health care costs to care for sick smokers.[77] The President stated that monies gained in the law suits would be used to strengthen Medicare.[78] The government is allowed to recover costs of treating people if negligence by a third party is to blame for illnesses through the Medical Care Recovery Act.[79]

As a result of the states' settlement and President Clinton's agenda, supporters for the legislation believe that Congress will once again have to face the tobacco issue.[80]

Medical Tax-Break Plan

It is estimated that more than five million Americans require some type of long-term care. It is expected that as the "baby boomers" age, the number of Americans needing such care will increase.[81] As a result, President Clinton proposed a $6.2 billion program to assist long term-care patients and their families in January 1999. The plan calls for a $1000 annual tax credit.[82] White House officials claimed the Medical Tax-Break Plan as "the biggest tax break and most significant health care proposals in Clinton's fiscal 2000 budget."[83]

The White House estimates that two million people, including 1.2 million elderly and 250,000 disabled children, would claim the credit.[84] The credit would phase out starting at income levels of $75,000 for single fliers and $110,000 for couples.[85]

In addition, the plan provides that $625 million in grants will be provided more than five years to state and local agencies to set up informational and counseling programs for families who are providing long term care.[86] The support programs will include adult day care centers and other care centers to give a break to family members caring for relatives with Alzheimers and other disabling diseases.[87]

The Republicans praised the proposal but claimed it as their own plan because it so closely resembled the plan they introduced in 1994 as part of the "Contract with America."[88] The 1994 plan, however, provided only a $500 tax credit.[89] Additionally, a similar tax break was introduced as part of the 1995 Republican budget, but was vetoed by the President.[90] "Anytime the President steals Republican ideas, it's good for the nation, so we'll take it," stated Ari Fleischer, spokesman for House Ways and Means Committee Chairman Bill Archer.[91]

The friendly response by Republicans leads lawmakers to believe that the Medical Tax-Break Plan could be enacted into law during the 106th Congress. There are some differences, however, as to how the program would be financed. It is estimated that the plan will cost $5.5 billion over the next five years.[92] Supporters of the plan state that the cost will be made up by changes being considered in the Internal Revenue Code to tighten "loop holes" and target "corporate welfare."[93]

Other Consumer Issues Facing the 106th Congress

Although there are still many questions regarding the 106th Congress agenda and the resulting legislation, most lawmakers agree that social security, campaign reform, tobacco legislation, government surplus, and health care reform will be the important issues to address. There are, however, less complex issues that the Democrats, Republicans and the President will focus on.

President Clinton will attempt to get child-care money for the working poor and middle-class families.[94] Republicans continue to be resistant to consider the $20 million proposal.[95] Regardless of the luke warm response from Republicans, Bruce Reed, President Clinton's adviser stated that the President has no plans to drop the subject.[96] In fact, the Clinton administration is preparing a program and will be requesting a five-year plan that will again near $20 million.[97]

It is expected that Democrats will propose to raise the minimum wage from $5.15 per hour.[98] It is assumed that most Republicans will oppose any such legislation.[99] In addition, other familiar issues will rise to the surface. It is expected that conservatives will again attempt to impose restrictions on late term abortions, and free-trade advocates will look to provide the President with "fast track authority" to negotiate trade agreements.[100]

Conclusion

What issues will rise to the top of the 106th Congress agenda have yet to be determined. The two-year legislative period could bring progress on crucial consumer issues such as social security and health care, or it could merely be an unproductive waiting period where little is accomplished in preparation for the 2000 presidential election. What is known is that American consumers want to put an end to the deferral attitude of previous sessions, and they are anxious to see Congress get to work on important consumer issues.

Endnotes

1 *See* Peter Cook, *How Protectionist Will Congress Be?* GLOBE AND MAIL, Nov. 4, 1998, available in LEXIS, News Library, Bglobe File.

2 *See* Darlene Superville, *New Members Climb the Hill-Some Faces Have Changed, But Little Else is Different About The New Congress,* HARRISBURG PATRIOT, Nov. 16, 1998, available in 1998 WL 6486465.

3 *See id.*

4 *See* Frank Shafroth, *Voters Leave Congress Much As It Was,* NATIONS CITIES WKLY., Nov. 9, 1998, available in 1998 WL 10325751 [hereinafter Shafroth].

5 *See* Jonathan Riskind, *Next Congress Could See Compromise or Conflict,* COLUMBUS DISPATCH, Nov. 29, 1998, available at<http://www.dispatch.com:80/pan/news/agendanws.html> [hereinafter Riskind].

6 *See id.*

7 *See* Shafroth *supra* note 5.

8 *See id.*

9 *See id.*

10 *See* Lisa Caruso, *House, Senate GOP Staff Call for Unity, Common Agenda,* CONGRESS DAILY, Nov. 9, 1998, available in 1998 WL 21771679.

11 *See id.*

12 *See Social Security a GOP "Opportunity"* WASH. POST, Nov. 29, 1998, available at <http://washingtonpost.com:80/wp-srv/WPlate/1998-11/29/1621-112998-idx.html>.

13 *See id.*

14 *See id.*

15 *See id.*

16 *See Aide Says Clinton Has No Plans For Social Security Proposal Now,* DALLAS MORNING NEWS, Nov. 19, 1998, available in 1998 WL 13119238.

17 *See id.*

18 *See id.*

19 *See* Tamara Lytle, *Clinton Talks of Compromise in Solving Social Security Dilemma,* CHI. TRIB., Dec. 9, 1998 at A12.

20 *See id.*

21 *See id.*

22 *See id.*

23 *See id.*

24 *See id.*

25 *See id.*

[26] *See id.*

[27] *See* R.C. Longworth, *Use Budget Surplus to Rescue Social Security, Clinton Urges*, CHI. TRIB., Jan. 20, 1999 at A7 [hereinafter Longworth]

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See id.*

[33] *See* William M. Welch, *Clinton's Fate, Fixing Benefit Programs Top Congress' Agenda*, USA TODAY, Nov. 4, 1998 available in 1998 WL 5740958 [hereinafter Welch].

[34] *See* Shafroth, *supra* note 4.

[35] *See id.*

[36] *See id.*

[37] *See* Longworth, *supra* note 27.

[38] *See id.*

[39] *See* Welch *supra* note 24.

[40] *See id.*

[41] *See id.*

[42] *See id.*

[43] *See id.*

[44] *See id.*

[45] *See* Stephen Norton, *Archer Adds Welfare Reform to Tax and Social Security Goals*, CONGRESS DAILY, Nov. 20, 1998, available in 1998 WL 21771778.

[46] *See id.*

[47] *See* Longworth,*supra* note 27.

[48] *See* Riskind, *supra* note 5.

[49] *See* Welch, *supra* note 24.

[50] *See id.*

[51] *See* Keith Koffer & Stephen Norton, *Clinton Says Managed Care Issue Will Remain Top Priority*, CONGRESS DAILY, Nov. 5, 1998, available in 1998 WL 21771652.

[52] *See id.*

[53] *See id.*

[54] *See id.*

[55] *See id.*

[56] *See id.*

[57] *See* Welch, *supra* note 24.

[58] *See id.*

[59] *See* Ken Foskett, *Campaign Funding Focus Predicts More Attack Ads, Soft Money*, ATLANTA J. AND CONST., Dec. 6, 1998, available in LEXIS, News Library, Atljnl File.

[60] *See id.*

[61] *See id.*

[62] *See id.*

[63] *See id.*

[64] *See id.*

[65] *See id.*

[66] *See* Welch, *supra* note 24.

[67] *See* John F. Harris, *Clinton Looks To*

Political Center to Revive Domestic Agenda, WASH. POST, Dec. 7, 1998, available in LEXIS, News Library, Wpost File.

[68] *See id.*

[69] *See id.*

[70] *See id.*

[71] *See States Resist Federal Demands on Spending Tobacco Spoils*, BOSTON GLOBE, Dec. 5, 1998, available in LEXIS, News Library, Bglobe File [hereinafter Globe].

[72] *See* Welch, *supra* note 24.

[73] *See* Globe, *supra* note 57.

[74] *See Tobacco Settlement Is A Good Deal For The State*, BUFFALO NEWS, Dec. 9, 1998, available in LEXIS, News Library, Bufnew File.

[75] *See id.*

[76] *See id.*

[77] *See U.S. to Sue Big Tobacco For Medicare*, CHI TRIB., Jan. 20, 1999 at A7.

[78] *See id.*

[79] *See id.*

[80] *See* Welch, *supra* note 24.

[81] *See* Susan Page, *Clinton unveils medical tax-break* plan, USA TODAY, Jan. 4, 1999 [hereinafter Page].

[82] *See id.*

[83] *See id.*

[84] *See* Susan Page, *GOP praises Clinton plan on long-term care and claims* it. USA TODAY, Jan. 5, 1999 [hereinafter Page].

[85] *See id.*

[86] *See id.*

[87] *See id.*

[88] *See id.*

[89] *See id.*

[90] *See id.*

[91] *See* Page, *supra* note 70.

[92] *See* Page, *supra* note 73.

[93] *See id.*

[94] *See* Laura Meckler, *Clinton Wants Child-Care Tax Breaks, But Congress Still Seems Resistant*, BUFFALO NEWS, Dec. 14, 1998, available in LEXIS, News Library, Bufnew File.

[95] *See id.*

[96] *See id.*

[97] *See id.*

[98] *See id.*

[99] *See id.*

[100] *See* Welch, *supra* note 24.

CLR