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OCTOBER 26 - 30: THIS WEEK

The House reconvened on Monday, October 26, for legislative business, and on Tuesday is expected to consider **HR 3854, the Small Business Investment and Financing Act of 2009** as well as the **FY 2010 Interior-Environment Appropriations** conference report.

The Senate also reconvened Monday; starting on Tuesday, the Senate is expected to consider HR 3548, the Unemployment Compensation Extension Act, plus the nomi-

nation of Irene Berger to be U.S. district judge for Southern District of West Virginia. For the remainder of the week, they plan to consider the FY 2010 Commerce-Justice-Science and Military Construction-Veterans Affairs Appropriations bills.

Both chambers are expected to pass a stopgap spending bill this week to keep the government funded through mid-December.

Budget/Appropriations

Senate Democrats are considering attaching an increase of the debt limit to the **FY 2010 Defense Appropriations** bill in hopes of avoiding the floor fight which might ensue if the Senate attempted to pass a stand alone bill to raise the limit. House rules allow legislation to be automatically passed in the House without a vote to increase the statutory debt limit if Congress adopts its annual budget res-

olution, as it did earlier this year and subsequently, the House sent their resolution to the Senate, which would raise the debt limit by \$925 billion. **Sen. Budget Chairman Kent Conrad (D-ND)** said the limit would need to be raised by sometime in November.

Banking/Financial Services/Financial Re-Regulation

On Wednesday, October 21, the **House Agriculture Committee** approved legislation designed to bolster oversight of financial derivatives which was approved by the **House Financial Services Committee** a week earlier. Both panels' versions exempt end users from new requirements on financial institutions.

On Thursday, October 22, Financial Services approved **HR 3126, the Consumer Financial Protection Agency Act of 2009**, which would create a new federal regulator with broad powers to police large sectors of the economy, including credit cards, home mortgages and payday lenders. President Obama praised passage of the bill, which House leadership must now decide to either bring to the floor as a stand alone bill or include with other elements of financial regulatory overhaul.

The Financial Services Committee also approved legislation on Thursday to move up the effective date of new restrictions on credit card issuers from February 22, 2010 to December 1, 2009. The **Credit Card Accountability, Responsibility, and Disclosure Act** places restrictions on issuers such as a ban on raising rates on existing balances retroactively, a 45-day notice of any rate increase, and prevention of billing on balances for days not included in the lasting billing cycle as a result of a grace period. On another issue, **Chairman Barney Frank (D-MA)** and **Rep. Carolyn Maloney (D-NY)** introduced legislation that would amend the Truth in Lending Act to limit bank overdraft fees during ATM transactions.

Defense

On Thursday, the Senate voted to send the **FY 2010 Defense Authorization** bill to President Obama for his signature by approving the conference report accompanying the bill. The \$680.2 billion defense policy bill would grant Obama's request to end the production of the Air Force's F-22 fighter jet but would also devote \$560 million toward a backup engine for the F-35 Joint Strike Fighter, which had previously prompted a veto threat from the White House. Considering that the President will have a chance to block this funding in the FY 2010 Defense Appropriations bill, a veto appears unlikely. The bill also included expansion of federal hate crimes provisions, \$130 billion authorization for the wars in Iraq and Afghanistan, a 3.4 percent pay raise for the troops, and provisions which would help ensure the votes of troops and other Americans living overseas are counted in upcoming elections.

Energy/Environment/Climate Change

The **Environmental Protection Agency** ("EPA") delivered a preliminary analysis of the Kerry-Boxer global warming bill to the Environment & Public Works Committee on Friday, that estimate the bill would add about \$100 a year to energy costs for a typical household. The estimate was similar to one done for the House climate change bill that EPA reviewed. The Agency said that while there were some differences in the two bills, they were so small that the economic costs would be similar. Committee Chair **Barbara Boxer (D-CA)** has three days of hearings scheduled this week and hopes to begin marking up the bill on November 2. **Senate Finance Chairman Max Baucus (D-MT)** confirmed he would hold hearings before Thanksgiving on the bill. **Sen. John Kerry (D-MA)** and **Senate Majority Leader Harry Reid (D-NV)** are scheduled today to work out a hearing timetable for the various committees with jurisdiction. **President Obama** used a Friday speech at the Massachusetts Institute of Technology to urge Congress to move climate legislation this year and reiterate that any final bill should include stronger provisions for coal, oil and nuclear power sought by Republicans and coal and oil-state Democrats.

Health Care

On Monday, October 19, the **Senate Finance Committee** released the full legislative text of the **America's Health Future Act of 2009**. Senate Democratic leaders are now working to combine this with the **Health, Education, Labor & Pension Committee's Affordable Health Choices Act**. Today, Majority Leader Reid announced his plans to include a form of the public option that would allow states to opt out of the program. Reid believes he can get the 60 votes he needs to break a threatened filibuster with this form of the public option included. He also announced that he had asked the **Congressional Budget Office** ("CBO") to score several different options before he will release a final combined bill.

Tax

Democratic leadership moved in several directions this week to try to determine whether and how to extend an expiring tax credit for first-time home buyers. **Senate Banking Chairman Chris Dodd (D-CT)** endorsed **Sen. Johnny Isakson's (R-GA)** proposal to expand the credit to all homebuyers through June 30, 2010 and double income limits for eligibility. A vote on this proposal is expected to be included during consideration of legislation to extend unemployment benefits, which will be taken up this week. **House Majority Leader Steny Hoyer (D-MD)** said he supports a one-month extension through December 31, 2009, while the administration and congressional leaders decide if more of an extension is warranted. Senate Finance Chairman Max Baucus (D-MT) does not support expanded eligibility, but does support an extension. Finally **HUD Secretary Shaun Donovan** did not take a firm stance on the Obama Administration's view, but assured the Senate Banking Committee that the administration would be working with Congressional leaders in the coming weeks to make a decision on the fate of the tax credit.

On Wednesday, October 21, **House Ways & Means Chairman Charlie Rangel (D-NY)** said that the upcoming House estate tax bill will not include extensions of other expiring business and individual tax provisions, including research and development tax credits, accelerated depreciation for race car tracks, incentives for investment in economically struggling areas and a tax credit for construction of energy-efficient homes. Many of these tax incentives have lapsed in the past but then been enacted by Congress retroactively. It has also not been decided if the estate tax bill that is enacted will be permanent or a one-year extension of existing law. A permanent extension of current estate tax rates would cost \$233.6 billion, while a one-year extension would raise about \$1 billion.

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Health Care (cont'd.)

Last Thursday the Senate failed to invoke cloture on a bill that would reform physician payments and eliminate scheduled cuts created by the current Medicare reimbursement formula, with 12 moderate Democrats voting against cloture.

Also last week, the CBO released to House members a series of scores on the different versions of the House health care reform bill. CBO has not released their scores to the public, but other sources have been reporting them. According to Congress Daily, a reform package with a “robust” public option that would pay hospitals Medicare rates and physicians Medicare plus 5 percent, would cost about \$870 billion and not add to the deficit over 10 years. A second plan, sup-

ported heavily by Blue Dog Democrats, that requires the **Health and Human Services Secretary** to negotiate rates directly with providers, would have to be combined with an expansion of Medicaid and a reduction in the required actuarial value of the basic benefit plan to bring the cost under \$900 billion. A third option would trigger Medicare-based rates if negotiated rates did not drive down premium costs over a specified period of time. **Speaker Nancy Pelosi (D-CA)** has reported that she has enough votes to support a “robust” public option. However, The Hill reports that 46 Democrats would vote against the bill, leaving Democrats short of the 218 votes needed. According to the Speaker, the House is still on schedule and will approve health care reform by Thanksgiving.

Trade

Sen. Maria Cantwell (D-WA) has placed a hold on Miriam Sapiro, President Obama’s nominee for **Deputy U.S. Trade Representative**, over the Administration’s perceived failure to help move her bill to create duty-free trade preferences for imports from Pakistan and Afghanistan. This hold is the second placed on the nomination, following **Sen. Jim Bunning’s (R-KY)** hold over his desire for USTR to move faster to

adjudicate a dispute with the Canadian government regarding legislation that could affect his state’s tobacco farmers. On Wednesday, October 21, nine major industry groups representing multinational firms, wrote to Senate leaders urging them to break the logjam on this nomination and four other nominees.