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MARCH 29 - APRIL 2: THIS WEEK

Both the House and Senate are not in session this week for the Spring recess. Both chambers return for legislative business on April 12.

Budget/Appropriations

On Wednesday, March 24, the House passed a \$5.7 billion supplemental appropriations bill. Most of the funds would go to FEMA's Disaster Relief Fund. The White House requested the \$5.1 billion appropriation for ongoing response and recovery efforts for previous events, including Hurricane Katrina and floods in the Midwest. The measure would provide \$600 million for Labor Department grants to states to fund youth summer jobs programs and \$60 million for Small Businesses Administration loans.

Also on Wednesday, March 24, **House Speaker Nancy Pelosi (D-Calif.)** named **Budget Chairman John Spratt (D-S.C.), Rep. Xavier Bercerra (D-Calif.),** and **Rep. Jan Schakowsky (D-Ill.)** to the President's deficit commission. These picks complete the 18-member bipartisan panel, which was created by executive order earlier this year.

Banking/Financial Services

On Monday, March 22, the **Senate Banking Committee** approved the financial regulatory reform bill authored by **Chairman Chris Dodd (D-Conn.)** by a party line vote of 13-10. The bill would streamline industry oversight, regulate over-the-counter derivatives and hedge funds, and create a process to dissolve large institutions that are on the verge of failure. **Ranking Member Richard Shelby (R-Ala.)** expressed concern later in the week about the \$50 billion

fund that would be used by the federal government to help take over at risk firms, arguing that the existence of the fund would encourage failing institutions to choose bailout over bankruptcy. The fund is supported by the FDIC, the agency which would be the receiver for companies in liquidation. The Treasury Department thinks the fund is unnecessary.

Defense

Secretary of Defense Robert Gates testified before the **Senate Appropriations Committee** on Thursday, March 25, regarding his request for \$33 billion in supplemental spending to cover military operations in Iraq and Afghanistan. He

stated that the DOD needs the money soon in order to prevent "costly and counterproductive" disruptions. Secretary Gates stressed that Congress needs to approve this request by early spring.

Education

The reconciliation bills passed last week by the House and Senate which modified the new health reform law, also contained student loan provisions that have been top priority for the Obama Administration. The changes would make the federal government the originator of all student loans after July 1, 2010, and private lenders could only service loans through a competitive bidding process. According to the

Congressional Budget Office, the elimination of federal subsidies paid to private lenders is expected to save \$61 billion over 10 years; \$42 billion of these savings will be used to fund other education programs while \$10 billion will be used for deficit reduction, and \$9 billion to help offset costs of the health care overhaul.

Energy/Environment/Climate Change

Last week several coastal state Democrats, led by **Sen. Bill Nelson (D-Fla.)** urged the trio of senators who are working to craft a climate change bill to reject a major expansion of offshore oil and gas drilling. The group noted the environmental and military hazards stemming from such expansion of offshore drilling.

Senate Foreign Relations Chairman John Kerry (D-Mass.) and **Sens. Lindsey Graham, (R-S.C.)** and **Joe Lieberman, (D-Conn.)** met with large oil companies including Shell, ConocoPhillips, and BP America plus other industry and business groups and independent petroleum refiners and electric utility companies last week. The trio of Senators plans to start drafting the bill over the spring recess.

On Wednesday, March 24, the **House Energy and Commerce Energy and Environment Subcommittee** passed a bill to create a nationwide energy efficiency campaign that could create thousands of jobs and lead to billions of dollars in savings on home heating and cooling bills. The draft legislation, referred to as the "Home Star" initiative was voted through to the full committee on a bipartisan vote. It would be a two-year authorization that provides subsidies of up to \$1,500 for homeowners who contract for weatherization services or buy energy efficient appliances or retrofits.

Immigration

On Thursday, March 25, the **Senate Judiciary Committee** approved **S 2960, the Refugee Opportunity Act** and **S 2974, the Return of Talent Act** by voice vote. The first would exempt immigrants who are admitted as refugees or granted asylum, and who are employed overseas by the federal government, from being physically present in the U.S. for one year before having their immigration status changed to lawful permanent residency. The second bill would allow immigrants who spend time in their country of citizenship assisting in recovery efforts to count that time as toward the physical presence requirement for naturalization, if that country is engaged in post-disaster or post-conflict activities run by the U.S. or the United Nations.

Insurance

Repeal of the health insurers' antitrust exemption is not included in the health care reform legislation signed into law last week. A stand alone bill **HR 4626, The Health Insurance Industry Fair Competition Act**, passed the House in February and is awaiting action in the Senate. It has been reported that **Senate Judiciary Chairman Patrick Leahy (D-VT)** continues to push for passage of the antitrust exemption repeal in the Senate. Insurers oppose the antitrust repeal legislation and have stated it tries to fix a problem that does not exist.

Chairman Dodd's financial services regulatory reform legislation contains several provisions affecting the insurance industry. The bill creates a financial stability oversight council that may have oversight of some of the biggest insurance holding companies. The bill also creates a federal office of insurance information and includes provisions that streamline the regulation of surplus lines insurance and reinsurance.

Five insurance trade groups (including the American Council of Life Insurers and the National Association of Insurance and Financial Advisors) sent a letter to Members of Congress last week urging them to reconsider a provision in the Health Care Reform Reconciliation Bill that proposes a 3.8 percent tax on income received from individual annuities. In the letter, the groups say the tax

Health Care

President Obama is expected to announce **Dr. Donald Berwick** as his choice to head the Centers for Medicare and Medicaid Services ("CMS"). Dr. Berwick, a Harvard professor and specialist in patient safety, runs the Boston-based Institute for Healthcare Improvement. If confirmed by the Senate, Dr. Berwick would face the task of overseeing CMS as it undergoes sweeping changes required under the recently-passed health-care reform bill.

On Thursday, March 25, the House completed the last step of the health care overhaul bill, sending it to the President for signature. By a vote of 220-207, the House approved the Senate version of the reconciliation bill. This bill made changes to the healthcare reform bill President Obama signed into law on Tuesday, March 23. The Senate Parliamentarian had ruled that two minor provisions involving Pell Grants in the original reconciliation bill violated the rules of reconciliation and hence the bill had to be sent back to the House after passing the Senate by a vote of 56-43.

On Thursday, March 25, President Obama signed an executive order that clarifies that no taxpayer dollars may be spent on abortions in the new health system, in accordance with his pledge to pro-life House Democrats. The Hyde amendment, which has been renewed every year in appropriations bills since the 1970's, already bars federal funding for abortions unless the pregnancy occurs as a result of rape or incest, or it threatens the mother's life. The President's executive order applies that standard to the health care overhaul.

On Friday, March 26, the Senate passed a bill that would clarify that certain health benefits provided by the Department of Veteran's Affairs qualify as minimum coverage under the 2010 healthcare law. The bill, **S 3162**, also covers veterans' dependants. It is a technical bill to ensure that certain demographics already covered under the VA's health coverage would meet the minimum requirements set out in the new health care reform bill. While the bill appears to have broad support on principle, the House could reject the Senate bill as a revenue measure because it affects the tax provisions of the health insurance mandate. Constitutionally, revenue measures must originate in the House.

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Insurance (cont'd.)

is an attack on the middle class and “would serve as a disincentive to save in a product that uniquely allows an individual to accumulate retirement savings and to guarantee that savings can never be outlived.” The Senate and House passed the Reconciliation Bill on March 25.

Because the Senate did not pass **HR 4851, the Continuing Extension Act of 2010** before it

adjourned for spring recess, the National Flood Insurance Program (“NFIP”) expired on March 28. According to a FEMA Bulletin issued on March 26, the office of **Senate Majority Leader Harry Reid (D-Nev.)** stated that if the Senate is unable to act on the bill before the NFIP expires, the Program will ultimately be re-authorized retroactively to March 28, 2010. A new FEMA bulletin will be posted when the status changes.

Labor, Pensions and Retirements

Senate Democrats were unable to overcome Republican opposition to pass a short-term extension of several federal programs, including unemployment benefits before the Senate adjourned for a two-week recess Friday, March 26. Democrats wanted to pass **HR 4851, the Continuing Extension Act of 2010**, as an emergency spending bill because of the recess however Republicans are calling for the measure’s costs to be fully offset. Majority Leader Reid filed cloture Thursday, March 25, on a motion to proceed to the bill and the vote to end debate is scheduled for April 12. As previously noted, Democrats plan to provide

retroactive benefits to those who would lose them over recess.

The White House announced 15 recess appointments on Saturday, including **Craig Becker**, a union lawyer, to the **National Labor Relations Board**. His appointment had been blocked by Senate Republicans. Becker has been strongly opposed by a coalition of business groups and all 41 Senate Republicans, arguing that he will be unable to balance the interests of employers and unionized employees due to his longtime association with unions.

Telecommunications

On Wednesday, March 24, the **Senate Commerce, Science and Transportation Committee** approved **S 773, the Cybersecurity Act of 2009**, which is compromise legislation that addresses the nation’s vulnerability to attacks on critical computer infrastructure. The bill would require the

federal government to partner with the private sector in developing cyber security standards and would mandate audits on how those standards are being met. There is a similar House bill that uses a more incremental approach.

Transportation and Infrastructure

On Friday, March 26, President Obama’s latest nominee to head the **Transportation Security Administration (“TSA”), Retired Army Maj. Gen. Robert A. Harding**, withdrew his name from consideration. Harding stated that “distractions caused by my work as a defense contractor would not be good for this administration nor for the Department of Homeland Security.” During questioning by the **Senate Homeland Security and Governmental Affairs Committee** on March 24, **Sen. Susan Collins (R-ME)** questioned Harding on whether his former firm may have overbilled the Department of Defense and whether any interrogators from his firm may have used improper interrogation techniques. In addition to those questions, Harding may also have experienced pressure from the Republicans who

had blocked Errol Souther’s nomination out of fear that he would allow collective bargaining at the TSA.

On Friday, March 26, the House and Senate both cleared **HR 4957, the Federal Aviation Administration Extension Act of 2010 (“FAA”)**, by voice vote. The one month extension postpones a debate on a highway funding issue that had stalled the FAA extension. The highway funding debate occurred because the formula used to distribute the funds would send most of the funds to four states (California, Illinois, Louisiana, and Washington), while 22 states would receive nothing. To pass the FAA extension, the Senate gutted the highway funding portion of the bill. It is unclear when the highway funding fix will be brought to the floor for a vote.