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NEXT WEEK IN CONGRESS

Congress has adjourned for its five-week summer recess, to reconvene (following party nominating conventions) on or around Sept. 8. At that time, Congress is expected to begin a stretch of three (possibly four) legislative weeks before adjourning the 110th Congress sine die. It remains possible, however unlikely, that a lame-duck, post-election Congressional session will happen. It is more plausible that Congress will pass a multi-month continuing resolution for the vast majority of the Fiscal Year 2009 appropriations bills and reconvene after a new president is inaugurated.

BUDGET/APPROPRIATIONS

On Monday, the Office of Management and Budget (OMB) released its “Mid-Session Review” providing an update on the government’s budgetary position. While the updated projections show a smaller-than-expected deficit for Fiscal Year 2008 (\$389 billion, \$21 billion less than the Feb. 08 projection), OMB predicts a record budget deficit for the coming year (in terms of gross dollars) at nearly a half-trillion dollars. The \$482 billion estimate fails to include additional funding that will almost certainly be needed to continue military operations in Iraq and Afghanistan that will likely exacerbate the FY09 deficit far beyond \$500 billion. The FY08 deficit projections, which do not include the cost of a recently approved housing/mortgage bill or a potential second economic stimulus package, represents about 2.7% of our national Gross Domestic Product (GDP), with the FY09 deficit predicted to be about 3.3% of GDP. While pointing to recent passage of an economic stimulus bill and tax rebates, war funding, and the economic downturn as contributors to the revised deficit estimate, the report also details the unsustainable pace of entitlement spending, noting that, “longer-term projections of the budget under current law show rising Federal budget deficits that are not sustainable... As the share of the population that is working declines relative to the share of the population that is retired, these increased entitlement costs will have to be borne by a relatively smaller working population. Without meaningful changes to Social Security, Medicare, and Medicaid, these three programs are likely to exert unsustainable pressure on Federal spending over the next several decades and leave policymakers with bad choices: higher taxes, benefit cuts, or increased debt.”

Earlier today the House overwhelmingly passed the first of its 12 required appropriations bills, the Fiscal Year 2009 Military Construction-VA measure. And on Wednesday, the House Appropriations Defense Subcommittee passed the FY09 defense bill by voice vote (anticipated to see floor time in September). The Mil-Con and Defense bills are candidates to be two of the only FY09 spending bills that may pass before the end of the fiscal year (Sept. 30). Talk began to emerge this week that passage of a Continuing Resolution (CR) could be held up over discussion of the Outer Continental Shelf drilling moratorium, which has been renewed by Congress for decades and presumably would be included in any CR.

The Senate Appropriations Committee Chair has rolled out the details for a second economic stimulus plan that theoretically will either be marked-up by the SAC or brought directly to the Senate floor in September. The \$24.1 billion package does not include rebate checks for taxpayers like the previous stimulus bill, but does contain a number of domestic spending items. These include: \$3.6 billion for highway, road, and bridge repairs and improvements; \$100 million for Amtrak, \$52 million for the Federal Housing Administration; \$10.1 billion for natural disaster relief in the Midwest and continued recovery for Hurricane Katrina along the Gulf Coast; and \$1.25 billion for the Low Income Home Energy Assistance Program. House leaders have indicated they will be introducing an additional stimulus bill to be addressed in September.

FINANCIAL SERVICES

Last Saturday, the Senate approved (72-13) final passage of the long-debated housing/mortgage bill that includes additional oversight and support for Fannie Mae and Freddie Mac as well as an expansion of the Federal Housing Authority, a number of tax provisions to encourage homeownership, and nearly \$4 billion for local governments for the upkeep of foreclosed and rundown properties. President Bush signed the housing bill, a portion of which he has publically opposed, in a private ceremony. Chairman of the Senate Banking, Housing and Urban Affairs Committee, Senator Chris Dodd (D-CT), a principle architect and advocate of the bill, stated, "This is the most sweeping housing legislation since the Great Depression, representing a turning point in our country's commitment to economic growth and affordable housing, and providing relief to homeowners and communities across the country."

With the housing/Fannie-Freddie bill now signed into law, the Senate Banking Committee turned its attention to the state of the insurance industry in a hearing focused on, "Examining the Current Regulatory and Oversight Structure." A substantial portion of the discussion revolved around whether to simply update the current state-based system or possibly create an Optional Federal Charter. Proponents of the state system argue the status quo allows insurance agencies to cater to region-specific client needs, while regulators in Washington would be

less likely to remain in touch with the needs of local individuals and businesses. A representative for the Independent Insurance Agents & Brokers of America stated that insurance policies are, “inextricably bound to the separate legal systems of each state,” which state courts have 100 years of experience interpreting. Supporters of a federal charter (like the one proposed in the National Insurance Act) believe the state system forces insurers to comply with 50 different systems at great expense, which is passed on to consumers in less efficient coverage and higher premiums. A witness for the American Insurance Association added that states are unable to give insurance agencies the support they need to compete globally.

Late yesterday, the House Financial Services Committee passed the Credit Card Holders’ Bill of Rights (H.R. 5244, 39-27), a measure to prevent credit card companies from basing individual interest rates (and subsequent rate increases) on adverse information about the customer unrelated to the specific account being serviced by the credit card company. It also requires increased consumer notification of rate increases with opportunity to cancel penalty-free and requires all billing statements to include specific payoff balance information. “A credit card agreement is supposed to be a contract, but in recent years cardholders have lost the ability to say no to unfair interest rate hikes and fees,” argued the bill’s sponsor, Rep. Carolyn Maloney (D-NY). “There is no doubt that credit card companies provide a valuable service and deserve to earn a fair profit, but consumers deserve the right to be able to understand their accounts and be empowered to control them.” In an earlier letter to Congress, groups including the American Bankers Association and the National Association of Federal Credit Unions expressed their strong opposition to the bill, “We are deeply concerned that this legislation, by directly and indirectly imposing limits on fundamental risk management activities, interest calculations, and other responsible business practices, will increase the overall cost of credit to consumers and businesses, reduce access to credit for those with imperfect or limited credit histories, and limit lower-cost consumer options.”

HEALTH CARE

On Wednesday, the House passed legislation to provide additional protection for college students (covered under their parents' health insurance plans) who are forced to take a medical leave from school due to major illness or injury. The bill, known as Michelle's Law (H.R. 2851), was introduced by Rep. Paul Hodes (D-NH) and named after New Hampshire student Michelle Morse who died after remaining in school with colon cancer in order to retain her parents' health coverage. The measure prohibits health insurers from terminating coverage of dependents that are advised by their physician, in a written statement, to take up to a year of medical leave from school. The Senate companion bill was introduced by Sens. John Sununu (R-NH) and Judd Gregg (R-NH) last year and awaits consideration by the Senate Committee on Health, Education, Labor and Pensions.

ENERGY/ENVIRONMENT

A bill to significantly increase funding for the Low-Income Home Energy Assistance Program got caught up in a mainly partisan squabble over larger energy policy legislation. A Senate vote on Saturday to move to the LIHEAP bill was defeated when senators could not reach an agreement on terms for debate/amendments on a larger energy bill to reign in energy speculators in the commodities market.

A significant bloc of members in the Senate and the House are insisting on the ability to offer and vote on an amendment to the speculation legislation that would allow for increased oil and gas exploration in currently protected areas in the Outer Continental Shelf (OCS). This insistence led to the defeat of a speculation bill (H.R. 6604) in the House on Wednesday. Although the bill received 276 votes, it fell short of the two-thirds support needed to succeed under suspension of the rules. The bill was brought up under suspension to protect it from any OCS-related amendments. The White House issued a veto threat against the bill prior to the vote. A bipartisan group of House members released an energy plan late in the week that includes lifting the prohibition on additional OCS activity and using the anticipated revenue from those leases for renewable energy and carbon-capturing technologies. This bipartisan plan could receive additional attention in September.

TECHNOLOGY

Twice this week the Senate failed to invoke cloture on tax bills that included the revitalization of the expired research and development tax credit, marking the 4th time in the last few weeks the Senate has been unable to move forward on bills containing the R&D credit. The Senate voted on Tuesday on a House-passed bill and Wednesday on a recently-introduced bill (S. 3335) by the Chairman of the Senate Finance Committee that includes personal and business tax initiatives (including a one-year patch of the alternative minimum tax), tax provisions to encourage the production of renewable energy, payments to the Highway Trust

Fund, and mental health parity provisions. The R&D credit expired in December, and a seamless extension seems fairly uncontroversial. However, the inclusion of revenue-raising offsets to section of the bill continues to generate opposition. In a familiar refrain, the White House vowed to veto the bill, saying, “The Administration does not believe that efforts to avoid tax increases on Americans need to be coupled with provisions to increase revenue.” The New England Council sent a letter to all 12 members of the New England Senate delegation earlier this week urging a seamless extension of the R&D credit before Congress adjourns.

The Senate Committee on Small Business and Entrepreneurship unanimously passed a bill (S. 3362) to reauthorize and expand two programs focused on encouraging and commercializing small business participation in government-sponsored research programs. The Small Business Innovation Research and Small Business Technology Transfer programs would be extended for 14 years under the bill, which is described by the Chairman of the Senate Small Business Committee, Senator John Kerry (D-MA), as important to help, “keep our military strong, advance medical breakthroughs, and develop energy sources that are renewable and clean.” The bill also contains a compromise to assist small businesses concerned that companies that are majority-owned by venture capital firms would have an unfair advantage. S. 3362 includes a provision that would alleviate those concerns by capping funding awarded by the majority of SBIR agencies to venture capital-backed firms at 8% (although the cap is 18% for the NIH).

Late in the week the Senate approved a measure, sponsored by the Chairman of the Senate Judiciary Committee Patrick Leahy (D-VT), that will expand the federal government’s ability to prosecute forms of cybercrime including identity theft. The initiative (similar to the stand-alone bill S. 2168) was tucked into a broader measure regarding Secret Service protection (H.R. 5938). Chairman Leahy lauded passage of the bill which he believes will provide, “critical tools to combat cyber crime...Enacting this privacy bill will provide much-needed new tools to safeguard the privacy of all Americans.” Among other provisions the bill expands the ability of cybercrime victims to seek restitution and broadens the definition of what activities constitute a cybercrime.

HIGHER EDUCATION

After passing eight temporary extensions of the Higher Education Act, the House and Senate approved H.R. 4137 by an overwhelming majority on Thursday. As the first massive overhaul of current higher education law in a decade, it amends and reauthorizes most programs under the Higher Education Act of 1965.

H.R. 4137 includes several provisions to make college more accessible. Key reforms in the bill would create a user-friendly website to provide information on expected college costs (e.g. tuition and fees) and require colleges and universities to report increases. The measure also requires fuller disclosure of

the terms and conditions of loans provided by the federal government and private lenders; restricts lobbying activities of colleges and universities receiving federal aid and institutes a gift ban; streamlines the financial aid process by replacing the current seven page Free Application for Federal Student Aid with a two page FASFA-EZ online form; requires colleges to release textbook prices before the semester begins; makes Pell grants available to students year-round; and limits certain grants to states that do not maintain reasonable funding levels (included in an amendment offered by Rep. John Tierney (D-MA)).

In addition, the bill will provide colleges and universities with grants for the development of emergency response systems and “green” energy efficient campuses; increase support services for students with disabilities and create partnerships with business and higher education institutions to build a stronger workforce and increase global competitiveness. The Congressional Budget Office estimates H.R. 4137 will increase spending by \$27 million over a five-year period and decrease spending by \$73 million over ten years. Although the Administration has not expressed public support of the bill, the president is expected to sign it into law.

In a statement released by the Chairman of the Senate Committee on Health, Education, Labor and Pensions, Senator Edward Kennedy (D-MA) stated, “Today’s action sends a clear message that improving college opportunities for the nation’s students and families is again a top priority for Congress. Last year, we passed the largest increase in college aid since the G.I. Bill. Earlier this summer, we made sure that students can get federal loans despite turbulence in the credit markets. And now, we’re enacting sweeping higher education reform that tackles skyrocketing costs, simplifies college aid, reins in abuses by lenders, helps the troops and gives intellectually disabled students a chance.”

TRADE

Earlier this year, opponents of a pending free trade agreement with Columbia were successful in sidelining the bill by removing a provision that mandated an up-or-down vote on the agreement in a timely manner. In part, opponents wanted to prioritize a reauthorization of the Trade Adjustment Assistance (TAA) program in order to expand assistance and educational opportunities for workers and businesses negatively affected by free trade activities before approving the Columbia deal. Now supporters of the Columbia agreement want to see an expansion of the TAA initiative be linked to a vote on the trade pact, causing the Senate Finance Committee to indefinitely postpone a scheduled Wednesday mark-up of a TAA bill (S. 1848) until at least after the summer recess (the House passed a TAA bill, H.R. 3920, last year). Underscoring the difficulty of moving forward, in announcing the indefinite delay of the TAA mark-up, the Chairman of the Senate Finance Committee stated, “The resistance of some Senators to consideration of TAA absent a guarantee of action on the Colombia Free Trade Agreement is preventing the process from moving forward. I believe that the Colombia FTA should be considered, and should pass, but on its own merits and

in its own time. I do not believe that the Colombia FTA can pass Congress unless our duty on TAA is done.” On Tuesday the House did vote to extend one of our nation’s largest trade programs, the Generalized System of Preferences (GSP), through the end of 2009. The GSP is over 30 years old and covers duty-free entry of specified goods from more than 130 countries and territories.

The latest round of World Trade Organization talks in Geneva (initiated in Doha, Qatar in 2001) have reached an impasse over agriculture tariff levels for developing nations like China and India, who insist on the ability to initiate greater trade protections for its domestic farmers. Known as a Special Safeguard Mechanism, developing nations wanted the ability to trigger the provision to discourage lower-cost imports while opponents (like the United States) insist any trade agreement must include consistent access to foreign markets. In comments after the talks broke down, U.S. Trade Representative Susan Schwab reiterated U.S. commitment to the WTO and summed up the failure to reach an agreement by saying, “We faced some very difficult and complex issues of vital importance to the Membership that did not readily lend themselves to traditional ‘split-the-difference’ solutions or ‘lowest common denominator’ solutions.” National Association of Manufacturers President John Engler was sharper in his overall criticism, commenting, “Time and again at the Geneva meetings, China and India reiterated how they could not lower their barriers, but insisted we must lower ours...The ‘Special Safeguard Mechanism’ demanded by China and India for their agricultural sectors was the final straw. That mechanism would have violated one of the most basic tenets of the world trading system: nations do not violate their tariff bindings by raising tariffs above the legally-bound levels. Once an exception is made, no matter how small, the entire world trading system could begin to unravel. The Doha Round was supposed to move world trade forward, not backwards.”

TRANSPORTATION

Monday’s Mid-Session Review released by OMB underscored the troubled state of the Highway Trust Fund. According to the report, “Highway Trust Fund finances have deteriorated since February, with spending exceeding income in 2007 and 2008 and the Highway Account going insolvent by approximately \$4 billion in 2009.” The Highway Trust Fund is currently funded through gasoline taxes and vehicles sales. In a statement released earlier this week, the Department of Transportation called for a more sustainable means of revenue than gas taxes citing that Americans drove 9.6 million less miles in May 2008 than May 2007. This substantial decrease in driving has contributed to the deterioration of the fund.

Last week the House passed H.R. 6532 which would transfer \$8 billion from the general fund to the Highway Trust Fund to cover the current deficit. On Wednesday, the Senate failed to garner the votes required to invoke cloture on the motion to proceed to debate on a tax bill (previously mentioned as the vehicle

for the R&D tax credit) which included the \$8 billion transfer from the Treasury to restore the Highway Trust Fund.

A July 23 Statement of Administrative Policy voiced the Administration's strong disapproval for H.R. 6532 and similar transfers. "It is a longstanding principle that highway construction and maintenance should be funded by those who use the highway system. Instead, this bill is both a gimmick and a dangerous precedent that shifts costs from users to taxpayers at large." The statement criticized any measures which increases the deficit and instead recommended borrowing money from the Highway Trust Fund's transit account to cover the deficit.