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Next Week in Congress

With one legislative week remaining before Congress leaves town for its week-long Independence Day recess, next week the House will continue the Fiscal Year 2010 appropriations process by addressing funding for the Departments of Homeland Security and Interior, as well as an authorization bill for Pentagon operations. There is a possibility the House may try to pass the comprehensive energy/climate change bill approved by the House Energy and Commerce Committee earlier this month, although a support among many key Midwestern and Southern lawmakers remains elusive. The Senate will continue its previous work on a bill to create a non-profit company to attract foreign visitors to the United States, as well as take up its version of the FY10 Homeland Security and Legislative Branch appropriations bills. The political heavy-lifting next week will be done by various committees with responsibility over health care reform proposals (see below) as Congressional leaders try to ready sweeping health reform bills for attention in July.

While the House is scheduled to adjourn on or around July 31 for its month-long summer recess, the Senate is scheduled to stay in Washington through Aug. 7. Whether the July work period is four or five legislative weeks, both chambers anticipate the summer recess lasting until after Labor Day.

Budget/Appropriations

This week Congress passed a \$106 billion Fiscal Year 2009 emergency appropriations measure funding war operations in Iraq and Afghanistan as well as a number of unrelated domestic projects. The bill, which includes approximately \$80 billion in funding for Pentagon operations, includes \$7.7 billion for pandemic flu preparedness; \$5 billion to increase international loan capabilities at the International Monetary Fund; over \$10 billion for global economic development efforts; and \$1 billion for a program to benefit the U.S. auto industry by providing owners of older cars up to \$4,500 as an incentive to purchase more fuel-efficient vehicles.

The Senate passed the spending bill late yesterday (the House passed the measure on Tuesday (226-202)) with an overwhelming 91-5 vote. However, a vote to waive a budget point of order against the “cash for clunkers” auto provision narrowly passed, 60-36. The vote to waive the point of order was needed because the initiative was not included in earlier versions of the bill that passed the House and Senate and was “airdropped” into the conference report. President Obama has indicated that this bill (H.R. 2346) will be the last “emergency” spending bill funding

mostly predictable war operations -- ending the practice of funding Pentagon operations through spending bills not subject to annual budget caps.

The Fiscal Year 2010 appropriations process continued this week, with the full House approving the Commerce, Justice, and Science bill yesterday and the traditionally non-controversial Legislative Branch bill earlier this afternoon. A partisan disagreement over an amendment offering procedure lead the House to conduct over 50 roll call votes over an eight-hour stretch yesterday before finally passing the CJS bill. The Senate Appropriations Committee reported two bills (both unanimously) to the floor yesterday – the Homeland Security and Legislative Branch measures.

Higher Education

On Wednesday, Secretary of Education Arne Duncan announced the student loan companies that were awarded contracts to service the Education Department's loans to college students and their families under Title IV of the Higher Education Act. The companies—AES/PHEAA of Harrisburg, Pennsylvania; Great Lakes Education Loan Services, Inc., of Madison, Wisconsin; Nelnet, Inc., of Lincoln, Nebraska; and Sallie Mae Corporation of Reston, Virginia—will be responsible for servicing the Education Department's "approximately \$550 billion" student loan portfolio. According to a statement released by the Education Department, "The new performance-based contracts offer the Department the capability to manage all types of Title IV student aid obligations, including, but not limited to servicing and consolidation of outstanding debt". The Education Department's Federal Student Aid office "delivered approximately \$100 billion in financial aid to almost 11 million students and families" according to the statement. President Obama's FY2010 budget has proposed to end government subsidies to student loan companies which will make the federal government the sole originator of federal loans. According to the president's budget, the Administration will "take advantage of low-cost and stable sources of capital so students are ensured access to loans, while providing high-quality services for students by using competitive, private providers to service loans." Direct lending from the government is estimated by the administration to save \$4 billion—the savings will be used to boost Pell grant funding.

On Wednesday, House Republican leadership announced that Rep. John Kline (R-MN) would replace Rep. Howard "Buck" McKeon (R-CA)—as the Ranking Member of the House Education and Labor Committee. Committee Chair George Miller described Rep. Kline as a "diligent, hard-working" committee member and said he looks forward to work with him in a bipartisan way to "make college more affordable."

The House Committee on Education and Labor held a hearing Tuesday on the potential for technology to transform public education. Chairman George Miller (D-CA) said "our competitiveness abroad has shifted," the importance of ensuring that every student has the opportunity to reach his or her full potential has increased. While today's children increasingly use technology in their daily lives, the school system "does not capitalize on technology's potential to engage students and improve learning," he said. Rep. Michael Castle (R-DE), agreed that technology has the potential to improve many aspects of education including parental involvement and rural access to resources. He also cautioned that "we must remain mindful of

these trying economic times” and ensure that the cost of proposed programs will result in real benefits. White House Chief Technology Officer Aneesh Chopra emphasized that the focus with regard to cost should be on encouraging private innovation rather than government spending. If the marketplace is driven to innovate cheaper and more efficient technology, it will do more to make that technology widely accessible than merely increasing federal funding, he said, and added that this principle applies not only to technology in education but also in healthcare, energy, and other areas.

Energy/Environment

The Senate Energy and Natural Resources Committee approved (15-8) a sweeping energy bill that includes a renewable energy standard, empowers the Federal Energy Regulatory Commission (FERC) with strong authority to site new energy transmission infrastructure, and opens previously-protected areas of the eastern Gulf of Mexico to energy drilling. The Committee agreed to a renewable energy standard of 15% by 2021, a less-aggressive target than the 20% approved by the House Energy and Commerce Committee (H.R. 2454) earlier this month, and included a number of provisions to increase domestic production of traditional energy sources. The future of the bill on the Senate floor is very much unknown, with a carbon emissions cap-and-trade provision to be taken up by the Senate Environment and Public Works Committee likely to be merged with the bill before it heads to the floor after Labor Day.

The Senate Energy Committee’s bill also includes the creation of a commission to study the safe and environmentally friendly management of nuclear waste. On Wednesday, the House Science and Technology Committee held a hearing on nuclear fuel recycling technology; with the chairman saying that nuclear energy is “part of the solution” to climate change while highlighting concerns about the possibility of increased cost and the proliferation of plutonium associated with closing the nuclear cycle. Dr. Mark Peters of the U.S. Energy Department testified that the only safe and secure option is a closed nuclear fuel cycle, one that treats the spent fuel as a resource rather than as waste. He added that while “there is no urgent need to deploy recycling today,” as significant investment in R&D is needed in order to test new technologies and build business models, the development of a long-term technology strategy must begin immediately.

Yesterday, President Obama announced his intention to nominate Warren F. “Pete” Miller, Jr. as Director of the Office of Civilian Radioactive Waste Management (OCRWM) at the Dept. of Energy. OCRWM is charged with managing and securing spent nuclear fuel and overseeing the development of the Yucca Mountain nuclear waste repository.

Last Friday, a House Energy and Commerce panel held a hearing on reforming transmission policy for the national electrical grid. Central to the debate was the issue of whether or not Federal authority over siting and construction should be expanded through FERC. Vermont Public Service Board Commissioner David Coen urged members to respect State authority and the efforts of regional planning groups in any federal legislation. “To have the greatest economical and environmental benefits, transmission facilities should not be nationalized but rather should be approached on a regional basis,” he said, and therefore argued against granting FERC any additional authority over siting new lines that would supersede local and regional

planning. Paul Hibbard, Chairman of the Massachusetts Department of Public Utilities, added that up-front transmission subsidies would cause market inefficiencies and unfairly disadvantage local sources of renewables such as Massachusetts' off-shore wind energy. He argued that although off-shore wind energy is initially more expensive than on-shore wind energy, it is more cost-effective in terms of energy delivered for nearby load centers.

Financial Services

Earlier this week, President Obama outlined historic oversight changes to the national financial services infrastructure, calling for the creation of a Financial Services Oversight Council and a Consumer Financial Protection Agency (CFPA) and recommending broader oversight power for the Federal Reserve to regulate large financial institutions. The overhaul would allow the Fed to identify and wind down struggling companies that could cause system-wide failures without assistance, similar to the power given to the Federal Deposit Insurance Corporation over banks. The Financial Services Council would be responsible for agency coordination across the financial services industry and consult with the Federal Reserve in identifying at-risk companies. The CFPA is designed to protect consumers from pitfalls associated with credit-related activities, including regulations governing credit cards, mortgages and other loans. An Office of National Insurance would be created under the Treasury Department to "to gather information, develop expertise, negotiate international agreements, and coordinate policy in the insurance sector."

On Thursday, Secretary Geithner appeared before the Senate Banking Committee to advocate for the proposal, saying the blueprint creates "the foundation for a safer, more stable financial system; one that can deliver the benefits of market-driven financial innovation even as it guards against the dangers of market-driven excess." In addressing the creation of the Financial Services Oversight Council, Geithner explained that it "will fill gaps in the regulatory structure where they exist. It will improve coordination of policy and resolution of disputes. And, most importantly, it will have the power to gather information from any firm or market to help identify emerging risks." However, he noted that "The Council does not have the responsibility for supervising the largest, most complex and interconnected institutions. The reason is simple: that is a specialized task, which requires tremendous institutional capacity and organizational accountability. Nor would the council be an appropriate first responder in a financial emergency. You don't convene a committee to put out a fire. The Federal Reserve is best positioned to play that role. It already supervises and regulates bank holding companies, including all major U.S. commercial and investment banks. Our plan gives a modest amount of additional authority - and accountability - to the Fed to carry out that mission."

A House Subcommittee on Wednesday approved a pair of bills (H.R. 1984, H.R. 1988) that mandate greater disclosure and details of administrative fees paid by employees participating in 401(k) and other retirement plans. The initiatives seek to make retirement investing more transparent for employees, including providing a thorough understanding of the risks and objectives of investing up front, giving investors a clear breakout of fees in quarterly statements, having companies provide a traditionally lower-cost "index" fund option in retirement plans, and ensuring relationships between investment firms and employers are disclosed to eliminate conflict of interest questions. Opponents contend the measure could actually lead to increased administrative costs and swamp investors with an overload of information. The measure was

approved by the House Education and Labor Committee's Subcommittee on Health, Employment, Pensions and Labor and now heads to the full Committee.

Healthcare

On Monday, the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) provided a cost estimate of Title I of the draft health reform legislation—the Affordable Health Choices Act—introduced by the HELP Committee last Tuesday. According to the CBO, the proposal will cost \$1 trillion and cover 39 million people over 10 years once fully enacted. The CBO also estimated that 10 percent of individuals with health insurance through their employers would lose coverage. The letter also stated “coverage from other sources would fall by about 8 million” reducing the total number of uninsured in the country by 16 million. The letter was careful to say that the cost analysis is not a complete analysis of Chairman Kennedy's 615-page draft for several reasons which include the ambiguity of the bill's content, and the fact that the proposal contains models that CBO and JCT have not yet evaluated.

President Obama delivered a speech to the American Medical Association (AMA)—the nation's largest doctor's association. The President made the case for health care reform by citing the gross costs and inefficiencies of the nation's health care system. Health care under the current system is costly for individuals, small businesses and large companies alike and “unsustainable for doctors” he said. President Obama spent significant time addressing the group's concerns about a government-run health plan and addressed what a public option would mean for the traditional the doctor-patient relationship, malpractice reform and Medicare reimbursement rates. “They [Americans] value their relationship with their doctor. They trust you. And that means that no matter how we reform health care, we will keep this promise to the American people: If you like your doctor, you will be able to keep your doctor, period” he said. President Obama also discussed importance of health information technology, improved coordination of care, preventative care, and funding opportunities for medical students who choose to practice in shortage areas.

The AMA is one of six major healthcare stakeholders—including the American Hospital Association (AHA), American Health Insurance Plans (AHIP), Advanced Medical Technology Association (AdvaMed), Pharmaceutical Research and Manufacturers of America (PhRMA), Service Employees International Union (SEIU)—that have pledged to find savings for the health system. In a May letter to President Obama, the group said “We have joined together in an unprecedented effort to offer concrete initiatives that will transform the health care system. We will do our part to achieve your Administration's goal of decreasing by 1.5 percentage points the annual health care spending growth rate—saving \$2 trillion or more”.

On Wednesday, The Bipartisan Policy Center's (BPC) Advisory Board released a set of health care reform policy recommendations “Crossing Our Lines: Working Together to Reform the U.S. Health Care System”. The BPC Advisory Board— which includes former Senator Majority Leaders Bob Dole (D-KS), Howard Baker (R-TN), George Mitchell (D-ME), and Tom Daschle (D-SD)— developed what they have called the “Four Pillars of Health Reform” to address the many problems facing the nation's healthcare system. They include: achieve greater health care quality and value; make health insurance available, meaningful and affordable; support personal

responsibility and healthy choices; and develop a workable, sustainable approach to health care financing. The report is at <http://www.bipartisanpolicy.org/>.

Technology

Several panels from the House Committee on Science and Technology held a joint hearing on federal agency responses to the Administration's Cyberspace Policy Review. Lawmakers reproached past federal efforts for being "output oriented," and applauded the Administration for focusing instead on outcomes such as fewer cases of identity theft, fewer breaches of federal networks, and increased security of Health Information Technology and smart grid systems. Several witnesses touched on the importance of a well-educated information technology workforce as well as ensuring the public is well-informed on managing their own cyberspace security. Acting Director of the Defense Advanced Research Projects Agency (DARPA) Dr. Robert Leheny cited a program that encourages young computer science faculty members to solve problems of particular interest to the Pentagon during a three-year stay on a military base. Dr. Jeannette Wing said on behalf of the National Science Foundation that they aim to "attract the best and the brightest to computer science" through outreach at the K-12 level and beyond, including a grant program focused on improving undergraduate computer science courses.

Earlier this week, President Obama announced he will nominate David J. Kappos as the Director of the Patent and Trademark Office. Mr. Kappos currently directs IBM's Intellectual Property Law Corporation as IBM's Vice President and Assistant General Counsel for Intellectual Property Law and Strategy. In March, Mr. Kappos testified before the Senate Judiciary Committee in support of S. 515, the patent reform bill approved by the Committee earlier this year, endorsing the bill on behalf of IBM and lauding its "approach to improving patent quality, including 'first window' post grant review, enhanced inter partes reexamination, and pre-issuance submission of information. These reforms reduce the impact of poor quality patents by making it easier to promptly challenge the validity of a patent without resorting to litigation, and without subjecting patentees to an undue period of uncertainty."

An immigration meeting at the White House between Administration and Congressional leaders set to take place this week was postponed until late next week. The rescheduling marks the second time the summit has been delayed and prospects of passing comprehensive immigration reform in 2009 appear to be dwindling.

Transportation

Transportation Secretary Ray LaHood met with congressional leaders on Wednesday to push the Administration's proposal for a short term, 18-month highway reauthorization that would address the Highway Trust Fund shortfall (expected to run out of funds this summer). Secretary LaHood made it clear that the Administration opposes a gas tax, but is committed finding solutions that make "better investment decisions with cost-benefit analysis, focus on more investments in the metropolitan areas and promote the concept of livability to more closely link home and work". LaHood urged congressional leaders to consider a short-term reauthorization and cautioned them not to rush long-term legislation.

On Thursday, the House Transportation and Infrastructure Committee leadership released a white paper that provides a framework for the surface transportation reauthorization. *The Blueprint for Investment and Reform for the Surface Transportation Authorization Act of 2009* discusses ways to rebuild the nation's roads and bridges, improve highway safety, reduce congestion and to make the transportation system more eco-friendly. This reauthorization approach consolidates and terminates several transportation programs and creates new initiatives. Transportation funding would be consolidated into four core formula categories: critical asset investment, highway safety improvement; surface transportation; and congestion Mitigation and Air Quality Improvement (CMAQ). Among the newly created initiatives are the National Transportation Strategic Plan to improve coordination of the nation's transportation system, an Office of Intermodalism to develop and implement such a plan and a National Infrastructure Bank to provide funding to states for the construction of high-speed rail corridors. The reauthorization provides \$450 billion for highway transit investment; and an additional \$50 billion for high speed rail over six years.

Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) called the Administration's proposal to delay the long-term reauthorization for 18 months "unacceptable" at a press conference on Thursday afternoon, and said that "delay would cause uncertainty [and] will restrict the scope of projects" with the current reauthorization set to expire on September 30. Chairman Oberstar and Ranking Member Joe Mica (R-FL) said that the Committee hopes to partner with the White House in shaping the future in transportation, however; it will move on legislation with or without that Administration on board. A draft of the legislation will be released next week. Committee leaders expect to bring legislation to the House floor by the end of July.

Trade

During a visit with South Korean President Lee Myung-bak this week, President Obama reiterated there is no timeline for sending Congress a Free Trade Agreement (FTA) negotiated with South Korea during the Bush Administration. President Obama cited the treatment of U.S. beef exports and American-made vehicles by South Korea as issues that need to be addressed before moving forward, saying "What I've done is to affirm to President Lee that we want to work constructively with the Republic of Korea in a systematic way to clear some of these barriers that are preventing free trade from occurring between our two countries. Once we have resolved some of the substantive issues, then there's going to be the issue of political timing and when that should be presented to Congress." In an official statement the President affirmed that "We will continue to deepen our strong bilateral economic, trade and investment relations. We recognize that the [FTA] could further strengthen these ties and we are committed to working together to chart a way forward."

The likelihood that the Administration will send the pending free trade deal with Panama to Congress before the end of the year continues to worsen as the legislative calendar shrinks and other legislative priorities crowd out trade issues. Prospects for the Columbia and South Korea agreements to be sent to Congress are virtually nil without significant concessions by Congressional opponents.

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