



Outlook for the Lame Duck Session

As Congress recesses this week, we are providing a memo to highlight the potential legislative agenda during the “lame duck” session beginning the week of November 15, 2010 – after the elections and before the end of the session. In addition, the memo discusses the potential make up of the Senate during the lame duck session. New senators will be sworn in during the 111th Congress due to various State laws regarding some Senatorial seats.

Priority Legislation

Appropriations

To date, the House has passed only two appropriations bills: Military/Veterans and Transportation/HUD. Therefore, the lame-duck session will work toward completion of the Fiscal Year 2011 spending bills and likely at least one Continuing Resolution through the end of the calendar year. Some have speculated that if the Republicans take control of the House, they may stall work on the appropriations process in order to defund some Democratic priorities, including health reform provisions, at the beginning of the next Congress.

Bush Tax Cuts extension

Democrats’ decision to put off the debate over the extension of the 2001 and 2003 tax cuts until after the election makes this legislation the highest non-appropriations bill priority. Although the most liberal members of the party insist on extending tax cuts for only those families making less than \$250,000 a year, many centrist Democrats have expressed concerns about raising taxes during current economic conditions. Forty seven House Democrats sent a letter to Speaker Pelosi urging her to extend tax cuts for all income levels.

2009 Tax Extenders and other tax issues

Congress may attempt to pass a retroactive extension of the already-expired 2009 “tax extenders.” Additionally, Senator Baucus, Chairman of the Senate Finance Committee, introduced last week the Job Creation and Tax Cuts Act that would (1) cut taxes for families paying college tuition, state and local taxes, and property taxes; (2) reduce taxes for employers who spend on research and development and investment; and (3) bolster career training programs. Baucus’s bill has been placed on the Senate Legislative Calendar.

Medicare Physician Payment -- Sustainable Growth Rate (SGR)

After failing to pass a multi-year solution to the Medicare Sustainable Growth Rate (SGR) formula, a 23% cut to physicians’ Medicare reimbursement rates is currently scheduled to take place December 1, 2010, growing to a nearly 30% cut as of January 1, 2011. Congress will likely pass another temporary patch on scheduled reductions during the week of November 15th, providing a short extension (e.g., 30 days) until the beginning of the new calendar year, with the plan to revisit this issue again during the lame duck session. The cost of freezing physician payment for 30 days is more than \$1 billion. With Blue Dog Democrats and Republicans demanding this “doc-fix” be offset, the expense of the proposal may complicate passage.

Wednesday, September 29, 2010

Food Safety

After Senator Coburn objected to the request to bring the food safety bill to the floor last week, the chances of this legislation being considered before recess became severely limited. A cloture vote, if held after the elections, is expected to be successful, but Majority Leader Reid has stated he does not believe it will be necessary.

Energy bills

Majority Leader Reid has stated that a nationwide renewable-electricity standard (RES) is “absolutely” still being considered for the lame duck session. Senator Bingaman, Chairman of the Energy and Natural Resources Committee, has expressed his intent to push for an RES. Senator Brownback has endorsed the RES language and is working to garner a handful of Republican supporters to move the bill after the elections. Reid has stated that passing energy legislation may be more likely after the elections.

Hotlined Public Health bills

While the Senate Democrats may push to continue a number of public health bills recently reported out of the House Energy and Commerce Committee with subsequent House passage, Sen. Enzi (Ranking Republican, Senate HELP Committee) has repeatedly stated that he will not allow a hotline for any public health bills that have not gone through regular order/committee process. Therefore, it is unlikely that any of these bills will become law during the lame duck session.

Immediate changes to the Senate

According to state law, the winners of the elections in Delaware, Illinois and West Virginia will be seated immediately because their current Senators were appointed to fill vacancies. In addition, Colorado could seat the winner of the upcoming election because some argue that the winner of the election will be replacing Senator Bennet who was appointed to fill the vacancy left by Ken Salazar. However, the Secretary of State in Colorado has stated that tradition dictates the winner of the election would not be seated until January.

Delaware: The current senate seat is held by Ted Kaufman (D). Cook Political Report lists the Christine O'Donnell (R) vs Chris Coons (D) race as likely D.

Illinois: The current senate seat is held by Roland Burris (D). The Cook Political Report lists the race (Kirk vs Giannoulas) as a toss up.

West Virginia: The current senate seat is held by Carte Goodwin (D). The Cook Political Report lists the John Raese (R) vs. Joe Manchin (D) race as lean D.

Colorado: The current senate seat is held by Michael Bennet (D). The Cook Political Report lists the Buck/Bennet race as a toss up.