



*Week of 9-4-23
Volume 23 | Issue 24*

Congressional Overview

Congress has few working days left to fund the government and extend key programs by Sept. 30. Both chambers have a packed agenda that will include work on fiscal year (FY) 24 appropriations, the annual defense policy bill, and longer-term reauthorizations for aviation, farm, and nutrition programs. On Aug. 31, the Biden administration formally asked Congress for a short-term funding package to avoid a shutdown. Speaker Kevin McCarthy (R-CA) and Senate Majority Leader Chuck Schumer (D-NY) have said they support a temporary extension into early December.

The House is slated to consider its Defense and Homeland Security spending bills next week. Senate appropriators have advanced all 12 of their spending bills out of full committee and the chamber could vote this fall on these measures with bipartisan support.

Senate Majority Leader Schumer said the Senate would prioritize judicial and executive nominees, rail safety, insulin and prescription drug prices, and banking for marijuana businesses this year, among other issues. Meanwhile, House Republicans are continuing various probes aimed at Biden administration officials, including potential impeachments. Both chambers are working on proposals that would address expiring health programs and a regulatory framework for digital assets.

Funding the Federal Government Beyond Sept. 30

Speaker McCarthy and Senate Majority Leader Schumer agreed upon the general idea of a continuing resolution (CR) to fund the federal government until early December. House conservatives will be key in reaching an agreement on the CR. Ukraine funding, disaster aid, border issues and the broad parameters of the debt-limit deal are all in question. Rep. Chip Roy (R-TX) stated that a CR "of any kind, especially a 2-plus month CR into December, must be dead on arrival."

Fifteen House Republicans from Texas said they would oppose any bill funding the Homeland Security Department unless President Biden ousts Homeland Security Secretary Alejandro Mayorkas, adopts conservative border legislation to eliminate asylum claims or makes other border changes.

Supplement Disaster Assistance

Sen. Rick Scott (R-FL) and other Republicans have called for passing disaster relief separately from the rest of the emergency spending package, fearing extensive debates over Ukraine aid and border security could delay relief to hard-hit areas. President Biden rejected that suggestion and additional funding for Ukraine continues to face resistance from some GOP conservatives.

In a draft letter to White House Budget Director Shalanda Young, Rep. Chip Roy (R-TX) and Sen. JD Vance (R-OH) said they would oppose additional aid because they have too many unanswered questions on how previously appropriated money was spent. However, Sen. Minority Leader Mitch McConnell (R-KY) made a pitch for the emergency money, both for national security and disaster relief, stating, "We need to continue to invest in America's defense industrial base – both to support our partners in today's fight and help our own forces deter tomorrow's threats."

U.S. Treasury Announces Proposed Rule on Prevailing Wage and Apprenticeship Requirements

Last week, the U.S. Treasury released their long-awaited proposed rule with the details on the application of the prevailing wage and apprenticeship requirements that the Inflation Reduction Act imposes to maximize energy tax credits and deductions, including the:

- Section 30C alternative fuel vehicle refueling property credit
- Section 45 renewable electricity production credit
- Section 45Q credit for carbon oxide sequestration
- Section 45V credit for production of clean hydrogen
- Section 45Y clean electricity production credit
- Section 45Z clean fuel production credit
- Section 48 energy credit
- Section 48C qualifying advanced energy project credit
- Section 48E clean electricity investment credit
- Section 179D energy efficient commercial buildings deduction
- Section 45L new energy efficient home credit (apprenticeship requirements do not apply)
- Section 45U zero-emission nuclear power production credit (apprenticeship requirements do not apply)

Rep. McHenry Introduces “Protecting Small Business Information Act”

Rep. Patrick McHenry (R-NC) introduced the “Protecting Small Business Information Act (H.R. 4035),” which would delay the Corporate Transparency Act (CTA)’s Jan. 1, 2024, effective date. Rep. McHenry argues the CTA’s reporting requirements will subject tens of millions of small businesses to higher compliance costs, privacy risks, hefty fines, prison terms and by delaying the CTA reporting requirements from taking effect until a robust regulatory framework is put into place, this legislation will help ensure affected businesses are not subjected to an overly burdensome and unpredictable compliance regime.

The CTA was enacted in 2020 with the stated goal of combatting money laundering, terrorist financing, and other illicit activities. The statute requires the submission of regular reports to the federal government that include a litany of sensitive personal identifiers of the owners and senior employees and/or advisors of covered entities.

By delaying the reporting requirements from taking effect until the Treasury finalizes its rulemaking process, Rep. McHenry argues the Protecting Small Business Information Act would provide tens of millions of Americans the certainty they need to comply with the new statute, as well as giving Congress more time to rethink this whole approach.

More Information on the DOL's Proposed Overtime Rule

As reported in last week's legislative update, the Department of Labor (DOL) released its Notice of Proposed Rulemaking altering the overtime pay regulations under the Fair Labor Standards Act (FLSA). The proposal increases the minimum salary threshold to \$55,068 (up from the current \$35,568), a 55% increase.

The proposal also implements automatic increases to the threshold. The threshold will be updated every three years and tied to the 35th percentile of weekly earnings of full-time non hourly workers in the lowest-wage Census Region. The comment period is 60 days.

Specifically, the Department of Labor's proposed rule would:

- Increase the FLSA regulations' standard salary level from \$684 per week (\$35,568 per year) to \$1,059 per week (\$55,068 per year).
- Increase the total annual compensation requirement for highly compensated employees from \$107,432 per year to \$143,988 per year.
- Restore overtime protections for U.S. territories, ensuring workers in those territories where the FLSA minimum wage applies have the same overtime protections as other U.S. workers.
- Automatically update earnings thresholds every three years so they keep pace with changes in worker salaries, ensuring that employers could adapt more easily because they would know when salary updates would happen and how they would be calculated.