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## WASHINGTON POLICY STRATEGY

# Potomac Perspective

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As Congress returns from its summer break, it must pass a spending bill before the end of September which also might (or might not) raise the debt ceiling and streamline the process for obtaining permits for energy projects. Also, the Senate will debate a defense bill which could also be a vehicle for the SAFE Banking Act which would make it easier for banks to lend to the cannabis industry in states where cannabis is legal.

The Senate returns to Washington this week (the House is back next week) and confronts a busy month. The most pressing agenda item is government funding. Also, the Senate must pass a defense bill which could also include cannabis-related legislation

### **GOVERNMENT FUNDING**

The federal government's fiscal year ends on September 30, so Congress needs to pass a funding bill in order to avoid a government shutdown. Chances of a shutdown are remote, as neither party wants to be blamed for shutting down the government before an election.

Congress will likely pass a Continuing Resolution (CR) that extends funding at current levels until early- or mid-December at which point Congress would need to pass another short-term CR or a spending bill that covers the remainder of the fiscal year. As of now, it appears likely that Congress will pass a series of short-term CRs since a longer-term bill could prove to be elusive. Since CRs fund the government at the previous fiscal year's level, programs, including infrastructure spending and defense, will not see expected increases in funding until a spending bill for the entire fiscal year is passed.

#### *Debt Ceiling*

There has been some chatter about raising the debt ceiling as part of a CR, but that seems unlikely. The debt ceiling will be reached at some point in early- or mid-2023 (the debt ceiling is a cash flow issue rather than being connected to a specific date). It seems unlikely that Congress will raise the debt ceiling as part of a CR, but it would be a positive for the markets if Congress is able to do so since it removes a risk that could increase market volatility in 2023.

#### *Energy Permitting*

As part of the agreement that opened the door to the Inflation Reduction Act, Senate Majority Leader Chuck Schumer (D-New York) agreed to hold a vote on legislation to streamline the energy permitting process. Permitting reform could be added to a CR but that faces hurdles. Progressives, especially in the House, could push their leadership to leave permitting legislation out of a CR. They were not party to Senator Schumer's deal with Senator Joe Manchin (D-West Virginia) so they might not feel bound by it and are wary of streamlining the regulatory process for fossil fuel projects. Senate Republicans, who are inclined to support permitting reform, believe that Manchin pulled a bait and switch (connected to Senate Republicans allowing the CHIPS Act to proceed) and might decide to retaliate by blocking permitting legislation. Congressional leaders might decide that the path of least resistance to passing a CR is to avoid controversial policy riders. That could mean that permitting reform waits for another day.

### **NATIONAL DEFENSE AUTHORIZATION ACT (AND POSSIBLY SAFE)**

The Senate will work on its version of the National Defense Authorization Act (NDAA). The House passed its version earlier in the year. Once the Senate passes its bill, the two chambers can work on a compromise bill, which will likely be considered during a lame duck session in December.

The House bill includes the SAFE Banking Act (just as it did in 2021). Adding the SAFE bill to the Senate bill would significantly increase SAFE's chances of becoming law, but chances are less than 50/50 that SAFE gets added to the Senate's NDAA bill.

The SAFE Banking Act would allow banks to provide financial services to cannabis companies in states where cannabis has been legalized. Currently, banks would violate federal anti-money laundering laws if they provided services to cannabis companies because cannabis is still illegal under federal law. SAFE would create legal protection for banks serving customers in states where cannabis is legal.

If the Senate includes the SAFE Act in its NDAA, then SAFE's chances of becoming law would be quite good. However, it faces two key hurdles in the Senate. The authors of the NDAA want to keep the bill as "clean" as possible. Including nongermane legislation can attract unnecessary opposition which would make it tougher to pass the NDAA. Part of that opposition could come from senators who support cannabis legalization and criminal justice reform and see SAFE as leverage for their broader goals. They do not want SAFE to pass unless they can pass decriminalization. If SAFE were to pass without decriminalization, they fear they would lose their leverage.

If the NDAA passes without SAFE, then it would still be possible to include SAFE as part of a compromise bill with the House. However, key senators would probably object to including SAFE if it is not part of the Senate bill, and it would therefore be difficult (although not impossible) to add SAFE to the compromise bill.

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