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FEDERAL UPDATE

Continuing Resolution and Adjournment Date Still in Flux as Congress Faces Financial System Crisis

As expected, the fiscal 2009 Defense, Homeland Security and Military Construction-Veterans' Affairs spending bills may end up as an appropriations "mini-bus" that will carry a continuing resolution (CR) to fund the federal government after the end of the fiscal year on September 30th. House leaders may attach the CR to keep other departments and agencies running at fiscal 2008 spending levels until mid-November or early next year. To date, none of the regular 12 appropriations bills – including the Interior bill (which funds historic preservation programs) – have passed either chamber.

Congress is also trying to pass an economic stimulus package before adjourning. House Speaker Pelosi (D-CA) said Tuesday that if Congress cannot clear a stimulus bill before the end of the month, components of that bill could be added to the CR. Preservationists are looking to get funding for SHPO reviews and disaster assistance grant funding related to the Midwest and Texas hurricane/flood disasters. Prospects, however, for such funding at this point are slim and may have to wait until a lame-duck session or the next Congress. The agenda and duration of any lame-duck session are still uncertain and largely would depend on the election outcome and dealing legislatively with the financial crisis gripping Wall Street.

Tax Extenders Package Includes Tax Credit Extensions for Gulf Coast and Midwestern Flood Disaster Areas

This week the Senate included three key provisions of ours in its version of tax extenders package (HR 6049) awaiting floor action and House consideration. The first is the extension of the historic tax credit for the Gulf Coast GO Zone areas [damaged by Hurricanes Katrina and Rita] to the end of 2009. The bill language states:

"The Gulf Opportunity Zone Act of 2005 increased the rehabilitation credit, within the Gulf Opportunity Zone, from 10 percent to 13 percent of qualified expenditures for any qualified rehabilitated building other than a certified historic structure. It also increased the credit from 20 percent to 26 percent of qualified expenditures for any certified historic structure. This provision expires at the end of 2008. This proposal would extend the provision through December 31, 2009. *The estimated cost of this proposal is \$50 million over ten years.*"

The second is an extension of the New Markets Tax Credit:

"Current law provides a credit for taxpayers who hold a qualified equity investment on a credit allowance date. The provision expires December 31, 2008. The proposal would extend the provision through 2009. The proposal is effective for investments made after December

31, 2008. *The estimated cost of this proposal is \$1.315 billion over ten years.*"

The third is a provision and is similar to what was enacted for Katrina/Rita and the Gulf Coast for Midwestern disaster relief. It would apply to all counties in the affected disaster areas but would only apply to "damaged" structures:

"Midwestern Disaster Area Tax Relief. The proposal provides tax relief for victims of the Midwestern disaster in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin. The proposals are applicable to floods, severe storms, and tornadoes that are declared by FEMA on or after May 20, 2008, and before August 1, 2008. Disasters that occur prior to this period qualify for tax relief if the FEMA disaster declaration occurs during this period. For buildings that were damaged or destroyed in an applicable disaster, the rehabilitation credit is raised from 10 percent to 13 percent of qualified expenditures for any qualified rehabilitated building other than a certified historic structure, and the rehabilitation credit is raised from 20 percent to 26 percent of qualified expenditures for any certified historic structure. *The estimated revenue loss of this proposal is \$3 million over ten years.*"

However, Sens. John Cornyn (R-TX) and Kay Bailey Hutchison (R-TX) indicated their concern about the variety of tax breaks that would be extended to the victims of the Midwestern floods but not to other parts of the country — most notably the Texas Gulf Coast and Galveston, which were devastated by Hurricanes Gustav and Ike. As a result, these areas will be covered under a new, temporary national-disaster tax-relief program. Sens. Hutchison, Cornyn and Baucus also announced a resolution late Thursday that would provide low-income-housing tax credits and other assistance to coastal counties in Texas and Louisiana and "allow governors flexibility to reallocate some of those resources depending on where the damage is worst." The estimated cost of the tax benefits is projected to be more than \$600 million.

Senate Committee Approves National Green Gas Registry Act

The Senate Environment and Public Works Committee approved by voice vote a bill (S. 1387), introduced by Sen. Amy Klobuchar (D-MN), to ensure accurate information about greenhouse gas emissions nationwide. The bill language was included as the first title of the Lieberman-Warner climate change bill (S 3036) that stalled in June.

In addition, the fiscal 2008 omnibus appropriations law (PL 110-161) required the EPA to develop a rule that would "require mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States." S. 1387 would expand on that provision by "adding more detailed requirements relating to which facilities are covered,

data collection and reporting, data verification, and EPA enforcement.”

The proposed registry could be an important tool in creating Federal, State and local incentives and funding for energy-efficiency retrofits for older and historic buildings. In the United States alone, buildings account for 70% of electricity consumption, 39% of energy use, and 39% of all carbon dioxide (CO₂) emissions.

STATE & LOCAL UPDATE

Michigan's Senate Approves Add-On to State Rehabilitation Tax Credit

Sponsored by Senator Cameron S. Brown, Senate Bill 973 (Substitute S-1) passed the Senate this week. This bill amends the Michigan Business Tax Act which says that if an owner's expenditures qualify for the 20% federal rehabilitation tax credit, their 25% state credit must be reduced by the amount of the federal credit - thereby reducing the state credit to 5%. The approved provision in SB-973 would mean a taxpayer could add-on an additional 10%-15% credit for qualified expenditures for the next five years. The add-on credit would be capped at \$8 million in 2009 and increasing \$1 million per year for total of \$12 million in 2013, with 25% set aside for smaller projects. If a taxpayer claims credits of less than \$250,000, they are entitled to a 90% refund. Also, the State Historic Preservation officer could approve 1 additional credit (not subject to the cap) during 2009 and 2 additional credits until 2013 for projects deemed to have high community impacts. The bill moves to the House Commerce committee for consideration.

For more details, visit Michigan Historic Preservation Network at <http://www.mhpn.org/> or the Michigan legislature at [http://www.legislature.mi.gov/\(S\(jbeuc055vz35cqqxchdy5bfw\)\)/mileg.aspx?page=getObject&objectname=2007-SB-0973](http://www.legislature.mi.gov/(S(jbeuc055vz35cqqxchdy5bfw))/mileg.aspx?page=getObject&objectname=2007-SB-0973).

New Legislative Provisions Would Change Federal Rehab Tax Credit Offset to Michigan's 25% State Rehab Tax Credit and Increase Qualified Rehab Expenses

