

Washington Update



August 2, 2013

Congress moved into its month-long August recess following a busy July. Lawmakers made some progress on appropriations bills, but signs point toward a rocky September on this front. The debate over healthcare and tax reform heated up while progress on immigration reform stalled in the House. Congress continued its investigations of improper activity by the Internal Revenue Service (IRS), and members moved forward on the long-term reauthorization of the Farm Bill. When Congress returns in September, legislators will once again take up these issues while also facing the immediate need to fund the government into Fiscal Year 2014 and to begin talks on raising the debt ceiling.

ISSUE—BUDGET

Congressional leaders again failed to negotiate a compromise on a budget this month. Both the House and the Senate passed their versions of the budget resolution for Fiscal Year 2014 (FY 2014) in March. Under normal circumstances, the competing resolutions would be reconciled in a conference committee. However, neither chamber has chosen conferees to send the bill to conference. In the Senate, the process has stalled as a handful of Republican senators are prohibiting their chamber from naming conferees until they are given guarantees that any negotiation will not raise the debt ceiling or taxes. In the House, Republicans are also refusing to send the bill to conference until the leadership of both chambers agree to a basic framework for negotiations.

ISSUE—APPROPRIATIONS

Congress made headway in the appropriations process this month, passing several spending bills out of the House and Senate Appropriations Committees. The Senate Appropriations Committee advanced bills for Commerce/Justice/Science (CJS), Defense, Homeland Security, Labor/Health and Human Services (HHS)/Education, and the Legislative Branch. They join appropriations bills for Agriculture, Energy & Water, Military Construction (MilCon)/Veterans Affairs (VA), and Transportation/Housing and Urban Development (HUD), which the Committee passed in June. The full Senate has yet to vote on any of these measures.

On the House side, the House Appropriations Committee passed spending measures for CJS, Financial Services, the Legislative Branch, and State/Foreign Operations. The Committee previously approved bills for Agriculture and THUD, which await a floor vote. The full House passed two appropriations bills in July, Energy & Water and Defense and previously approved bills for MilCon/VA and Homeland Security. The White House has threatened to veto any House appropriations bill that is in line with the House budget resolution numbers.

Notably, both chambers had an especially difficult time advancing THUD appropriations bills this month. The House and the Senate each brought their version of the bill up for floor votes, but neither was able to move them forward. In the House, Republican leaders made a last minute decision to pull their THUD bill from consideration, stating that the move was not based on a lack of votes for but on the fear that there would not be enough time to debate and vote on the large amount of amendments before the body left for the recess. However, House Appropriations Committee Chairman Hal Rogers (R-KY) contradicted these claims in a press statement by saying that the bill lacked sufficient support to pass. Chairman Rogers was also pessimistic about future attempts to pass the bill. In the Senate, the THUD bill was stalled due to strong Republican opposition. Senate Minority Leader Mitch McConnell (R-KY) led the charge to prevent the bill from progressing to a final vote. Leader McConnell opposed the bill's baseline numbers, which were above the caps instituted by the Budget Control Act of 2011.

A full listing of the FY 2014 appropriations bills can be found [here](#).

As Congress moves forward on appropriations bills, the clock is ticking down on funding for the federal government. The current Continuing Resolution (CR) that is funding the government will expire on September 30, 2013. Upon returning from their August recess, Congress will need to negotiate a new CR or face the prospect of a government shutdown. The largest hurdle on passing a new CR may end up being whether House and Senate Republicans decide to block the CR from including any funds for implementing the Affordable Care Act.

ISSUE—DEBT CEILING

Lawmakers made little progress this month on the need to raise the nation's debt limit. In January, Congress approved a bill that allowed the Treasury Department to raise the U.S. debt ceiling to meet all obligation accrued before May 19, 2013. The Treasury officials have instituted several "extraordinary measures" to push back the date on which the federal government will default on obligations made after May 19. Most analysts expect rising tax revenues will push the default date further back into the fall, likely into November or later.

Congress is still attempting to find a compromise on the debt ceiling. Previously, Republicans in the House have used the debt limit and the threat of government default as leverage to achieve some of their policy goals, most notably cuts to spending. However, Treasury Secretary Jacob Lew reiterated this month that President Obama will not negotiate over the debt ceiling, a sentiment that has been echoed by Senate Democrats. Speaker of the House John Boehner (R-OH) and other House GOP leaders have yet to bring a debt ceiling bill to the floor and have indicated that they are still developing a strategy on how to move forward.

ISSUE—HEALTHCARE

On July 23, the House Energy and Commerce Subcommittee on Health approved by voice vote a [bill](#) that would reform and replace the Sustainable Growth Rate (SGR) formula used to calculate Medicare payments to physicians. On July 31, the full Energy and Commerce Committee unanimously approved the legislation. While the bill would replace the SGR with a new fee for service system paired with quality measures, leaders have yet to agree on a way to pay for the \$140 billion cost of the plan. The bill marks the most substantial step taken thus far in the process to repeal and replace the SGR and is backed by a bipartisan group of legislators, including Energy and Commerce Chairman Fred Upton (R-MI) and Ranking Member Henry Waxman (D-CA). On July 31, the Senate Finance Committee met to discuss SGR reform. While the Committee has yet to take any legislative action, Chairman Max Baucus (D-MT) spoke supportively of the House bill, calling it a good starting point for reform. If Congress fails to act, there will be a 25% cut in physicians' Medicare reimbursement rate beginning on January 1, 2014.

On July 19, the House Ways and Means Committee released a [discussion draft](#) listing three ways to reform the Medicare program. The proposals include increasing premiums for high-income seniors, increasing the Part B deductible, and establishing a home health co-pay. All three proposals were included in President Obama's 2014 budget. The public may [submit](#) comments on the draft via email until August 16.

ACA Implementation

The debate over the ACA and its implementation continued this month when the Obama Administration announced that it would delay implementation of the employer mandate component of the ACA, which requires companies with 50+ full time employees to offer medical coverage to their workers or face a monetary penalty. The decision to delay implementation until January 1, 2015, is seen as a victory for the business community, which aggressively criticized the mandate as burdensome, complex, and potentially a hindrance on a still recovering economy. The Treasury Department, which has regulatory oversight of the employer mandate, promised to streamline the mandate's rules over the additional year in order to make them simpler and less burdensome on businesses. Following the announcement, the Congressional

Budget Office (CBO) released a [report](#) stating the delay will cost \$12 billion and would likely result in 1 million fewer people having employer health coverage. The two main coverage tools in the ACA, the individual mandate to purchase insurance and the subsidized insurance exchanges, are unaffected by the announcement.

Predictably, the announcement created firestorm in Washington as critics of the ACA presented the delay as further evidence backing their claims that the law is too complex and unable to function as intended. Republicans in Congress were quick to criticize the move, with Speaker Boehner saying that the announcement means that “even the Obama administration knows the ‘train wreck’ will only get worse.” Senator John Barrasso (R-WY) went even further, stating that “delaying the employer mandate is a clear admission by the administration that the health care law is unaffordable, unworkable and unpopular” and suggested that the move was a “political ploy” to insulate Democrats from the law’s negative effects until after the 2014 midterm elections. Some, such as House Oversight Committee Chairman Darrell Issa (R-CA), questioned the Obama Administration’s authority to delay the mandate without going through Congress, a sentiment that was surprisingly shared by Health, Education, Labor, and Pensions Committee Chairman Tom Harkin (D-IA). House Republicans probed the delay in multiple committee hearings, including in Ways and Means and Energy and Commerce Committees.

Republicans were also incensed by the Administration’s decision not to delay the individual mandate. Speaker Boehner openly questioned whether it was fair to allow corporations a reprieve from their mandate without giving the same exemption to individual Americans. Ultimately, that question led House Republicans to push through a [bill](#) to delay the individual mandate by a 251-174, including 22 Democrats. The House also passed a [bill](#) to authorize the delay of the employer mandate. Republicans in both chambers continue to put pressure on Senate Democrats and the White House to delay the individual mandate.

Democrats, however, have yet to heed the calls to exempt individual Americans from being required to purchase insurance. Instead, the White House vigorously defended its decision to delay the employer mandate, with White House Senior Advisor Valier Jarrett saying that the White House was simply listening to the concerns of the business community by giving them more time to properly implement the law. Additionally, Democrats attempted to reclaim the ACA narrative this month by pointing to the successes of the healthcare law. They highlighted a recent report that shows insurance rates in New York will be “at least 50% lower on average” in 2014 than what is currently available in the state. The Obama Administration grabbed onto the report and used it to bolster their case that the ACA is working properly in states that fully implement the law. Republicans are countering this argument by pointing to rising premiums in other states, citing examples like Georgia where rates could increase by 198%.

Despite Democrats' attempts to defend the ACA, public polling released this month suggests that the American public is still wary of the law. In a Rasmussen Reports survey released this month, pollsters found that 55% of U.S. voters view the ACA unfavorably with only 39% viewing it positively. This followed an earlier poll that showed nearly half of the country's uninsured do not know that they will be legally required to purchase insurance once the individual mandate goes into full effect.

Amid this data, the Obama Administration stepped up its efforts in July to educate the public on the ACA. The Department of Health and Human Services (HHS) announced that it will be handing out \$150 million in grants for enrollment efforts. The funds will go to nearly 1,200 health centers across the country, allowing them to employ an additional 2,900 outreach and eligibility workers. HHS also announced that it would release an additional \$198 million in grants to aid select states in setting up their insurance market exchanges. The funds will be awarded to six states—Colorado, Nevada, New Mexico, Vermont, Virginia, and West Virginia—and will be utilized for a variety of different purposes, including technological enhancement, educational outreach, and quality improvement.

HHS also announced this month that Secretary Kathleen Sebelius will be touring the country to promote the health care law. She has already spoken at the NAACP's national convention and will continue to meet with groups and build support for enrollment efforts throughout the summer.

ACA proponents also gained a powerful ally this month as CVS Caremark announced they will be using the company's 7,400 North American pharmacies as a gateway for enrollment information, focusing especially on low-income Americans.

Finally, July saw the ACA being drawn into the fight over government funding. With the current CR set to expire at the end of September, House Republicans are calling for the new CR to be stripped of funding for the ACA. Some members are strongly urging their colleagues to make funding the government conditional on defunding the ACA. The most vocal supporter of this stance is Senator Ted Cruz (R-TX), who will be using the August recess to travel around the country on an anti-ACA tour and building public support for his position. However, not all Republicans in Congress are sold on the idea. Senator Tom Coburn (R-OK) recently released a [memo](#) from the Congressional Research Service (CRS) that indicates that even if the CR is stripped of ACA funding or the government shutdown, ACA programs have other funding sources and would not be completely halted. GOP leaders in both chambers are weighing their options on how to proceed on the CR and whether to strip the measure of ACA funding.

Prescription Drug Supply Chain Legislation

During the debate over the FDA User Fee legislation in 2012, a proposal, which was ultimately not included in the final law, aimed to secure the U.S. prescription drug

supply chain to protect against counterfeit drugs. The committees of jurisdiction have each reviewed the issues over the past few months and introduced legislation to address the issues.

On June 3, the House passed its [version](#) of the bill by voice vote. In the Senate, the Health, Education, Labor, and Pensions (HELP) Committee marked up its [version](#) of the bill on May 22. The legislation was combined with a pharmaceutical compounding bill. In July, the HELP Committee released a manager's amendment for the bill. Despite an attempt to pass the bill before the August recess, HELP Committee leaders and staff continue to work through issues primarily with the compounding portion of the bill with the goal of Senate floor consideration in the fall.

ISSUE—TAX REFORM

There were several new developments on taxes and tax reform in July. On July 9, the CBO announced that tax receipts are up 14% so far this year, including a 17% increase in corporate tax receipts alone. The CBO estimated that revenues have grown by \$263 billion over the first nine months of the fiscal year.

In another tax development, the Government Accountability Office (GAO) released a [report](#), at the request of Senators Carl Levin (D-MI) and Tom Coburn (R-OK), stating that large corporations paid on average 12.6% effective tax rate in 2010. This figure is far below the top statutory rate of 35% that has been criticized by businesses for being too burdensome and uncompetitive. The report also lends support to claims by some in Congress that large multinationals are utilizing legal loopholes to shrink their tax bill. The report was immediately criticized by business groups claiming that the GAO underestimated the hurdles businesses face. Groups like the Business Roundtable attacked the GAO for focusing on a period of time when many corporations were still dealing with losses sustained during the recession, which drove down many businesses' effective tax rate.

On July 19, the Organization for Economic Cooperation and Development (OECD) released a [report](#) on international profit shifting and tax avoidance. The report laid out a 15-point plan that seeks to close loopholes that allow multinational companies to shift their profits from high-tax to low-tax jurisdictions. Among the suggested reforms, the OECD calls for countries to require companies to disclose more information about their operations in order to more easily ascertain where corporations earn their money and where they pay taxes. The report received a positive reaction from some in Washington, including Treasury Secretary Jacob Lew and Senator Carl Levin (D-MI), whose Senate Subcommittee on Investigations continues to examine tax strategies for global companies.

In June, Finance Committee Chairman Baucus and Ranking Member Orrin Hatch announced that the Finance Committee would be taking a “blank-slate” approach to rewriting the tax code in which no tax expenditures or other provisions would automatically be protected. Senators had until July 26 to submit proposals making their case for which provisions to add back into the tax code. While initial reports indicate that a smaller than expected number of senators responded in writing to the Baucus-Hatch request, many of the responses focused on general principles of tax reform without getting into whether specific tax expenditures should be maintained in the reform package.

Ultimately, the biggest hurdle for tax reform is the question of whether tax reform should be revenue-neutral. In July, Ranking Member Hatch (R-UT) stated that he and Chairman Baucus had agreed that any tax reform proposal would be revenue-neutral. Baucus’ office initially denied the agreement, and eventually the two men released a joint statement in which they promised to continue the debate over revenue and allow the question to be addressed through the legislative process. Senate Majority Leader Harry Reid (D-NV) has staked out Senate Democrats’ position by saying that any tax reform effort must be conducted “under the total understanding that it can’t be revenue-neutral.” Leader Reid went on to call for significant new revenue in tax reform, saying that the Senate budget number of \$975 billion in revenue would be a good model. Senate Minority Leader Mitch McConnell (R-KY) has taken the opposite view, joining with Ranking Member Hatch in calling for tax reform legislation to be free of any new tax revenue.

The debate over the issue is certain to continue, but unless Democrats and Republicans can reach an agreement over revenue, tax reform proposals may fail to gain traction.

Undeterred by the debate over revenue, Chairman Baucus and Ways and Means Chairman Dave Camp began their multi-state tax reform “road show” this month, travelling across the country to get an outside the Beltway perspective and pitch the need for reform. The tour launched in Minnesota and will continue over the coming weeks before the chairmen return to Washington in the fall to begin the process of crafting tax reform legislation.

In the House, Chairman Camp told a bipartisan group of committee members on July 31 that he intends to schedule a markup for October prior to the debt ceiling fight. Senator Mike Enzi (R-WY), a member of the Senate Finance Committee, stated this month that he believes the Committee will begin work on a tax reform bill when Congress returns from its August recess in September. However, an aide for the Finance Committee said that no specific timeline has been set.

ISSUE—IRS SCANDAL

During July, Congress continued its investigations into improper activity at the Internal Revenue Service (IRS). The controversy began in May when an IRS official apologized for IRS employees who targeted conservative groups for extra scrutiny when reviewing applications for tax-exempt status. Additionally, Treasury Inspector General for Tax Administration (TIGTA) J. Russell George released a [report](#) from his office's investigation into the IRS' practices, which confirmed that undue discrimination took place. The revelations subsequently led to resignation of IRS Acting Commissioner Steve Miller and prompted lawmakers to take a closer look at the tax-collecting agency.

Several hearings were convened this month to further probe the issue, most notably by the House Oversight Committee. The hearing was called by Oversight Chairman Darrell Issa to further investigate claims that the improper scrutiny of conservative groups' applications was a result of the political bias of top IRS officials. Long-serving IRS employees indicated that they were unaware of any inherent political bias and that agency procedures were to blame. Inspector General George also made a return appearance before the Committee. George was grilled by Democratic members for not including targeting of liberal political groups in his initial report. George apologized, claiming that documentation for those claims was never provided to his office during the initial audit. He stated that his office is reviewing the process. Additional IRS hearings are expected to further scrutinize this and other issues surrounding the scandal.

On August 1, the White House announced that President Obama would be nominating John Koskinen as IRS Commissioner. Koskinen previously worked in the Clinton Administration as Deputy Director for Management of the Office of Management and Budget (OMB) and at the Federal Home Loan Mortgage Corporation (Freddie Mac) in the aftermath of the financial crisis of 2008. Due to the current scandal at the IRS, Koskinen is expected to face a tough nomination fight and, if he is confirmed, vigorous scrutiny of his management of the embattled agency.

ISSUE—IMMIGRATION REFORM

Little progress was made in July on immigration reform, a key issue on President Obama's second term agenda. In June, the Senate previously passed a comprehensive immigration reform [package](#) that included

- Tighter border security with additional border fencing
- Mandatory employment verification (E-Verify)
- Visa exit system at all international airports & seaports
- Expansion of the HB-1 visa program for highly skilled workers and a fast-tracked green card process for college graduates

- A guest worker program for low skilled workers, including a separate guest worker program for agricultural laborers
- A pathway to legal recognition through the creation of a Registered Provisional Immigrant (RPI) status
- A pathway to citizenship following the attainment of RPI status

The House has moved much slower on the issue. Speaker Boehner has already ruled out the Senate's immigration proposal. Behind these sentiments is the belief that House Republicans will be hesitant to support a bill that creates a pathway to citizenship for the country's 11 million undocumented workers. Accordingly, most interest in the House has centered on a piecemeal strategy by which individual proposals are moved forward to address singular issues, such as border security and employee verification. This contrasts with the Senate's comprehensive approach, and several Senate Democrats announced this month that they will balk at any House bill that does not include a pathway to citizenship, which is a priority for both the Congressional Democrats and the White House.

There may still be an opportunity for a comprehensive immigration reform bill to emerge in the House. A bipartisan group of lawmakers—Reps. Becerra (D-CA), Carter (R-TX), Diaz-Balart (R-FL), Gutierrez (D-IL), S. Johnson (R-TX), Lofgren (D-CA), and Yarmuth (D-KY)—have spent the past few months working on a proposal that would address all of the issues included in immigration reform. However, the group has yet to release draft legislation.

ISSUE—FARM BILL

The debate over the pending Farm Bill also continued this month. Farm Bill programs are currently operating under a short-term extension of the 2008 Farm Bill until September 30, 2013. The Senate passed its [version](#) of the bill in June on a vote of 66-27. The House version, however, was defeated on the floor amid criticisms from both Republicans and Democrats. In order to assuage their Republican colleagues' concerns over the cost of the legislation, GOP leaders brought forward an amended [bill](#) that dropped funding for the Supplemental Nutrition Assistance Program (SNAP), also known as food stamps. The bill passed on a 216-208 vote, with no Democrats voting in favor. Senate leaders, including Senate Agriculture Committee Chairman Debbie Stabenow (D-MI), spoke out against the House measure and are likely to oppose the cuts to SNAP. A conference committee between the House and Senate would be charged with resolving differences between the two bills, but this will not happen until at least September which may result in another short-term extension of current law.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Gallup	August 1	Approve 44, Disapprove 49
Rasmussen Reports	August 1	Approve 48, Disapprove 50
Quinnipiac	July 31	Approve 46, Disapprove 48

Job Approval: Congress

Poll	Date	Results
The Economist/ YouGov	July 29	Approve 6, Disapprove 71
Fox News	July 23	Approve 18, Disapprove 74
CBS News	July 22	Approve 17, Disapprove 76

Direction of the Country

	Date	Results
The Economist/ YouGov	July 29	Right Track 29, Wrong Track 59
Reuters/Ipsos	July 30	Right Track 25, Wrong Track 56
Rasmussen Reports	July 28	Right Track 26, Wrong Track 65

CABINET SELECTIONS:

Cabinet Members	Incumbent	Status	Nominated Replacement	Confirmed
State	John Kerry	New to post	-	-
Treasury	Jacob Lew	New to post	-	-
Defense	Chuck Hagel	New to post	-	-
Justice	Eric Holder	Remaining	-	-
Interior	Sally Jewell	New to post	-	-
Agriculture	Tom Vilsack	Remaining	-	-
Commerce	Penny Pritzker	New to post	-	-
Labor	Thomas Perez	New to post	-	-
Health and Human Services	Kathleen Sebelius	Remaining	-	-
Housing and Urban Development	Shaun Donovan	Remaining	-	-
Transportation	Anthony Foxx	New to post	-	-
Energy	Ernest Moniz	New to post	-	-
Education	Arne Duncan	Remaining	-	-
Veterans Affairs	Eric Shinseki	Remaining	-	-
Homeland Security	Janet Napolitano	Resigning	To be determined	-
Cabinet-Level Officers				
Vice President	Joe Biden	-	-	-
White House Chief of Staff	Denis McDonough	New to post	-	-
Director of Office of Management and Budget	Sylvia Matthews Burwell	New to post	-	-
EPA	Gina McCarthy	New to post	-	-
Trade Representative	Michael Froman	New to post	-	-
U.N. Ambassador	Samantha Power	New to post	-	-
Chair of Council of Economic Advisers	Alan Krueger	Remaining	-	-
Small Business Administrator	Karen Mills	Retiring	To be determined	-