

Washington Update



July 1, 2013

Congress entered its Fourth of July recess following a month that saw action on key issues. Negotiations over the budget remained deadlocked while leaders on Capitol Hill looked to chart a path forward on tax reform and the need to raise the nation's debt limit. Progress on the Farm Bill stalled following a key setback while state and federal governments continued their efforts to implement healthcare reform. The Supreme Court ended its term with decisions on high profile cases, and the debate over immigration reform came to a head in Washington as the Senate debated and passed a comprehensive immigration reform package.

ISSUE—BUDGET

Progress in the budget negotiation process stalled this month as Republicans in both chambers continued to object to naming conferees to the budget conference tasked with reconciling the competing House and Senate budget proposals. A handful of Republicans in the Senate are prohibiting the body from choosing conferees until they are given guarantees that any negotiation will not raise the debt ceiling or taxes. However, Speaker John Boehner (R-OH) told Senate Minority Leader Mitch McConnell (R-KY) this month that House Republican leadership is not taking an increase in the debt ceiling off the table in budget negotiations with Senate Democrats, possibly making it more difficult to convince reluctant Republicans to allow the budget resolutions to go to conference. Further complicating the process is House Republicans refusal to name their own conferees until both chambers can agree on a general framework for the negotiations.

ISSUE—NDAA AND DEFENSE-RELATED APPROPRIATIONS

Congress moved forward this month on the National Defense Authorization Act (NDAA) and defense appropriations bills for FY 2014. On June 4, the House passed the appropriations bill for Military Construction and Veterans Affairs (MilCon/VA). Two days later, on June 6, the House also passed the Homeland Security appropriations bill. On June 14, the House Appropriations Subcommittee on Defense advanced the appropriations bill for Defense. The top line number is \$512.5 billion, a \$5.1 billion reduction from the current fiscal year. The White House has threatened to veto any

House appropriations bill that is in line with the House budget resolution numbers. On the Senate side, the Appropriations Committee passed its version of the MilCon/VA spending bill on June 20.

On June 14, the House passed its version of the NDAA ([H.R. 1960](#)) by a vote of 315-108. The Senate Armed Services Committee advanced the Senate NDAA (S. [1197](#)) on June 22 and it is awaiting consideration on the floor.

ISSUE—DEBT CEILING

On January 31, Congress passed a bill allowing the Department of the Treasury to raise the U.S. debt ceiling. The measure suspended the legal mandate to limit the government's ability to borrow until May 18. The law allowed the Treasury to automatically raise the debt ceiling, but only to meet obligations accrued before May 19, pushing back the actual default date. The Treasury Department has instituted several "extraordinary measures" to push back the date. The Congressional Budget Office (CBO) announced in June that they expect the U.S. to hit the debt ceiling in October or even November.

The larger debt ceiling debate is unlikely to heat up until after the August District Work Period. However, Sen. Barbara Boxer (D-CA) and Rep. Jim McDermott (D-WA) introduced a bill that would tie legislators' salaries to an increase in the debt ceiling. The measure mimics an earlier bill passed by House Republicans that made lawmakers receiving their salary contingent on passing a budget resolution. The Boxer-McDermott version of the bill would place members' pay in escrow if the federal government began to default on its obligations due to a failure to increase the debt limit. Legislators would receive their pay if they raised the debt ceiling or when the session ended. The bill is an attempt to prompt Republicans to act.

ISSUE—TAX REFORM

Progress on tax reform continued this month as the Senate Finance Committee released its three final [options papers](#): Types of Income and Business Entities, Tax-Exempt Organizations and Charitable Giving, and Non-Income Tax Issues and Related Reforms. This brings the total number of options papers released to ten.

Following the release of the final option paper on June 20, Senate Finance Committee Chairman Max Baucus (D-MT) indicated that he is prepared to move forward on reform, stating that "the next steps are more concrete in the nature of proposals that will be coming out fairly soon."

The Committee took another important step on June 27 when Chairman Baucus and Ranking Member Orrin Hatch (R-UT) announced that they will work from a tax code “blank slate” with no tax expenditures or other provisions automatically protected. All senators will have until July 26 to submit proposals making their case for which provisions to add back into the tax code.

In the House, Ways and Means Committee Chairman Dave Camp has also expressed a desire to continue moving forward on tax reform. Both he and Chairman Baucus have agreed that the impending debt limit deadline will likely focus attention on reform efforts and create legislative momentum going into the fall. However, both men have indicated they plan to move ahead independent of the debt ceiling situation.

Chairmen Baucus and Camp also announced this month that they will be traveling around the country together on a listening tour to gather perspective from outside of Washington, DC and to make the case for change. They also plan to use the summer to host bipartisan luncheons with lawmakers to build support for the proposals they hope to introduce later in the year.

On June 13, the Ways and Means Committee held a [hearing](#) entitled “Tax Reform: Tax Havens, Base Erosion and Profit-Shifting.” The hearing looked at methods some multinational corporations may use to shift profits abroad in order to avoid domestic taxation. The hearing follows a May 21 meeting of the Senate Homeland Security and Governmental Affairs Subcommittee on Investigations that looked at alleged profit shifting practices of Apple Inc.

ISSUE—IRS SCANDAL

During June, lawmakers continued their investigations into impropriety 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. A subsequent [report](#) released from the Treasury Inspector General for Tax Administration (TIGTA) confirmed the IRS had inappropriately targeted conservative and “tea party” groups for additional review. The scandal ultimately led to the resignation of IRS Acting Commissioner Steve Miller and the appointment of Danny Werfel as his replacement. Acting Commissioner Werfel has repeatedly stated that he will work to avoid a repeat of the episode, and on June 24, he released a [report](#) detailing his initial assessment of the investigation as well as new steps the IRS is taking to prevent groups from being subject to inappropriate levels of scrutiny as they apply for tax-exempt status. Some Republicans, however, did not think the report went far enough. At a June 27 Ways and Means hearing, some Republicans blasted Werfel’s report for being “incomplete” and saying that politics did not have a role to play in the scandal. Democrats are also displeased with the IRS’ handling of the situation. Ways and Means Ranking Member Sander Levin (D-MI) criticized the IRS and

the TIGTA reports for not detailing what he believed to be biased review of left leaning groups. Levin, along with other Democrats claimed that the TIGTA report was too lopsided and missed instances in which progressive groups were targeted for heightened scrutiny. However, Chairman Camp released a statement saying that the TIGTA report and his own Committee's investigation did not show targeting of progressive organizations.

ISSUE—HEALTHCARE

On June 28, Republican members of the House Energy and Commerce Committee released a newly revised [draft proposal](#) that would repeal and replace the Sustainable Growth Rate (SGR) formula used to make Medicare payments to healthcare providers. The draft follows the first proposal that was released on May 28. Energy and Commerce Subcommittee on Health Chairman Joseph Pitts (R-PA) said that the new proposal takes into account comments from providers received after the initial release. The plan would replace the SGR with a new fee for service system paired with quality measures. If Congress fails to act, there will be a 25% cut in physicians' Medicare reimbursements beginning on January 1, 2014.

Controversy erupted in June over transplant eligibility when the Department of Health and Human Services (HHS) refused to grant a waiver to a young girl with cystic fibrosis. Ten-year-old Sarah Murnaghan was denied a place on the adult transplant list due to a policy of the Organ Procurement and Transplantation Network (OPTN) that bars children under the age of 12 from receiving an adult lung transplant. The controversy intensified when some members of Congress and the public called on HHS Secretary Kathleen Sebelius to grant a waiver for the girl. HHS refused to grant the waiver, but a federal judge issued a restraining order preventing HHS from enforcing the "under 12" rule. Murnaghan received an adult lung transplant, and OPTN subsequently decided to alter the rule to allow for some exceptions in extreme circumstances. It was recently reported that Murnaghan's first lung transplant failed and she subsequently had a second transplant shortly after.

ACA Implementation

In June, federal and state governments continued efforts to implement the Affordable Care Act (ACA). Secretary Sebelius announced that she hopes to have seven million people enrolled in the state-based insurance exchanges by March 2014. As such, HHS and the White House have begun a public push to educate and enroll citizens when the insurance marketplaces go live on October 1.

In an attempt to draw young people to the exchanges, Secretary Sebelius announced that the HHS is considering partnering with the National Football League (NFL) and other sports organizations to help promote the healthcare law. Leader McConnell and Senator John Cornyn (R-TX) responded to these reports by writing [letters](#) to the nation's largest

sports leagues advising them to avoid partnering in any ACA enrollment efforts and involving themselves and their players in the debate over the controversial and divisive law. At least one league is heeding their advice. On June 28, the NFL announced that the organization had no plans to work with the administration on the health law outreach effort.

Finally, HHS launched its revamped [website](#) this month. The new site is accessible to mobile devices and includes “social media, sharable content, and engagement destinations for consumers to get more information.” The website also directs visitors to a 24-hour help line that can help answer consumer questions in 150 languages.

Despite the Obama Administration’s rollout efforts, concerns remain, particularly among the elderly. In a June 26 meeting with Secretary Sebelius, congressional Democrats expressed concern that seniors are confused by the ACA and implored HHS to improve their educational efforts. Secretary Sebelius reiterated that the greatest challenge the rollout faces is combatting misinformation for all groups.

ISSUE—IMMIGRATION REFORM

The debate over comprehensive immigration reform continued this month, as the full Senate considered legislation from a bipartisan group of Senators known as the “Gang of Eight.” Comprised of Senators Rubio (R-FL), Schumer (D-NY), McCain (R-AZ), Durbin (D-IL), Graham (R-SC), Bennett (D-CO), Flake (R-AZ), and Menendez (D-NJ), the group has spent the last few months building support for the [Border Security, Economic Opportunity and Immigration Modernization Act of 2013](#). Among its provisions, the bill calls for:

- 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

Following a favorable vote by the Senate Judiciary Committee in May, the full Senate began debating the bill on June 12. On June 27, the Senate passed the immigration bill by a vote of 68-32. This falls short of the 70+ votes the Gang of Eight had hoped to garner in order to create enough momentum to force the House to act.

Many conservatives in the Senate had been wary of supporting a pathway to legalization and citizenship without tough measures to secure the southern border. In a bid to address these concerns, Senators Bob Corker (R-TN) and John Hoeven (R-ND) introduced an [amendment](#) to increase security on the border. The amendment's provisions would:

- Require The Department of Homeland Security to submit and fully deploy a Comprehensive Southern Border Security Strategy to Congress that includes minimum requirements for each sector along the border
- Deploy an additional 20,000 border patrol agents on the southern border
- Add an additional 350 miles of fencing
- Implement a mandatory employment verification system
- Implement the electronic entry/exit system at all international air and sea ports of entry within the United States.

The amendment gives DHS ten years to comply with these conditions. Until they are complete, RPI status could not be granted to any illegal immigrant. On June 25, the amendment was accepted by a vote of 67-27.

On the House side, progress on immigration reform has moved at a much slower pace. Several Republicans in the House have introduced strict immigration measures that focus mainly on border integrity, but Democrats have criticized the legislation as focusing too much on border security and not enough on dealing with the current population of undocumented immigrants. In response, a House version of the Gang of Eight has formed to help build a bipartisan and comprehensive immigration package. The group originally included Reps. Becerra (D-CA), Carter (R-TX), Diaz-Balart (R-FL), Gutierrez (D-IL), S. Johnson (R-TX), Labrador (R-ID), Lofgren (D-CA), and Yarmuth (D-KY), but Rep. Labrador left the group in June, citing irreconcilable differences with the Democrats over access to health care for illegal immigrants under RPI status. The remaining members of the group continue to look for a compromise that would allow them to move forward on the issue.

Any legislation, however, is likely to face steep odds in the House. Speaker Boehner already ruled out the Senate's version, and Senator Rand Paul (R-KY) predicted that the Senate's bill will be dead on arrival. At the core of these statements is the belief that House Republicans will be unwilling to support a bill that creates a pathway to citizenship. This sets up a potential showdown between Republicans on one side and Democrats and the White House on the other, which hold the pathway to citizenship as an essential part of any reform effort.

ISSUE—SUPREME COURT RULINGS

The Supreme Court ended their session this month with rulings on several hot button issues. On June 13, the Court unanimously [ruled](#) that genes cannot be patented by

corporations when they occur in nature and do not require invention. The case arose from Myriad Genetics' patents on two famous genes associated with breast cancer. Researchers had claimed that the patents hindered research efforts by blocking access to tests on the genes. The Court's ruling frees these and other genes to be tested and is likely to influence the growing field of genomics. The Court did, however, uphold the right to patent synthetic DNA.

On June 24, the Court handed down a [decision](#) extending protections to generic drug makers. The case in question involved a New Hampshire woman who sued Mutual Pharmaceutical after a generic drug left her blind and badly burned. The woman brought suit, and under provisions of New Hampshire's consumer protection law, was awarded a multi-million dollar ruling in her favor. The Supreme Court, however, reversed the decision. The Court ruled that consumers cannot sue generic drug makers in state court for a drug's design defects if the brand-name version of a generic drug was approved by federal officials at the Food and Drug Administration (FDA). The majority opinion stated that FDA approval preempted the state consumer protection law under which she sued. The 5-4 decision is expected to limit injured consumers' ability to sue generic drug manufacturers in the future.

The Court set off a public firestorm on June 25 when it struck down a key component of the Voting Rights Act (VRA). In a 5-4 [decision](#), the Court invalidated Section IV of the VRA, which sets the formula for which states and sub-jurisdictions must receive preclearance before making changes to their voting laws. The Court ruled that the data determining which jurisdictions must receive preclearance was outdated. The decision left intact the preclearance requirement, but unless Congress devises a new formula, the requirement is essentially void. Civil Rights activists criticized the ruling and, joined by Democrats in Washington, called on Congress to take action. Leader Reid has already promised that the Senate will act to reform the VRA so that it is compliant with the Court's decision, and the House Judiciary Committee announced that it will be holding a hearing in July to probe the effects of the decision.

The Court ended its term on June 26 by handing down decisions in two controversial gay rights cases. In a 5-4 [decision](#), the Court struck down the Clinton era Defense Against Marriage Act (DOMA), which federally recognizes marriage as being between one man and one woman. The Court ruled that DOMA "is unconstitutional as a deprivation of the equal liberty of persons that is protected by the Fifth Amendment." The decision paves the way for same-sex couples, legally wed in states that recognize such marriages, to receive federal benefits previously prohibited under DOMA.

The Court also delivered a ruling in the case revolving around California's Proposition 8, a constitutional referendum passed in 2008 defining marriage as being between one man and one woman. In another 5-4 decision, the Court ruled that the proponents of Proposition 8 lacked standing to defend the law in federal court after the State of California declined to appeal its loss in the original trial. The decision essentially upholds

a lower court's decision to overturn Proposition 8, allowing same-sex marriages to resume in most of California.

The Court's two marriage rulings bring up several immediate questions for states and the federal government. While the Court struck down DOMA's definition of marriage, it left intact states' rights to refuse to recognize marriages performed in other jurisdictions. Thus, questions abound on how officials will handle cases in which same-sex couples were legally wed in a state that recognizes same-sex marriage but are domiciled in a state that does not. Another lingering question is the financial impact of the Court's rulings. With DOMA no longer in force, same-sex married couples are now eligible for federal benefits and tax privileges that were previously reserved for heterosexual marriages. Same-sex couples will now have access to their spouses' Social Security and military benefits, adding to the costs of those programs. The rulings further complicate the current debates surrounding the deficit, entitlements, and tax reform, and they ensure that Congress will likely need to work through these and other issues going forward.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Gallup	June 30	Approve 45, Disapprove 48
Rasmussen Reports	June 30	Approve 47, Disapprove 52
Fox News	June 24	Approve 43, Disapprove 51

Job Approval: Congress

Poll	Date	Results
Fox News	June 24	Approve 15, Disapprove 77
The Economist/ YouGov	June 24	Approve 11, Disapprove 73
CNN/Opinion Research	June 13	Approve 16, Disapprove 83

Direction of the Country

	Date	Results
Reuters/Ipsos	June 25	Right Track 28, Wrong Track 56
The Economist/ YouGov	June 24	Right Track 32, Wrong Track 57
Rasmussen Reports	June 23	Right Track 30, Wrong Track 62

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	Seth Harris	Acting	Thomas Perez	Pending
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	Remaining	-	-
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	Bob Perciasepe	Acting	Gina McCarthy	Pending
Trade Representative	Michael Froman	New to post	-	-
U.N. Ambassador	Susan Rice	Remaining	-	-
Chair of Council of Economic Advisers	Alan Krueger	Remaining	-	-
Small Business Administrator	Karen Mills	Retiring	To be determined	-