

Washington Update



October 2, 2013

Congress returned in September from its month-long August recess with many serious issues needing to be resolved. Lawmakers were faced with several fast-approaching deadlines. The primary task was coming to an agreement on a Continuing Resolution (CR) to fund the federal government, along with the looming need to raise the nation's debt limit and possible action to relieve some of the impact of the automatic spending cuts known as sequestration. Amid the chaos of these ongoing fiscal fights, Congress and the White House attempted to move forward on a litany of other issues, including tax reform, energy regulation, and the implementation of the ever-controversial Affordable Care Act (ACA).

The CR debate ultimately resulted in a government shutdown for an undefined period of time. As talks continue, it is increasingly likely that the CR fight will only be resolved in the context of the debt ceiling debate. Adding more issues into the mix in some form of a grand bargain will allow all sides to claim victory.

ISSUE—GOVERNMENT FUNDING

The central focus in September was largely on the issue of government funding. In March of this year, Congress passed a CR to fund the government through the end of Fiscal Year 2013 (FY 2013), which ended on September 30. Under regular order, funding for the new FY 2014 would be allocated by Congress through appropriations bills. However, the [appropriations process](#) has stalled, with the House and Senate unable to agree on a single appropriations bill to send the White House. Consequently, attention turned to passing a short-term CR that would allow Congress to complete the appropriations process later this year.

For months, conservative Republicans in both the House and Senate sought to tie the CR to their ongoing efforts to “defund” the ACA, led by Senator Ted Cruz (R-TX) who promised to do everything possible to achieve this goal. Despite the calls from their conservative colleagues, many Republicans worried about the potential pitfalls and outcomes of the defunding strategy, believing that it would be futile to convince President Obama to defund his signature legislative achievement.

The last time the federal government shutdown was in late December of 1995 through early January of 1996, leading to the closure of many government offices and services. The public largely blamed the shutdown on congressional Republicans, who controlled Congress and had allowed funding to lapse following budget battles between the GOP and President Bill Clinton. Many analysts believe the episode helped aid in President Clinton's successful reelection campaign later that year.

Seeking to avoid a repeat of the Clinton-Gingrich shutdown, several veteran lawmakers publicly warned of the consequences of the GOP attempting to defund the ACA without controlling either the Senate or the White House. Moreover, some GOP lawmakers argued that the White House and Senate Democrats would welcome a government shutdown that they believed would be blamed on Republicans. Some Republicans also pointed out the ACA cannot be defunded through the CR. Senator Tom Coburn (R-OK) released a [report](#) from the Congressional Research Service (CRS) explaining that the rollout of the ACA would continue during a government shutdown since much of the implementation funding was already secured through the passage of the ACA, which is outside of the normal appropriations process.

Key conservatives in the House and the Senate, however, passionately argued that the ACA was going to be a "train wreck" that would devastate middle class families, the healthcare system and the broader economy. Conservatives, thus, contended that Congress must make one final stand against the ACA prior to its implementation on October 1. House Republican leaders ultimately supported the effort to defund the ACA and included defunding language in the first attempt at a House [CR](#), which would have funded the government until December 15 at an annual rate of \$986.2 billion. The bill passed on September 20 by a largely party line vote of 230-189.

As expected, after a week of debate and a historic 21-hour speech by Senator Ted Cruz (R-TX) opposing the ACA, Senate Majority Leader Harry Reid (D-NV) shut off debate and stripped out the House language defunding the ACA on a party line vote of 54-46. The Senate passed a so-called "clean" CR on September 27 on a party-line vote of 54-46.

In the final three days of September, the House and Senate ping-ponged competing CRs between the two chambers. House Republicans continued to demand some sort of concession on the ACA, and their subsequent legislation included provisions to delay the ACA's individual mandate for one year, a repeal of the ACA's medical device tax, and a ban on insurance subsidies for members of Congress, its staff, and some of the Executive Branch. Senate Democrats again rejected the House-passed CRs.

Congress was unable to come to an agreement on the CR before funding ran out on September 30. On October 1, the federal government shuttered non-essential operations. While the House at the last minute appointed conferees to a conference committee on the CR to resolve differences, the Senate rejected the motion to go to

conference. It is uncertain how long Congress will take to restore funding and whether or not they will provide retroactive pay for furloughed federal employees. Additionally, the full political impact on Congress and the White House is yet to be seen.

Since the government shutdown, House leaders have attempted a piecemeal approach through “mini-CR’s” which would fund more popular areas of government individually, including Veterans Affairs, National Parks, and the National Institutes of Health. The first three mini-CRs failed to reach the two-thirds threshold required for a bill considered under suspension of the rules. A spokeswoman for President Obama said he opposes this approach and would veto the bills.

ISSUE—DEBT CEILING

In September, Treasury Secretary Jacob Lew announced that the U.S. will hit the debt ceiling no later than October 17. In a letter to Speaker John Boehner (R-OH), Secretary Lew announced that on that date, the Treasury would have only approximately \$30 billion to meet the country’s financial obligations, far short of the amount needed to cover the net expenditures which could go as high as \$60 billion. Secretary Lew urged Congress to act before the United States defaulted on its obligations for the first time in its history.

The debt ceiling and CR have become intertwined given the close deadline dates. Republicans had hoped to avoid a prolonged battle over the CR, advising their colleagues to wait to negotiate over the debt ceiling. The belief among supporters of this position was that Republicans would have much more leverage in a showdown over the debt ceiling where the stakes are higher, blame would be more widespread and President Obama would not be able to refuse to negotiate.

Initially, House Republican leadership attempted to steer the Republican Conference in this direction by releasing a legislative framework for their debt ceiling bill. As a concession for raising the debt limit for a year, the proposal included a year-long delay of the ACA, fast track instructions to force action on tax reform, a call for the construction of the Keystone XL pipeline, and a variety of other savings and reforms.

However, a vote on the legislation was postponed after a lack of support for proceeding to the debt limit before resolving the CR. Meanwhile, the White House and its allies continuously reiterated their refusal to negotiate over the debt ceiling. Secretary Lew echoed these statements, stating that while the President remains committed to furthering the discussion on America’s fiscal direction, he would refuse to negotiate on raising the debt ceiling.

There has been much discussion this month of combining the debt ceiling with several other outstanding issues, particularly in the wake of the failed CR and government

shutdown. Members and analysts alike have suggested that a bill covering the debt ceiling, the CR and any combination of other controversial issues—such as tax reform, entitlement reforms, and/or a replacement for sequestration—could possibly result in a grand bargain, with both sides making concessions in order to move legislation forward. Nevertheless, such a grand bargain has yet to materialize, and the White House remains publicly opposed to Congress striking deals over other issues as a condition of increasing the debt limit.

ISSUE—SEQUESTRATION

Congress also continues to discuss sequestration, the across-the-board, automatic spending cuts that went into effect on March 1, 2013, after a brief delay by Congress. The cuts, which will total \$1.2 trillion over ten years, are split evenly between defense and non-defense spending. The next round of sequestration will go into effect at the beginning of 2014. So far, the effects of the sequester have been manageable. However, with additional cuts set to go into effect, some lawmakers are concerned about the long term effects and the public backlash. If the issue is to be addressed, it will be as part of a larger agreement over the more immediate fiscal challenges.

ISSUE—TAX REFORM

Senate Finance Committee Chairman Max Baucus (D-MT) and House Ways and Means Chairman Dave Camp (R-MI) continued their efforts this month to further the discussion on tax reform. During the August recess and in September, the two men travelled across the country to gain an outside the Beltway perspective on the tax code and to press the need for a tax rewrite. The chairmen visited several sites ranging from small businesses to larger corporations, such as Intel. During their tour, both men repeatedly mentioned the complexity of the tax code, calling it inefficient and outdated as well as a hindrance to economic growth.

While both Chairman Baucus and Chairman Camp remain committed to the tax reform process, some are wary of its chances. Both men have promised to bring a bill to their committees by the end of the year. Chairman Camp made the most public steps this month with regular closed-door meetings with his Republican Ways & Means members. While the meeting topics were closely guarded, the members reviewed the details of tax reform in an effort to move toward producing a draft of a comprehensive tax reform bill, possibly before the end of October.

Nevertheless, many members and analysts remain skeptical that tax reform will happen in this Congress. Senate Minority Whip Steny Hoyer (D-MD) recently called the task a “long shot.” This pessimistic view of the situation is predicated on the belief that Congress and the White House would ultimately be unable to overcome tax reform’s

greatest hurdle: the question of revenue. Republicans have repeatedly made clear that they will block any comprehensive tax reform legislation that is not revenue-neutral. Conversely, President Obama and congressional Democrats have continually demanded that any tax rewrite include a net increase in new revenues. Leader Reid has stated publicly that any tax reform effort must be conducted "under the total understanding that it can't be revenue-neutral." Unless Congress and the White House can come to an agreement over revenue, tax reform legislation is likely to stall. Additionally, the fiscal battles over government funding and the debt limit are likely to both delay the tax reform process and sour members on dealing with another heavy issue, especially as the country enters into the mid-term election year.

For months, members have been flirting with the idea of pairing tax reform fast track instructions with other must-pass legislation. In September, that idea became a reality when the House Republicans released their debt ceiling plan. While that legislation did not move forward yet as originally planned, it is possible that bipartisan support could emerge for including similar instructions in a grand bargain.

Outside of tax reform, several other notable tax stories developed over the August recess and September legislative session. One of the biggest stories was the nomination of John Koskinen to serve as the Commissioner of the Internal Revenue Service (IRS). If confirmed, he would replace Daniel Werfel, who came to head the embattled tax collecting agency following the fallout over allegations that IRS officials targeted conservative and Tea Party-aligned groups for extra scrutiny as they applied for tax exempt status. Koskinen's nomination now moves to the Senate Finance Committee where he is expected to face tough questions over his plans to reform the agency. One issue that Koskinen would not face if confirmed as the IRS chief is what to do with Lois Lerner, the IRS official who initiated the targeting scandal in May. Lerner announced her retirement in September .

ISSUE—HEALTHCARE

Aside from the ongoing entanglement of ACA implementation and the CR, federal and state governments continue preparations for full implementation of the healthcare law in September. The ACA crossed a huge milestone on October 1, when state and federal exchanges began to offer plans and rates to eligible citizens. Coverage will go into effect on January 1, 2014, and the enrollment period will end on March 31, 2014.

In September, the Obama Administration kicked off its six-month rollout of the ACA in an attempt to inform and enroll the public. Aiding in the Administration's efforts, several high profile officials are expected to join the President in making the ACA pitch to the American people. The White House will be deploying Vice President Joe Biden, First Lady Michelle Obama, and Cabinet secretaries across the country to encourage consumers to sign up for coverage. In addition to public officials, the Obama

Administration is turning to outside groups to join in supporting the enrollment push. President Obama joined former President Bill Clinton this month at the Clinton Global Initiative to make the opening sell of the healthcare law. The Administration is also partnering with several high-profile organizations to market the law, including CVS, Giant Food, and the Baltimore Ravens. Finally, the Department of Health and Human Services (HHS) continues to rely on non-profit organizations known as “navigators” to assist in enrolling the public.

Amid the Obama Administration’s ongoing efforts to publicize the ACA, controversy erupted in September, as Republicans highlighted several concerns about the navigator program. On September 19, the House Energy and Commerce Committee heard testimony from Center for Consumer Information and Insurance Oversight (CCIIO) Director Gary Cohen regarding the Administration’s readiness to begin enrollment on October 1. The hearing, entitled “[Two Weeks Until Enrollment: Questions for CCIIO](#),” probed several lingering issues with the healthcare law’s implementation, such as potential date glitches with the online insurance exchanges and a lack of information regarding the insurance plans offered on the federal exchange. A particularly heated portion of the hearing, however, focused on the navigator program. Republicans blasted Director Cohen and the Administration for failing to provide enough oversight of navigators and openly worried that navigator organizations, which are receiving federal grant money, could be intrusive to consumers and compromise their health information. Director Cohen defended the program, stating that the federal government will clarify to navigators that they cannot go door-to-door to sign up consumers. He continued by adding that, while HHS does not have the legal authority to require background checks, several states are doing so. Committee Democrats echoed Director Cohen’s statements, claiming that the hearing and further investigations into navigator conduct was a waste of time and distracting those organizations from focusing on signing up Americans for insurance coverage.

Additional issues regarding the ACA have continued to emerge. In September, the Obama Administration announced that it would delay the launch of the small business online exchange until November. This followed previous announcements that several states were also delaying the launch of their own exchanges. Furthermore, HHS has warned for months that the department anticipated glitches in the online enrolling systems. That prediction came to fruition when the exchanges went live on October 1, though HHS happily pointed to high online traffic as the cause of the technical difficulties. Nevertheless, Republicans have pounced on these announcements, using it to support their calls to repeal the law.

For the past several years, Republicans have called for the ACA to be repealed and replaced. In September, conservative Republicans in the House released the most comprehensive “replace” plan to date. The Republican Study Committee (RSC), a conservative caucus within the larger Republican Conference, unveiled [legislation](#) that would replace the ACA with a package of reforms, including medical malpractice reform,

tax deductions for individual insurance buyers, and changes to health savings accounts. Members of the RSC are touting the bill as a means to lower healthcare costs while providing for more physician access by making markets more competitive. However, House Republican leaders have yet to commit to a floor vote for the legislation. Still, the bill is seen as a means to blunt Democratic criticisms that the GOP has no alternative to the ACA.

ISSUE—ENERGY

Energy issues came to the forefront in September as the Obama Administration advanced a key portion of its domestic agenda by pursuing new policies to combat climate change. On September 18, the House Energy and Commerce Subcommittee on Energy and Power convened a hearing entitled “[The Obama Administration’s Climate Change Policies and Activities](#).” The hearing was held to probe the Obama Administration’s ongoing efforts to curtail climate change. Special attention was paid to President Obama’s [Climate Action Plan \(CAP\)](#) and its effects on the climate, employment, and continued economic growth. The Subcommittee heard testimony from Department of Energy Secretary Ernest Moniz and Environmental Protection Agency (EPA) Administrator Gina McCarthy.

While the Subcommittee members explored a plethora of environmental and energy related issues, discussion surrounding the pending carbon emissions rule was particularly contentious, especially as it related to coal fired power plants. Republicans, as well as Democrat Mike Doyle (D-PA), expressed concerns that emission regulations are not feasible, posing substantial hurdles for the coal industry and energy companies and negatively affecting consumers and middle class working families. For their part, Democrats, Secretary Moniz, and Director McCarthy defended the Obama Administration’s plans to enforce carbon emissions standards as necessary to combat both pollution and climate change and further argued that the changes would spur innovation and economic growth.

Two days later, on September 20, the EPA released the proposed [rule](#) on carbon emissions for electric utility generating units. The regulations, which must still pass through a period of public comment before going into force, call for performance standards on fossil fuel burning power plants. The rule would apply to future power plants and not existing facilities. Among the provisions is a requirement that would limit carbon emissions to 500 kilograms per megawatt-hour. The rule marks the first time that any federal agency has limited the amount of greenhouse gas pollution. The proposal would ultimately require future power plants to install carbon capture and storage (CCS) systems, which are costly and not yet available on a commercial scale.

As could be expected, the announcement initiated a hot debate over regulating carbon emissions and the effects on the economy. Republicans lambasted the proposed rule,

claiming that the cost of implementing CCS systems would lead to higher unemployment in the energy industry and an increase in electricity costs. Democrats countered by restating their belief that the measures are necessary to slow and reverse the effects of climate change. They further suggested that as more plants are built, the cost of CCS technology will decline. That has yet to assuage Republicans, who see the rule as a prelude to more expansive rules effecting existing power plants. Indeed, climate scientists see the new rule having a minimal effect on overall carbon emissions in the next few years since the regulations would leave untouched the thousands of plants currently in operation. Administrator McCarthy has acknowledged this fact and promised to deal with existing plants in future EPA policies, validating GOP concerns.

In the meantime, the Obama Administration has begun to sell the plan to the public. President Obama will be calling on several of his advisors and Cabinet officials to help make the pitch that the plan will positively reduce America's contributions to global warming while also spurring economic growth. Administrator McCarthy, Secretary Moniz, Interior Secretary Sally Jewell, White House climate advisor Heather Zichal, and others are expected to engage with the American public through events and a strong social media push. Additionally, the Administration is likely to lean on outside allies, such as Organizing for Action (OFA) and the Sierra Club, to help convince the public of the merits of the proposal. Such aggressive and Administration-wide advocacy showcases how serious the White House is taking this central part of President Obama's second term agenda. Additionally, the public relations blitz is seen by many inside the Beltway as a way to blunt future potential criticisms from environmentalists should the President approve the Keystone XL pipeline, which looks increasingly likely to get the green light.

The battle over energy continued this month as several Senators pledged to block the confirmation of a controversial nominee to the Federal Energy Regulatory Commission (FERC). Ron Binz, a former Colorado utilities regulator, received fierce resistance from Republicans and even some Democrats for his stances on coal and natural gas. With Senator Joe Manchin's (D-WV) decision to vote against Binz's confirmation, the nomination has effectively stalled without enough votes to move the nomination out of committee. Several other red state Democrats have expressed concerns over Mr. Binz, and Leader McConnell has vowed to defeat the nomination. Despite continued support from the White House, Mr. Binz withdrew his nomination on October 1, giving a victory to coal advocates in Congress.

Finally, amid the ongoing conflict over these energy and environment related issues, as well as the lingering fiscal battles, attention has been diverted from another important issue: energy efficiency. In June, Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) introduced a bill that would provide reform energy efficiency codes in an attempt to reduce energy waste. The bill has experienced difficulties over the past few months, including a recent battle over the amount and type of amendments to be offered for the bill. Due to the crowded congressional agenda, the Shaheen-Portman bill has been

pushed to the backburner. In light of the bipartisan nature of the legislation, however, Senate leaders are likely to eventually address and vote on the bill.

ISSUE—FARM BILL

The Farm Bill expired on September 30. Farm Bill programs had been operating under a short-term extension of the 2008 Farm Bill, but Congress failed to pass new funding before the bill expired.

Previously, the Senate passed its [version](#) of the bill in June on a vote of 66-27. The original House version, however, was defeated on the floor amid criticisms from both Republicans and Democrats. GOP leaders then brought forward an amended [bill](#) that addressed conservatives' concern over the legislation's cost by dropping 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. In September, the House finished action on the Farm Bill by passing a separate SNAP [bill](#) that would cut \$39 billion from SNAP over the next ten years through a series of reforms. A conference committee is expected to be convened to resolve the differences between the bills.

ISSUE—SYRIA

Most analysts assumed that when Congress returned from its August recess members would immediately begin work on solving the country's most pressing fiscal problems, especially given the tight deadlines for government funding and the debt limit. However, that assumption was largely thrown into doubt following developments in the ongoing Syrian civil war.

On August 21, a suburb of Damascus was subjected to a chemical weapons attack. The assault, which was conducted using sarin gas, took the lives of more than 1,400 individuals, mostly civilians. Following the chaotic aftermath of the attack, intelligence sources began to suspect the Syrian government, under the control of President Bashar al-Assad, was responsible. Over subsequent days, additional U.S. government officials confirmed that the massacre was carried out on the government's orders, with Secretary of State John Kerry stating that American intelligence proves "beyond reasonable doubt" that the Assad regime was guilty of chemical warfare.

The incident immediately seized Washington's attention just as lawmakers were returning home from their recess, threatening to divert attention from the looming domestic issues. The Syrian government's decision to gas its own citizens broke a highly venerated international norm banning the use of chemical weapons, a move that many around the world believed could not go unpunished. Further complicating matters were statements made by President Obama in 2012 that committed America to retaliation

should Syria cross the “red line” by using chemical weapons. With the integrity of international rules of war and his own credibility as a world leader on the line, President Obama began making the case for military intervention. He announced in September that he would order U.S. forces to bomb strategic sites in Syria that were suspected of housing the regime’s chemical weapons stores. However, he announced that he would first seek congressional input on the proposed strike.

The choice to defer to Congress not only reversed decades-long precedent in interpreting the War Powers Act, it also created an interesting bind for legislators. While most congressional leaders supported the White House’s strategy, the rank-and-file members were less than enthusiastic. War weariness became evident in multiple polls showing the American public strongly opposed to intervening in the situation. Consequently, an interesting dynamic emerged in Congress as isolationist conservatives joined with anti-war liberals to oppose the strike. To make matters worse, the Obama Administration experienced a massive set back when the British House of Commons voted to oppose military intervention, removing a key ally from the President’s plan. Amid the growing unease, the Senate Foreign Relations Committee was able to pass, on a 10-7 vote, a resolution authorizing President Obama to use force within a 60-day timeframe. The vote did not lead to additional support for the strike, and opposition continued to grow, raising the possibility of legislative defeat and a staggering blow to the Obama presidency.

With support for intervention dwindling, the White House was given a much needed way out from an unlikely source, Russia. A permanent, veto-wielding member of the United Nations (UN) Security Council, Russia maintains close ties with the Syrian government and previously blocked attempts to use the UN to punish its ally. However, hoping to avoid military conflict, the Russian government, led by President Vladimir Putin, proposed an alternative solution. The Russian proposal called for the Assad regime to place its stockpile of chemical weapons under international control. While senior U.S. officials remained skeptical of the plan, the Syrian government accepted the terms. Taking advantage of the opportunity, the White House backed away from congressional action and struck a deal with Russian officials to carry out the plan, both fulfilling the President’s commitment to act and avoiding embarrassing backlash from a hesitant Congress and public. The proposed plan of action has yet to be fully implemented, and should the Assad regime develop and use new chemical agents, pressure to act may return to the White House.

ISSUE—GUN CONTROL

Another tragedy caught Congress’ attention this month when on September 16, the Washington Navy Yard was the site of a mass shooting. The perpetrator, Aaron Alexis, was a civilian contractor whose attack on the military installation created a chaotic scene just a few miles from the Capitol. In response to the incident, the Capitol and the

Senate were placed on lockdown. Authorities eventually managed to corner and kill the shooter, bringing his killing spree to an end. Alexis killed 12 people.

In the aftermath of the shooting, discussion returned to gun control. Earlier in 2013, President Obama pushed for stricter gun control policies following the 2012 shooting at Sandy Hook Elementary in Newton, CT that resulted in the death of 20 school children and 6 faculty members. The event led to a bipartisan bill that would expand background checks for gun purchasers, but the legislation ultimately failed in the Senate. Some activists hoped that an attack in such close proximity to the Capitol would provide a catalyst for new gun laws. However, calls for tougher gun control have gone unheeded with many pointing to Alexis' unstable mental state as the reason for the shootings. Undeterred, President Obama remains committed to the issue of gun control and has promised to continue to push for new laws as a means to prevent future tragedies.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Rasmussen Reports	October 1	Approve 50, Disapprove 49
Gallup	September 30	Approve 45, Disapprove 48
CNN/Opinion Research	September 29	Approve 44 Disapprove 53

Job Approval: Congress

Poll	Date	Results
CNN/Opinion Research	September 29	Approve 10, Disapprove 87
The Economist/YouGov	September 23	Approve 9, Disapprove 72
CBS News/NY Times	September 23	Approve 14, Disapprove 80

Generic Congressional Ballot

Poll	Date	Results
Quinnipiac	September 29	Democrats 43, Republicans 34
Rasmussen	September 29	Democrats 42, Republicans 38

Public Reactions to Shutdown

	Question	Date	Results
Quinnipiac	Shutdown to Defund ACA?	October 1	Support 22, Oppose 72
CNBC/All-American Economic Survey	Shutdown to Defund ACA?	September 23	Support 19, Oppose 59
CNN/Opinion Research	Who would you blame?	September 29	Republicans 46, President Obama 38
CBS News/NY Times	Who would you blame?	September 23	Republicans 44, President Obama 35

Public Approval of Health Care Law

	Date	Results
CNN/Opinion Research	September 29	Support 38, Oppose 57
Quinnipiac	September 29	Support 45, Oppose 47
CBS News/NY Time	September 23	Support 39, Oppose 51