

Washington Update

July 15, 2016

Before leaving for the political conventions and summer recess, legislators made a six week sprint to address many outstanding items. The Fiscal Year 2017 (FY17) appropriations process continued to trudge along, but all signs point toward the need for a continuing resolution after Labor Day to fund the government past September 30, when the current fiscal year ends. Congress approved an extension of FAA programs along with some modest reform measures but failed to secure additional funds for the burgeoning Zika crisis. Lawmakers advanced a bill to aid in the battle against opioid addiction and set the stage for a conference committee on energy legislation.

All of this was set to the backdrop of the presidential campaign between presumptive nominees Donald Trump and Hillary Clinton, a contest that is set to intensify following the July political conventions.

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CONGRESSIONAL AND POLITICAL OUTLOOK

Lawmakers are scheduled to arrive back in Washington on September 6. Once they return, Congress will have less than a month to address a host of outstanding issues before departing to campaign ahead of Election Day.

The only must pass item in September is government funding. FY16 will end on September 30, requiring Congress to pass additional bills to fund the government into the beginning of FY17. With the appropriations process unlikely to finish by then, that is expected to take the form of a continuing resolution (CR) to temporarily continue appropriations until after the election (see *Government Funding* section).

Other possible issues that could receive attention and votes in September include the defense authorization bill, criminal justice reform, 21st Century Cures, Zika funding, and energy legislation.

In mid-July, the parties will host their political conventions. Republicans will begin their convention in Cleveland, Ohio on July 18. Over the course of four days, delegates to the convention will formally vote on the nomination of Donald Trump and approve a national platform. Delegates will also approve Mr. Trump's selection of a vice presidential running mate, Indiana Governor Mike Pence. The Democrats will host their convention in Philadelphia, Pennsylvania beginning on July 25. Presumptive nominee Hillary Clinton has indicated that she will make her running mate announcement after Republicans wrap up their convention on July 21. Frontrunners for the position include former Virginia Governor and current U.S. Senator Tim Kaine, Labor Secretary Tom Perez, HUD Secretary Julian Castro, U.S. Senators Cory Booker (NJ) and Elizabeth Warren (MA), and Congressman Xavier Becerra (CA).

Key 2016 dates include:

- July 18-21 – Republican National Convention (Cleveland)
- July 25-28 – Democratic National Convention (Philadelphia)
- September 30 – End of Fiscal Year 2016, government funding expires
- September 30 – EB-5 Immigrant Investor Program expires
- November 8 – Election Day
- December 16 – Targeted adjournment sine die

ISSUE—GOVERNMENT FUNDING

Congress continued to advance FY17 appropriations bills at a slow pace in June and July, and adjourned on July 15 with a growing feeling that the appropriations process had officially stalled.

In the Senate, Democrats twice blocked consideration of the Defense appropriations measure, demanding that the spending bills adhere to the October 2015 budget deal. Senate Democrats also blocked the conference report for the Military Construction & Veterans Affairs (MilConVA) bill, which included funding to fight the Zika crisis. In the House, Republican leaders have had success in advancing some spending measures, but continue to struggle for a balance between the need to pass appropriations bills with the position among deficit hawks in the Freedom Caucus to reduce spending.

In the past month, the full House approved appropriations measures for Defense, Financial Services, Interior and Environment, and the Legislative Branch. The full Senate did not approve any spending bills in June or July. Both chambers' Appropriations Committees have concluded their work on funding legislation, and several bills are awaiting floor action on both sides of the Capitol. See [here](#) for a summary of appropriations activity.

Senate Democrats pledged to continue to block appropriations measures if they do not comport with agreed upon spending levels, furthering the possibility that the process could come to a halt in the upper chamber. Additionally, policy riders could derail spending measures. This already occurred in May, when Republican leaders were forced to tighten amendment rules following a showdown over amendments to prohibit federal contractors from discriminating against LGBT people. In light of the massacre in Orlando on June 12, Democrats are also likely to push controversial amendments on gun control (see *Other Issues* section).

As prospects of sending an appropriations bill to the President's desk dim, discussions have begun over a CR to fund the federal government past September 30, when current funding is set to lapse. While Republican leaders remain publicly committed to the appropriations process, questions are emerging among the rank-and-file on how long the stop gap should last. Some in GOP Leadership, such as Senators Jon Cornyn (R-TX) and Orrin Hatch (R-UT) and many on the right flank, are arguing for a CR running as long as March 2017 to avoid dealing with the issue during President Obama's lame duck session following the election. However, others in the GOP and Democratic leadership prefer a short-term CR that will allow legislators to craft a solution to fund the government through the end of FY17, giving the new President and 115th Congress a fresh start in January. This question is not likely to be resolved until September.

ISSUE—TAX

Both the House and the Senate addressed tax issues in June and July.

House Tax Update

House Republicans released in June their long awaited [blueprint](#) for comprehensive tax reform. Among the many provisions included in the proposal, the plan would:

- Reduce the top corporate tax rate to 20 percent
- Shift the U.S. to a territorial international tax system
- Create a separate small business rate of 25 percent
- Full expensing for businesses
- Consolidate individual tax rates into three brackets with the top rate at 33 percent
- Reform the Earned Income Tax Credit
- Expand the standard deduction and child tax credit
- Repeal the estate tax

The plan is a part of Speaker Ryan's "A Better Way" initiative, which seeks to produce a detailed GOP policy agenda ahead of the election. The proposal comes after years of efforts to craft a unified Republican plan to reform the tax code. Ways and Means Committee Chairman Kevin Brady (R-TX) and Speaker Ryan did not indicate that the proposal would lead to a markup this year, but with the tight schedule in the fall, it is likely that the plan will serve as a starting point for more serious tax reform deliberations in the new Congress.

Also in June, the House Oversight Committee voted to censure Internal Revenue Service (IRS) Commissioner John Koskinen. Republicans have long criticized Koskinen for his handling of the political targeting scandal that pre-dated his appointment as well as other ongoing scandals at the tax-collecting agency. Republican leaders have not indicated whether they will bring the resolution to the floor, but the measure would also require Senate passage, though the upper chamber has not shown interest in taking up the issue.

Before leaving for the summer recess, members of the Freedom Caucus moved to force a vote on impeaching Commissioner Koskinen. Reps. John Fleming (R-LA) and Tim Huelskamp (R-KS) filed a privilege motion on July 14. House rules would allow members of the Freedom Caucus to force a vote on the motion after legislators return in September. House Republican Leadership remains wary of the motion, fearing that it could lower the standard for future privileged motions.

Senate Tax Update

Senate Finance Committee Chairman Orrin Hatch (R-UT) continues to work on his corporate integration proposal. Slated for a June release, Chairman Hatch pushed back the plan's unveiling until the fall. Years in the making, the proposal would help companies avoid double taxation of corporate profits under the existing tax code by allowing corporations to deduct dividends paid to shareholders, a move that the Chairman hopes will promote investment and lead to companies repatriating foreign earnings to pay dividends to shareholders.

Treasury's Earnings Stripping Proposal

Interested parties continued to express concerns during June and July over the Treasury Department's proposed changes to IRC Section 385, which would reclassify certain debt financing instruments as equity, among other changes. According to Treasury, the regulations are designed to combat earnings stripping, the process by which a post-inverted company moves profits to lower-tax jurisdictions and debt to the U.S. subsidiaries in order to lower the corporate tax rate here in the United States. Many organizations have expressed concern that even wholly domestic companies using intercompany debt will be impacted by the changes, among other concerns.

On July 6, the Joint Committee on Taxation (JCT) held a briefing on the issue with Treasury officials and members from the tax-writing committees. The closed-door JCT discussion allowed legislators the opportunity to ask questions and voice their concerns with the proposal and its potential negative consequences.

A slew of congressional letters from both Republicans and Democrats have also been sent to Treasury raising concerns about the proposed regulations. Despite calls from Congress and the business community to extend it, the comment period closed on July 7.

ISSUE—HEALTH

Lawmakers dealt with a host of healthcare-related items over the past six weeks.

Zika Update

Legislation providing supplemental funding to combat the rapid spread of the Zika virus stalled in June. The \$1.1 billion emergency funding was included in an amendment to the MilConVa conference report, which the House passed in late June. However, the measure ran up against Democratic opposition in the Senate and was voted down. Republican leaders brought the measure to the floor for another vote this week, but without substantive changes, Senate Democrats blocked the bill from advancing. Chief among Democrats' complaints about the supplemental funding is that it is too low to deal with the worsening crisis. They have called for funding at the \$1.9 billion level requested by the Administration. While Senate Democrats previously supported a bipartisan Zika bill funded at the \$1.1 billion level, they balked at the MilConVA conference report over provisions that would strip some Affordable Care Act (ACA) funding and place new restrictions on Planned Parenthood.

The failure to pass any additional funding for Zika before the recess ensures that no new resources will be provided as the country enters the long stretch of summer when mosquito populations, which are chiefly responsible for spreading the disease, are at their highest. Fears also continue to mount that Americans could be further exposed to

the virus at the upcoming Olympic Games in Rio de Janeiro, Brazil, a region heavily hit by the crisis.

Opioid Legislation

Congress this week approved [legislation](#) to combat the ongoing opioid abuse epidemic. The House passed the Comprehensive Addiction and Recovery Act (CARA) conference report by an overwhelming vote of 407-5. The Senate later approved the measure by vote of 92-2. Democrats had threatened to block the measure if Republicans did not agree to provide additional funding for abuse and treatment programs. They relented after the White House refrained from issuing a veto threat. While CARA does not include new resources, it is broadly supported by a wide range of health groups because it fundamentally reforms and restructures grant funding for substance abuse. The legislation now goes to the President for his signature.

Republican ACA Alternative

House Republicans released a long-awaited [replacement](#) to the ACA. On June 23, Speaker Ryan unveiled the GOP proposal, another item of the “Better Way” initiative. While light on details, the plan calls for a period of transitioning away from ACA programs and would encourage Americans to purchase health insurance through refundable tax credits adjusted for age. Among other provisions, the proposal would allocate \$25 billion for state high risk pools and encourage small group health plans. The proposal would maintain the ACA prohibition of denying or overcharging based on preexisting conditions.

Republicans hailed the plan as a good starting point, while Democrats predictably panned the proposal with criticism that it would jeopardize coverage for many Americans. Republican leaders have not indicated that they will turn the proposal into actual language, but any legislation this year would be met with strong Democratic opposition and a veto threat from the White House. Some analysts see the plan as an effort from the GOP to stake out a position ahead of a new administration, though repealing and replacing the ACA is likely to face significant challenges regardless of who wins the White House in November.

21st Century Cures

Work on a Senate package of bills similar to the House’s [21st Century Cures Act](#) was sidetracked this summer by the challenge of how to fund the bill. Passed by the House in July 2015, the Cures Act seeks to modernize the Food and Drug Administration (FDA) and the National Institute for Health (NIH). The Senate has proceeded at a slower pace, and in July Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN) announced that the Senate package would not receive floor action until after the summer recess at the earliest. Before members left for the recess, Energy & Commerce Committee Chairman Fred Upton (R-MI) announced that he has identified

new ways to pay for the effort, which puts the legislation on a very short list of items that could actually pass in September or the lame duck session.

CMMI Medicare Part B Demo

In June and July, Congress continued its review of a plan by the Centers for Medicare and Medicaid Services' (CMS) Center for Medicare and Medicaid Innovation (CMMI) that would establish a five year demonstration project. The demo would experiment with Medicare Part B payments for prescription drugs administered by physicians. For regions included in the demo, the proposal would change the payment formula to include the drug's average sales price plus 2.5 percent paired with an additional flat fee of \$16.80.

In the Senate, CMMI Director Patrick Conway [testified](#) on the proposal before the Finance Committee. While there was bipartisan criticism, Committee Republicans took a firmer stance and called on CMS to scrap the program entirely, fearing that it could limit patient access to necessary medications and impede physicians' ability to offer the treatments best suited for their patients.

Questions linger over whether CMS will release the final rule greenlighting the project this summer or return to the rulemaking process to produce a new proposal that takes into account the bipartisan concerns in Congress and from industry, practitioners, and patient advocacy groups

Presidential Cancer Initiative

In June, Vice President Biden [convened](#) a summit to garner support for the President's year-long initiative to advance cancer research. The summit hosted three hundred people from academia, the health industry, and advocacy organizations. Topics ranged from easing access to clinical trials to data sharing. The President tasked the Vice President with leading the "moonshot" effort, which could be a final, long-lasting legacy item for the Obama Administration.

ISSUE—TRANSPORTATION

Transportation leaders managed to avoid a crisis when they passed an extension of the current authorization for Federal Aviation Administration (FAA) programs just days before it was set to expire. The legislation renews FAA programs through September 2017. While it is not the long-term reauthorization bill that many had hoped for, the bill does include some important policy changes and modest reform measures.

Lawmakers have struggled to negotiate a compromise over a long-term reauthorization. Transportation and Infrastructure (T&I) Committee Chairman Bill Shuster (R-PA) remains committed to his [plan](#) to privatize air traffic controllers, which is roundly opposed by congressional Democrats as well as some Republicans.

ISSUE—ENERGY

Negotiators continued to work on a compromise over energy legislation while the House advanced a resolution opposing a carbon tax.

Senate Energy Legislation

Efforts to reform federal energy programs advanced in July when an agreement was reached to conference the chambers' competing legislation. The House passed its [measure](#) last December while the Senate approved its [version](#) in April. Since then, negotiators have worked to broker a compromise on contentious issues before turning to a formal conference committee. In July, House energy leaders agreed to Democratic demands that the final conference report will not include items that the President would veto, including the House-backed reversal of the planned-phase out of fossil fuels from federal buildings. Both chambers appointed conferees in mid-July. Staff will spend the summer recess identifying areas of agreement and continue negotiations when members return in the fall.

Carbon Tax Resolution

On June 10, the House passed a non-binding [resolution](#) expressing the sense of the chamber that a carbon tax would be detrimental to the American economy. The resolution passed largely on party lines, with six Democrats joining Republicans in support. The resolution does not have the force of law and thus does not require the President's signature, though the Senate may choose to act on it.

ISSUE—TELECOMMUNICATIONS

A court decision on net neutrality and FCC testimony before Congress were the top telecommunications stories in June and July.

Net Neutrality

In June, the D.C. Circuit Court of Appeals gave the Obama Administration a victory when it handed down a decision sustaining the Federal Communication Commission's (FCC) rules on net neutrality. Finalized in February 2015, the FCC rules regulate land-based and wireless Internet services under utility rules originally written for telephone companies and require providers to treat all Internet traffic equally. Several groups in the telecommunications industry strongly opposed the rules, fearing that they will lead to a slowdown in network infrastructure investment and development. Industry leaders are expected to appeal the decision and seek final resolution from the Supreme Court.

House FCC Hearing

On July 12, all five FCC Commissioners [testified](#) before the House Energy and Commerce Committee. The Commissioners fielded questions on a variety of topics from legislators, including proposed rules for the set-top box market, privacy of internet service providers, 911 modernization, and management of the Lifeline program.

ISSUE—DEFENSE POLICY

The Senate approved its [version](#) of the FY17 National Defense Authorization Act (NDAA) in June. The vote came after months of negotiating and followed the passage of the House [bill](#) in May. The House appointed its members to the conference committee, and the Senate began the process of moving to a conference before leaving for the summer recess. The most contentious issue facing the conferees will likely be the House-backed reallocation of \$18 billion from war funds to the Pentagon's base budget, a move Democrats oppose.

House Armed Services Committee Chairman Mac Thornberry (R-TX) stated in July that he hoped to produce a conference report before the end of the fiscal year in September, but the tight fall schedule may force a delay. The current NDAA expires at the end of 2016.

ISSUE—FINANCIAL SERVICES

In June, House Financial Services Committee Chairman Jeb Hensarling (R-TX) released a Republican [alternative](#) to the 2010 Wall Street and Consumer Protection Act (Dodd-Frank). The Financial CHOICE Act would repeal most of Dodd-Frank, and among its many provisions, would:

- Restructure the Consumer Financial Protection Bureau and make it subject to congressional appropriations
- Repeal the Volcker rule banning proprietary trading
- Impose enhanced penalties for financial fraud
- Repeal the SEC's ability to restrict securities arbitration
- Require additional transparency from the Federal Reserve

The proposal drew cheers from Republicans while Democrats attacked the measure. The House Financial Services Committee held a [hearing](#) on the draft legislation on July 12. Chairman Hensarling has yet to indicate whether he will mark up his proposal, and House leadership has not mentioned it as an agenda item for the fall session. However, should the House pass the measure, it would find stiff Democratic resistance in the Senate and from the White House.

OTHER ISSUES

Developments on several other issues occurred during the June and July work period

Massacre in Orlando

The worst mass shooting in modern American history occurred in the earlier hours of June 12 when an armed assailant opened fire in a crowded gay club in Orlando. Forty-nine civilians were killed, and the perpetrator died from police fire. The incident touched on many political fault lines in the country. Republicans pointed to the shooter's reported allegiance to the Islamic State while Democrats decried the LGBT violence and renewed their calls for stricter gun control laws.

In an effort to force a vote on guns, Democrats seized the floor of the House, holding a sit-in and demanding legislative action on firearms. The sit-in lasted for just over 24 hours until House Democrats ended their protest without any commitments on a vote on a gun bill. Speaker Ryan eventually agreed to hold a vote on a measure that would block the sale or transfer of a firearm via court order if officials could prove the buyer's link to terrorism. However, Republican leaders backed away from the commitment after conservative members rebelled. Leadership has not indicated if and when the proposal will be brought up for a vote, which is likely to lead to further Democratic attempts to force the issue.

TSCA Modernization

Negotiators reached an agreement on an update to the 1976 Toxic Substances Control Act in May, and Congress passed the legislation upon returning from its Memorial Day recess. The [bill](#), which would give the EPA new powers to evaluate and regulate chemical substances while preventing states from crafting their own patchwork of rules, was signed into law on June 22.

Puerto Rico

Congress approved a [bill](#) in late June to alleviate Puerto Rico's debt crisis just hours before the island territory was due to pay a \$2 billion interest payment. The legislation comes after months of negotiating a proposal to restructure the country's burgeoning debt load under a federally-appointed financial control board. The President signed the bill into law on June 30.

GMO Labelling

The Senate approved a compromise [measure](#) on July 7 that would pre-empt state labeling laws for genetically modified organisms (GMO) and the House followed suit on July 14 before heading out of town for the recess. The legislation gives food companies three options to alert consumers of the presence of GMOs: text on the label, Department of Agriculture-approved symbol, or smartphone-compatible electronic code. The bill is a response to the calls to create a federal standard for GMO disclosure in order to prevent a patchwork of state regulations that would be burdensome for food

manufacturers and costly for consumers. The nation's first labeling law came into effect in Vermont on July 1.

British-European Union Relations

Shock spread through the international community on June 23 when voters in the United Kingdom voted in a national referendum to end the country's forty-three year membership in the European Union. The news that the U.K. had narrowly voted to leave the E.U. sent markets tumbling and depressed the pound sterling to its lowest value in decades. Financiers and economists in London and across the globe had largely believed the British public would favor remaining in the E.U., and the vote to leave cast new doubts on the U.K.'s global status as a financial capital and Western military power.

In a sign of the pervasiveness of the political fallout, Prime Minister David Cameron announced his resignation. Following a less raucous than expected Conservative Party leadership election, Home Secretary Theresa May was ceremoniously asked by the Queen to form a new government. The new Prime Minister stated that she would not hold a snap general election before the current parliament is set to dissolve in 2020.

In addition to the market impact, the vote could have significant consequences for the transatlantic alliance. In April, President Obama strongly urged the U.K. to remain in the E.U., and after the result was announced, concerns mounted over how the British public's decision could diminish American influence in Brussels. British lawmakers have historically been key partners and provided U.S. policymakers a level of influence in the E.U.'s internal decision-making. In recent years, this has allowed the U.S. to unite Western powers on issues ranging from Russian sanctions, Iranian nuclear development, and Syrian refugees. Officials in Washington fear that Britain's withdrawal could limit the United States' ability to resolve international crises and defend American interests abroad.

The U.S. is also concerned about the domestic fallout in the U.K. Scotland voted overwhelming to remain in the E.U., stoking fears that the Scottish National Party (SNP) will push for a second independence referendum. Should Scotland leave the U.K., the country's Trident nuclear submarines, which are based in northern lochs and largely opposed by the SNP and Scottish public, could be in jeopardy, generating concern in Washington over the potential for a key military ally to reduce its defense capabilities and commitments in the international arena.

Trade

The international trade agenda could also be upset by the developments in Britain. The U.S. and E.U. have spent several years negotiating the Transatlantic Trade and Investment Partnership (TTIP). With the U.K. set to leave the E.U., final consideration of that agreement is likely to be put on hold as the U.K. attempts to reconfigure its trade

arrangements. However, analysts in Washington are encouraged by the potential for deeper American-British trade relations, which have traditionally been strong.

Leaders in Congress also downplayed the potential for the Trans Pacific Partnership (TPP), a multi-lateral trade agreement among twelve Pacific Rim countries, to be approved this year. Both Speaker Ryan and Leader McConnell announced in July that Congress is not likely to vote on TPP in 2016, delaying what the Obama Administration had hoped would be a legacy item.

RECENT POLLING

Job Approval: President Obama

Poll	Date	Results
CBS News/NY Times	Jul 12	Approve 53, Disapprove 41
Rasmussen Reports	Jun 12	Approve 46, Disapprove 53
Gallup	Jul 12	Approve 48, Disapprove 48

Job Approval: Congress

Poll	Date	Results
The Economist/ YouGov	Jul 11	Approve 12, Disapprove 66
CBS News/NY Times	Jun 11	Approve 15, Disapprove 79
PPP (D)	Jun 28	Approve 14, Disapprove 80

Direction of the Country

	Date	Results
The Economist/ YouGov	Jul 11	Right Direction 24, Wrong Direction 70
CBS News/NY Times	Jun 11	Right Direction 26, Wrong Direction 69
Rasmussen Reports	Jul 7	Right Direction 26, Wrong Direction 68

Trump v. Clinton

	Date	Results
CBS News/NY Times	Jul 12	Trump 40, Clinton 40
Rasmussen Reports	Jun 12	Trump 44 Clinton 37
The Economist/ YouGov	Jul 11	Trump 43, Clinton 45