



Washington Update

July 1, 2014

Lawmakers in Washington confronted a host of issues in June. Congress continued with some progress on appropriations bills while debating a litany of tax-related issues, including the expired tax extenders. The Affordable Care Act (ACA) remained a topic of discussion as the Obama Administration welcomed a new healthcare chief. Washington grappled with a number of other challenges, including the Highway Trust Fund, new energy regulations, reauthorization of the Export-Import Bank, and the emergence of a powerful and radical force in Iraq. All of these developments were set to the backdrop of the shocking defeat of Republican House Majority Leader Eric Cantor in his primary election.

OUTLOOK FOR THE HOUSE AND SENATE

July is the final month before the August recess and will be highlighted by continued efforts to move forward on the appropriations process. The top priority in both the House and the Senate will be to come up with approximately \$10 billion to address the highway trust fund shortfall and prevent highway construction projects from shutting down at the end of the summer. There may also be action on reauthorizing the Ex-Im Bank, which expires on September 30, 2014.

The Senate is also expected to consider the [Sportsmen's Act](#) and may vote on legislation restricting campaign expenditures. The House may consider a standalone bill to permanently extend a provision from the tax extenders package known as bonus depreciation.

At the end of June, House Speaker John Boehner (R-OH) announced his plans to sue the Obama Administration for alleged unconstitutional executive action in a number of areas, including healthcare and energy policy. This lawsuit from the House will make it difficult to get much done beyond must pass legislation between now and the midterm elections.

HOUSE REPUBLICAN LEADERSHIP SHAKEUP

Washington was stunned in June when House Majority Leader Eric Cantor (R-VA) unexpectedly lost his primary battle to a little-known college professor. Leader Cantor's loss sent shockwaves through Congress and raised questions about the direction of the House's legislative agenda for the remainder of the year.

Following his defeat, Leader Cantor announced his intention to resign from his leadership post on July 31. The move set off a scramble of GOP members seeking to move up or join the party's leadership. Majority Whip Kevin McCarthy (R-CA) ran a successful leadership campaign to replace Cantor as Majority Leader, fending off challenges from Rules Committee Chairman Pete Sessions (R-TX) (who ultimately did not run) and Tea Party favorite Raul Labrador (R-ID). Rep. McCarthy will seek to prove himself as an effective Leader in the months leading up to the mid-term elections. Tea Party and hard line conservative members of the House Republican Conference are already stoking rumors of putting forward a challenger to Rep. McCarthy, including Financial Services Committee Chairman Jeb Hensarling (R-TX), who sat out of this leadership race, but left open the possibility of running in the future.

With Rep. McCarthy elevated to Majority Leader, Republican House members also voted on his replacement for the Whip's position. The highly competitive race featured Republican Study Committee (RSC) Chairman Steve Scalise (R-LA), Chief Deputy Whip Peter Roskam (R-IL), and Tea Party loyalist Marlin Stutzman (R-IN). Republicans elected Rep. Scalise, bringing a conservative Southern Republican into the leadership fold. Scalise chose Rep. Patrick McHenry (R-NC) as his Chief Deputy Whip.

The changes in leadership are expected to have some impact on the House's legislative agenda. Cantor was working on several initiatives at the time of his defeat, including the House GOP version of immigration reform and an ACA alternative. Those attempts are expected to stall following his loss, particularly given that some feel Cantor's work on immigration reform may have contributed to his primary defeat. Moreover, with the former chairman of the right-leaning RSC now serving as Whip, House Republicans might pursue a more conservative agenda, as the new leaders work to prove themselves to their rank-and-file members.

ISSUE—FUNDING THE FEDERAL GOVERNMENT

Legislators continued their work on laying out funding priorities for Fiscal Year 2015 (FY15), with current government funding set to expire at the end of September.

Both the House and Senate Appropriations Committees spent June working on several [FY15 spending bills](#), which will spell out specific funding levels for various federal agencies and programs. The House Appropriations Committee approved the Agriculture and Defense spending bills. Also in June, the full House passed bills for Defense and Transportation, Housing, and Urban Development (Transportation/HUD). The chamber

previously approved measures for Commerce, Justice, and Science (CJS); Homeland Security; Military Construction and Veterans Affairs (MilCon VA); and the Legislative Branch.

The Senate continues to move at a slower pace. While the Senate Appropriations favorably reported sending measures for Agriculture, CJS, MilCon VA, and Transportation/HUD, all of these bills await approval by the full Senate. There were attempts to pass three of these appropriations bills—Agriculture, CJS, and Transportation/HUD—as one piece of legislation, referred to a “minibus.” However, the deal fell apart amid arguments over what type of amendments should be allowed and whether the amendments should be required to meet a simple majority threshold or a supermajority threshold of 60 votes.

The appropriations process will continue throughout the summer. The House is expected to move quickly, hoping to pass all funding bills before the August district work period begins. In the Senate, however, the setback with the minibuss threw into doubt the prospects of passing spending measures before funding runs out in September. Legislators will have to settle for a Continuing Resolution in September to keep the government running and then resolve appropriations differences when they return after the November elections.

ISSUE—TAXES

Congress moved forward on several tax-related items in June.

Tax Extenders

Lawmakers continued to take small steps forward on a bevy of expired corporate and individual tax provisions known as “tax extenders.” The full House passed two additional tax extenders bills this month. The first [bill](#) would permanently extend Section 179 expensing provisions for small businesses while the second [bill](#) would reduce the built-in gains period for S corporations. The votes follow the May passage of a permanent [extension](#) of the R&D tax credit. Additional tax extender bills may come to the floor this summer.

While the House continues to advance individual tax extenders bills, the Senate’s efforts have stalled. Unlike his House counterpart, Senate Finance Committee Chairman Ron Wyden (D-OR) introduced a comprehensive short-term tax extenders bill rather than pursuing the House’s strategy of passing permanent extensions piecemeal. Chairman Wyden’s [proposal](#) would cost \$85 billion over two years and would retroactively renew the extenders from January 1, 2014, until December 31, 2015. After moving swiftly through the Senate Finance Committee, the legislation stalled on the floor of the Senate over a disagreement on amendments. In June, Senate Majority Leader Harry Reid (D-NV) expressed pessimism about passing the bill before the mid-term elections, suggesting that the bill would be pushed off until the lame duck session.

Tax Reform

While lawmakers continued to debate tax extenders, the Senate Finance Committee began its discussion on tax reform under the new Chairman Wyden. In June, the Committee held a hearing probing the problems with burgeoning student debt and the role education tax incentives can play in alleviating the burden. The Committee plans to hold additional hearings in July focusing on taxpayer privacy as well as inversions and international tax issues. The Ways and Means Committee held similar hearings throughout 2013, and Chairman Camp [produced](#) draft legislation before a number of developments forced him to shelve his plans. Serious efforts to reform the tax code are not likely to begin until the next Congress convenes in 2015.

Internet Tax Moratorium

The current federal moratorium on taxing the Internet is set to expire on November 1. In June, lawmakers took steps to extend the ban and shield consumers from an increased tax burden. The House Judiciary Committee passed a [bill](#) on June 18 that would permanently extend the moratorium and eliminate exemptions for the seven states that have existing Internet taxes. The legislation passed with overwhelming, bipartisan support. The Senate has similar legislation pending, but has yet to advance a bill through the committee stage, and it is uncertain whether the Senate will be able to advance a bill before the August recess.

There have been calls to combine a moratorium extension with the more controversial legislation allowing states to tax online purchases. Proponents of the idea believe the combined bill would force Congress to negotiate a solution to the sales tax question. Opponents of the move fear that the bill would face legislative logjam, decreasing the chances of extending the moratorium.

The moratorium is viewed as must pass legislation. If Congress fails to approve an extension in a timely fashion, Internet providers would be required by law to inform customers by late summer or early fall that they may be subject to additional taxes on Internet services. Some providers are also concerned that, in the event that Congress allowed the moratorium to expire, state tax administrators could begin taxing Internet services soon after by adjusting state tax rules without the need for authorizing legislation.

IRS Scandal

June saw a renewed focus on the ongoing controversy surrounding allegations that the IRS targeted conservative and Tea Party groups seeking tax-exempt status. The affair reignited this month when the IRS announced that the agency had lost some of IRS official Lois Lerner's emails due to a hard drive crash. The revelation ignited a firestorm among Republicans. IRS Commissioner John Koskinen was summoned before both the House Ways & Means and Oversight Committees, where he faced a barrage of questions from Republicans over the lost emails and other issues surrounding the

ongoing scandal. Congressional Republicans are likely to continue their attacks on the IRS and use it to motivate the conservative base ahead of the mid-term elections.

ISSUE—HEALTHCARE

As in previous months, healthcare and ACA-related topics remained at the forefront of Washington discourse in June as a new leader rose to the helm of the Department of Health and Human Services (HHS).

Burwell Nomination

On June 5, former Office of Management and Budget Director Sylvia Mathews Burwell was confirmed as the next head of HHS in a bipartisan 78-17 vote. Secretary Burwell was lauded for her well-run nomination process that worked to allay concerns from Republicans, who had a particularly contentious relationship with her predecessor Secretary Kathleen Sebelius.

CMS Restructuring

Secretary Burwell hit the ground running in her new post. Among her first actions was to announce a management restructuring to facilitate improved implementation of the ACA. The changes will largely affect the Centers for Medicare and Medicaid Services (CMS), the organization tasked with running many of the ACA programs. CMS will appoint a permanent CEO and chief technology officer for the online marketplaces. Administration officials hope that the changes will not only provide for better coordination and more efficient operations for the online exchanges, but also begin to restore public trust in the ACA ahead of the next open enrollment period set to begin later this year.

ACA – Burwell v. Hobby Lobby

On June 30, in a 5-4 decision, the Supreme Court ruled that closely-held companies can opt out of providing contraception coverage if it violates their religious beliefs. While contraception coverage was just a small piece of the ACA, the Supreme Court ruling is a significant blow to the law's supporters in the lead up to the November elections.

ACA – Uninsured Rate

HHS was given a bit of good news this month when Gallup released a poll showing significant reductions in the national uninsured rate. The poll indicated that the current rate stands at 13.4 percent, the lowest level since Gallup started polling the issue in 2008. It is also a drastic improvement from the 17.1 percent rate in the fourth quarter of 2013. The drop in uninsured Americans is most pronounced in minority communities, though many more remain without coverage. HHS received further good news when the Kaiser Family Foundation released a poll that showed 57 percent of Americans now covered through the ACA exchanges were previously uninsured.

ACA – 2015 Premium Watch

With the start of summer, healthcare leaders are turning an eye to insurance providers' forthcoming 2015 premium rates. Republicans are expected to attack any increases as a proof of the ACA raising healthcare costs, while Democrats will insist that the law has ensured affordable coverage. Many states have already released their 2015 premiums, with potential increases ranging from no increase to 25 percent. However, healthcare experts urge caution, given that no comprehensive data on annual premium increases existed before the ACA was implemented, making it difficult to judge the health law's impact on insurance prices.

ACA – CBO Scoring

While Washington awaits the release of additional premium figures, the Congressional Budget Office (CBO) reported this month that it will no longer be able to score the ACA. The non-partisan agency stated that with the law mostly implemented, it is not possible to compare the effects of the ACA with what could have happened absent the law. The ACA is now an integral and permanent part of the baseline, making future measures of the law's success in terms of budgetary impact far more difficult to ascertain.

ACA – GOP Alternative

Up until his defeat in the primary, Leader Cantor had supported a group of Republican House members, including prominent members of the RSC, who were urging GOP leadership to produce and vote on an ACA alternative. With Leader Cantor leaving his post, the chances of the House moving an ACA repeal and replace bill are diminished. The challenges to any ACA alternative are both ideological and tactical. Senior House Republicans fear that the GOP Conference would struggle to unite behind such a proposal. Additionally, Republican leaders are hesitant to provide Democrats with election ammunition, believing that GOP replace legislation could be used against Republican candidates in competitive mid-term races.

Still, some observers believe there is a narrow window for a Republican bill to pass. They point to the election of former RSC Chairman Steve Scalise as the new Majority Whip as an opportunity for the issue to remain on the House agenda. As Chairman, Rep. Scalise released a broad health reform [plan](#) last fall that could serve as a launching point for a larger ACA alternative. Rep. Scalise has previously pressured GOP leaders for a vote on the measure, which would, among other things, shift the tax break for buying insurance from employers to individuals and fund state-based high-risk pools with \$25 billion. Over half of the Republican Conference has signed on to the proposal, but it remains to be seen if Rep. Scalise's new position will accelerate efforts to pass a replace bill before the November elections.

ISSUE—TRANSPORTATION

June saw several developments on transportation issues, including discussions over funding of the Highway Trust Fund (HTF) and issues related to the nation's rail infrastructure.

Surface Transportation Reauthorization

Little attention was focused on a MAP-21 replacement this month. Neither the House nor Senate committees of jurisdiction held hearings on the topic. The last reauthorization bill, The Moving Ahead for Progress in the 21st Century Act (MAP-21), reauthorized programs for two years and is set to expire at the end of September.

Highway Trust Fund: "The Highway Cliff"

While a full surface transportation reauthorization received little legislative action in June, lawmakers focused heavy attention on the ongoing transportation funding crisis. Declining revenues from fuel taxes have put the HTF in serious jeopardy, with the Department of Transportation (DOT) previously announcing that it will become insolvent on August 29.

A number of proposals have emerged to avert the "highway cliff" on August 29, including a bipartisan proposal by Senate Majority Leader Reid and Senator Rand Paul (R-KY) to allow companies to repatriate foreign profits at a reduced tax rate. Senate Finance Committee Chairman Ron Wyden (D-OR) and House Ways and Means Committee Chairman Dave Camp (R-LA) both oppose the idea because of its potential negative impact on comprehensive tax reform.

The Senate Finance Committee was set to vote on Chairman Wyden's Preserving American's Transit and Highways (PATH) Act, which would inject \$9 billion into the HTF and provide Congress with additional time to craft a long-term funding solution. However, Republicans on the Committee opposed the bill's funding mechanisms, a mix of revenue raisers, because it did not include any spending cuts. Chairman Wyden cancelled a June 26 vote on the bill, instead choosing to work on a bipartisan and bicameral solution over the July 4 recess.

House Republican Leadership previously floated a proposal to fill the HTF shortfall by reallocating \$10.7 billion over ten years from the Postal Service by making several changes to the agency, including cutting Saturday mail delivery. The proposal was met with strong criticism from both Democrats and some Republicans. GOP leaders were forced to shelve the idea.

Another measure suggested by Budget Committee Ranking Member Chris Van Hollen (D-MD) and Ways & Means Ranking Member Sander Levin (D-MI) would raise \$19.5 billion by further restricting foreign inversions, the practice by which a company relocates its corporate headquarters to a low tax jurisdiction following a merger with a foreign entity. Senators Bob Corker (R-TN) and Chris Murphy (D-CT) have proposed a 12

cent increase in the gas tax, which would raise \$164 billion for the HTF. Finally, DOT Secretary Anthony Foxx continues to advocate for the Administration's plan to use revenue from President Obama's proposed tax code overhaul to fund transportation projects.

With so many options floating around, it remains unclear which, if any, legislators will ultimately choose. Meanwhile, state and federal infrastructure projects are increasingly in danger of shutting down. Due to rising funding uncertainty, many states are beginning to cancel or delay projects. Unless Congress acts before September, these cancellations and postponements are likely to continue at an accelerated pace.

Rail Reauthorization

In addition to surface transportation, Congress will need to renew federal rail programs. In June, the Senate Commerce Subcommittee on Surface Transportation jumpstarted that process by holding a hearing on rail spending. During the hearing, Senators raised a host of issues. Most notably, several Committee members focused on recent rail safety incidents and ways that the next rail reauthorization bill can improve rail safety. Federal Railroad Administrator Joseph Szabo pitched the Administration's GROW AMERICA Act (Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act), which would advance positive train control implementation and allocate \$19 billion for rail and \$10 billion for a multi-modal freight program over four years.

Also, Senator Heidi Heitkamp (D-ND) introduced a [bill](#) that would establish a Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation Subcommittee under FEMA's National Advisory Council to provide recommendations to Congress on issues related to emergency responders to railroad hazmat incidents. This idea could potentially be included in a reauthorization bill.

ISSUE—ENERGY

At the beginning of June, the Environmental Protection Agency (EPA) released its long-awaited proposed [regulations](#) on carbon emissions from existing power plants. In its plan, the EPA lays out an ambitious goal of reducing national emissions to 30 percent below 2005 levels by 2030. To obtain these reductions, the proposal sets targeted goals for individual states in reducing carbon emissions from existing power plants within their borders. The EPA expects each state to craft an implementation plan, which must then be approved by the agency.

The proposed rules were met with intense criticism from Republican lawmakers, who view the regulations as further proof that the Obama Administration is waging a war on coal. The rules are expected to prove particularly problematic for Democratic candidates running in red states and congressional districts, especially those that are coal-producing. The rules will undergo a public comment period before being implemented.

The Administration hopes to have the regulations in force within a year, but observers expect years of subsequent litigation challenging the EPA's actions.

ISSUE—MISCELLANEOUS

Several other issues presented themselves in June, including a deteriorating situation in Iraq, the annual National Defense Authorization Act process, and continued discussion surrounding the Export-Import Bank.

Iraq

The Obama Administration was blindsided in June by an escalation of violence in Iraq. Over the past year, an insurgent, terrorist-affiliated group known as the Islamic State of Iraq and the Levant (ISIL) has waged sectarian war against the sitting Iraqi government. Made up of Sunni Muslims, ISIL seeks to form an independent state in northern Iraq, Syria, and the Levant region. The group is particularly infamous for its desire to institute strict Sharia law within its proposed state and its extremely violent tactics, which are primarily directed toward Shiite Muslims.

In recent months, ISIL has accumulated several victories, capturing the key Iraqi cities of Mosul, Fallujah and Tikrit. ISIL forces are now perilously close to Baghdad. Iraqi military forces have experienced severe difficulties in containing the ISIL threat, finding themselves unable, and sometimes unwilling, to turn back the groups paramilitary forces.

The worsening situation in Iraq has captured Washington's attention. U.S. forces fully withdrew from Iraq in December 2011, ending an eight year presence. ISIL is viewed as a terrorist organization by the U.S. government, and fears are growing that their territorial gains may be irreversible, leading to a newly formed terrorist state that would likely serve as a training ground for violent extremists.

Views from lawmakers on how to address ISIL have been mixed and expose the current ideological rifts in both parties. For Republicans, the resurgence of sectarian violence in Iraq has resurrected memories of the political price the Iraq War exacted on their party. Some in the more hawkish wing of the party, such as Senators John McCain (R-AZ) and Lindsey Graham (R-SC), have advocated for a strong U.S. response. Other Republicans have expressed caution and rebuffed calls to intervene. Similarly, Democrats continue to struggle to find a unified response, with anti-war members pitted against Democrats supportive of the President.

Ultimately, the initial decision on how to react to ISIL's advances will come from the White House. Thus far, President Obama has offered a measured response. Like almost all of Congress, he is not yet unwilling to send troops back to Iraq, but in a show of support, he has ordered the deployment of a limited number of military personnel to Iraq in non-combat roles to help coordinate a response with the Iraqi government. The

President has also not ruled out targeted air strikes. Reports from a White House meeting with congressional leaders indicated that the President believes he would not need to seek congressional approval because the plans would fall under the 2002 use of force authorization.

National Defense Reauthorization Act

The National Defense Reauthorization Act (NDAA) continues to move through Congress at a slow pace. The House passed its version of the [bill](#) in May, while the Senate [version](#) awaits a vote by the full Senate. In June, Senate Armed Services Committee Chairman Carl Levin (D-MI) and Ranking Member Jim Inhofe (R-OK) urged members to begin submitting amendments to the NDAA to enable the parties to reach an agreement on the number and type of amendments that will be considered on the Senate floor. Senators have been slow to respond, and the bill has yet to be scheduled for floor proceedings. Chairman Levin called on the body to act swiftly on the legislation, which is set to expire at the end of the year.

Export-Import Bank

Lawmakers also began the process of addressing the renewal of the Export-Import Bank, a federal export credit agency that finances certain sales of U.S. exports to international buyers. The Bank's current charter expires at the end of September without congressional action.

Companies of all sizes and across industries strongly support reauthorizing the Bank, calling it a vital component of American global competitiveness. However, congressional opinions are mixed. In a June hearing, the House Financial Services Committee looked at the bank, its practices, and its effects on markets. Republicans on the Committee were generally skeptical of the Bank's claim that it supports job growth. Democrats were more supportive of the agency, believing it to be a key avenue of financing for many companies.

The Bank's reauthorization prospects are unclear at this point. Chairman Hensarling has resisted calls to shut down the bank, preferring to reform the institution and possibly winding it down in the future. Newly minted Majority Leader McCarthy has stated that he supports the Bank's shuttering.

Reauthorization of the Ex-Im Bank may have a clearer road to passage in the Senate. Leaders Harry Reid and Mitch McConnell (R-KY) are supportive of bringing the bill to the Senate floor. Senate Banking Committee Chairman Tim Johnson (D-SD) strongly supports renewing the Bank's charter, while Ranking Member Mike Crapo (R-ID) has indicated that he supports an ongoing discussion of how to move forward on the issue.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Rasmussen Reports	June 30	Approve 48, Disapprove 50
Gallup	June 29	Approve 42, Disapprove 52
Fox News	June 23	Approve 41, Disapprove 54

Job Approval: Congress

Poll	Date	Results
The Economist/ YouGov	June 23	Approve 9, Disapprove 73
CBS News/NY Times	June 22	Approve 14, Disapprove 78
Gallup	June 8	Approve 16, Disapprove 81

Generic Congressional Ballot

Poll	Date	Results
Rasmussen Reports	June 29	Democrats 40, Republicans 38
Fox News	June 23	Democrats 42, Republicans 42
CBS News/NY Times	June 22	Democrats 42, Republicans 39

Public Approval of Health Care Law

	Date	Results
Rasmussen Reports	June 15	Support 42, Oppose 54
Bloomberg	June 9	Support 39, Oppose 53
Fox News	June 3	Support 38, Oppose 55