



Washington Update

June 5, 2013

Prior to the Memorial Day recess, Congress dealt with several high profile issues. On fiscal matters, Congress struggled to find a path forward on the pending budget for Fiscal Year 2014 and on the need to raise the country's debt limit later this year. The debate over immigration continued as the Senate Judiciary Committee advanced its comprehensive immigration bill. Tax reform and healthcare also saw significant developments. In the midst of these and other issues, the White House was rocked by multiple scandals that arrived in quick succession. As Washington moves into the summer months, Congress will focus on immigration, appropriations, the farm bill and continued hearings on the controversies surrounding the Internal Revenue Service (IRS), Benghazi, and the Department of Justice's targeting of the private records of reporters.

ISSUE—BUDGET

Congressional leaders spent the month of May looking for a way to move forward on budget negotiations. Both the Senate and the House passed their budget resolutions in March. The House budget resolution would balance the budget over ten years, largely by cutting \$2.7 trillion in funding to several social programs. The House proposal projects \$4.63 trillion in overall savings over the decade, creating a \$7 billion surplus by FY 2023. The Senate budget resolution would not balance the budget, but would achieve \$1.95 trillion in deficit reduction, calling for \$975 billion in spending cuts and \$975 billion in new tax revenue. Additionally, the White House released the Obama Administration's budget on April 12. While the president's proposal would not balance the budget long term, it would provide \$1.8 trillion in new deficit reduction over 10 years, with \$563 billion coming from new tax revenue by limiting tax benefits for high income earners.

Under regular order, a conference committee comprised of members from both the Senate and the House would be appointed to reconcile the vast differences between the two budget proposals. Both chambers, however, have yet to name their conferees. In

the Senate, a group of Republicans continue to object to naming conferees and sending the budget proposal to conference until they are given guarantees that any compromise legislation will not raise the debt ceiling or increase taxes. In the House, Republican leaders are refusing to name conferees until both chambers can agree on a general framework for budget negotiations. While discussion between House Budget Chairman Paul Ryan (R-WI) and Senate Budget Chairwoman Patty Murray (D-WA) to move the budget proposals to conference are ongoing, congressional Democrats are attempting to prompt Republicans into naming conferees by publicly demanding a return to regular order.

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. Going forward, the law allows the Treasury to automatically raise the debt ceiling, but only to meet the obligations accrued before May 19, pushing back the actual default date. The Treasury Department has instituted several "extraordinary measures" to push back the date. Treasury Secretary Jacob Lew stated that the U.S. is unlikely to hit the debt ceiling before September, and many outside observers have speculated it will be even later into Fall 2013.

While months remain before the default date, both sides are jockeying for position. In the Senate, Republicans are stalling on going to conference for the budget resolution until assurances are given that the debt ceiling legislation will address the need for spending cuts. On the House side, some Republicans continue to push the idea of linking increases in the debt level to progress on tax reform, an idea Democrats reject. House Republicans are also considering the release of a debt ceiling package by the August recess that would tie an increase in the debt ceiling to other Republican priorities, such as further spending cuts and the Keystone XL Pipeline. Underlying the situation in both chambers is the reality that most Republicans are unlikely to accept a straight increase in the debt ceiling without something in return, which is directly at odds with President Obama's stated position of refusing to negotiate and barter for an increase.

The House did manage to take one substantive legislative action on the debt ceiling in May. On a vote of 221-207, the chamber passed the Full Faith and Credit Act, which would prioritize payments in the event of debt ceiling breach and allow the government to continue to pay public bondholders and meet Social Security obligations. Congressional Democrats have criticized the legislation, and the White House has threatened to veto the bill.

ISSUE—SEQUESTRATION UPDATE

Congress continues to debate how to deal with sequestration, the automatic spending cuts that took effect in March. With no consensus on how to replace the indiscriminate cuts with more targeted reductions, sequestration continued to disrupt government operations in May. In addition to adopting internal cost saving measures, four federal agencies began to furlough employees this month. The IRS, Environmental Protection Agency (EPA), Department of Housing and Urban Development (HUD), and the Office of Management and Budget (OMB) shut their doors on May 24 for one day, placing almost all of their employees on one day of unpaid leave, nearly 150,000 in total. The Pentagon's first furlough day will be July 8, impacting about 650,000 civilian employees. The furloughs are expected to continue throughout the summer as agencies attempt to cope with the cuts.

ISSUE—TAX REFORM

Progress on tax reform continued this month as the Senate Finance Committee released three new [options papers](#): International Competitiveness; Economic and Community Development; and Economic Security. This brings the total number of options papers released to seven. An additional three papers will be released over the coming weeks when the Senate is in session.

On the House side, the Ways and Means Subcommittee on Select Revenue Measures held a hearing on a discussion draft on small business and pass-through entity tax reform. The Subcommittee heard testimony from tax practitioners on the proposal from Ways and Means Chairman Dave Camp (R-MI) to require partnerships and S corporations to follow a uniform set of rules regardless of how they are organized, among other reform ideas. The proposal received a mixed response from the panel, and Subcommittee Chairman Pat Tiberi (R-OH) stated that they will take the stakeholder feedback into account as the proposal moves forward.

On May 9, Chairman Camp joined with Senate Finance Committee Chairman Max Baucus (D-MT) to launch TaxReform.gov, a website dedicated to further the discussion on tax reform and to solicit ideas and real life experiences from the public.

The future of tax reform was put in jeopardy this month as the Obama Administration was hit with scandal that calls into question the impartiality of the IRS. On May 10, Lois Lerner, the Director of the IRS' Tax Exempt Organizations Division, responded to a question at an event by apologizing for her organization's targeting of conservative groups for extra scrutiny when reviewing applications for tax exempt status. The apology immediately set off a firestorm in the press and in Washington. Both the House and the Senate held investigative hearings in the weeks following Ms. Lerner's comments, culminating in the resignation of IRS Acting Commissioner Steve Miller.

Compounding the situation was a [report](#) released by the Treasury Inspector General for Tax Administration that confirmed the IRS had inappropriately targeted conservative and tea party groups for additional review. Several congressional committees and subcommittees are continuing their review of the situation.

The long-term effects of the IRS scandal are yet to be seen. Some tax reform advocates believe the incident will become a distraction, taking away goodwill, time, and effort from their attempts to rewrite the tax code. Others believe that the scandal may spur further action on tax reform by highlighting the need to make changes. Regardless of the controversy, Chairmen Camp and Baucus remain committed to tax reform and have not halted their plans.

ISSUE—HEALTHCARE

On May 15, the Senate approved Marilyn Tavenner to head the Centers for Medicare and Medicaid Services (CMS) on a vote of 91-7. Administrator Tavenner becomes the first person confirmed to the post since 2004. Previously, nominees from both parties had struggled to gain Senate confirmation. Administrator Tavenner will now be tasked with running the Medicare and Medicaid systems while also implementing large portions of the Affordable Care Act (ACA).

On May 28, Republican members of the House Energy and Commerce Committee released a [draft proposal](#) that would repeal and replace the Sustainable Growth Rate (SGR) formula used to make Medicare payments to healthcare providers. The draft includes stakeholder feedback from an earlier proposal. The plan would replace the SGR with a new fee for service system paired with quality measures.

ACA Implementation

In May, the federal and state governments continued to move forward on implementing the ACA. Most states have reached decisions on two key ACA items: the creation of insurance market exchanges and the expansion of Medicaid for individual with incomes up to 133% of the federal poverty line. Currently, 16 states and the District of Columbia (DC) have decided to facilitate their own exchange, seven states have decided to form a partnership with the federal government to operate an exchange, and 26 states have decided to defer to a federally-administered exchange. Utah was given approval to operate the small business portion of its exchange while deferring to the federal government to run the individual portion. On the expansion of Medicaid eligibility, 28 states and DC have agreed to an expansion, 20 states have declined, and two states are still weighing their options.

Though states continue to work through their implementation issues, most of the attention this month was focused on actions taken by Department of Health and Human Services (HHS) Secretary Kathleen Sebelius. It was disclosed this month that Secretary

Sebelius sought private donations from health care companies to help fund Enroll America, a private non-profit working to enroll uninsured Americans in health coverage made available by the ACA. While HHS has defended Secretary Sebelius by claiming that she operated within the bounds of her authority, Republicans in Congress have raised questions of the legality of her actions. On May 30, Republican Senators, including Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Lamar Alexander (R-TN), sent a [letter](#) to the HHS Office of Inspector General asking for an investigation into Secretary Sebelius' fundraising efforts. A second [letter](#) was sent to the Government Accountability Office (GAO) by Ranking Member Alexander and other GOP chairmen and ranking members from both chambers asking it to investigate as well.

While investigations into Secretary Sebelius' actions will continue, the central problem that prompted them remains. Some analysts have suggested that Sebelius' private fundraising is a result of the Obama Administration inability to secure additional funding for ACA implementation efforts. Congressional Republicans, particularly in the House, have continuously attempted to block funding increases for the health care rollout, and they are expected to continue to oppose any funding request to help market the ACA to the public.

ISSUE—IMMIGRATION REFORM

The ongoing debate over comprehensive immigration reform heated up during May. On May 9, following several weeks of hearings, the Senate Judiciary Committee began its markup of the immigration proposal drafted by the so called "Gang of Eight." Members of the unofficial group—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)—spent several months working to broker a compromise on immigration reform. Their end product was [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 legality through the creation of a Registered Provisional Immigrant (RPI) status
- A pathway to citizenship following the attainment of RPI status

While these core elements survived the markup process, senators on the Judiciary Committee successfully adjusted minor elements in the bill to overcome impediments

to its passage. One of the largest hurdles was a disagreement over the HB-1 visas for highly skilled workers. Though the original bill allowed for an increase in HB-1 visas offered, representatives from the technology industry criticized those provisions, saying that the bill would place too many restrictions on U.S. companies trying to hire skilled foreign workers. Conversely, several labor organizations voiced concern over the loss of American jobs to foreign immigrants working on an HB-1 visa. A compromise was struck between Senators Schumer and Orrin Hatch (R-UT) that eases some of the hiring restrictions but also requires U.S. companies to make a good faith effort to hire Americans for high skilled jobs before looking to hire abroad.

Another problematic issue for the members was whether to include same-sex couples in the bill's provisions. Judiciary Committee Chairman Patrick Leahy (D-VT) introduced an amendment that would have allowed American citizens to sponsor their foreign same-sex partner for a green card. Conservatives opposed the measure, and Republicans in the Gang of Eight warned that they would pull their support for the immigration effort if the amendment was adopted. Fearing that it could jeopardize the bill's chances, Chairman Leahy decided not to call up the amendment for debate. Instead, Democrats hope to bring up the amendment on the Senate floor.

Though the Senate has moved swiftly on immigration reform, the House has not been as quick to act. Several Republicans in the House have introduced strict immigration measures that focus mainly on border integrity. The House also has a group of eight members—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)—working to find a compromise on a comprehensive immigration bill. The group has yet to produce legislation, and tensions have flared at times with some members threatening to abandon the group and its efforts. While the House proposal may be in limbo, Speaker Boehner has indicated that the House will not pass the Senate's version in its current form. Instead, the House leadership has signaled that they hope to pass their own bill and work out the differences in a conference committee.

ISSUE—FARM BILL

Congress took action on the expired farm bill this month. The Senate Agriculture Committee passed its [version](#) of the bill on May 15 by a vote of 15-5. The full Senate has begun debating amendments to the bill and is likely to pass the bill by June 7. On May 16, the House Agriculture Committee passed its [version](#) of the Farm Bill by a vote of 36-10. The full House is expected to consider the farm bill on the House floor later in June.

ISSUE—SCANDAL IN THE ADMINISTRATION

In addition to the fallout surrounding the scandals at HHS and the IRS, the Obama Administration was further rocked by the emergence of a new scandal and the return of another. Republicans in Congress continued their investigations into the September 11, 2012, attacks on the U.S. Consulate in Benghazi, Libya, which led to the death of four Americans. On May 8, the House Oversight Committee held a hearing on the attack in order to further probe the Obama Administration's handling of the incident. In an attempt to both satisfy legislators and to discount claims of a cover up, the White House released one hundred pages of emails and other correspondence detailing the Administration's public relations response to the attack. The documents have not satisfied Republicans in Congress, and they vowed to continue investigating the lead up and response to the attack.

On May 13, the White House was further jarred when the Associated Press announced that the Justice Department had secretly obtained months' worth of reporter and editor phone records in ongoing leak investigations. As the story developed, it was disclosed that the Justice Department had also seized phone records and emails and tracked the movements of a Fox News reporter in another leak investigation. While Holder has distanced himself from the AP controversy by stating he had recused himself from the case, subsequent reports have indicated he had at least a minimal level of involvement in the AP and Fox News investigations. Some Republicans have called for Holder's resignation, and polls indicate that Holder is losing public support.

The lasting effects of the quartet of controversies are yet to be seen. While each are damaging in their own right, the convergence of all four in a week's time frame has created unknown implications for President Obama's second term agenda. Congress, especially the Republican-controlled House, is expected to continue investigating these scandals, creating a possible distraction from the White House's efforts to pass high profile legislation, such as comprehensive immigration reform.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Rasmussen Reports	June 2	Approve 47, Disapprove 52
Gallup	June 1	Approve 47, Disapprove 45
Reuters/Ipsos	May 28	Approve 45, Disapprove 50

Job Approval: Congress

Poll	Date	Results
The Economist/ YouGov	May 27	Approve 10, Disapprove 63
Fox News	May 20	Approve 16, Disapprove 76
Reason-Rupe/ PSRAI	May 13	Approve 16, Disapprove 75

Direction of the Country

	Date	Results
The Economist/ YouGov	May 27	Right Track 33, Wrong Track 53
Rasmussen Reports	May 26	Right Track 30, Wrong Track 61
ABC News/Wash Post	May 19	Right Track 37, Wrong Track 60

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	Rebecca Blank	Acting	Penny Pritzker	Pending
Labor	Seth Harris	Acting	Thomas Perez	Pending
Health and Human Services	Kathleen Sebelius	Remaining	-	-
Housing and Urban Development	Shaun Donovan	Remaining	-	-
Transportation	Ray LaHood	Retiring	Anthony Foxx	Pending
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	Ron Kirk	Retiring	Michael Froman	Pending
U.N. Ambassador	Susan Rice	Remaining	-	-
Chair of Council of Economic Advisers	Alan Krueger	Remaining	-	-
Small Business Administrator	Karen Mills	Retiring	To be determined	-