



# Washington Forecast

September 2, 2014

Activity slowed in Washington last month as Congress left for the August District Work Period, though a host of issues are waiting for lawmakers upon their return on September 8. Below is a look at the outstanding legislative items Congress is expected to address in the coming weeks and during the Lame Duck session of the 113<sup>th</sup> Congress.

## **CONGRESSIONAL OUTLOOK FOR SEPTEMBER**

Lawmakers will have a short timeframe to advance must-pass legislation when they return to DC. Currently, legislators are scheduled to be in Washington for only three weeks before departing for prime campaigning season, increasing the pressure to act on expiring legislation. Although Congress is not known for doing anything quickly, it is possible that the House and Senate come to an agreement on the must-pass items and cancel the final week of session, wrapping up legislative business around September 19.

### ***Government Funding***

The most pressing matter will be funding the federal government for Fiscal Year 2015 (FY15), which begins on October 1. Current funding for FY14 will expire on September 30, 2014, and the government may face another shutdown threat if congressional leaders cannot reach an agreement by then.

Under regular order, funding for federal agencies and programs would be set by twelve annual appropriations bills. However, Congress has yet to send any of these individual spending measures to the White House for the President's signature and is unlikely to do so during the limited work schedule in September. As such, legislators are expected to pass a continuing resolution (CR), temporarily extending current spending levels into FY15 and allowing additional time for Congress to complete action on appropriations legislation after the mid-term election.

Leaders in both chambers have expressed support for passing a CR as soon as possible after Congress returns from the August recess. Republicans in particular are eager to avoid a repeat of the politically-toxic 2013 federal government shutdown, especially given the upcoming mid-term election. The growing consensus is that the CR will extend

funding until mid-December, forcing Congress to revisit the issue during the Lame Duck session.

Though support for passing a CR remains high, the process may be complicated if either chamber tries to attach controversial provisions to the must-pass legislation.

### ***Export-Import Bank***

One such item that may get added to the CR is an extension of the current authorization for the Export-Import (Ex-Im) Bank, a federal export credit agency that finances certain sales of U.S. exports. The Ex-Im Bank's current legislative mandate is set to expire on September 30.

The debate over reauthorizing the Bank has spanned the summer. The White House strongly backs reauthorization while some conservative Republicans in the House, including House Financial Services Committee Chairman Jeb Hensarling (R-TX), remain wary of Ex-Im's government financing of private sector transactions.

One proposal that may advance is a bipartisan Senate [bill](#) that would reauthorize the Ex-Im Bank for five years with an elevated lending cap of \$160 billion. Senator Joe Manchin (D-WV) is also pushing for language to ease restrictions on Ex-Im financing of overseas coal plants, which may alleviate some GOP concerns.

While a path forward for Ex-Im is difficult, the reauthorization may need to be attached to the CR in order to have a chance of passing. Given the House GOP opposition, it is likely that only a short-term extension will be possible, with further debate about the long-term future of Ex-Im to come.

### ***Internet Tax Moratorium***

Another item that may be included in the CR legislation is a renewal of the federal moratorium on taxing Internet access. Previously, the House passed a [bill](#) to permanently extend the moratorium. The Senate has similar pending legislation with broad support, but the bill was stalled by attempts to combine the moratorium extension with the more controversial Marketplace Fairness Act (MFA), a bill that would allow states to collect sales tax for online purchases, which faces strong opposition in the House.

Though the current moratorium does not expire until October 31, legislators are likely to address the issue in September since members will not return to DC until after the November 4 election.

### **OTHER POSSIBLE ACTIONS IN SEPTEMBER**

Both Congress and the White House also may seek to take action on a few non-deadline items before legislators leave for the mid-term election.

### ***Inversions***

With an eye on the November election, President Obama and congressional Democrats spent the summer months vigorously attacking the use of corporate inversions, the practice of reincorporating a company in another country following a merger with a foreign entity. While inversions occur for many reasons, one factor is to lower a company's tax burden, a move the President has called "unpatriotic."

Like Republicans, most Democrats believe the ultimate solution to stop corporations from moving abroad is a rewrite of the corporate tax code that lowers the top marginal tax rate and moves towards a territorial tax system. Unlike the GOP colleagues, however, Democrats remain steadfast in their calls for immediate action to curb the wave of inversions until tax reform can be accomplished.

Democrats in Congress have already introduced legislation to address the inversions issue. Senate Committee on Investigations Chairman Carl Levin (D-MI) unveiled a [bill](#) in May that would increase barriers for companies thinking of inverting. In June, he introduced another [bill](#) that would prohibit the government from awarding federal contracts to domestic companies that invert. Another proposal from Senator Chuck Schumer (D-NY) would go after "earnings stripping" which happens when an inverted company lowers its U.S. tax bill by deducting interest paid to a foreign subsidiary on the U.S. subsidiary's debt. The draft legislation would place new restrictions on a company's ability to do this.

These bills have yet to advance and have faced opposition from Republicans, some of whom view the proposals as retaliation toward inverted companies rather than a solution to the problem. Throughout August, Senate Finance Chairman Ron Wyden (D-OR) has been working with Ranking Member Orrin Hatch (R-UT) on ideas to address inversions, but it remains to be seen if there is room for bipartisan compromise on this issue.

It is also possible that President Obama will take matters into his own hands in the coming weeks. He is said to be considering several options for executive action that would make it more difficult for corporations to invert, including a tightening of the existing Section 7874 ownership test rules and earnings stripping restrictions similar to the Schumer proposal.

Republic Consulting's Geoff Davis recently wrote an [op-ed](#) for *The Daily Caller* on the topic of inversions.

### ***Immigration***

The Obama White House may also take action to address immigration issues in the U.S., although concern about retaining the Senate majority may force the Administration to postpone action until after the election.

With a surge in unaccompanied minors crossing the southern border illegally and Congress unable to move forward on an immigration reform package, President Obama warned Congress over the summer that he planned to take executive action on the issue. In August, he held listening sessions with a variety of groups, including businesses, to build support for executive action. Executive action may focus on issues such as recapturing unused green cards or making improvements to existing work authorization programs. It is also possible that the President moves to defer deportation for certain illegal immigrants.

### **CONGRESSIONAL OUTLOOK FOR THE LAME DUCK SESSION**

While much of the focus in Washington will remain on must-pass legislation in September, several other issues will be waiting for lawmakers when they return for the lame duck session following the mid-term election.

#### ***Government Funding***

Lawmakers likely will face an expiring CR when they return to the issue of government funding in the lame duck session. The results of the mid-term election will determine how lawmakers address the continuing resolution. If Republicans win control of the Senate, they could push for a new short-term CR that extends current funding levels until March 2015, giving the new GOP majority more control over spending priorities for the remainder of FY15. Alternatively, Republicans could choose to clear the FY15 appropriations deck by passing a longer-term CR that runs through the end of the fiscal year, allowing the incoming Congress to focus on FY16 spending bills. If Democrats retain the Senate, they are also likely to push for a CR that runs through the end of FY15.

#### ***Tax Extenders***

Another pressing issue that will need to be addressed in the lame duck session is the fate of tax extenders, a host of corporate and individual tax provisions that expired at the end of 2013. Throughout the summer, the House passed a number of bills extending many of the expired extenders on a permanent basis. The Senate's consideration of a comprehensive but short-term tax extenders bill came to a halt following a battle on the Senate floor over amendments.

Senate Majority Leader Harry Reid (D-NV) has promised to address the issue during the lame duck session. Two sticking points may be the steep price tag and a perception that some of the provisions are narrowly tailored to special interests. Any deal is likely to make the extenders retroactive to the 2014 tax year.

#### ***Terrorism Risk Insurance***

Following the attacks on the U.S. on September 11, 2001, Congress approved a government-backstop insurance program known as the Terrorism Risk Insurance Act (TRIA) that would help cover losses incurred from any future terrorist acts. That

program is set to expire at the end of the year, and lawmakers have yet to pass legislation extending it. While the Senate overwhelmingly approved a bill that would extend TRIA for seven years, the House has moved at a slower pace. Some House Republicans, including Chairman Hensarling, are concerned that the program puts federal funds on the line. The Financial Services Committee passed a bill introduced by Chairman Hensarling that would raise the threshold of losses required to be incurred before federal cost-sharing kicks in from \$100 million to \$500 million. The bill has not been brought to the House floor yet due to concerns about a lack of support.

Despite the impasse, House Republican leaders are reportedly zeroing in on a deal to reauthorize TRIA, meaning the issue could be addressed before legislators leave for the election. The deal being discussed would provide a compromise between the Senate bill and Hensarling's bill by raising the loss threshold to \$250 million. Before the House can take action, leaders will have to convince rank-and-file Republicans to support the measure. If there is enough support, TRIA could also be added to the coming CR.

### **FOREIGN AFFAIRS ISSUES**

In addition to the domestic issues facing Congress, ongoing foreign crises may also require legislators' attention.

#### ***Iraq***

The situation in Iraq remains precarious as militant extremists continue their march through the country. The Islamic State (also known as ISIS or ISIL) spent the summer carrying out a military campaign to seize control of large portions of territory in Iraq and Syria with the goal of establishing a hardline independent state.

In recent weeks, Western forces mobilized to halt the Islamic State's progress. Throughout August, the U.S. conducted military and aid operations to turn back the Islamic State's territorial gains and provide relief to religious minorities facing persecution from the terrorist organization. A turning point in the conflict may have been the execution of captured American journalist James Foley at the hands of Islamic State operatives, a move the White House deemed an act of terror.

Looking forward, opinions in Washington are split on how to deal with the growing threat in the Middle East. Public sentiment remains strongly against sending American forces back to Iraq, and President Obama has ruled out a large scale military operation. Nevertheless, members of Congress from both parties have called on the Obama Administration to first seek congressional approval before committing troops to the region. As an alternative to an American military presence, some lawmakers have called on the U.S. to provide arms and non-combat military support to Kurdish paramilitary forces in northern Iraq, known as the Peshmerga, which have been vigorously fighting Islamic State forces.

At the end of August, the President directed Department of Defense Secretary Chuck Hagel to provide him with a range of options to address the Islamic State. He also directed Secretary of State John Kerry to head to the region for coalition building efforts.

### ***Ukraine***

Tensions also remain high in Ukraine, where Russian military forces continue to amass amid protests from the Ukrainian government. In August, Ukrainian forces made strong advances in the battle against pro-Russian separatists in the eastern part of the country. In response, Russia began moving additional forces near the troubled area, with Ukrainian leaders claiming that Russian soldiers have crossed into their country to aid separatists in hope of stoking the conflict and destabilizing the government in Kiev.

Options for the West remain limited. The U.S. and EU nations imposed a round of tough economic sanctions in July, but no Western nation has committed to intervening militarily. If the situation worsens and Russian forces invade Ukraine, the Obama Administration and Congress would be forced to reexamine the American approach toward the conflict and whether to increase the U.S. role in the regional struggle.

### ***Ebola Outbreak***

Public health officials across the globe continue to battle a resurgence of the Ebola virus in four countries in West Africa, the worst outbreak since the disease was discovered in the 1970s. Currently, the region has seen 3,000 cases resulting in 1,552 deaths. Officials have refocused their efforts on finding a cure for the disease, especially in light of the full recovery of two American aid workers who were diagnosed with the disease and successfully treated with an experimental serum.

In August, it was announced that GlaxoSmithKline (GSK) will partner with the National Institute of Health's Vaccine Research Center to begin clinical human trials of an experimental Ebola vaccine. GSK has pledged to produce 10,000 doses for the World Health Organization's efforts to inoculate health care workers and other high-risk groups should the trials yield positive results.

**RECENT POLLING****Job Approval: President Obama**

Poll	Date	Results
Gallup	Sep. 1	Approve 42, Disapprove 52
Rasmussen Reports	Sep. 1	Approve 46, Disapprove 52
The Economist/ YouGov	Aug. 25	Approve 43, Disapprove 56

**Job Approval: Congress**

Poll	Date	Results
The Economist/ YouGov	Aug. 25	Approve 7, Disapprove 74
Reason-Rupe/PSRAI	Aug. 10	Approve 18, Disapprove 75
Gallup	Aug. 10	Approve 13, Disapprove 83

**Generic Congressional Ballot**

Poll	Date	Results
Rasmussen Reports	Aug. 31	Democrats 40, Republicans 41
USA Today/Pew Research	Aug. 24	Democrats 47, Republicans 42
Fox News	Aug. 12	Democrats 46, Republicans 39

**Public Approval of Health Care Law**

	Date	Results
Rasmussen Reports	Aug 23	Support 43, Oppose 53
Fox News	Aug. 12	Support 41, Oppose 52
CNN/Opinion Research	Jul. 20	Support 40, Oppose 59