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The House is in recess the week of June 27 - July 1.

No votes are expected in the Senate until Tuesday, July 5, when the chamber considers several Justice Department nominations, then resumes work on a measure to streamline the Senate confirmation process.

With the authorization for the Federal Aviation Administration set to expire at week's end, action is expected on a House-passed short-term extension.

Several panels focus on military matters. Foreign Relations marks up an authorization for U.S. action in Libya, while Armed Services considers John R. Allen to replace David H. Petraeus as commander in Afghanistan.

Banking & Financial Services

On Wednesday afternoon, June 8, the Senate rejected 54-45 the amendment, offered by **Sens. Jon Tester (D-Mont.)** and **Bob Corker (R-Tenn.)**, that would have suspended for one year new restrictions on the fees that banks charge retailers for processing debit card payments. After the vote, Corker said the Senate was unlikely to address the issue again in the current Congress.

Defense

The **Senate Armed Services Committee (SASC)** approved a \$682.5 billion fiscal 2012 defense authorization bill that would impose tough new restrictions on the F-35 Joint Strike Fighter program, the panel announced after approving the measure the evening before. The overall measure includes \$117.3 billion for the wars and \$18.5 billion for national security programs at the Energy Department and the Defense Nuclear Facilities Safety Board. The House passed its version of the authorization bill on May 26 in a 322-96 vote.

House appropriators advanced a fiscal 2012 Defense spending bill Tuesday, June 14, that would limit U.S. aid to Pakistan and require an independent assessment of the war in Afghanistan. The spending bill, which the **House Appropriations Committee** approved by voice vote, would withhold 75 percent of the \$1.1 billion allocated for the Pakistan Counterinsurgency Fund until the Defense secretary provides lawmakers with a report on Pakistan. Overall, the legislation would provide \$530 billion for the **Defense Department**, which is \$8.9 billion below the administration's request. That total would include \$32.3 billion for the Defense Health Program — \$125 million above the president's request. The bill also would provide \$118.7 billion — \$842 million more than the president's request — for overseas contingency operations, primarily the wars in Afghanistan and Iraq.

Senior senators are considering rewriting the 2001 law that implicitly authorized the Iraq and Afghanistan wars — but not in the same way the House proposed last month. The current debate over whether Congress needs to clarify and update the president's power to pursue al Qaeda and other terrorists — sparked by a provision in the House-passed fiscal 2012 defense authorization bill — has taken on new significance after the killing of Osama bin Laden. **Sen. Carl Levin (D-Mich.)**, chairman of the SASC, said he opposes the House-passed provision that would rewrite the Authorization for Use of Military Force because it is too sweeping, and would give the executive branch authority to arrest and detain anybody, anywhere.



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Featured Strategies Team Member



James Moriarty
Partner, Locke Lord Bissell & Liddell

James Moriarty has more than 25 years of experience practicing law in Washington, D.C., and is referred to as an “energy-policy whiz” by the political newspaper *The Hill*. In his representation of industry coalitions, he drafted deregulation legislation adopted by Congress and the President and now uniformly upheld by courts across the country.

His depth and breadth of experience include representing clients before the Federal Energy Regulatory Commission, the Department of Energy, the Department of Transportation, the Department of Justice and federal and state courts nationwide. Moriarty’s reputation for creating innovative strategies to quickly handle complex regulatory, enforcement and trade matters before all branches of government puts him at the forefront of precedent-setting legal issues.

Moriarty works closely with the Locke Lord Strategies team and collaborates with practices across the Firm, including Administrative & Regulatory, Energy, International, Public Law & Governmental Affairs, White Collar/Internal Investigations, the Climate Change Team and others. He writes and speaks regularly on a multitude of significant policy matters here and overseas.

He earned his master of laws degree from Georgetown University Law Center and his law degree from Catholic University of America School of Law, where he served as a member of its board of regents. He was a University Scholar and earned his undergraduate degree at Rutgers University.

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Education

Lawmakers in both parties are eager to do away with the accountability system mandated by the 2002 education law known as **No Child Left Behind (NCLB)**, but conflicting ideas on how to replace it have stalled committees in both chambers seeking to overhaul the statute. Those close to the negotiations acknowledge they will not meet President Obama’s timeline of rewriting the law by the start of the next school year, but education policy experts say ideological differences on how to hold states and schools accountable for student performance may trip up reauthorization until after the next presidential election. Democrats in the House and Senate want to hold all public schools accountable in some fashion, and the GOP is seeking a scaled-back system based on transparency. But so far the only detailed proposal has come from Obama, who wants to mandate a prescribed set of fixes for the lowest-performing 5 percent of schools in each state.

The **House Education and the Workforce Committee** advanced legislation Wednesday, June 15, that would abolish two Obama administration regulations for colleges and universities set to take effect July 1. The bill would repeal regulations establishing a definition for a credit hour and setting requirements that institutions of higher education must meet to be considered legally authorized by a state.

If Congress fails to rewrite NCLB by the start of the next school year, **Secretary of Education Arne Duncan** said he will waive some of the law’s most onerous requirements for states that voluntarily make changes sought by the administration. Duncan’s statement effectively warns lawmakers that if they do not overhaul the nine-year-old law this year, the administration will seek to advance its education agenda through other means.

Energy/Environment/Climate Change

Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.) and ranking member **Lisa Murkowski (R-Alaska)** released on Friday, June 24, a pared-down version of offshore drilling safety legislation that will be postponed until a future markup debate over sharing more of the royalty payments with coastal states. Noticeably absent from the text are any provisions that would allow coastal states to share more royalties from oil production activities in federal waters.

In a decision that raises the political stakes for **Environmental Protection Agency (EPA)** climate regulations, the Supreme Court on Monday, June 20, rejected a lawsuit brought by states and environmentalists that sought to limit greenhouse gas emissions as a public nuisance. In *American Electric Power v. Connecticut*, the court ruled that the federal common law nuisance suit — brought by eight states and New York City and joined by conservation groups — was displaced by EPA efforts to control emissions under the **Clean Air Act (CAA)**.

A bipartisan group of House members released HR 2250 on Wednesday, June 22, which would provide the EPA with more time to rewrite a regulation on toxic emissions from industrial boilers that the agency has acknowledged needs changes. The bill was introduced by **Rep. Morgan Griffith (R-Va.)** and seven other members of the Energy and Commerce Committee. Senators from both parties also have raised concerns about the rule, including **Sen. Lamar Alexander, (R-Tenn.)**, who is considering legislation as well to allow the EPA more time to rework the regulation.

Rep. Lamar Smith (R-Texas) is weighing legislation to help the EPA rewrite a proposed regulation restricting emissions by industrial boilers, which the agency recently put on hold in the face of industry objections. Alexander earlier in the day told **EPA Administrator Lisa P. Jackson** that while he supports many aspects of the CAA, the proposal to regulate toxic boiler emissions was unworkable.

More than two dozen House Democrats are joining Republicans in calling for the EPA to extend the comment deadline for a rule on toxic power plant emissions. **Rep. John Dingell (D-Mich.)** led the lawmakers in sending a letter to Jackson urging her to accept comments for another 60 days on the May proposal to regulate hazardous air pollutants from power plants. The letter echoes calls by Republicans and industry to delay the rule, which aims to control emissions of mercury, acid gases and toxic metals from power plants.



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Labor, Pensions & Retirement

Rank-and-file Republicans in the House and Senate are continuing to push for changes to the **Social Security** program, despite leaders' acknowledgement that it probably will not be part of an agreement on raising the national debt limit. In recent weeks, Republicans have filed legislation and held hearings urging an overhaul of the program, which a recent report said would run out of money by 2036. Their insistence suggests that even if Social Security is not part of a debt deal, at least some in the GOP are intent on laying down markers for future discussions. **Sen. Kay Bailey Hutchison (R-Texas)** introduced a bill on Thursday, June 16, that would gradually raise the Social Security retirement age from 65 to 69 and that would reduce the cost-of-living increase for benefits, which she said would save \$400 billion over 10 years.

Patent Reform

The House voted 304-117 on Thursday, June 23, to pass **HR 1249, the America Invents Act**. The House passed the broad overhaul of the U.S. patent system, after overcoming opposition to changes in provisions related to patent office fees. But the changes will make it harder for the House and Senate to fashion a compromise on the legislation. A manager's amendment of the bill was adopted earlier on Thursday, which would allow appropriators to maintain control of patent office funding, instead of letting the patent office keep and spend all its fees.

Tax

Speaker John A. Boehner (R-Ohio) on Thursday, June 16, did not rule out extending the 2 percent reduction in payroll taxes for employees scheduled to expire at the end of the year. But he did not sound enthusiastic about it either. The payroll tax holiday was included in the deal to extend all of the expiring George W. Bush-era tax cuts that was struck between the Obama administration and congressional Republicans at the end of last year.

Health Care

House and Senate Democrats introduced legislation Thursday, June 16, to reduce drug costs in **Medicare's** prescription drug program, a measure that exemplifies the kinds of changes to health entitlements that Democrats say they are willing to accept in the negotiations over raising the debt limit. The measure, introduced in the House and Senate, would require drug companies to provide prescription drug rebates to those eligible for both Medicare and Medicaid, as well as to seniors in the low-income subsidy plan in the Medicare Part D prescription drug program.

Immigration

House Democrats are suggesting weighing down Rep. Smith's **HR 2164, the Legal Workforce Act**, with immigration reforms of their own, setting up a fight over the bill's scope. The bill would require all employers to run information on their new hires through an online system called E-Verify, which checks their data against federal databases to make sure they are legally allowed to work. While Smith wants a stand-alone bill, Democrats are intent on pairing the E-Verify bill with other proposals, such as increasing the guest-worker program or even legalizing the status of some workers.

Insurance

The **National Association of Insurance Commissioners Health Insurance and Managed Care Committee** has scheduled a Wednesday, July 6 conference call to continue discussion of the Adverse Selection White Paper. The Professional Health Insurance Advisors Task Force has scheduled a Thursday, June 30 conference call to review the **Health Insurance and Managed Care Committee's** report on options for amending the Medical Loss Ratio formula to address concerns about access to agent and broker services.

It has been reported that North Dakota Representative George Keiser has applied for a spot on the Federal Advisory Committee on Insurance. Keiser is the current president of the **National Conference of Insurance Legislators (NCOIL)**. Last month, the Treasury Department announced its intention to create a Federal Advisory Committee on Insurance. The Committee will provide advice to the **Federal Insurance Office (FIO)** and the Treasury Department, including to the FIO Director in the Director's role as a member of the **Financial Stability Oversight Council (FSOC)**.

On Friday, June 24, President Barack Obama announced his intent to nominate Roy Woodall as a member of the Financial Stability Oversight Council. Roy Woodall is a former Commissioner of Insurance for the Commonwealth of Kentucky, serving in that capacity from 1966 to 1967. He recently retired as the Senior Insurance Policy Analyst at the Department of the Treasury, where he served from 2002 to 2011. From 2001 to 2002, Mr. Woodall was an Insurance Consultant for the Congressional Research Service. Previously, he served as President of the National Association of Life Companies (NALC), and upon NALC's merger into the American Council of Life Insurers (ACLI), he served as ACLI's Managing Director for Issues and Vice President/Chief Counsel for State Relations.

On Thursday, June 16, the Florida Office of Insurance Regulation announced that Florida has entered into a multi-agency Nonadmitted Insurance Multi-State Agreement (NIMA). The agreement is authorized by the Dodd-Frank Act (DFA) and allows state authorities to work cooperatively to consolidate reporting and collect and allocate premium taxes for multi-state surplus lines insurance transactions. Florida, Mississippi and Hawaii are the lead states in forming this agreement. The agreement was proposed by the NAIC Surplus Lines Implementation Task Force for use by the participating states.

On Wednesday, June 15, **Rep. Eric Paulsen (R-Minn.)** introduced **HR 2198** to update a tax break for small property and casualty insurers to provide for inflation. The bill would increase the alternative tax liability limitation for small property and casualty insurance companies. HR 2198 was referred to the **House Ways and Means Committee**.

On Monday, June 13, after six and a half years as the Director of the Illinois Insurance Department, Michael McRaith began work as the first director of the FIO. The DFA



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Telecommunications

Rep. Greg Walden (R-Okla.), chairman of the **House Energy and Commerce subcommittee** that oversees the **Federal Communications Commission (FCC)** has circulated draft legislation that would mandate several procedural changes at the agency, reflecting GOP lawmakers' displeasure with its recent actions. Under the draft bill, the FCC would only be allowed to impose conditions that are "narrowly tailored to remedy a harm that arises as a direct result of the specific transfer or specific transaction."

The **Senate Commerce, Science and Transportation Committee** backed a bill Wednesday, June 8, that would reallocate a portion of the radio spectrum known as the "D block" to public safety and also give the FCC authority to conduct incentive auctions of commercial spectrum. The panel approved the bill on a 21-4 vote, with four Republicans in opposition. In addition to reallocating 10 MHz of spectrum to create a national interoperable public safety broadband network, the bill would provide the FCC the authority to conduct incentive auctions of commercial spectrum, aimed at making some spectrum from broadcasters available for wireless use as the increased use of smart phones and tablets has strained networks in recent years.

Transportation & Infrastructure

House Republicans are fast-tracking an Amtrak privatization bill to markup, but Democrats who say they were not included in the process want a hearing first. Transportation and Infrastructure **Chairman John L. Mica (R-Fla.)**, and **Railroads, Pipelines and Hazardous Materials Subcommittee Chairman Bill Shuster, R-(Pa.)**, unveiled a closely held draft of a bill on Wednesday, June 15, that would open many of Amtrak's routes to privatization. The draft is to be marked up June 22. Ranking Democrats on the full committee and rail subcommittee, complained in a Wednesday, June 15, letter to Mica and Shuster that the accelerated process denies interested parties the opportunity to weigh in.

established the FIO within the **Treasury Department** and provides that the Director of the FIO is a non-voting member of the FSOC. The FIO is authorized to gather information about the insurance industry, monitor the insurance industry for systemic risk purposes and serve as a uniform, national voice on insurance matters for the U.S. on the international stage. The FIO is required to submit reports on the U.S. and global reinsurance market and to study and report on how to modernize and improve insurance regulation in the U.S. Industry trade associations are watching closely to see whether the FIO moves toward federal regulation of the industry.

On Thursday June 9, the Government Accountability Office (GAO) issued a report regarding action needed to reform the administration of the National Flood Insurance Program (NFIP). The GAO study found that the Federal Emergency Management Agency (FEMA) faces significant management challenges in areas that affect NFIP, including challenges modernizing NFIP's insurance policy and claims management system and external challenges including lapses in NFIP's authorization. The report includes the following recommendations for congressional consideration: 1) allowing NFIP to charge full-risk premium rates to all property owners and providing assistance to some categories of owners to pay those premiums; 2) authorizing NFIP to account for long-term flood erosion in its flood maps; and 3) clarifying and expanding FEMA's ability to increase premiums or discontinue coverage for owners of repetitive loss properties who do not mitigate their properties or refuse FEMA's mitigation offers.

In testimony before the **Senate Banking Committee** on Thursday, June 9, **Craig Fugate**, FEMA Administrator, discussed NFIP reform policy alternatives, including: 1) community-based flood insurance, whereby risk assessments would be performed on individual buildings and the insurance premium payment would be made by the community; 2) privatization; 3) federal assistance only in communities in which specific flood mitigation and preparedness measures have been enacted; and 4) optimization of the current NFIP structure. The Administration has not taken a position on the preferred course of action for NFIP reform.

Trade

The **House Ways and Means Trade Subcommittee** will likely weigh in on three stalled Bush-era trade deals in an informal markup, despite an ongoing dispute with the White House over assistance for displaced workers. Obama administration officials have said they will not send trade deals with South Korea, Colombia and Panama to Congress until Republicans agree to renew expanded **Trade Adjustment Assistance (TAA)** benefits that expired earlier this year. **Rep. Kevin Brady (R-Texas)** said the committee would likely hold a "mock" markup of the deals, which signals Republicans' desire to move the deals this summer. The pending deals with South Korea, Colombia and Panama are all expected to move under fast-track procedures, which require an up-or-down vote within 90 days of submission by the White House.

Senate Minority Leader Mitch McConnell (D-Ky.) said Tuesday, June 7, that a renewal of benefits for U.S. workers displaced by foreign competition should not be linked to approval of three trade deals, as the White House wants. Instead, he said the benefits, under the TAA program, should be attached to a renewal of fast-track trade negotiating authority for the president. McConnell's proposal, which appears to be a non-starter with Democrats, is the latest in the long process of winning congressional approval of the deals.