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## Washington News: July 4 - July 15

The House starts the week of July 11, with the fiscal 2012 Energy-Water spending bill. Toward the close of the week it could turn to the Financial Services measure. Also on tap are a bill to overhaul flood insurance programs and allow states more autonomy with water quality standards.

The Senate will consider a non-binding deficit reduction bill, taking a cloture vote on the measure the week of July 11.

Several other appropriations bills will see House committee action during this time.

## Banking & Financial Services

**Reps. Gary G. Miller (R-Calif.)** and **Carolyn McCarthy (D-N.Y.)** introduced legislation on Wednesday, July 6, that would replace mortgage giants **Fannie Mae** and **Freddie Mac** with a single entity that would issue mortgage-backed securities guaranteed by the federal government. Unlike the original Fannie and Freddie model, the new entity would not answer to private shareholders; any profits would instead head to the Treasury Department.

The **Federal Reserve** approved a rule Wednesday, June 29, that puts new restrictions on the fees that banks charge retailers for accepting debit cards: The final regulations are not as onerous as financial institutions had originally feared they would be. The Fed Board of Governors voted, 4-1, to issue a rule that would limit the fees that banks can charge merchants for processing debit card transactions to 21 cents per transaction, plus 5 basis points multiplied by the value of the transaction. The latter is to account for fraud losses. The rule was supposed to take effect next month, but after receiving more than 11,000 comments, the Fed said it would delay its rule; the new implementation date is October 1, 2011.

A group of Senate Democrats charged Tuesday, June 28, that a House appropriations bill does not adequately fund the **Securities and Exchange Commission (SEC)**, though GOP lawmakers appeared dismissive of their concerns. The week of July 4, the **House Appropriations Committee** approved a draft spending bill along party lines that would provide \$1.2 billion to the SEC — equal to fiscal 2011 spending but roughly \$222 million less than President Obama's proposal. The law gave the SEC broad new responsibilities, including increasing its oversight of credit-rating agencies, hedge funds and private investment advisers, as well as a role in regulating the over-the-counter derivatives markets.

The **House Oversight and Government Reform Committee** has scheduled a hearing for Thursday, July 14, regarding consumer financial protection efforts. Elizabeth Warren, Special Advisor of the Consumer Financial Protection Bureau, is scheduled to testify.



## Locke Lord Strategies

### Featured Strategies Team Member



#### Harriet Miers

Partner, Locke Lord Bissell & Liddell

Harriet Miers is a member of Locke Lord Strategies and a former managing partner of the Firm. She has extensive, broad ranging experience in public policy after serving in the administration of President George W. Bush from 2001-2007 as Staff Secretary, Deputy Chief of Staff, and Counsel to the President.

Prior to joining the White House, Ms. Miers had a distinguished career in her commercial litigation practice, representing a broad range of clients in varied industries. She is well-known throughout the United States, and has offices in Dallas, Austin and Washington, D.C.

Ms. Miers has been honored locally and nationally for her service to the community and for the highest standards of professionalism, including awards from the Department of Justice and the Central Intelligence Agency.

Ms. Miers received her law degree from Southern Methodist University School of Law, and she received her undergraduate degree from SMU. In 1972, after clerking for a U.S. District Court judge, Ms. Miers was the first woman hired at one of the Firm's predecessors in Dallas. She became the first woman to lead the Firm when she was elected Firm President in 1996.

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## Education

House Republicans introduced a controversial education funding bill Thursday afternoon, July 7, the third in a series of bills aimed at updating federal education policy. The bill, which would give states and school districts nearly 100 percent flexibility in how they spend federal dollars, is being criticized by national education boards and Democratic lawmakers who argue it would drain funding from programs that support low-income and minority students. The first bill, which eliminated more than half of the programs in the federal education law, passed the committee along party lines in May 2011. The second measure, which encourages the expansion of successful charter schools, passed with bipartisan support last month.

## Energy/Environment/Climate Change

The House on Tuesday, July 12, rejected an effort to roll back energy efficiency standards for incandescent light bulbs that are scheduled to take effect at the beginning of next year. **HR 2417, the Better Use of Light Bulbs (BULB) Act**, would roll back a provision in a 2007 energy law that created minimum efficiency standards for incandescent light bulbs. Since November's Republican sweep of the House, conservative groups have been targeting the light bulb rules as government meddling that would force U.S. jobs overseas, where many bulbs that use alternative technologies, including compact fluorescents and light-emitting diodes, are produced.

**House Energy and Commerce Subcommittee on Energy and Power** backed legislation on Friday, July 8, that would examine the economic impact of **Environmental Protection Agency (EPA)** regulations. HR 2401, the Transparency in Regulatory Analysis of Impacts on the Nation Act of 2011, would establish an interagency committee to examine EPA regulations and other actions set forth by the Obama administration, including those pertaining to greenhouse gas emissions. It is part of a series of GOP bills targeting the regulatory process, especially at the EPA.

House appropriators on Tuesday, July 12, endorsed a draft fiscal 2012 billion spending bill for the EPA and the **Interior Department**, beating back Democratic attempts to remove policy riders they denounced as an ideological onslaught. The FY 2011 spending draft bill also was packed with riders, however only two were included when the bill was passed. The \$27.5 billion measure, which would cut funding for the EPA, Interior Department, the U.S. Forest Service and other agencies by \$2.1 billion, was approved 28-18 by the House Appropriations Committee.

The White House is showing support for an agreement announced on Thursday, July 7, by a bipartisan group of senators to repeal an ethanol tax credit as well as the tariff on ethanol imports by the end of the month. Under the agreement, \$1.3 billion of the \$2 billion in subsidies due the industry for the rest of this year would be channeled to deficit reduction. The remaining money for 2011 would be divided up, with \$308 million set aside for a production tax credit for cellulosic biofuel, which is produced from other plants and plant material besides corn, the main ingredient in ethanol; \$253 million for an alternative fueling infrastructure tax credit; and \$107 million for a small-producer tax credit. Those lesser tax credits would expire after a few more years.

## Health Care

On Monday, July 11, the **U.S. Department of Health and Human Services (HHS)** released a much-anticipated proposed rule that would establish a framework to assist states in setting up their Exchanges (the "Exchange Rule"). As a companion to the Exchange Rule, HHS released a second proposed rule that would establish three new programs, each beginning in 2014, to provide premium stability in these new individual and small group health insurance markets that could be jeopardized



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### Insurance

On Thursday, June 30, the **National Association of Insurance Commissioners (NAIC) Professional Health Insurance Advisors Task Force** formally endorsed **HR 1206, the Access to Professional Health Insurance Advisors Act of 2011**. The legislation excludes remuneration paid for licensed independent insurance producers from the medical loss ratio calculation of the Patient Protection and Affordable Care Act. The National Association of Health Underwriters and the National Association of Professional Insurance Agents each issued news releases praising NAIC's support of HR 1206. Consumer Watchdog issued a news release condemning the NAIC task force endorsement.

It has been reported that when the **NAIC's Executive Committee** held a conference call on Tuesday, July 12, Kevin McCarty, Florida's insurance commissioner, did not call a vote to endorse HR 1206. Mr. McCarty indicated that continuing "discussions with HHS to see if we can find a solution that addresses the issue" would be the best course at this time.

**HR 1309, the Flood Insurance Reform Act of 2011**, was adopted by the House on Tuesday, July 12, by a vote of 406-22. Amendments that were approved include one by **Rep. Brad Sherman (D-Calif.)** that would require FEMA to reduce the number of flood insurance policies that are directly managed by the Agency to not more than 10 percent of the total number of flood insurance policies in force.

As a supervisory response to the increasing globalization in the insurance sector combined with the key lessons learned from the financial crisis, the **International Association of Insurance Supervisors (IAIS)** is building the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame).

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by the disproportionate impact of adverse risk experience (the "Premium Stabilization Rule"). Both the Exchange Rule and Premium Stabilization Rule will be published in the Federal Register on July 15, 2011, and remain open for public comment for 75 days. For more information regarding the Exchange Rule, view the *Locke Lord QuickStudy, "Up Next: HHS Tackles Health Insurance Exchanges."*

House Republicans will hold two hearings in an attempt to build support for eliminating the Independent Payment Advisory Board (IPAB). Republicans argue that the board will ration care, but President Obama insists that it is key to curbing Medicare spending. Supporters say the IPAB will depoliticize tough Medicare decisions and hold lawmakers accountable once it begins making recommendations in 2014. But GOP bills to eliminate the board have attracted Democratic cosponsors in the House and endorsements from business and provider groups, including the American Medical Association.

Despite scaling back debt limit negotiations from their \$4 trillion goal, **Medicare** and **Medicaid** remain on the chopping block as members search for at least \$1 trillion, and maybe even \$2 trillion in savings. While it remains unclear which changes will be adopted, dozens of potential changes have circulated recently, according to congressional aides, lobbyists and health industry sources. On Medicaid, two of the big money savers being discussed are a proposal to change state taxes on health care providers and a move to "blend" the formulas Washington uses to apportion its share of Medicaid to the states both now and when the program expands beginning in 2014 under the health care overhaul law.

### Immigration

Some Republicans are beginning to join Democrats in opposition to **House Judiciary Chairman Lamar Smith's (R-Texas)** bill that would require all employers to use an online system called **E-Verify** to check the legal status of prospective hires. Some conservatives are concerned the mandate would impose another layer of government regulation on the private sector. They also note the program is error-prone and could potentially deny legal workers jobs, forcing them and their employers to navigate the federal bureaucracy to clear up mistakes.

Republican lawmakers and immigration enforcement hawks on Wednesday, June 29, rejected a suggestion by President Obama that a GOP measure mandating employer verification of new workers be part of a broader immigration package that gives legal status to some illegal immigrants. Obama stopped short of saying he would veto the E-Verify legislation if it reached his desk but signaled he was likely to support it only as part of a larger package.

### Patent Reform

Senate proponents of a patent overhaul bill are urging appropriators to see to it that the **U.S. Patent and Trademark Office** gets to spend all the revenue it generates. Both chambers have passed patent bills. The Senate measure contains provisions allowing the patent office to keep all the fees it collects. But after a House Republican revolt, that chamber's version was changed so that appropriators would keep control of the funding instead. The Senate could take up the House bill as early as the week of July 18, with the goal of clearing the measure for President Obama's signature.

### Tax

**House Speaker John Boehner (R-Ohio)** cited disagreements between the parties on raising taxes as a major reason that a long-term debt deal was ruled out. This does not mean that significant tax code reform is off the table for good. If anything, the congressional leaders demonstrated they are willing to engage on tax questions that often have made them uncomfortable. Republicans showed they will consider eliminating or curtailing some tax breaks and Democrats entertained



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### Insurance (cont'd.)

According to the IAIS, this will foster cooperation among supervisors and close regulatory gaps. The IAIS is addressing these issues as it seeks to improve the supervision of Internationally Active Insurance Groups (IAIGs) and announced on Wednesday, July 6, the release, for comment, of a Concept Paper. Comments to the IAIS Concept Paper are due by August 31, 2011.

The **American Academy of Actuaries (AAA)** recently sent a letter to the **Treasury Department** asking that an actuary with insurance expertise be appointed to the Federal Advisory Committee on Insurance. According to the AAA, the Department's efforts to find appointees with the necessary diversity and experience will not be realized if the committee does not include individuals with direct actuarial experience.

The AAA also recently wrote to the **Financial Stability Oversight Council (FSOC)** regarding metrics to enable the FSOC to monitor insurance industry systemic risk. According to the AAA, metrics developed to identify systemically relevant insurance companies should aid in providing indication of whether there have been any material changes to the risk profiles of systemically relevant companies

the idea of bringing down top tax rates for individuals and companies.

**Sen. Carl Levin (D-Mich.)** together with **Sens. Kent Conrad (D-N.D.), Bill Nelson (D-Fla.), Bernard Sanders (I-Vt.), Jeanne Shaheen (D-N.H.)** and **Sheldon Whitehouse (D-R.I.)** on Tuesday, July 12, introduced **S 1346, the Stop Tax Haven Abuse Act**, which would close offshore tax loopholes and strengthen offshore tax enforcement.

### Telecommunications

Republicans on the **House Energy and Commerce Committee** are not likely to act on legislation before the scheduled August recess to address reallocating portions of the broadcast spectrum, according to a senior member of the relevant subcommittee. The House is on a different timetable than the Senate, where the **Commerce, Science and Transportation Committee** has approved a broad bill aimed at reallocating spectrum currently used by government agencies and television broadcasters for mobile broadband. The administration wants to reallocate 500 megahertz of spectrum to wireless Internet providers by the end of the decade.

According to a report released on Tuesday, July 12, by the **Senate Commerce Committee**, American telephone customers could be paying as much as \$2 billion a year in unauthorized third-party charges on landline telephone bills. The 50-page report is the culmination of a months-long committee investigation into "cramming," which occurs when a company adds a charge to a customer's phone bill that the customer did not order, agree to or use. The committee is holding a hearing on the issue Wednesday, July 13.

### Trade

The Obama Administration could formally submit trade agreements with Colombia, Panama, and South Korea to Congress with expanded Trade Adjustment Assistance (TAA) attached to the Korea deal. However, there is still partisan disagreement over TAA which could jeopardize passage of the deals. Conservatives say TAA is expensive and unnecessary, while Democrats and some moderate Republicans view the assistance as a necessary counterbalance to expanded free trade. Attaching TAA to the Korea deal would protect the worker program under fast-track trade procedures, which bar any amendments and require Congress to vote up-or-down on the trade pacts within 90 days of receiving them from the administration. House Speaker Boehner remains firm on his stance that the trade agreements and TAA should be considered separately. House and Senate panels did give a preliminary nod to draft measures that would implement the trade deals on Thursday, July 7. **House Ways and Means** and the Senate Finance committees held informal, or "mock" markups of the trade deals. The **Senate Finance Committee** voted 13-11, along party lines, to approve the Korea trade pact packaged with an extension of expanded TAA. The Senate panel also backed the Colombia agreement 18-6, and the Panama pact, 22-2. House Ways and Means Committee voted 22-15 along party lines, to approve a similar South Korea trade agreement without the TAA language. The panel also voted 22-15 in support of the draft implementation language for the Panama trade deal, and 22-14 to approve the Colombia agreement.

### Transportation & Infrastructure

**House Transportation and Infrastructure Chairman John L. Mica (R-Fla.)** on Thursday, July 7, sketched out his plan to cut federal highway funding. Mica's draft surface transportation bill would hold spending to about \$230 billion over six years — the amount that can be supported by the Highway Trust Fund and a considerable reduction from the \$286.5 billion provided by the 2005 highway law.