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The Week Ahead: September 19-23

The House and Senate's major order of business next week will be to pass a continuing resolution to keep the government operating beyond September 30. The Senate also plans to turn to a measure that would provide assistance to unemployed workers affected by trade issues.

Banking & Financial Services

The **Senate Appropriations Committee (SAC)** on Thursday, September 15, rebuffed a GOP attempt to attach language to the annual financial services spending bill that would block implementation of a portion of the 2010 health care law. In a 16-14 party-line vote, the committee approved an amended draft bill totaling \$44.6 billion that would fund the **Treasury Department**, federal courts, the District of Columbia and several independent agencies in fiscal 2012.

The **Senate Financial Services and General Government Subcommittee** backed legislation Wednesday, September 14, that would boost funding for consumer and investor protection agencies that Republicans have targeted for spending cuts. The panel gave voice vote approval to a draft spending bill that would provide \$21.7 billion in discretionary funding for fiscal 2012, about one percent below current funding and 16.4 percent less than President Obama's request. The measure calls for \$1.4 billion for the **Securities and Exchange Commission (SEC)** — \$222 million more than in fiscal 2011 — and \$240 million for the **Commodity Futures Trading Commission (CFTC)**, \$37.7 million above current funding.

As part of his new jobs package, President Obama endorsed a GOP proposal that would exempt smaller companies that plan to sell public shares from registering with the SEC. Specifically, the administration is calling for companies that plan to sell up to \$50 million in shares as part of a public offering to be exempt from registering with the SEC. The proposal echoes a bill authored by **Rep. David Schweikert (R-Ariz.)**, that the **House Financial Services Committee (HFSC)** approved by voice vote in June.

In a letter to **Treasury Secretary Timothy F. Geithner** on Thursday, September 8, signed by the HFSC's 34 Republicans, the lawmakers requested a report from the **Financial Stability Oversight Council (FSOC)** by October 1, on the administration's efforts to streamline regulations created by last year's Dodd-Frank bill. Specifically, they asked Geithner to identify rules in place in August 2010 that have since been eliminated or modified to reduce regulatory burdens. **Rep. Barney Frank (D-Mass.)**, the top Democrat on the panel and one of the law's namesakes, sharply disputed the Republicans' claims, arguing most of the new rules applied to the biggest banks, not smaller institutions.

Defense

A new report from the SAC suggests in no uncertain terms that the F-35 Joint Strike Fighter program will be in trouble if it does not resolve its technical and cost troubles. The F-35, built by a Lockheed Martin Corp.-led team of companies, is the Pentagon's top acquisition priority. The Defense spending bill approved by the Senate panel would reduce by \$695 million the request for the planes in fiscal 2012, keeping production levels at the fiscal 2011 level by subtracting funding for three planes and for advanced procurement of parts for 13 more.

Senate appropriators Thursday, September 15, advanced a spending bill that would freeze Pentagon spending at \$513 billion for fiscal 2012 — nearly \$26 billion less than President Obama's request. The SAC



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Featured Strategies Team Member



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Longtime Democratic adviser and well-respected Washington, D.C., lobbyist Mark Siegel joined the Firm four years ago as a Partner with Locke Lord Strategies, continuing his diverse career of providing strategic counsel to domestic private and public sector clients. With a Ph.D. in political science from Northwestern University, Siegel has nearly three decades of experience counseling clients at the highest level of government. He is a noted speechwriter, speaker and writer, often publishing op-ed pieces in the *Washington Post* and other mainstream publications.

Siegel's experience with people and politics in the Middle East – most notably in Pakistan, where he has been an adviser for many years – make him a premiere authority on international issues and these countries' relationships with the United States. He has been a speechwriter for assassinated Pakistani Prime Minister Benazir Bhutto, his longtime friend, as well as for Vice President Hubert H. Humphrey, DNC Chairman and Ambassador to Russia Robert S. Strauss, President Jimmy Carter, Vice President Walter Mondale, Senator Edward M. Kennedy and many others.

Along with lecturing and writing, Siegel is a frequent guest, political analyst and strategist on major news outlets like CNN, NBC, CBS, ABC and FOX and is considered a leading expert on U.S. delegate selection procedures. His wide-ranging experience includes university lecturer, and he has taught at Loyola University of Chicago, American University, George Washington University and Columbia University.

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voted 30-0 to approve the measure. It is unclear, however, when the Senate will take up the bill. In July, the House passed its version of the measure, which would provide \$530.5 billion in discretionary funding for Defense programs. The Senate proposal would meet targets for overall Defense spending in fiscal 2012 outlined in the recent debt ceiling law. The bill calls for reductions from the president's request for military operations in Afghanistan. Specifically, it would provide \$11.2 billion for the training of Afghan security forces — about \$1.6 billion less than in the House-passed version.

The House on Friday, September 9, passed **HR 1892, the Intelligence Authorization Act** for Fiscal Year 2012. The legislation passed by a vote of 384-14, after language was stripped out that drew a veto threat earlier that week. Before final passage, members gave voice vote approval to a manager's amendment offered by **Intelligence Chairman Mike Rogers (R-Mich.)**, to strike provisions in the bill requiring the national intelligence director to provide Congress with certain documents relating to the transfer of Guantánamo Bay detainees. The amendment also struck a provision requiring Senate confirmation of the director of the **National Security Agency**.

Education

Sens. Lamar Alexander (R-Tenn.), Johnny Isakson (R-Ga.), Richard Burr (R-N.C.), and Mark Kirk (R-Ill.) introduced on Thursday, Sept 15, five bills aimed at overhauling what the lawmakers consider the worst parts of the education law known as **No Child Left Behind (NCLB)**. The sponsors are working apart from the efforts of the **Senate HELP Committee's** top Republican, **Michael B. Enzi (R-Wyo.)**, to negotiate bipartisan legislation with **Chairman Tom Harkin (D-Iowa)**. The Senate bills would set new "college and career readiness" standards; create an initiative to prepare, train and recruit effective teachers and principals; consolidate 59 education programs into two block grants to states; and expand charter schools. The bills closely mirror those moving through the **House Education and the Workforce Committee**. The charter school bill is a companion to legislation the House passed Tuesday, September 13, with bipartisan support.

A group of moderate Senate Democrats wants **Education Secretary Arne Duncan** to include several conditions in any waivers that the department grants schools seeking relief from provisions of the education law known as NCLB. In a letter, the senators urged Duncan to follow a set of principles that emphasize things like increasing flexibility for local school districts and rewarding teachers based on student growth. Duncan is set to introduce his waiver proposal — which will ask states to adopt new policies in exchange for the regulatory relief — by the end of September.

Energy/Environment/Climate Change

The **Environmental Protection Agency (EPA)** will not propose new greenhouse gas regulations affecting power plants and oil refineries by the end of the month as planned, indefinitely postponing standards that conservatives argue will curb job growth. The move by the Obama administration further blunts the House GOP's mission to rescind or delay a number of EPA regulations that they say place undue financial burdens on businesses. The EPA said the agency will announce a new schedule soon for the rules, taking into account the latest data to ensure "smart, cost-effective and protective standards."

The **Nuclear Regulatory Commission (NRC)** effectively ended its review of the Yucca Mountain waste storage facility last week, as commissioners deadlocked on whether the Obama administration could withdraw the application to open the Nevada site. The announcement drew praise from Democrats opposed to the project and criticism from Republicans who want to press forward with it. Noting that Congress has zeroed out funding for the waste site, **Senate Majority Leader Harry Reid (D-Nev.)** said the nation should "move on and finally solve the nuclear waste problem." **House Energy and Commerce Chairman Fred Upton (R-Mich.)**, and **Environment and the Economy Subcommittee Chairman John Shimkus (R-Ill.)**, said the NRC action does not preclude reopening the Yucca Mountain facility.

The SAC on Wednesday, September 7, endorsed its fiscal 2012 spending bill for the **Energy Department** and federally funded water projects amid debate about how to store the nation's nuclear waste. The \$31.6 billion measure, approved 28-2, is \$1 billion more than the House-passed version. The spending bill would not fund an Obama



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Insurance

The **National Association of Insurance Commissioners (NAIC)** Summer National Meeting scheduled for August 29 - September 1, in Philadelphia was canceled due to Hurricane Irene. The NAIC will host a number of conference calls to continue work that was planned for its canceled Summer National Meeting.

On Wednesday, September 14, the **Senate Subcommittee on Securities Insurance and Investment** held a hearing regarding emerging issues in insurance regulation. Witnesses included Baird Webel of the Congressional Research Service and Dr. Therese Vaughan of the NAIC. Vaughan discussed international convergence of insurance oversight and testified that imposing national or regional concepts unilaterally is particularly counterproductive as it undermines the ability to achieve common regulatory goals.

On Tuesday, September 13, the **Federal Deposit Insurance Corporation (FDIC)** approved a final rule to be issued jointly by the FDIC and the Federal Reserve Board to implement Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The provision requires bank holding companies with assets of \$50 billion or more and companies designated as systemic by the FSOC to report periodically to the FDIC and the Federal Reserve the company's plan for its rapid and orderly resolution in the event of material financial distress or failure. The final rule will be considered by the Federal Reserve.

On Thursday, September 8, the **Senate Banking Committee (SBC)** approved Roy Woodall (a former Commissioner of Insurance for the Commonwealth of Kentucky) to be the independent member of the FSOC with insurance expertise and sent the nomination to the full Senate for approval. Industry trade groups voiced support for the nomination.

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administration proposal to develop small modular nuclear reactors (SMRs), even though it has received broad bipartisan support.

Health Care

House Republicans opened the latest front in their campaign against the 2010 health care overhaul Thursday, September 15, touting legislation that would exempt all health insurance plans in existence before the law's passage. At a hearing of the **House Energy and Commerce Subcommittee on Health**, Republicans said the draft legislation would ensure that Americans can keep their existing health care plans, as President Obama promised during the debate over far-reaching changes to the system.

The **House Appropriations Committee** cited scheduling conflicts in postponing the unveiling of a potentially controversial fiscal 2012 spending bill that funds health, labor and education agencies. The **House Labor-Health and Human Services-Education Appropriations Subcommittee** had been scheduled to mark up its bill on Friday, September 9. But the panel postponed that markup because action on a separate spending bill in another committee could spill over into Friday.

Immigration

The **House Judiciary Committee** began consideration Thursday, September 15, of a bill that would require all U.S. employers to use the "E-Verify" system to ensure their workers are in the country legally. Bill sponsor **Rep. Lamar Smith (R-Texas)**, said he is "sensitive to the needs" of agriculture workers, noting bill language that would give agriculture employers three years to comply with the E-Verify mandate. The panel, which Smith chairs, is considering the legislation in conjunction with another measure to revamp the agriculture visa process, and is expected to continue marking them up Wednesday, September 21.

Labor, Pensions & Retirement

The House passed legislation on Thursday, September 15, to limit the authority of the **National Labor Relations Board (NLRB)**, kicking off the anti-regulatory agenda at the center of House Republicans' fall jobs proposal. **HR 2587, the Protecting Jobs From Government Interference Act**, would prohibit the NLRB from ordering an employer to restore, shut down or relocate business operations. Seven Republicans crossed party lines to vote no, and eight Democrats voted for the bill. The bill's progress is likely to stall in the Senate, although GOP senators have urged Majority Leader Reid to take up the measure.

Senate Democrats are laying the groundwork for a possible floor vote on President Obama's job-creation proposal in October, as committee chairmen prepare to hold hearings on parts of the plan. Although no timetable has been set, Democratic aides said there likely would be a push for floor action sometime after the Senate returns from its scheduled break the last week of September. **Senate Minority Leader Mitch McConnell (R-Ky.)**, has denounced Obama's blueprint, particularly his plan to end tax breaks for some industries and upper-income Americans to pay for it.

Patent Reform

A comprehensive overhaul of U.S. patent law is headed to the president's desk, after the Senate cleared the measure Thursday, September 8, with broad bipartisan support. The Senate voted, 89-9, to endorse the measure, which would change the way patents are awarded, reviewed and challenged. The bill would change the basis for awarding patents from "first to invent" to "first inventor to file," putting the U.S. system in line with those of other nations. It also would revamp **U.S. Patent and Trademark Office (PTO)** procedures for reviewing patents.

Tax

In a speech Thursday, September 15, to the Economic Club of Washington, **Rep. John Boehner, (R-Ohio)**, essentially directed the panel — which is only just beginning its work and is on a tight deadline — to find ways other than tax increases to trim the deficit by at least \$1.2 trillion over a decade and recommend policies that will expand employment. Boehner said the deficit committee should



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Insurance *(cont'd.)*

On Thursday, September 8, the SBC also approved legislation reauthorizing the **National Flood Insurance Program (NFIP)** through Sept 2016. The legislation also includes provisions regarding actuarial rates that reflect the true risk of flooding, a new requirement to purchase flood insurance for properties in 100-year floodplains that have mortgages issued through state-regulated lending institutions, request of **Federal Emergency Management Agency (FEMA)** to assess private reinsurance capacity to assume portions of the NFIP's risk, and creation of a Congressionally appointed **Commission on Natural Catastrophe Risk Management and Insurance**. An agreement was made to include the Wicker COASTAL (Consumer Option for an Alternative System to Allocate Losses Act of 2011) Amendment when legislation is considered by the full Senate. The Wicker provision would help determine wind versus water claims.

try to devise a broad, revenue-neutral overhaul of the tax code, an imposing task last tackled by Congress in 1986.

As congressional Republicans and the White House turn their attention to the flagging economy there are early signs that the two sides could find common ground on taxes. Providing tax relief to businesses and middle-income earners has historically been much easier than raising revenues to cover government expenses. That's why President Obama is pushing hard for an extension of the 2-percentage-point Social Security payroll tax cut for employees that was included in last year's tax deal. Extending the current break would do little to spur job creation, unless lawmakers expanded it to include the employer-paid part of the tax, but it would keep money in voters' pockets.

Trade

Sen. Charles E. Schumer (D-N.Y.) said Thursday, September 15, he is confident the Senate will pass legislation targeting China's currency practices when the bill comes to the floor. On Tuesday, September 13, Majority Leader Reid said the Senate would take up the currency measure as a stand-alone bill. If the Senate passes the bill, it might not get very far in the House. While a similar bill passed overwhelmingly in the House last year under Democratic control, the GOP leadership takes a dim view of the legislation.

Majority Leader Reid said Tuesday, September 13, that the Senate would call up the vehicle for reviving expanded **Trade Adjustment Assistance (TAA)** after dispensing with a measure to reauthorize expiring aviation and surface transportation programs as well as legislation to provide disaster relief funding to communities affected by recent natural disasters. Reid is expected to attach the TAA package to House-passed legislation that would revive the **Generalized System of Preferences (GSP)**, an expired program that was designed to help developing countries. He said he expected the Senate to pass the TAA bill, which would then be cleared by the House. But he indicated that the House rule for floor consideration of the measure could delay enrollment of the bill until after the Senate had passed the three trade agreements.

Transportation & Infrastructure

The Senate came to the brink of shutting down the **Federal Aviation Administration (FAA)** again but stepped back after a flurry of bipartisan negotiations avoided a stalemate on extending transportation programs. The eleventh-hour deal persuaded a lone holdout to drop opposition to a vote on the bill to extend aviation and surface transportation authorizations. Senators voted 92-6 to clear the bill for President Obama's signature. The bill would extend aviation programs through January 2012, and surface transportation programs through March 2012. It also would extend certain highway-related taxes.

The **Homeland Security Transportation Security Subcommittee** approved a draft bill Wednesday, September 14, that would reauthorize the **Transportation Security Administration (TSA)** for the next two budget years. The panel approved the legislation on a 6-3 party-line vote. The measure would authorize \$7.8 billion for the TSA in fiscal 2012 and \$7.5 billion in fiscal 2013. It also would establish a "trusted traveler" program at airports. The measure now heads to the full committee, which is expected to take it up later this month.

An additional \$60 billion in transportation infrastructure spending is a centerpiece of President Obama's jobs package, although many of the administration's proposals appear to be borrowed from previous initiatives that went nowhere in Congress. During his Thursday, September 8, evening address to a joint session of Congress, Obama said new investments in highways, transit, railroads and airports have traditionally enjoyed bipartisan support and are key to putting the nation's unemployed back to work. Obama is seeking \$50 billion in "immediate" funding for highways, transit, rail and aviation. That would include airport improvements and air traffic control modernization.