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Several Senate appropriations panels will hold hearings on fiscal 2012 spending. The CIA Director Leon E. Panetta appears before the Armed Services panel in a confirmation hearing to become the next Defense secretary.

The Foreign Relations panel marks up a resolution endorsing continued U.S. military involvement in Libya.

The House is not in session the week of June 6-10.

Banking & Financial Services

Lawmakers looking to delay new limits on debit card fees are once again shortening the length of the proposed deferral in the hopes of winning more support just days before the Senate is expected to vote on the matter. **Sen. Bob Corker (R-Tenn.)**, the co-author of legislation to suspend new restrictions on the fees that banks charge retailers for processing debit card payments, said Monday, June 6, that a floor vote would "definitely" be this week, and that the vote would be on a one-year delay.

Education

The first marker in the rewrite of **No Child Left Behind**, laid down by House Republicans, underscores the chasm between the two parties' approaches and how difficult it may be for the House and Senate to find common ground. **Rep. George Miller (D-Calif.)**, the top Democrat on the Education and the Workforce Committee, said that if House Republicans are serious about enacting an overhaul of the 10-year-old education law, they need to start drafting bills that Democrats might support. Democrats say they support elimination of duplicative or ineffective programs, but they want to redirect the money, instead of eliminating it completely. With so many issues yet to resolve, lawmakers acknowledge there is no chance Congress will meet President Obama's request for a bill on his desk before students go back to school in the fall.

Energy/Environment/Climate Change

Led by **Rep. Tom McClintock (R-Calif.)**, nine members of the Republican Study Committee urged appropriators not to provide any funds in fiscal 2012 to the **Energy Department's Energy Efficiency and Renewable Energy (EERE)** programs, which received nearly \$17 billion in the economic stimulus law. Despite the pressure, the **Energy-Water Appropriations Subcommittee** approved \$1.4 billion for EERE programs in fiscal 2012, a \$490 million reduction from the current year and almost \$1.9 billion below the Obama administration's request. A full-committee markup is scheduled for June 15.

The **House Energy and Commerce Committee (HECC)** backed legislation June 2, that would speed the **Environmental Protection Agency's (EPA)** process for issuing air pollution permits for offshore oil and gas exploration, a measure intended to spur Alaskan energy production. The bill would set a six-month deadline for the EPA to take final action on air pollution permit applications for outer continental shelf exploration and bar the EPA's Environmental Appeals Board from reviewing decisions regarding such permits.



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Featured Strategies Team Member



Denise Hanna
Partner-Locke Lord Strategies

Denise Hanna has spent more than two decades actively involved in the national health care arena, and her knowledge and experience with health care law and public policy covers everything from health plan regulatory compliance to complex business transactions, to strategic advice.

Ms. Hanna has closely tracked the enactment of federal health reform and now advises clients on implementation issues, compliance obligations and strategic opportunities under the Patient Protection and Affordable Care Act and related state reforms. Ms. Hanna is a frequent writer and guest speaker on health reform topics. Ms. Hanna is a former chair of the National Bar Association’s (NBA) Health Law section (2009–2010) and played a key role in organizing the NBA’s Healthcare Law Summit for the past two years. Ms. Hanna also serves as a Vice Chair of the Planning Committee for the American Bar Association’s Washington Healthcare Summit (2010 – present).

Ms. Hanna’s clients include health care payors and providers, pharmacy benefit management (PBM) companies, third party administrators, health and wellness companies, trade associations and other health care organizations. Her representations include M&A and other transactional matters as well as legislative, regulatory and administrative proceedings and compliance issues.

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A **House Appropriations subcommittee** approved a \$30.6 billion fiscal 2012 Energy-Water spending bill on June 2. The draft bill, approved by voice vote, would reduce funding for the Energy Department, the Army Corps of Engineers, the Bureau of Reclamation and several regional water and power authorities by more than \$1 billion, or 3.3 percent, from fiscal 2011. The measure comes in at \$5.9 billion — nearly 19 percent — below the president’s request, bringing spending for the programs down to about the fiscal 2005 level.

Sen. James M. Inhofe (R-Okla.), the ranking Republican on the **Environment and Public Works Committee**, says the EPA has \$2.26 billion left over from previous years in its superfund budget and is questioning why Congress should appropriate the additional \$1.24 billion that President Obama requested for the program in his fiscal 2012 budget. “It’s not unusual to have an office carry over a balance from year to year,” Inhofe said in his letter on May 24 to **EPA administrator Lisa P. Jackson**. “It is unusual to have an office carry over an amount that is over one and a half times its total fiscal year request.”

The HECC endorsed a bill May 24 to mandate analyses of the cumulative impacts of a number of EPA rules, the latest GOP effort to limit the power of regulatory agencies. **HR 1705, the Transparency in Regulatory Analysis of Impacts on the Nation Act of 2011**, approved by voice vote, would establish an interagency committee to examine a variety of EPA regulations and other actions set forth by the Obama administration, including those pertaining to greenhouse gas emissions and the application of maximum-achievable control technology (MACT) for boilers.

The **Interior Department** is considering overhauling its oil and gas royalty system to link payments for drilling on public lands and in federal waters to prevailing market rates, a top official told a House panel on May 24. The “royalty simplification” plan would use geographical prices as the basis for calculating royalties, **Deputy Interior Secretary David Hayes told the House Oversight and Government Reform Committee**. It would replace the current system, which requires a case-by-case evaluation of transportation and processing costs.

Health Care

A series of small-bore fixes could be the approach taken to ease financial pressure on Medicare and still allow both parties to declare a partial victory. A list of policy choices was included in the deficit reduction proposals that have circulated in Washington for the last few months, including setting spending growth targets; changing the way doctors are paid to encourage value, instead of volume, of care; having Medicare negotiate drug prices or having a government-run option added to the Medicare Part D prescription drug program; changing co-pays or deductibles to discourage overuse of nonessential health services; and gradually raising the eligibility age to 67 from 65. Another way out of the impasse is for negotiators to avoid making policy changes to Medicare by the time debt ceiling is expected to expire — currently August 2 — but agree instead on a number. In other words, they would set a Medicare spending target or trigger or similar device.

Seven Republican members of the **Senate Finance Committee** urged the agency that runs Medicare to scrap a draft framework for creating new health care networks known as “accountable care organizations” — a tool for “bending the curve” included in the 2010 health care law. The lawmakers noted that the concept of accountable care, unlike some other provisions of the 2010 health care law, is bipartisan. But they said “this proposed rule missed the target” in a letter to **Health and Human Services Secretary Kathleen Sebelius** and **Donald M. Berwick, the administrator of the Centers for Medicare and Medicaid Services (CMS)**.

Immigration

Judiciary Chairman Lamar Smith (R-Texas) says he is confident Congress will pass a bill to require a national online employment-verification system to ensure workers are



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Patent Reform

The chairmen of the **House's Budget and Appropriations** committees are opposing a key section of GOP legislation that would overhaul patent laws. **Budget Chairman Paul D. Ryan (R-Wis.)** and **Appropriations Chairman Harold Rogers (R-Ky.)** are objecting to language in HR 1249, the America Invents Act, that would allow the **U.S. Patent and Trademark Office** to keep all of the fees it collects. Ryan and Rogers wrote in a letter on June 6 to Judiciary **Chairman Lamar Smith (R-Texas)** that it would be "both irresponsible and unwise" to allow the patent office to operate without year-to-year oversight from congressional appropriators. They asked Smith either to delete the provisions or change them before bringing the bill to the House floor.

The House will take up an overhaul of patent law and a measure to review costly regulations when lawmakers return from a week-long recess June 13, **House Majority Leader Eric Cantor (R-Va.)** said June 3.

in the country legally, even as he ruled out any deal with Democrats on a measure they favor. Smith contends the need for a federal measure is more pressing in the wake of a May 26 Supreme Court ruling that the state of Arizona is within its rights to require employers to use the system. A spokesman for **Senate Majority Whip Richard J. Durbin (D-Ill.)** wouldn't comment on Smith's bill, saying he was focused on passing the DREAM Act.

Insurance

The **Senate Banking Committee** has scheduled a hearing on Thursday, June 9, regarding reauthorization of the National Flood Insurance Program. The witness will be William Fugate, Administrator of the Federal Emergency Management Agency. Additional witness may be added.

HR 2126, The Risk Retention Modernization Act, was introduced by **Rep. John Campbell (R-Calif.)** on June 3. HR 2126 would allow risk retention groups to write commercial property coverage, would establish a new federal dispute resolution process and would provide for a standardization of corporate governance standards for RRGs. The bill was referred to the House Financial Services Committee. Leading industry associations issued a joint news release voicing their support of the legislation.

On June 1, **Rep. Tom Rooney (R-Fla.)** introduced three bills to address hurricane insurance and preparedness. HR 2099, the National Disaster Mitigation Act would provide a tax credit (equal to 25 percent of mitigation expenditures up to \$5000) to qualified homeowners who mitigate their homes to prevent or reduce the risks from natural disasters. **HR 2101, the Policyholder Disaster Protection Act**, would create a tax-deferred reserve that insurance companies can establish for the payment of policyholders' claims arising from future catastrophic events. **HR 2100, the Catastrophe Savings Account Act**, would create tax-exempt catastrophe savings accounts to pay expenses resulting from a presidentially declared major disaster.

Another bill, **HR 2069, the Safe Building Codes Incentives Act** introduced on June 1 by **Rep. Mario Diaz-Balart (R-Fla.)**, would enhance existing programs providing mitigation assistance by encouraging states to adopt and actively enforce state building codes.

On June 1, the **NAIC Dodd-Frank Receivership Implementation Working Group** issued draft Procedures for Prompt Initiation of State Receivership under Dodd-Frank.

On May 31, the **Department of Health and Human Services (HHS)** announced new steps to reduce premiums and make it easier to enroll in the **Pre-Existing Condition Insurance Plan (PCIP)**. To further enhance the program, beginning this fall, HHS will begin paying agents and brokers for successfully connecting eligible people with the PCIP program. According to the National Association of Health Underwriters (NAHU), the 18 states that currently operate their own PCIP program actively rely on agents and brokers. NAHU supports the new PCIP program and looks forward to working with HHS on this issue.

On May 27, 26 trade associations, including several from the insurance industry, signed a letter to **Speaker of the House John Boehner (R-Ohio)** and **House Minority Leader Nancy Pelosi (D-Calif.)** urging the leaders to schedule floor consideration of HR 1309, the Flood Insurance Reform Act of 2011, at the first available opportunity. HR 1309 would extend the National Flood Insurance Program (NFIP), achieve reforms to improve the financial integrity and stability of the program, and increase the role of private markets in the management of flood insurance risks. Without action, the NFIP authorization will expire on September 30, 2011.

On May 26, **Sen. Roger Wicker (R-Miss.)** introduced **S 1091, the Consumer Option for an Alternative System to Allocate Losses (COASTAL) Act**, which would reform the



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Telecommunications

Top Republicans on the HECC are expressing deep skepticism about a proposal to give public safety agencies more radio spectrum and additional federal funds to build a nationwide communications network. Public safety officials and some leading lawmakers in both the Senate and House want to give 10 megahertz of unused spectrum, known as the “D block,” to public safety agencies. They also want to use as much as \$13 billion in proceeds from commercial auctions of other spectrum to help fund the construction of an interoperable network for first responders. But **Rep. Joe Barton (R-Texas)** and other GOP lawmakers said that 24 MHz of spectrum — along with more than \$13 billion in funding — have already been turned over for public-safety purposes. Of that, 10 MHz are currently used for narrowband communications, two MHz are devoted to guarding against interference with those transmissions, and 10 MHz are unused.

Transportation & Infrastructure

Senate authorizers previewed a surface transportation bill on May 25, but the announcement was long on theme and short on details — including how the lawmakers would pay for their plan. One of the most significant parts of the outline offered by **Sens. Barbara Boxer (D-Calif.), James M. Inhofe (R-Okla.), Max Baucus (D-Mont.), and David Vitter (R-La.)**, is a declaration that transportation programs would be funded “at current levels.” However, according to the Congressional Budget Office, current annual funding levels are about \$13 billion above what the Highway Trust Fund can sustain. Boxer acknowledged the trust fund shortfall, and said she is counting on Baucus, the Finance Committee chairman, to figure out financing.

NFIP and reauthorize the NFIP for five years. In addition to extending the NFIP, the COASTAL Act would use scientific data to settle total loss properties after a hurricane. The COASTAL Act utilizes data currently collected by the **National Oceanic and Atmospheric Administration (NOAA)**, academic institutions, and private entities to allocate wind versus water damage following significant storms.

On May 26, the **National Association of Insurance Commissioners Health Care Reform Actuarial Working Group** adopted a final report concerning producer compensation in the PPACA medical loss ratio calculation. The Health Care Insurance and Managed Care Committee has scheduled a conference call on June 7, to review and discuss the report and to hear comments from interested parties.

On May 25, three trade associations (American Council of Life Insurers, Property Casualty Insurers of America, Reinsurance Association of America) sent a letter to President Obama urging his Administration to engage the G20 to de-link the insurance sector work stream of the Financial Stability Board from the other financial services sector work streams, vis-à-vis the determination of criteria for globally significant financial institutions. The associations are asking for consideration of this request based on the belief that insurance products and the providers of insurance products are significantly different from banking and banks, and the two deserve and require distinct review.

In comment letters submitted to the FDIC regarding the FDIC’s proposed rule regarding implementation of certain provisions of the FDIC’s authority to resolve covered financial companies under Title II (Orderly Liquidation Authority) of the Dodd-Frank Act, trade groups representing large insurers urge the FDIC to expressly state in the rule that insurance companies are not subject to the FDIC’s rules on orderly liquidation, and that the orderly liquidation resolution of insurance companies is to be conducted as provided under applicable state law rather than under Title II.

Trade

U.S. trade officials, Brazilian diplomats and House appropriators spent June 1 trying to determine if amendments to spending legislation could unravel a deal the Obama administration made last year to protect American industries from trade retaliation. The United States last year agreed to pay \$147 million a year to the Brazilian Cotton Institute to avoid penalties against segments of American agriculture — as well as the auto, pharmaceutical, medical equipment, electronics and textile industries — after Brazil successfully challenged American cotton subsidies before the World Trade Organization. House appropriators threw the status of the agreement with Brazil into doubt May 31 with a pair of amendments to the fiscal 2012 spending bill.

Senate Republicans reiterated May 31 that they will block all trade-related executive branch nominees, including President Obama’s new choice for Commerce secretary, until the administration sends three trade agreements to the Senate for approval. The months long standoff complicates the Senate confirmation prospects for John Bryson, the former chief executive of California-based Edison International. President Obama announced Bryson as his pick to succeed Gary Locke in the Commerce post. Republicans want the administration to submit trade deals with Colombia, Panama and South Korea that were negotiated by the George W. Bush administration.

Senate Finance Committee leaders sparred May 25 over whether action on the three Bush-era trade pacts should be tied to a deal on trade adjustment benefits, as the White House and congressional Democrats are demanding. The Obama administration is insisting that Congress agree to a deal to renew expanded benefits for displaced workers, which were created in the 2009 economic stimulus and expired in February 2011, before it submits stalled trade deals with Colombia, South Korea and Panama for congressional approval.