



September CEO Report

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Warm regards,

John Stewart

AFIA's Manager of Government Affairs

Welcome to the September edition of the CEO Report, POLITICO Pro's high-level outlook on the policy issues driving the month ... and beyond.

Fast-approaching deadlines: Lawmakers have been dreading September - a month full of fiscal deadlines with just a dozen congressional workdays to get it all done, reports Pro Budget & Appropriations editor Jennifer Scholtes. First, the House will try to pass all 12 spending bills by moving the remaining eight to the floor. But GOP leaders don't even expect those measures to get signed into law until at least December, since the Senate is lagging behind on its appropriations work. That means yet another tide-me-over continuing resolution to keep current funding levels bumping along past Sept. 30.

Adding to the furiously busy month for those in charge of government funding, Republican leaders must now ponder the scope and timing of disaster aid to help areas devastated by Hurricane Harvey. The good news for GOP lawmakers is that the extra pressure to deliver that money seems to have alleviated chances of a shutdown, since White House aides say President Donald Trump will probably now hold off until December on demands for money to build a wall along the U.S.-Mexico border.

Congressional leaders must also come up with a strategy this month to raise the nation's borrowing limit. Although GOP lawmakers and Trump administration officials have agreed to go for a "clean" increase of the debt ceiling - to avoid feuding over extra measures to rein in federal spending - the whip count is still expected to be complicated. Republican bigwigs must cater to the demands of Democrats and moderate Republicans to get the votes if they're going to forgo support from the hard right.

Amid strategizing on each of these major legislative lifts, GOP leaders must also decide whether to link any of these votes - on government funding, disaster aid and the debt ceiling - to solidify support for each and hasten action in the coming weeks.

TAX

Start your engines: Congressional Republicans and Trump administration officials say they're ready to hit the accelerator on tax reform as lawmakers return to town this month, with a key meeting right off the bat.

Trump will sit down Sept. 5 with the so-called Big Six - the House and Senate Republican leaders, the chambers' two top tax writers, Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn - on their tax reform negotiations.

A number of hearings are expected later in the month, and Mnuchin has said, "You're going to see the details" of a tax plan in a similar timeframe.

Specific elements of a plan were ready at the end of August, Mnuchin said, without going into details. Among the big things tax watchers want to know: What will be the consensus rate for corporations? How will the individual tax brackets break down? Will the plan be permanent, temporary or a hybrid? And how much, if any, will be paid for? Senate Finance and House Ways and Means Committee staffers spent August in regular meetings with administration aides to start putting pieces of a tax bill together. Finance Chairman Orrin Hatch (R-Utah) has said he wants to mark up a tax bill this fall, and members of his panel will meet after returning to town, in part to touch base on tax reform.

More reg action: Also in September, the Treasury Department is scheduled to submit a plan to the White House on eliminating or retooling a number of tax regulations issued last year, per an executive order from Trump in April. The regulations under review include rules on inversions and the tax benefits of intra-company lending, valuing family businesses and corporate real estate spin-offs. The report is due Sept. 18. - Aaron Lorenzo

HEALTH CARE

Obamacare's moment of truth: After spending months on a failed effort to repeal and replace Obamacare, Republican lawmakers must immediately decide whether they'll now try to stabilize a law they've long criticized as unworkable. The Senate's health care committee today holds the first of four planned hearings this month on legislation that could help keep down premiums and boost insurer competition in the Affordable Care Act's marketplaces. The hearings, which will feature testimony from Republican and Democratic governors and state insurance regulators, will be the first major test of whether a fractious GOP can now work with Democrats to repair the health care law after the collapse of the repeal effort just before recess. Even if Congress manages to approve a stabilization plan, it's unclear whether Trump would support it.

Tight timeline for children's health program: Meanwhile, lawmakers have just weeks to extend funding for a program covering about 8 million kids. The popular Children's Health Insurance Program, nearly two decades old, is set to run out of money on Sept. 30 without a funding infusion from Congress. After being consumed by the Obamacare repeal fight for months, lawmakers so far have made little progress on legislation extending CHIP funding. However, Republicans and Democrats have committed to keeping this program running, and CHIP funding ranks among their top priorities this month. - Jason Millman

DEFENSE

Senate primed for NDAA action: The Senate could kick off debate on its version of the National Defense Authorization Act as early as this week. Armed Services Chairman John McCain (R-Ariz.), who began treatment in August for brain cancer, predicts the Senate will clear a "couple hundred amendments" and pass the legislation "overwhelmingly."

Democratic and Republican leaders had agreed to fast-track the legislation before leaving town for much of August, but the move was blocked by Sen. Rand Paul (R-Ky.) in a bid to secure votes on a handful of amendments.

The House already has passed its version of the annual defense policy bill.

CR puts the brakes on a defense increase : Lawmakers must pass a stopgap funding measure to avert a government shutdown at the start of the new fiscal year on Oct. 1. The move would carry over this year's funding levels and bar the Pentagon from starting new programs or ramping up existing ones, a maneuver that Defense Department leaders have long complained about.

Lawmakers will also need to negotiate higher defense spending levels in the coming months. They'll likely have to craft a deal to increase caps set by the 2011 Budget Control Act, which may require sizable hikes in domestic spending in addition to defense to garner Democratic support. But a deal to raise or eliminate defense caps has been elusive this year, despite calls from Republican defense hawks for a vote on the issue.

Afghanistan strategy airs out: Trump's plan to increase the U.S. military footprint in Afghanistan, despite his early inclinations not to, has received mixed reviews on Capitol Hill.

The Senate Armed Services Committee plans to hold a hearing this month on the new strategy. And in the coming months, the Pentagon could seek more funding to cover the cost of sending several thousand more troops to Afghanistan. - Connor O'Brien

TRADE

NAFTA talks continue: The renegotiation of NAFTA remains front and center on trade issues. The second round of trilateral talks started on Friday and will wrap up in Mexico City today. Chief negotiators from Mexico, Canada and the United States will regroup before convening again in Ottawa for Round 3, which is slated to begin Sept. 23.

The quick turnaround between negotiating rounds reflects the accelerated pace as officials try to wrap up talks later this year or in early 2018. To that end, senior officials have requested all formal proposals to be put on the table by the end of the month. That sets up the Ottawa round, scheduled to wrap up on Sept. 27, to be somewhat contentious as negotiators try to navigate divergent issues and consolidate proposals.

International tax talk: Multinational companies that rely on trade could be affected by the GOP's long-promised tax code overhaul, as tax writers explore various alternatives to the now-discarded border-adjustment tax. One idea floated among lawmakers involves crafting an international tax. That proposal would amount to a minimum tax on foreign earnings - potentially at or near 10 percent - and could offset other tax cuts.

Filling USTR's empty ranks: Congress' packed fall agenda is further weighed down by the need to vet and confirm a bevy of trade-related nominees, including five top-tier USTR officials who sit just below U.S. Trade Representative Robert Lighthizer. The White House has put forward nominees for four of the five positions - only the chief innovation and intellectual property negotiator slot still needs a nominee - but the Senate Finance Committee has yet to hold confirmation hearings for any of the individuals whose nominations have been sent to the Hill.

'Buy America' back on the brain: The administration is working to ramp up its review of "Buy American, Hire American" practices this month, with inter-agency comments due to the Commerce Department and the USTR by Sept. 15. Those comments follow an executive order Trump signed in April directing agencies to investigate government procurement practices and to re-examine all programs under which workers enter the United States from abroad. The feedback will guide Commerce Secretary Wilbur Ross, who will take steps before Thanksgiving to close any existing loopholes. -

Megan Cassella

EHEALTH

Telehealth in CHIP? Telemedicine advocates will be watching the Children's Health Insurance Program reauthorization and whether lawmakers attach language to expand Medicare payments for telemedicine - which is unlikely but possible. There are several legislative CHIP scenarios, including a short-term extension with a longer-term deal later this year, or a "clean" reauthorization. Either way, telemedicine advocates will be pushing for more Medicare spending on their technology - David Pittman

FINANCIAL SERVICES

Harvey hovers over flood insurance program: The catastrophic weather along the Gulf Coast has thrust the future of the National Flood Insurance Program into the spotlight, with the heavily indebted federal service bracing to get hit with many more claims. Lawmakers have grappled for months over how to reauthorize the program, which protects millions of Americans from the financial risks of flooding, but neither the House nor Senate has passed a bill. With a Sept. 30 deadline looming, a short-term extension without significant changes looks likely. Both House Financial Services Chairman Jeb Hensarling, who has spearheaded efforts to overhaul the program, and the White House agree that a broader overhaul discussion should wait. Coastal state lawmakers might push for a longer extension or one that is joined with another must-pass bill, such as a government funding measure.

The Fed starts the clock: The Federal Reserve's top policymaking body will announce a start date for its long-awaited move to reduce its balance sheet, under which it will gradually begin allowing its massive asset holdings to mature without being replaced. The timing depends in part on the debate in Washington over raising the debt ceiling. That could affect rates on treasuries, so a protracted fight will likely mean a later start date for the unwinding of the assets the Fed purchased after the financial crisis. The central bank is not expected to raise interest rates at the late September meeting.

Senate takes on CFPB: Senate Republicans have to decide whether to try to kill a Consumer Financial Protection Bureau rule dealing with consumer class-action lawsuits, one of the watchdog agency's most controversial actions. It's uncertain whether the GOP will have enough votes to stop the regulation through the Congressional Review Act. The 1996 law allows Congress to overturn rules with a simple majority vote within 60 legislative days after the regulation is finalized. The rule, which the House voted to block in July, bans the use of mandatory arbitration clauses in consumer contracts with banks and credit card companies. The measure is popular with the public, making it a difficult call for some Republicans facing reelection campaigns next year.

Reining in payday lenders: The CFPB is expected to release another landmark rule - this one curbing the activities of small-dollar lenders - once it clears an inter-agency review process. Some lobbyists are pushing for a narrow rule covering only payday loans that are due back - with high interest - in a matter of days or weeks, rather than those paid in installments.

Will Cordray exit?: CFPB Director Richard Cordray has been the subject of months of speculation as to whether he will quit his job and run for the Democratic nomination for governor of Ohio. Should he decide to do that this month, as many expect, it would upend both the aggressive consumer agency and the gubernatorial race.

China comes to Chicago: The public has until Sept. 17 to submit comments to the SEC about whether the agency should approve a deal that would allow a group of Chinese investors to acquire the Chicago Stock Exchange. In August, the SEC delayed action on the deal amid bipartisan opposition from Congress. The purchase of the small exchange, which once seemed headed for approval, may be caught in the crosshairs of the president's trade conflicts with China. - Mark McQuillan

TRANSPORTATION

So little time: House Transportation Chairman Bill Shuster (R-Pa.) likely spent most of the August recess pressing his colleagues to support his struggling FAA reauthorization bill, which would spin off air traffic control operations from the agency. But with the FAA's authorization set to expire at the end of September - and lawmakers under pressure to fund the government, raise the debt ceiling and pass a relief package for hurricane-ravaged Texas in the next few weeks - all signs point to an extension. The upper chamber's FAA bill, which contains a controversial provision to change training standards for first officers, also hadn't seen floor time before recess.

For your radar: The House is expected to vote the first week of September on legislation facilitating the testing and deployment of driverless cars. That bill was approved unanimously in committee just before the August recess. The Senate Commerce Committee is expected to unveil its own driverless car bill this month. - Brianna Gurciullo and Tanya Snyder

EMPLOYMENT & IMMIGRATION

'Fair share' union fees case: The Supreme Court will likely decide this month whether to hear a case challenging so-called fair share fees that public sector unions charge non-members to cover their portion of collective-bargaining costs. The case, *Janus v. AFSCME*, would give the Supreme Court an opportunity to overturn *Abood v. Detroit Board of Education*, a 1977 case that upheld such fees. The court was thought likely to overturn *Abood* in 2016, but the death that year of Justice Antonin Scalia prevented the plaintiffs in that case, *Friedrichs v. California Teachers Association*, from prevailing. The *Janus* plaintiff, Mark Janus, is a non-union employee of the Illinois Department of Healthcare and Family Services. He maintains that fair share fees violate his freedom of speech rights under the First Amendment. But *AFSCME* counters that the circumstances under which *Abood* was decided haven't changed significantly, and that there's no reason to

revisit the issue. The 7th Circuit Court of Appeals and a lower court both ruled in favor of AFSCME, citing Abood . In June, the National Right to Work Legal Defense Foundation and the Liberty Justice Center, which both represent Janus, asked the high court to review the case. If the Supreme Court grants certiorari, as it is expected to do, it will almost certainly favor Janus, dealing a serious financial blow to public sector unions. - Marianne LeVine

CYBERSECURITY

A full cyber plate on Capitol Hill: Congress returns this month facing an end-of-year deadline on expiring surveillance programs. Intelligence officials insist that lawmakers must renew Section 702 of the Foreign Intelligence Surveillance Act, which authorizes tools used to collect the digital communications of foreign targets. But some in Congress want to install new protections for Americans whose information is incidentally swept up by the snooping.

A host of authorization bills that affect cybersecurity are also on the fall agenda. First up, the Senate must wrap up work on its version of the defense policy bill for the 2018 fiscal year, which would fully authorize the \$647 million request from the Trump administration for U.S. Cyber Command. The Senate is also looking to move its version of the fiscal 2018 intelligence authorization bill, after the House approved its version earlier this year. Notably for cyber watchers, both measures aim to improve the digital defenses that protect elections. Also on the calendar is the Homeland Security Department's authorization bill for the coming fiscal year. The measure - which the House passed earlier this year - contains provisions meant to improve the government-private sector exchange of information on hacking threats. The House is also still working toward passage of its fiscal 2018 spending bills, which would increase cyber funding at DHS and the Pentagon. Senate appropriators haven't acted on funding legislation for those departments. Finally, the fate seems cloudy for one of the White House's biggest cyber legislative priorities - a bill to upgrade aging federal networks. While the measure - which would establish a revolving fund meant to fuel years of upgrades - moved swiftly in the House, the Senate is still studying the issue.

Cyber changes: DHS is on the cusp of a potential major cyber reorganization as the agency braces for a new chief. While cyber watchers wait to see whether the House takes up a bill that would reorganize DHS's main cyber wing - the National Protection and Programs Directorate - the department itself is waiting for new leaders. Trump has yet to nominate a replacement for former DHS head John Kelly, who left to serve as White House chief of staff in late July. Nor has Trump nominated a permanent undersecretary to lead NPPD. - Tim Starks

DATAPoint

Mark your calendar: When Republicans return from August recess, they will face a flurry of deadlines to reauthorize popular programs and reach consensus on key fiscal issues. By October, lawmakers will need to confront both a potential government shutdown and a potential default on government debt. - Tucker Doherty
View the full graphic online and find out more about DataPoint here.

AGRICULTURE

Cattle and crops fallout: Hurricane Harvey's path of destruction included areas where about 27 percent of Texas' cattle are raised. It also took aim at significant growing regions for the state's cotton and rice crops . GOP leaders could tackle a disaster relief package and attach it to legislation that would raise the debt ceiling and keep the government funded past Sept. 30, when fiscal 2017 ends.

Funding fights: House and Senate agriculture appropriators largely rejected the Trump administration's budget that recommended sweeping cuts to farm and nutrition programs, but those programs do face the likelihood of cuts. Both the House and Senate agriculture spending bills advanced out of committee in July, and both keep money for international food aid, export development and rural water infrastructure programs that the president called for eliminating. But ag programs aren't out of the woods just yet.

Slashing budgets: House Republicans want to pass a budget resolution this fall in order to unlock the "reconciliation" process that paves the way for tax reform. The House Budget Committee's proposal would require more than \$200

billion in overall budget cuts over a decade - \$10 billion of which must be found within farm and nutrition programs. Later in the decade, the House GOP budget calls for a staggering \$150 billion more in cuts to the food stamp program, in part done by giving "significant authority to the states," such as through block grants.

Will Senate Democrats take a stand?: Opposition to Sam Clovis, the nominee to be USDA's chief scientist, has been growing among Senate Democrats after a flurry of news reports unearthed controversial comments he made during his time as a conservative talk radio host in Iowa, as a candidate for U.S. Senate and as a political activist. CNN has posted three batches of Clovis' comments made between 2011 and 2014, in which he: targeted homosexuals; accused progressives of being "race traders" and "race 'traitors'" who want to keep black people "enslaved to the government;" and called former Attorney General Eric Holder a "racist black" and former President Barack Obama a narcissistic liar who has "been given a pass" because he is black.

Whether there will be enough opposition prevent Clovis - nominated to be USDA undersecretary for research, education and economics - from advancing through the confirmation process remains to be seen. Senate Majority Leader Chuck Schumer, Sen. Brian Schatz and Sen. Sheldon Whitehouse have urged Trump to withdraw Clovis' nomination. Various scientific organizations and left-leaning advocacy groups have pointed out that Clovis is a climate skeptic and has no background in agricultural research, education or economics.

Agriculture Chairman Pat Roberts has remained mostly mum on the issue, though his spokeswoman said the committee would review Clovis' paperwork, meet with him and schedule a hearing. A date has yet to be set. - Catherine Boudreau

EDUCATION

Funding uncertainty: In Congress, all eyes will be on how education spending shakes out as lawmakers look to fund the government beyond Sept. 30. House appropriators largely balked at the Trump administration's school choice proposals earlier this year. It's not clear where Senate appropriators will come down on the issue, but a top GOP appropriator previously criticized proposed education cuts as too drastic. Also look for student aid advocates to step up their push to renew the federal Perkins Loan program, which is slated to expire at the end of the month. There's a bipartisan bill to extend the student loan program in the House, but it's not clear whether supporters of the program will be able to press a vote - and the path in the Senate is even murkier.

College up next: Higher education will be a big focus of the House Education and Workforce Committee this fall. Rep. Virginia Foxx, the chair of the panel, plans to release a rewrite of the Higher Education Act - which will set the table for the debate over reauthorizing the law during this Congress.

ESSA plans: Almost three dozen states face a Sept. 18 deadline to send their Every Student Succeeds Act plans to Education Secretary Betsy DeVos for federal review and approval. All eyes are on Trump education officials to see how they'll handle major issues, like state requests to waive big parts of the law, new state testing plans that might skirt ESSA and systems for holding schools and districts accountable. - Michael Stratford

ENERGY

All quiet on the energy front: Expectations are decidedly low for energy action in September, but the House will likely consider at some point nuclear waste reform legislation that cleared the Energy and Commerce Committee in late June. Other bills likely for floor votes would modernize the nation's drinking water infrastructure and reauthorize EPA's brownfields program. Look for the House Natural Resources Committee to begin consideration of legislation regarding onshore and offshore drilling, as well as hardrock mining, that would loosen restrictions and transfer more control to the states.

Over in the Senate, lower-level agency picks on deck: Susan Bodine for EPA enforcement chief; a host of Energy and Interior nominations; NRC nominees Annie Caputo, David Wright and current Commissioner Jeff Baran; and FERC nominees Kevin McIntyre and Rich Glick. The FERC picks, along with two Interior nominees, have a hearing on their nominations slated for Sept. 7. Given the crowded calendar, few think an energy package from Sens. Lisa Murkowski and Maria Cantwell will find floor time and note that it would merely kick off the legislative push, since the House hasn't been involved to date. - Anthony Adragna

TECHNOLOGY

House committee seeks footing on net neutrality: After canceling a Sept. 7 hearing on net neutrality, Republican leaders of the House Energy and Commerce Committee are searching for a new next step on net neutrality legislation. The panel last week said it would scrap the scheduled hearing, which they'd originally hoped would draw tech CEOs. The GOP is trying to involve companies in drawing up net neutrality legislation to replace the FCC's rules, but Democrats and public interest groups want no part of it, saying Republicans are trying to enshrine weaker internet protections. That leaves tech companies in a bind: They support the FCC's rules and don't want to be seen as doing anything to undermine them. The committee has asked for feedback and suggestions on legislation, using a 2015 GOP net neutrality bill as a starting point. The committee invited executives from Facebook, Alphabet, Amazon, Netflix, Comcast, Verizon, AT&T and Charter. Rep. Marsha Blackburn (R-Tenn.), who chairs House E&C's telecom subcommittee, recently went to Silicon Valley to try to drum up support. "Many of the companies are ready for us to do something legislatively. Regardless of where they come down on the issue, they're ready for us to come forward and take an action," she told POLITICO. - Ashley Gold

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