AUGUST 2013

August is typically the month when Washington, D.C., empties out, as Congress goes into recess until after Labor Day and vacationing federal employees escape the heat and humidity of the nation's capital. This year was little different, but the month did set up a busy fall. When lawmakers return on September 9, they now will not only have to work on legislation to adjust the debt limit and fund the government for the fiscal year that begins October 1 – with some Republicans pledging to oppose the debt limit increase and certain spending bills in an attempt to defund implementation of the health care reform law – they also will need to respond to President Obama's request that they authorize military action in Syria.

ISSUES AND EVENTS

Cap on Out-of-Pocket Costs Delayed for 1 Year

The Obama administration has delayed for one year full implementation of a provision of the health care reform law that will cap consumers' out-of-pocket costs.

The 2010 Patient Protection and Affordable Care Act set a limit on out-of-pocket health care spending – including deductibles and co-payments – of $6,350 for an individual and $12,700 for a family with group coverage in 2014. The administration, though, is backing off on enforcing that cap until 2015 after concluding that insurers and employers need more time to manage the logistical challenges that come with using separate companies for different types of health benefits.

While the decision was posted on the Labor Department's website in February, it did not become widely known until *The New York Times* reported on it on August 12.

"We had to balance the interests of consumers with the concerns of health plan sponsors and carriers, which told us that their computer systems were not set up to aggregate all of a person's out-of-pocket costs," an administration official told the *Times*. "They asked for more time to comply."

Representatives of several patient advocacy groups expressed disappointment, with National Health Council Executive Vice President Marc Boutin saying, “There’s no good reason to delay this. This is an inconvenience for some, but for other people, this will mean life-altering differences in quality of life or death, if you have certain illnesses.”

Some Republican lawmakers used reports of the delay to again attack the reform law and the administration, with Speaker of the House John Boehner, R-Ohio, implicitly referencing the July announcement that the employer insurance mandate will be pushed back to 2015, and saying “Once again, the president is giving a break to big businesses struggling with his health care law, while individuals and families unfairly remain stuck under its mandates.”

”This report is just the latest evidence that the law is too costly and too complex to work, and that it’s not being implemented fairly,” Boehner said. “This is the bottom line: if the president’s health care law is too complex and costly for big businesses and insurance companies to figure out, American families deserve a break from it, as well.”

Sen. Mike Lee, R-Utah, meanwhile, called the postponement a “desperate and shameful political move” that will allow “the insurance premiums of voters to skyrocket over the next twelve months” while laying “the burden on the chronically ill and most vulnerable Americans.”

Lee is one of a handful of conservative Republican senators who are pushing to defund implementation of the reform law in the fiscal year 2014 appropriations bills, even if the attempt to do so means forcing a federal government “shutdown.”

“The best way to delay Obamacare is to defund it,” Lee said. “Once Congress returns from the August work period, the House should act quickly to pass a continuing resolution that funds the government, but not Obamacare. It is the only responsible course of action to protect Americans from this ill-conceived and poorly crafted policy before it is too late.”

The brinkmanship endorsed by Lee and other GOP senators, including potential 2016 presidential candidates Marco Rubio of Florida and Ted Cruz of Texas, has caused a split in the GOP, with, for example, Sen. Richard Burr, R-N.C., calling the approach “the dumbest idea I’ve ever heard” and Sen. Tom Coburn, R-Okla, saying it is “a good way for Republicans to lose the House.”

In his weekly radio address on August 17, President Obama lamented that there is “a group of Republicans in Congress working hard to confuse people, and making empty promises that they’ll either shut down the health care law, or, if they don’t get their way, they’ll shut down the government.”

“Think about that,” Obama said. “They’re actually having a debate between hurting Americans who will no longer be denied affordable care just because they’ve been sick –

and harming the economy and millions of Americans in the process. And many Republicans are more concerned with how badly this debate will hurt them politically than they are with how badly it'll hurt the country. A lot of Republicans seem to believe that if they can gum up the works and make this law fail, they'll somehow be sticking it to me. But they'd just be sticking it to you. ... Your health insurance isn't something to play politics with. Our economy isn't something to play politics with. This isn't a game. This is about the economic security of millions of families."

GOP Lawmakers Continue to Press for Information about Employer Mandate Delay

Republican leaders of the House Energy and Commerce Committee to the treasury secretary on August 21 to reiterate their requests for information about the employer mandate delay.

One of the major components of the 2010 Patient Protection and Affordable Care Act is a requirement that, starting January 1, 2014, employers with at least 50 full-time employees offer health insurance coverage meeting certain requirements for benefits and affordability or pay a penalty. Obama administration officials announced on July 2 that they are delaying enforcement of the employer mandate until January 1, 2015, to ease the logistical challenges that the mandate creates for businesses.

Committee Chairman Fred Upton, R-Mich., and other GOP members of the panel have requested information from Treasury Secretary Jacob Lew about the decision to postpone the mandate on several occasions, but they stated in August 21 letter that they have not been satisfied with the responses, since they "failed to address several of the Committee's questions," including what discussions were held with businesses prior to the delay decision.

The letter requested that Lew provide the committee with memoranda, analyses and other documents related to the delay by September 6.

Upton and his colleagues originally wrote to Lew, as well as Health and Human Services Secretary Kathleen Sebelius on July 3 to request that they provide information and documents related to the decision to delay implementation of the mandate to the committee. In addition, the panel heard testimony from Deputy Assistant Treasury Secretary J. Mark Iwry at a July 18 hearing. Iwry, responding to Republican questions about the administration's legal authority not to enforce the law in the absence of congressional action, said that the delay is an exercise of "the Treasury Department's longstanding administrative authority under section 7805(a) of the Internal Revenue Code."

GOP lawmakers complained the recent that "Mr. Iwry was not able to provide specific answers to our questions about the decision to delay the employer mandate, including the record before Treasury that convinced the department that a one-year delay was appropriate, which departments reviewed the decision, Treasury's statutory or constitutional authority to act, and whether Treasury also considered a delay of the individual mandate."

The House voted 264-161 to codify the employer mandate delay (H.R. 2667) and 251-174 to hold off on the individual mandate (H.R. 2668), which the White House has shown no interest in postponing. (H.R. 2668 also contains language delaying the employer mandate.) The administration has said that the bill to delay the employer mandate is "unnecessary."

Ways and Means to Propose SGR Reform Bill in Fall

The House Ways and Means Committee plans to draft its own bill to reform Medicare's sustainable growth rate (SGR) formula this year, *CQ* reported.

The SGR, which was intended by Congress to automatically set Medicare's physician payment rates, annually threatens to slash the federal government's payments to doctors for services provided to Medicare patients. This year, were it not for a provision included in the "fiscal cliff" deal that passed in January, payments would have been cut by 26.5 percent. The cuts are blocked for only a year, though, and the SGR calls for the rates to be reduced by 25 percent in January 2014. Congress has overridden the SGR calculations every year since 2003 in order to avoid payment cuts that, it has been feared, would drive doctors out of the Medicare program.

The House Energy and Commerce Committee on July 31 advanced the "Medicare Patient Access and Quality Improvement Act of 2013" (H.R. 2810), which would replace the SGR with "an improved fee for service system in which providers report quality measures that will lead to better care in a more efficient manner." It would provide for annual payment increases of 0.5 percent for five years as Medicare and providers transition to a quality incentive program.

Ways and Means also has jurisdiction over the issue in the House, though, and a committee spokeswoman told *CQ* that members of the panel are "working on a bipartisan proposal and are using the August recess to gather more feedback to shape the proposal. We are working to have a comprehensive proposal to provide a permanent solution sometime in the fall."

Congress is scheduled to return from its August recess on September 9.

The Energy and Commerce bill does not include a plan for covering the cost of an SGR replacement, which is projected to be $139 billion over the first 10 years. Ways and Means, given its jurisdiction over taxing and spending matters, is expected to address the "pay-for" issue, which is likely to be the most challenging area in which to reach consensus.

Members of the Senate Finance Committee have also indicated that they plan to write their own SGR reform bill.

CQ reported that, "According to stakeholders, lawmakers on all three committees seem to agree on a basic layout for a bill: repealing the SGR, instituting a multi-year period of payment stability and then transitioning providers to new payment and delivery models."

Average Tax Credit for Exchange Consumers Next Year to be $2,700: Kaiser

Americans who buy non-group health insurance policies in 2014 will receive an average of nearly $2,700 in tax credits, according to a study conducted by the Kaiser Family Foundation.

The 2010 Patient Protection and Affordable Care Act requires that, starting January 1, 2014, nearly all Americans have health coverage or pay a penalty. The law makes available tax credits to people who do not have insurance through their employers, who buy coverage through the state-level insurance exchanges that are to be launched next year, and who have incomes of up to 400 percent of the federal poverty level, currently about $46,000 for a single person and $94,000 for a family of four.

Kaiser estimated that about 48 percent of people who now have non-group coverage will be eligible for tax credits, which will average $2,672 per family, or about 32 percent of the cost of a "silver" plan in the exchanges. The average tax credit among just those people who are eligible for the credits is expected to be $5,548, or enough to pay for 66 percent of the cost of a "silver plan."

"Tax subsidies are an essential part of the equation for many people who buy insurance through the new marketplaces next year," Kaiser Family Foundation President and CEO Drew Altman said. "They will help make coverage more affordable for low and middle-income people."

The amounts of the tax credits will vary significantly, since they will be based on a person's income and a sliding scale that will determine what percentage of income – from 2 percent to 9.5 percent – he or she will be expected to contribute to the cost of premiums.

Exchange consumers will have the option to buy not only "silver" plans, but also "bronze" plans with fewer benefits and lower premiums and "gold" plans with more benefits and higher premiums.

Judge Tosses Challenge to Dodd-Frank

A federal judge on August 1 threw out a lawsuit that challenged the constitutionality of major parts of the 2010 Dodd-Frank Act.

State National Bank of Big Spring, Texas; the Competitive Enterprise Institute; the 60 Plus Association; and 11 states sought to have parts of Dodd-Frank declared unconstitutional. They argued, among other things, that the Financial Stability Oversight Council's (FSOC) ability to designate some financial entities as "systemically important" puts smaller banks at a competitive disadvantage; that the FSOC violates the separation of powers because its "members include nonvoting state officials appointed by state regulators rather than the President, [and it] is insulated from meaningful judicial review – indeed, from all judicial review brought by third parties injured by an FSOC designation"; and that the Consumer Financial Protection Bureau (CFPB) also violates the separation of powers because it "delegates effectively unbounded power to the CFPB, and couples that power with provisions insulating CFPB against meaningful checks by the Legislative, Executive, and Judicial Branches."

U.S. District Judge Ellen Segal Huvelle ruled that the plaintiffs do not have legal standing to bring the lawsuit.

"This is an unusual case, as plaintiffs have not faced any adverse rulings nor has agency action been directed at them," Huvelle wrote. "Most significantly, no enforcement action – 'the paradigm of direct governmental authority' – has been taken against plaintiffs. ... As a result, plaintiffs' standing is more difficult to parse here than in the typical case." In the end, Huvelle decided that the plaintiffs could not demonstrate either present injury or a likelihood of future harm.

Huvelle had indicated during a June hearing that she doubted the plaintiffs' claims to having standing.

"All you're dealing with is uncertainty," she said at the hearing. "You're not dealing with regulation. That's life. That's not standing."

The plaintiffs are appealing the ruling.

"The court's decision misconstrues the real and immediate loss of substantive rights that the states have suffered because of Dodd-Frank," plaintiffs' lead counsel C. Boyden Gray said. "If this decision stands, taxpayers and pension holders across the country will have no guarantee of being treated fairly or made whole in the event of a future financial crisis. Instead, Dodd-Frank creates a 'star chamber' procedure that provides states and other creditors with no notice of impending bank 'liquidations' until after they have begun, after which Dodd-Frank denies the states meaningful judicial review to protect their rights and their financial investments, including the states' pension funds."

CII Again Advocates for Majority Voting Standard for Directors

The Council of Institutional Investors (CII) on August 2 reiterated its requests to the New York Stock Exchange (NYSE) and NASDAQ that they support requirements that listed companies elect directors by majority vote.

In letters sent to the New York Stock Exchange and NASDAQ, CII renewed its request that the exchanges to propose a rule for approval by the Securities and Exchange Commission (SEC) that would require that, in order for a company to have its shares listed on a given exchange, it must adopt a majority voting standard in which directors in uncontested elections would have to resign immediately if they did not receive a majority of votes.

"We believe that electing directors by majority vote is a fundamental shareowner right and that directors who lack the support of a majority of the shareowners they represent should not serve on the board," CII wrote. "Majority voting for directors is standard in nearly all major markets around the world, including the United Kingdom, the Netherlands and Hong Kong. That is because electing directors by majority vote in uncontested elections ensures that shareholders' votes count and makes directors more accountable to shareholders."

CII made the same request to the NYSE and NASDAQ on June 20, writing that most listed companies "continue to follow the antiquated, or as some have described 'truly bizarre,' plurality voting process, whereby a director nominee is elected or reelected 'so long as she receives any votes in her favor, even if ninety percent or more of the shareholders vote against her.'"

CII sent a similar letter to the Toronto Stock Exchange in November.

In October, CII wrote to the American Bar Association and the Delaware State Bar Association to ask them to support majority voting for directors. (About half of all U.S. public companies are incorporated in Delaware.) The Delaware State Bar Association rejected the request, writing in a March 26 letter to CII that the association's Council of the Corporation Law Section "does not believe that the empirical studies on the question whether a majority voting standard for the election of directors is beneficial or harmful to any individual corporation and its stockholders, or to aggregate stockholder wealth or economic efficiency, are compelling enough to dictate imposition of a voting regime and deny Delaware corporations the opportunity in this context for private ordering which is a hallmark of the [Delaware General Corporation Law]."

House Panel Unveils Social Security Reform Proposals

The House Ways and Means Committee on July 29 unveiled a Social Security reform plan that may hint at consideration of mandatory coverage for newly-hired state and local employees.

One of the committee's draft bills would switch to the use of the chained consumer price index to make cost-of-living adjustments to Social Security benefits, while another would raise Social Security's retirement age and adjust the calculation of benefits to slow their growth, while providing a "special minimum benefit" for "long career workers." It appears that the adjustments are projected to eliminate a third to a half of the expected shortfall in Social Security over the next 75 years.

Committee leaders stressed that their proposals to this point "mirror those" in the reports of the National Commission on Fiscal Responsibility and Reform, known as the Simpson-

Bowles Commission, and the Bipartisan Policy Center Debt Reduction Task Force, known as the Domenici-Rivlin Task Force.

Simpson-Bowles recommended that, starting in 2020, new state and local hires be required to participate in Social Security and that public pensions be required to "share data" with Social Security, stating "Full coverage will simplify retirement planning and benefit coordination for workers who spend part of their career working in state and local governments, and will ensure that all workers, regardless of employer, will retire with a secure and predictable benefit check." Domenici-Rivlin also recommended mandatory coverage for state and local workers hired in 2020 and beyond.

RELATED NATIONAL AND INDUSTRY NEWS

Proposed Hybrid Retirement Plan Would Out-Perform 401(k)s, IRAs: Center for American Progress

Moving toward "collective defined contribution plans" and away from 401(k)s and IRAs "could provide a more secure retirement at a far lower cost," according to a study by the Center for American Progress.

The center analyzed the potential impact of its proposed Secure, Accessible, Flexible and Efficient (SAFE) Retirement Plan, a hybrid savings vehicle that would create professionally-managed individual accounts that, while not providing guaranteed payouts, "would be far less risky for workers and retirees than a 401(k), with a higher likelihood of achieving target benefit levels." At retirement, it would offer "an annuitized stream of payments that increases in value over time and cannot be outlived."

The plan, according to the study, would improve retirement incomes by:

- Eliminating "glaring inefficiencies" in 401(k)s and IRAs, including "high fees and the behavioral mistakes that workers saving in individual accounts commonly make, such as failing to diversify investments."

- Mitigating individual risk. "In the SAFE Plan, risks are shared among workers and among retirees, providing a kind of insurance that reduces risks for all participants."

The study concluded that, for individuals retiring between 1966 and 2012, a "real-world 401(k)" would have replaced an average of 34.7 percent of pre-retirement income and a "perfect 401(k)" would have replaced 74.6 percent, while a SAFE Retirement Plan would have replaced 83.8 percent. For workers who retired at the height of the financial crisis in 2007 and 2008, the replacement rate would have decreased 9.3 percent for a real-world 401(k) and 28 percent for a perfect 401(k), but just 1.6 percent for a SAFE plan.

"Any way that we slice our results, the SAFE Retirement Plan outperforms a realistic

401(k) and even a perfect-world 401(k) on measures of both cost and risk," the study stated. "This holds true for stochastic modeling as well as modeling using historical returns – evidence that the results are quite reliable. Because IRAs usually have even higher fees than the typical 401(k), the SAFE Retirement Plan outperforms an IRA to an even greater degree than it does the typical 401(k)."

The SAFE Retirement Plan is similar to the Universal, Secure and Adaptable (USA) Retirement Funds that have been proposed by Senate Health, Education, Labor and Pensions Committee Chairman Tom Harkin, D-Iowa. Harkin's proposal, which the study positively references, would create portable accounts that would be privately run and professionally managed with pooled investments. Participants would receive a defined monthly benefit during retirement that would be based on the total amount of contributions made by them or on their behalf and investment performance.

"At the heart of the American Dream is that promise that if you work hard and play by the rules, you will be able to enjoy your golden years with dignity and financial independence," Harkin said. "But today, only half of the workforce has access to a retirement plan through their employer, and those that have anything at all are likely to only have a 401(k). We can do better, as this report illustrates. My USA Retirement Funds proposal would ensure that everyone has the opportunity to earn a safe and secure pension benefit that they cannot outlive while reducing the burden on employers."

Harkin has announced that he will not seek reelection in 2014. *Pensions & Investments* reported in May that he said that, before he retires, "I'd like to get something like [USA Retirement Funds] done. It seems to me that the time is right."

Australia, Canada, Netherlands Best U.S. in Retirement Security: NIRS

Australia, Canada and the Netherlands each provide higher retirement incomes at lower risk for workers than does the United States, according to a report from the National Institute on Retirement Security (NIRS).

NIRS examined the retirement income models in the four countries in order to gain "international perspectives on retirement security." It opened the report by noting that the shift away from defined benefit (DB) plans and toward defined contribution (DC) plans in the U.S. has "resulted in almost all retirement funding, investment, and longevity risks being borne by workers," as well as "pronounced retirement income insecurity for a majority of the workforce."

"The paper finds that while the level of risk borne by employees varies across the three [non-U.S.] countries' retirement income systems, risks are pooled among workers or offset by employers and government to a greater extent than in the U.S. In none of these three countries does the average worker individually bear all of the risks related to saving and investing to produce a level of retirement plan income that, combined with social security, provides a basic standard of living. All three countries provide relatively higher retirement income for low- and middle-wage workers through their social security and universal/quasi-universal employer plans combined than does the U.S."

The report also identified several lessons that it said the U.S. could apply to its retirement system, including:

- Australia is setting standards for default funds, fee disclosures and financial advice in DC plans

- The Netherlands has developed hybrid workplace retirement plans, called Collective Defined Contribution Plans, which are DC plans from the perspective of employers but are hybrid DB plans from the perspective of employees.

- In Canada and the Netherlands, employee contributions to DB plans – as well as DC plans – are tax deductible.

The report cited a study from the Organisation for Economic Co-operation and Development (OECD) that found that, on average, the gross income replacement rate for a median earner from a nation's social security program and mandatory workplace retirement plan in 2011 was just under 50 percent in Canada, just over 50 percent in Australia, almost 90 percent in the Netherlands, but just 42 percent in the U.S. The average across all OECD nations was 61 percent. Among low earners, Australia was over 70 percent, Canada was over 76 percent, and the Netherlands was 93 percent, while the U.S. was 52 percent. The OECD average was 72 percent.

"Our research suggests that U.S. policymakers are wise to look at successes in Canada, Australia and the Netherlands to help get our retirement system back on track," said Nari Rhee, NIRS manager of research and a co-author of the report. "While each country is unique, it's clear that universal coverage and risk sharing are essential success factors in the three countries we studied. In sharp contrast, the U.S. system for private sector employees has low rates of retirement plan coverage."

NCPERS Challenges *Economist* on Public Pension Claims

The National Conference on Public Employee Retirement Systems (NCPERS) charged in a recent letter that an *Economist* column that was critical of public pensions and public employee health care plans "makes a number of classic errors."

The July 27 column focused on public pensions in light of the city of Detroit filing for bankruptcy. With multiple references to California and CalPERS, the column criticized commonly used discount rates, noted that long-term shortfalls are estimated to be at least $1 trillion and possibly $2.7 trillion or more, and asserted that "states and cities have used their pension funds as a way of offering supersized payments to senior managers and favoured workers. More than 20,000 former state or local employees in California have retirement incomes of over $100,000; a few enjoy more than $250,000." It went on to warn that CalPERS "can unilaterally raise the contributions of public agencies; a phased rise of around 50% will begin in 2015."

"In the end, as with Detroit, it may take a financial crisis for states and cities to face up to the scale of their pension shortfalls," *The Economist* wrote. "When a crisis occurs, public-sector workers are more likely to accept the need to sacrifice."

The column closed by stating that, "Municipal bond markets have so far shrugged off the Detroit bankruptcy; investors seem to think it an exceptional case. But the long-run problem of closing that $2.7 trillion pension gap remains. The legal precedents set in Detroit will help answer a big question. When politicians promise too much to creditors and pensioners, who ends up footing the bill?"

NCPERS Executive Director and Counsel Hank Kim stated in a recently released letter to *The Economist* dated August 8 that the article overstated the value of pension benefits by focusing on a few outliers and inappropriately linked pension and health care benefits.

"The truth is that public pension plans in the US are, with a few exceptions, more than adequately funded, financially healthy and sustainable for the long term," Kim wrote. "The few that aren't are in jurisdictions that chose not to make their required contributions during boom economic times, then couldn't catch up after the Great Recession sapped their tax revenues. Even in beleaguered Detroit, the police and fire pension fund is 96 percent funded, while the fund for other city employees is 88 percent funded. Standard & Poor's maintains that a funding level of 70 percent is adequate."

After asserting that "America's real pension or retirement savings crisis is in the private sector, where the savings deficit is a staggering $14 trillion and rising," Kim suggested that the article's closing question was the wrong one.

"Far more important," Kim wrote, "to state and municipal finances, to economic stability and growth, to taxpayers' obligations and to the fundamental American calculation of right and wrong is this question: 'Will America be able to deal with the financial disaster that awaits us if we do not get the *private sector* retirement savings crisis under control?'"

The letter is similar to an August 7 letter Kim sent to *The New York Times* that stated "there is no public pension crisis," after the *Times* published a column on August 4 that advocated an overhaul of state and local pensions.

CALIFORNIA CONGRESSIONAL DELEGATION NEWS

15 Calif. Democrats Back Yellen as Fed Chair

Fifteen California Democrats are advocating to have Federal Reserve Vice Chairman Janet Yellen appointed to be the next chairman.

Fed chairman Ben Bernanke's term ends on January 31, 2014. House Financial Services Committee Ranking Democrat Maxine Waters of California and 37 Democratic colleagues, all of them women, including 14 from California, wrote to President Obama on July 31 to ask him to consider Yellen, a professor emeritus at the University of California at Berkeley who has served as vice chairman since 2010, as Bernanke's replacement.

"In her tenure on the board, Vice Chairman Yellen has served excellently in both her duties as a regulator of America's financial institutions and as a steward of our nation's monetary policy," Waters and the others wrote in the letter. "Her institutional knowledge and working relationships with current Board members would provide for a smooth transition at a time when financial markets and middle class Americans are counting on the Federal Open Markets [sic] Committee to demonstrate thoughtful and deliberate leadership to steer our economy on the road to a full economic recovery."

The representatives also credited Yellen with foresight leading up to the fiscal crisis of the late-2000s, stating, "During the subprime bubble, at a time when many economists were optimistic about unprecedented growth in the economy, she saw the bubble for what it was and predicted disaster in the banking system."

Yellen is reportedly one of three finalists for the position, along with former Treasury Secretary Larry Summers and former Fed Vice Chairman Donald Kohn, who is thought to be a dark horse candidate.

The Federal Reserve has never had a female chairman.

House Panel Schedules Hearing on Climate Change

A subcommittee of the House Energy and Commerce Committee has scheduled a hearing on issues related to climate change for September 18.

Energy and Power Subcommittee Chairman Ed Whitfield, R-Ky., said the hearing is being held "to hear from relevant federal agencies about U.S. climate change policies and the administration's second term climate agenda, and to obtain fuller information regarding the federal government's past, current and planned domestic and international activities, climate research programs, initiatives and new regulatory requirements." It is expected to focus on the details of the "Climate Action Plan" that President Obama unveiled in June.

Whitfield wrote to the heads of 13 federal agencies on August 6 to invite them to testify at the hearing and ask them to submit "specific information about your agency's climate-related activities."

House Energy and Commerce Committee Ranking Democrat Henry Waxman told *National Journal* that, while the panel should invite administration officials, "We also should be hearing from the nation's leading scientists."

"Ever since the Republicans took over [in January 2011], the committee has been AWOL on the biggest energy issue facing the nation," Waxman said. "It's an embarrassing record that needs to change."

Waxman and Rep. Bobby Rush of Illinois, the ranking Democrat on the committee's Energy and Power Subcommittee, have written to Whitfield and committee Chairman Fred Upton 26 times in a little more than two years to request that the panel hold a hearing on climate change. This will be the first hearing on the issue to have been held since the letters began.

The Bicameral Task Force on Climate Change, which Waxman co-founded and co-chairs, released a whitepaper in August that recommended 20 steps that the Department of Energy should take to implement the "Climate Action Plan" unveiled by President Obama in June. The recommendations, which were compiled from suggestions submitted by more than 200 groups and individuals, include:

- Strengthening specific energy efficiency standards
- Accelerating the development and deployment of low-carbon energy technologies
- Expanding the use of energy savings performance contracts to save energy at federal facilities
- Encouraging reforms in state building codes and utility rate structures
- Maximizing the contribution of power marketing administrations
- Analyzing the climate change impacts of liquefied natural gas exports

"The Department of Energy should quickly take the steps outlined in the report, which would reduce carbon pollution while creating jobs and saving consumers money," Waxman said.

It was reported in August that a draft of the next report from the Intergovernmental Panel on Climate Change states that there is at least a 95 percent chance that humans are the principal cause of climate change. The most recent report in 2007 estimated a 90 percent chance.

"It is extremely likely that human influence on climate caused more than half of the observed increase in global average surface temperature from 1951 to 2010," the draft states. "There is high confidence that this has warmed the ocean, melted snow and ice, raised global mean sea level and changed some climate extremes in the second half of the 20th century."

The draft report is to be reviewed by scientists and government officials in late September before a final version is released. Since it is still subject to revisions, the IPCC stated that it is "premature and could be misleading to attempt to draw conclusions from [the draft]. Draft reports are intermediate products and should not be represented as the final scientific view that the IPCC provides to policymakers in its finalized and accepted reports on the state of knowledge of climate change."