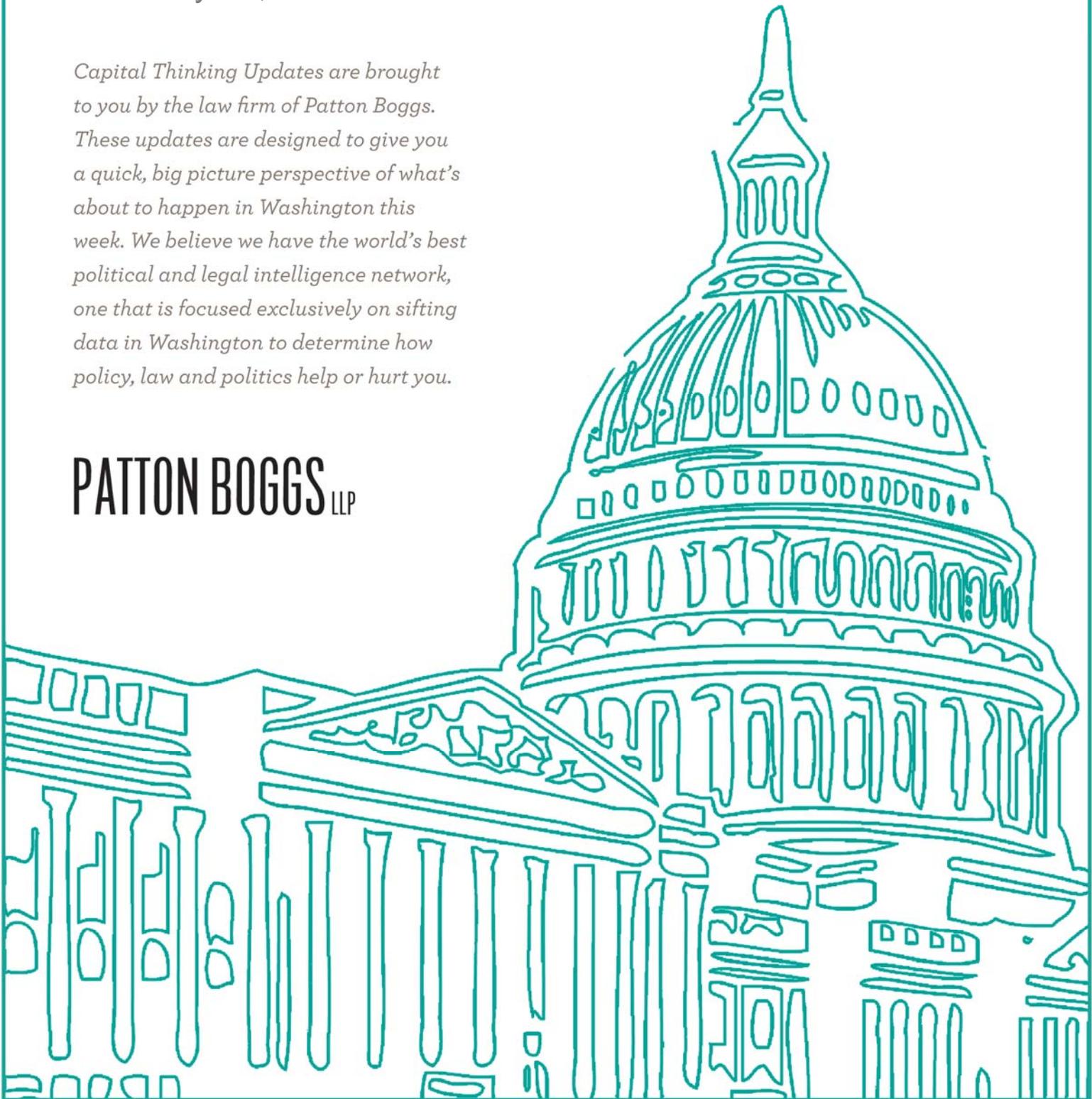


CAPITAL **thinking** UPDATES

February 13, 2012

Capital Thinking Updates are brought to you by the law firm of Patton Boggs. These updates are designed to give you a quick, big picture perspective of what's about to happen in Washington this week. We believe we have the world's best political and legal intelligence network, one that is focused exclusively on sifting data in Washington to determine how policy, law and politics help or hurt you.

PATTON BOGGS LLP



General Legislative

On Monday, February 13, 2012, the House will meet at 1:00 p.m. in pro forma session. On Tuesday, the House will meet at 12:00 p.m. for morning hour and at 2:00 p.m. to consider three bills naming U.S. Postal Service facilities under suspension of the rules. Thereafter, the House will turn to H.R. 7, the American Energy and Infrastructure Jobs Act of 2012. The Senate will convene at 2:00 p.m. on Monday for a period of morning business. Thereafter, at 4:30 p.m., the Senate will proceed to executive session to consider the nomination of Adalberto Jose Jordan of Florida to be United States Circuit Judge for the Eleventh Circuit.

Budget, Appropriations

LEGISLATIVE ACTIVITY

- **Earmark Ban Efforts Continue.** Despite failed Senate efforts to enact a permanent earmark ban through an amendment to the “Stock Trading on Congressional Knowledge (STOCK) Act” (S. 2038) (as detailed in the February 6, 2012 edition of the *Capital Thinking Report*), Senators Pat Toomey (R-PA) and Claire McCaskill (D-MO) plan to again offer the “Earmark Elimination Act” (S. 1930) as an amendment to the highway bill that will be on the Senate floor this week. Representative Jeff Flake (R-AZ) attempted to add the earmark ban to the STOCK Act when it was up for consideration in the House last week, but House leaders brought the bill up under suspension of the rules, a procedural tactic to prohibit amendments. Earmark opponents will continue these efforts to force votes on an earmark ban in the coming months. While an earmark ban could easily pass in the House, Senate votes will continue to be symbolic in nature.
- **House Moves Budget Reform Proposals.** Last week, the House continued its work on the Republican package of bills that aim to overhaul the Congressional budget process. “The Expedited Legislative Line-Item Veto and Rescissions Act” (H.R. 3521), which would give the President line-item veto and rescission authority subject to an expedited Congressional up-or-down vote, was approved on Wednesday, February 8, by a vote of 254 to 173. An amendment offered by Representative Rodney Alexander (R-LA) to prevent the President from proposing any rescissions to funds appropriated to the Army Corps of Engineers was defeated. On Monday, February 6, the White House released a statement in support of the bill as a way to identify and cut unnecessary spending and discourage waste. It remains unclear whether the President’s weigh-in will be enough to sway top Senate Democrats, several of whom are current or former appropriators, who are concerned about protecting the congressional power over the budget and appropriations process. Senate leadership will not likely bring the measure up as a stand-alone bill, but may consider allowing it to come up for a vote as an amendment to another bill. Senators John McCain (R-AZ) and Thomas Carper (D-DE) announced they would test that theory “as soon as possible.”

The House also passed “The Budget and Accounting Transparency Act” (H.R. 3581) last week, which requires the use of “fair value” methodologies to take into account risk as well as borrowing costs when calculating costs of federal credit programs. The bill also incorporates the budgets of government-backed mortgage companies Fannie Mae and Freddie Mac into the federal budget and requires federal agencies to publicly post their budget justification materials used to prepare their annual budget requests.

The House Budget Committee will now switch its focus to the FY 2013 budget resolution and will return to the budget reform legislation after passage of the budget resolution anticipated in March.

- **FY 2013 Appropriations Season Kicks Off.** While the President's Budget Proposal generally starts the appropriations process, House appropriators got an early start and commenced FY 2013 budget hearings last week in the Legislative Branch subcommittee. The subcommittees on Homeland Security and Interior-Environment will hold hearings this week.

No appropriations hearings have been scheduled in the Senate. However, Appropriations Chairman Daniel Inouye (D-HI) has instructed his subcommittee chairmen to begin working on their FY 2013 bills using the \$1.047 trillion spending cap that was set in the debt limit agreement over the summer.

OTHER BUDGET, APPROPRIATIONS NEWS

President's FY2013 Budget Release. On Monday, February 13, the President will release his FY 2013 Budget Proposal. Particularly in an election year, the President's Budget Proposal is principally a policy document that outlines the Administration's policy and funding priorities for the upcoming fiscal year. The President's FY 2013 Budget Request will build on the themes the President outlined in his recent State of the Union address, primarily workforce training, job creation, education, and deficit reduction.

Education

LEGISLATIVE ACTIVITY

- **House Reauthorization of the Elementary and Secondary Education Act (ESEA).** On Thursday, February 9, Representative John Kline (R-MN), Chairman of the House Education and Workforce Committee introduced the "Student Success Act" (H.R. 3989) and the "Encouraging Innovation and Effective Teachers Act" (H.R. 3990). If enacted, the bills would replace the current law on school accountability systems and establish teacher effectiveness measures, respectively.

Both bills include [major changes](#) from the draft bill. For the "Student Success Act," changes include shortening the timeline for states to have accountability systems and rewriting the "Rural Education Achievement Program." For the "Encouraging Innovation and Effective Teachers Act," major changes include, clarifying eligibility requirements for the "Teacher and School Leader Flexible Grant" and allowing additional school districts meeting certain eligibility requirements to apply for grants under the "Impact Aid School Construction Program."

In January, when announcing the draft bills, Chairman Kline remarked that he had abandoned bipartisan talks during the Committee's reauthorization of ESEA because such negotiations were impeding the reauthorization process. Chairman Kline's approach has raised concerns among Democrats about the likelihood of the House passing a comprehensive ESEA bill. Democrats believe that only a bipartisan bill can pass and be signed by the President by year's end.

- **Upcoming Hearings.** The House Education and Workforce Committee will hold a hearing on Thursday, February 16 on the "Student Success Act" and the "Encouraging Innovation and Effective Teachers Act."

REGULATORY ACTIVITY

- **No Child Left Behind (NCLB) Waiver Requests.** On Thursday, February 9, the White House announced the Department of Education approved the waiver request of 10 states: Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, Oklahoma, and Tennessee. These states are now required to set new performance targets for student achievement and establish accountability systems to reward high-performing schools and address the needs of the lowest-performing schools.

Since the President's September 2011 announcement that his Department of Education (DOE) will allow states flexibility in meeting the 2014 targets set by NCLB, 39 states, Washington D.C., and Puerto Rico have signaled their intent to request waivers.

- **Draft Cohort Default Rates.** The Department of Education will delay its release of the draft two-year and draft three-year cohort default rates. The Department has not confirmed new release dates, but expects to release the draft cohort default rates in March. The Department had originally scheduled the release dates for February 13 and February 20, respectively.

In September 2012, the Department will publish the final cohort default rates. This is the first year the Department will issue three-year cohort default rates as directed under the Higher Education Opportunity Act (HEOA) enacted in August 2008.

Energy

LEGISLATIVE ACTIVITY

- **FY2013 Budget Proposal.** The Administration's FY 2013 budget proposal — to be transmitted to Congress on Monday, one week after the statutory deadline for submission — is expected to include temporary proposals to extend \$5 billion worth of clean energy tax credits, including the Advanced Energy Manufacturing Tax Credit and the Production Tax Credit. Consistent with a point made in his State of the Union Address, the President also is likely to call for the repeal of all tax preferences that benefit the oil and gas industry, including the section 199 deduction and the write off for intangible drilling expenses. While Members of Congress will be under significant pressure to extend expired or expiring green energy tax credits, it will be difficult in the near-term to secure the funding to “pay for” their extension given budgetary constraints and disparate regional interests in an election year.
- **Congressional Hearings.** On Wednesday, the House Natural Resources Committee will hold an oversight hearing on the Interior Department's FY 2013 budget proposal. A House Appropriations Subcommittee hearing on the same topic is scheduled for Thursday afternoon. On Thursday morning, the Senate Energy and Natural Resources Committee will hear from Energy Department officials on their FY 2013 budget proposal.

REGULATORY ACTIVITY

- **ARPA-E.** Comments on a [draft](#) Open Funding Opportunity Announcement are due February 29. The Department of Energy (DOE) expects to formally release a final version around March 2 to award approximately \$150 million in total funding (awards may vary between \$250,000 and \$10 million). The program supports transformational and disruptive high-impact energy R&D projects for renewable power, bioenergy, transportation, conventional generation, the electric grid, building efficiency, and other technology areas.

- **New Energy Innovation Hub.** The DOE is formally launching a new “hub” focused on advanced batteries and energy storage. Secretary of Energy Steven Chu plans to invest up to \$120 million over five years in this newest hub, beginning with \$20 million in FY 2012.
- **DOE Loan Guarantee Audit.** The White House-directed audit of DOE’s loan guarantee program, following the bankruptcies of some loan recipients, was publicly released last week. House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA) has again asked Secretary Chu to testify about the program next month – or potentially face a subpoena compelling him to do so within the next two months.

Nuclear. The Nuclear Regulatory Commission approved, 4-1, a request by Southern Company to build the first reactors in 33 years.

Environment

LEGISLATIVE ACTIVITY

- **Department of Interior Budget.** On Wednesday, February 15, the House Committee on Natural Resources will hold a full committee oversight hearing on the U.S. Department of Interior’s budget request for Fiscal Year 2013. Secretary Ken Salazar will testify.
- **Research and Development.** On Friday, February 17, the House Committee on Science, Space and Technology will hold a full committee hearing on the Administration’s federal research and development budget for FY 2013. The Honorable John Holdren, Director of the White House Office of Science and Technology Policy and Co-Chair of the President’s Council of Advisors on Science and Technology (PCAST) will testify.

REGULATORY ACTIVITY

- **Offshore Wind Turbines off the Atlantic Coast.** The U.S. Department of the Interior (DOI) has announced that its Bureau of Ocean Energy Management (BOEM) has passed a key environmental review which will allow the process for wind energy lease sales off Delaware, Maryland, New Jersey, and Virginia to move forward.
The Bureau also announced the finalization of a first-of-its-kind lease form that will help streamline the issuance of offshore renewable energy leases. The lease form is available now and will become effective on Friday, February 17.
- **Concentrated Animal Feeding Operations.** The Environmental Protection Agency (EPA) released a Notice of Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Concentrated Animal Feeding Operations (CAFOs) in Oklahoma. The permit addresses the discharge of pollutants to waters of the United States from feeding operations for horses, sheep, dairy cows, cattle, swine, poultry and veal calves. In creating the permit, comments were received from Oklahoma Department of Agriculture, Food and Forestry (ODAFF); Crawford Farms, Inc.; Enviro-Ag Engineering; U.S. Fish and Wildlife Service (USFWS); Oklahoma State University (OSU); Pride Feeders, LP; Oklahoma Farm Bureau (OFB); Premium Beef Feeders, LLC; Tri-State Feeders, Inc.; Dairy Producers of New Mexico (DPNM); Seaboard Foods; Texas Cattle Feeders Association (TCFA); The Hanor Company of Wisconsin, LLC; Wheeler Brothers Grain Company (WBGC); JBS Five Rivers Cattle Feeding LLC, Oklahoma Pork Council (OPC); and Tyson Foods, Inc, among others. The permit expires on January 31, 2017.

- **Critical Minerals.** The U.S. Department of Interior has issued a notice of a revision of a currently approved information collection. The U.S. Geological Survey will ask the Office of Management and Budget (OMB) to approve the information collection request (IC) affecting the collection of 40 forms. Affected parties include: U.S. nonfuel minerals producers of industrial minerals, and State and local governments.

Respondents will use these forms to supply the USGS with domestic production and consumption data of industrial mineral commodities, some of which are considered strategic and critical. This information will be published as chapters in Minerals Yearbook, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications for use by Government agencies, industry, education programs and the general public.

USGS is seeking comments that will address (a) whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

This collection is scheduled to expire on June 30. Comments on this IC must be received on or before April 9.

Financial Services

LEGISLATIVE ACTIVITY

- **House Passes Insider Trading Bill.** On Thursday, February 9, the House passed a bill that would prevent Members of Congress from financial market trading based on nonpublic information they have obtained in the course of their Congressional work. The Stop Trading on Congressional Knowledge Act or STOCK Act (H.R. 1148) passed by a vote of 417-2. The bill creates a specific fiduciary duty for Members and staff with respect to knowledge obtained as a result of their position and prohibits certain federal employees from buying or selling securities, swaps, or commodity futures based on non-public, material information gained during the course of their employment.

The legislation will likely create a chilling effect on communications with government officials and may require information aggregators to register as “political intelligence consultants.”

On February 2, 2012, the Senate passed its version of the STOCK Act (S. 2038) by a vote of 96-3. During Senate floor consideration of the bill, the Senate approved several amendments; including the “Grassley Amendment” which restored the “political intelligence” provisions of the Senate reported bill (the Senate Committee had proposed a GAO study).

At this point, the Senate has several options. It may insist on its amendments and request a conference with the House, it may amend the House passed bill and return it to the House, or it may accept the House passed bill as passed. An informal option is for the leaders of each Chamber to negotiate a compromise. If the bill goes to a Conference Committee, negotiations on the differences could consume a great deal of time. In addition, a “true” conference would include Members from several Senate and House Committees with jurisdiction. It is uncertain what course the Senate will take.

- **Senate Subcommittee to Discuss Incentive-based Compensation at Financial Institutions.** On Wednesday, February 15, the Senate Banking Subcommittee on Financial Institutions and Consumer Protection will hold a hearing titled, “Pay for Performance: Incentive Compensation at Large Financial Institutions.” Witnesses will include Christy Romero, Acting Special Inspector General for the Troubled Asset Relief Program (TARP); Prof. Lucian Bebchuk, Harvard Law School; and Prof. Robert Jackson, Jr., Columbia Law School.
- **Senate Banking Committee to Discuss European Debt Crisis.** On Thursday, February 16, the Senate Banking Committee will hold a hearing titled, “Examining the European Debt Crisis and its Implications.” Witnesses will include Treasury Under Secretary for International Affairs Lael Brainard; State Department Under Secretary for Economic, Energy and Agricultural Affairs Robert Hormats; and Steven Kamin, Director of the Division of International Finance, Board of Governors of the Federal Reserve System.

REGULATORY ACTIVITY

- **CFTC Postpones Second Consecutive Dodd-Frank Rulemaking Meeting.** The Commodities Futures Trading Commission (CFTC) canceled its Wednesday, February 15 open meeting. This is the second consecutive open meeting canceled the CFTC has cancelled, after its January 25 meeting was postponed. The CFTC was expected to consider a final joint rulemaking with the Securities and Exchange Commission (SEC) defining certain entities related to over-the-counter derivatives, including “swap dealer” and “major swap participant.”

FINANCIAL SERVICES NEWS

- **\$25 Billion Foreclosure Settlement Reached with Mortgage Lenders.** After almost a year of negotiations, on February 9, the State Attorneys General and the nation’s largest mortgage lenders, including Wells Fargo, JP Morgan Chase and Bank of America, reached a \$25 billion settlement. Of note, Oklahoma was the only state that did not agree to the settlement and signed its own separate deal. The settlement resolves numerous claims against mortgage lenders related to the signing of documents without prior review, improper foreclosure, and other abusive lending practices. The settlement incorporates principal reduction and principal write down requirements, as well as conditions regarding proper review of foreclosure documents and increased accountability for the banks. Importantly, the settlement does not eliminate the possibility of future lawsuits against the banks for other securitization issues.
- **Federal Insurance Office Report Delayed.** The Federal Insurance Office, created by the Dodd-Frank Act, has delayed delivery of its report to Congress on how to modernize and improve the system of insurance regulation in the United States beyond the statutory deadline of January 30. The report is expected to be delivered before the end of February.

Health Care

LEGISLATIVE ACTIVITY

- **Doc Fix/Health Extenders.** Conference Committee members met again this week to negotiate the extensions bill including the Medicare physician fee fix. For the first time, the Committee turned its attention to several House-proposed offsets, including a federal pay freeze, limitation on Medicare subsidies for upper-income earners, and a health insurance exchange subsidy recapture. The list of health care offsets proposed

by House Republicans, among other non-health related offsets, includes an increase in income-related premiums under Medicare Parts B and D, an ACA “excessive subsidy recapture” that would increase the maximum amount of subsidy overpayments that must be repaid to taxpayers under the ACA, a reduction in the Prevention and Public Health Fund, parity in certain Medicare payments, reduction in bad debt payments owed to hospitals, and a rebasing of state DSH allotments beginning in 2021. Several Committee Democrats raised the prospect of including a “millionaire’s surtax” in lieu of these provisions. Not unexpectedly, Republicans and Democrats found little common ground on any of the measures discussed, raising renewed questions about their ability to reach a one-year agreement by February 29. Another short-term extension remains a potential alternative while negotiations continue.

- **HELP Hearing.** The Senate Committee on Health, Education, Labor and Pensions will hold a hearing on Tuesday, February 14, 2012 to examine “Pain in America: Exploring Challenges to Relief.” Witnesses include: Lawrence A. Tabak, D.D.S., Ph.D., Principal Deputy Director, National Institutes of Health, Washington, DC; Philip A. Pizzo, M.D., Dean of the School of Medicine, Stanford University School of Medicine, Stanford, CA; John E Sarno, M.D., Professor of Clinical Rehabilitation Medicine, New York University School of Medicine, New York, NY; William Maixner D.D.S., Ph.D, Director, Center for Neurosensory Disorders, University of North Carolina at Chapel Hill, Chapel Hill, NC; and Christin Veasley, Executive Director, National Vulvodynia Association, North Kingstown, RI.
- **Senate Finance Hearing.** On Wednesday, February 15, the Senate Committee on Finance will hold a hearing on the President’s Budget for FY 2013. The Honorable Kathleen Sebelius, Secretary of Health and Human Services, will testify.
- **Energy and Commerce Hearing.** On Wednesday, February 15, the House Energy and Commerce Health Subcommittee will hold a hearing on the reauthorization of the Medical Device User Fee Act, which expires on September 30. These user fees fund the Food and Drug Administration’s (FDA) premarket device applications. Dr. Jeffrey Shuren, Director, Center for Devices and Radiological Health of FDA will testify.
- **Ed and Workforce Hearing.** The House Committee on Education and the Workforce has scheduled a field hearing on Wednesday, February 22 on “Health Care Challenges Facing Pennsylvania’s Workers and Job Creators.” The hearing will be in the Butler Township Administration Building in Butler, Pennsylvania, with witnesses to be announced.

REGULATORY ACTIVITY

- **HHS Releases Summary of Benefits Coverage Final Rule.** The Department of Health and Human Services (HHS) released a final rule and accompanying guidance regarding the simplified coverage summaries health plans are required to provide under the Affordable Care Act (ACA). HHS has stated that health insurers and group health plans (including large and self-insured plans) must provide clear, consistent, and comparable information about health plan benefits and coverage. This includes a Summary of Benefits and Coverage (or SBC) and a list of definitions called the “Uniform Glossary” that explains terms commonly used in health insurance coverage. The regulation also notes that the summaries must be available starting September 23, or shortly afterwards, which is a delay from the March 23 start date that HHS had originally proposed.
- **Biosimilars Guidance.** FDA issued guidance on the biosimilar premarket approval pathway. The guidance outlines scientific and quality considerations in demonstrating biosimilarity and includes a questions and answers document which provides information on implementing the Biologics Price Competition and

Innovation Act of 2009. The FDA is seeking public comment on these draft guidance documents which will be announced in an upcoming Federal Register notice.

- **Strong Start Initiative.** HHS announced more than \$40 million in grants available to test ways to reverse the trend of increasing numbers of preterm births in America. The grants will also be used to fund a public campaign to reduce early elective deliveries. Grants will be made available through the Center for Medicare and Medicaid Innovation, and will be awarded to health care providers and coalitions to improve prenatal care to women covered by Medicaid. The Innovation Center will offer grant funding to test three approaches, including enhanced prenatal care through centering/group visits, enhanced prenatal care at birth centers, and enhanced prenatal care at maternity care homes. Letters of intent must be submitted by March 21, with applications due June 13, and an anticipated award date of September 10.

OTHER HEALTH NEWS

- **MACPAC Meeting.** The Medicaid and CHIP Payment and Access Commission (MACPAC) has scheduled a meeting on Thursday, February 16. The meeting agenda will be posted in the coming days.

International, Defense, Homeland Security

- **Syria Developments.** Syrian government forces continue to shell and aim sniper fire at rebels and civilians alike, particularly in the opposition stronghold of Homs but also in other centers of resistance across the country. In response, the Obama Administration is steadily increasing diplomatic and economic pressure on President Bashar al-Assad, but the White House, Foggy Bottom, and the Pentagon remain keenly aware they are somewhat constrained from helping to bring about regime change, orderly or otherwise.

On the diplomatic front, the Administration has attempted to move on from last week's Russian and Chinese veto of a draft United Nations resolution supporting the Arab League's transition plan for Syria. The Administration realizes that Moscow and Beijing's move has not swayed global opinion in favor of Assad, but in fact has helped to harden opposition to the regime in Europe and much of the Middle East, particularly among the Sunni-led governments in the Gulf Cooperation Council. Accordingly, Assistant Secretary of State for Near Eastern Affairs Jeffrey Feltman has embarked on a trip to France, Morocco, and Bahrain to build momentum for a multilateral "Friends of Syria" effort intended to bolster support for the Syrian opposition. The Arab League is likely to announce its support for the concept, as well as a high-level "Friends of Syria" conference, in the near future.

Of course, Washington and its allies so far have limited their approach to the diplomatic engagement and sanctions expansions announced over the past few weeks. Despite the ongoing massacres, as well as the ultimately successful NATO-led mission in Libya, the U.S. and European security establishment and general public have appeared wary of intervening militarily in the Syrian conflict. The neoconservative *Weekly Standard* has taken up the pro-intervention cause, and further human rights abuses by the Assad regime could spur greater momentum on Capital Hill and in the Administration, but there is no rush in that direction to this point.

LEGISLATIVE ACTIVITY

- **House and Senate Continue Conferencing Payroll Tax/Unemployment Insurance/Doc Fix Legislation.** On Tuesday, February 7, the Conference Committee held its fourth meeting on the payroll tax, unemployment insurance (UI) and Medicare physicians payment fix – or the so-called “doc fix” – legislation. In December, Congress passed a two-month extension of the bill, which was fully offset by an increase in fees charged by Fannie Mae and Freddie Mac to lenders. As part of the two-month deal, the House and Senate agreed to conference on House-passed legislation that would extend all three provisions through the end of 2012 at an approximate cost of \$150 billion (for a 10-month extension). The House bill also included a provision forcing the Administration to make a decision on the Keystone XL Pipeline within 60 days; for the time being, the President has rejected the pipeline proposal, stating that the 60-day deadline leaves too little time for State Department review of the project.

During prior meetings, the Conference Committee has considered the primary policy issues of whether to extend payroll tax benefits, UI benefits, and the doc fix, with general agreement that all should be extended through the year. The Committee has also contemplated provisions related to the Temporary Assistance for Needy Families (TANF) program, Boiler MACT regulations issued by the Environmental Protection Agency (EPA), and the extension of 100 percent bonus depreciation for qualified capital investments in 2012. During its most recent meeting, the Committee considered various offset provisions contained in the House bill, including a federal pay freeze, a reduction of Medicare subsidies for upper-income earners, and an increase in health insurance exchange subsidy recaptures. The Committee also debated a millionaire’s surtax, advanced by Democrats and rejected by Republicans as outside the scope of the Conference Committee.

Senate Democrats have made a public offers to extend UI benefits for a maximum of 93 weeks, but Republicans rejected the offer, which did not include elements of the House Republican plan allowing States to conduct drug testing before providing benefits and mandating a high school diploma or enrollment in a GED program for eligibility. Both sides have indicated they are continuing discussions in an attempt to narrow differences and reach agreement on the issue.

- **Senate Finance Approves Tax Title of Highway Bill.** On Tuesday, February 7, the Senate Finance Committee approved (17– 6) legislation to renew highway taxes through FY 2015. The chair's modified mark to the Highway Investment, Job Creation and Economic Growth Act of 2012 will be included as the tax title in the Senate’s highway bill, which overcame a procedural vote to begin consideration on the Senate floor. The Finance Committee bill, sponsored by Chairman Max Baucus (D-MT), provides financing for the two-year highway and transit plan. The measure is intended to improve critical infrastructure and create jobs across the country by reauthorizing the Highway Trust Fund and providing an additional fully-offset \$10.5 billion for the infrastructure projects supported.
- **Tax Hearings Next Week.** The following hearings are scheduled next week in the House Ways and Means and Senate Finance Committees:

February 14: Senate Finance Committee hearing on the “President's Budget for Fiscal Year 2013” with U.S. Department of Treasury Secretary Timothy F. Geithner

February 15: House Ways and Means Committee hearing on the “President's Fiscal Year 2013 Budget Proposal” with U.S. Department of Treasury Secretary Timothy F. Geithner

February 15: Senate Finance Committee hearing on the “President's Budget for Fiscal Year 2013” with Health and Human Services Secretary Kathleen Sebelius

REGULATORY ACTIVITY

- **IRS Releases FATCA Proposed Rules.** On Wednesday, February 8, the IRS issued long-awaited proposed regulations under the Foreign Account Tax Compliance Act (FATCA). Enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act, FATCA imposes broad requirements on foreign financial institutions to report U.S.-owned accounts to the IRS. The proposed regulations include a reduced due diligence requirement for preexisting accounts, more administrable new account opening procedures, and an extended phase-in period for both the reporting rules and the portion of the statute that imposes a withholding tax on so-called “passthru” payments. Additionally, the Treasury Department issued a joint statement with France, Germany, Italy, Spain and the U.K. expressing its intent to pursue a government-to-government framework for implementing FATCA. The joint statement is set to serve as a model for U.S. work with other countries. The IRS already has issued three major pieces of guidance under the statute: Notice 2010-60, Notice 2011-34, and Notice 2011-53.

Transportation

LEGISLATIVE ACTIVITY

- **SAFETEA-LU Reauthorization.** This week, the House Rules Committee released the full version of the American Energy and Infrastructure Act (H.R. 7), which merges the five-year, \$260 billion reauthorization of federal highway, transit and highway safety programs with the Ways and Means financing bill and several Natural Resources Committee-approved oil and gas measures. The deadline to file amendments to the House bill is Monday, February 13 at 11:00 a.m. The Rules Committee is expected to consider several hundred amendments, but only a small percentage of them will reach the floor where three days of debate are expected. The Senate agreed Thursday on a Motion to Proceed to their version of the reauthorization bill. The Senate could vote on a final bill as soon as the end of next week.