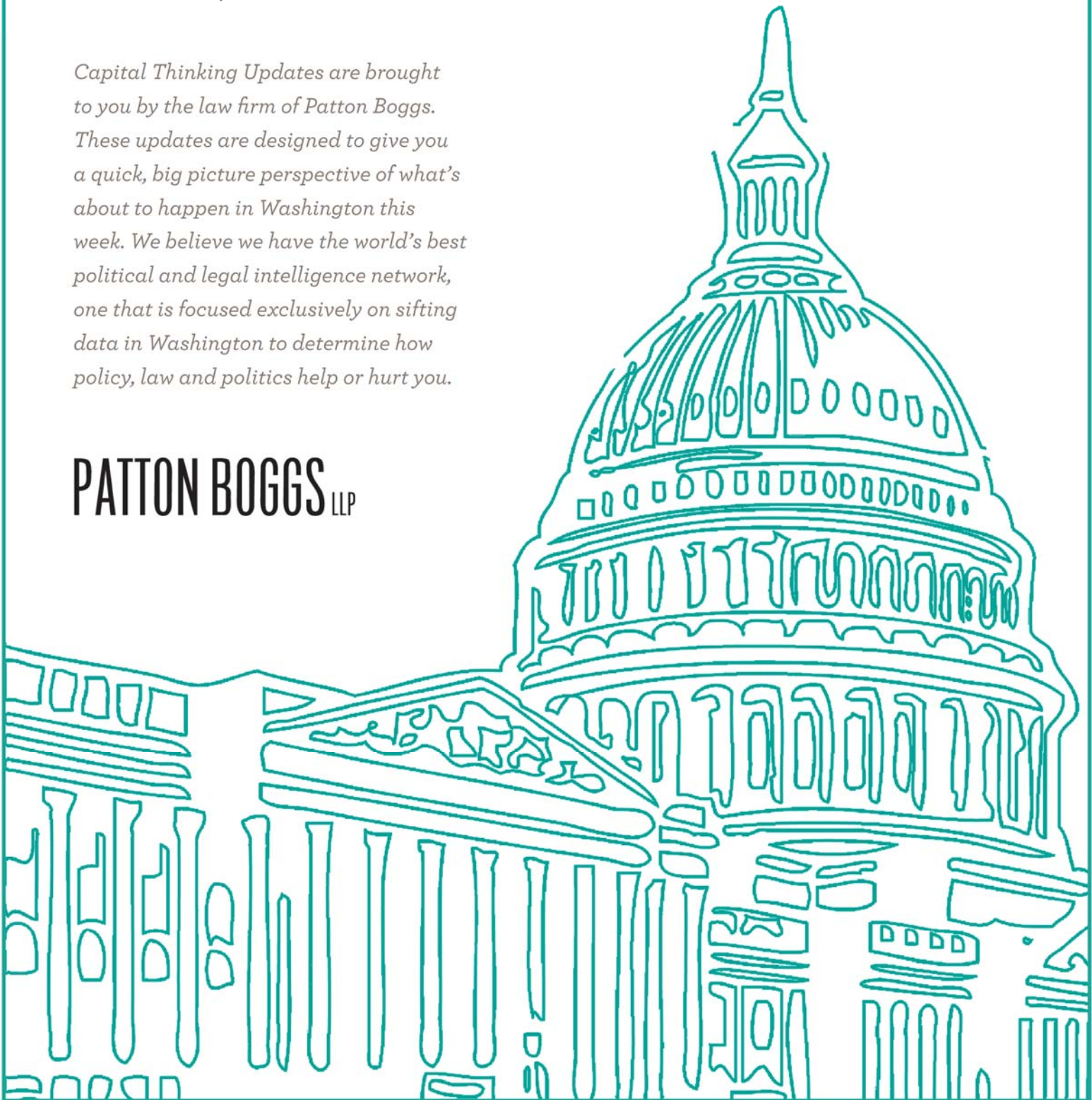


# CAPITAL **thinking** UPDATES

March 26, 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, March 26, the House will meet at 12:00 p.m. for morning hour and 2:00 p.m. for legislative business. The following legislation will be considered under suspension of the rules: H.R. 2779, a bill to exempt the inter-affiliate swaps from certain regulatory requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act; H.R. 2682, the Business Risk Mitigation and Price Stabilization Act of 2011; H.R. 4014, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection; H.R. 3298, the Homes for Heroes Act of 2011; and H.R. 4239, the Surface Transportation Extension Act of 2012. The Senate convenes at 2:00 p.m. on Monday for a period of morning business. Thereafter, the Senate will resume consideration of the motion to proceed to S. 2204, the Repeal Big Oil Tax Subsidies Act.

---

## Agriculture

### LEGISLATIVE ACTIVITY

- **House Republican's FY2013 Budget Proposal.** Following the release of the House Republican's FY2013 Budget proposal on Monday, March 19, Senate Budget Committee Chairman, Kent Conrad (D-ND), criticized House Budget Committee Chairman, Paul Ryan (R-WI), for proposing \$180 billion in cuts to the Department of Agriculture over 10 years. The budget includes \$30 billion in proposed cuts to "fixed payments" over 10 years, but does not specify a total amount of cuts to the direct payment program. Rep. Ryan also proposed to convert the Supplemental Nutrition Assistance Program (SNAP) into a block grant in 2016 and make benefits contingent on work or job training.

Senator Conrad believes the proposed cuts of \$23 billion outlined in the proposal sent to the Joint Deficit Reduction last year by the House and Senate Agriculture Committees should be the spending reduction target for agriculture programs. Both Chairwoman Debbie Stabenow (D-MI), of the Senate Agriculture Committee, and Ranking Member Collin Peterson (D-MN), of the House Agriculture Committee, also issued statements criticizing the proposed budget. In his press release, Representative Peterson stated, "the process outlined by the House Republican budget all but guarantees there will be no farm bill this year."

Representative Frank Lucas (R-OK), Chairman of the House Agriculture Committee, also released a statement on the budget proposal. Although supporting Rep. Ryan's efforts to address the deficit, Rep. Lucas stated that he does not support every aspect and proposed cut. The release did not provide further details.

- **Preserving America's Family Farm Act.** On Wednesday, March 21, Senators John Thune (R-SD) and Jerry Moran (R-KS) introduced a bill titled, "Preserving America's Family Farm Act" (S. 2221). The purpose of the bill is to prevent the Department of Labor (DOL) from enacting a [proposed rule](#) on youth labor on farms. The senators believe the proposed rule, if enacted, would interfere with the normal practices that occur in rural areas and would further limit growth in the agricultural workforce. The bill currently has 38 co-sponsors, including Minority Leader, Mitch McConnell (R-KY), Ranking Member of the Senate Agriculture Committee, Pat Roberts (R-KS), and Senator Jon Tester (D-MT) who is the only Democratic co-sponsor.

In September 2011, DOL proposed revising the rule on child labor on farms to reduce the rate of deaths and injuries on farms, as the rule has not been rewritten in 40 years. Secretary of Agriculture, Tom Vilsack,

indicated that the proposed rule focuses on migrant youths working at farms. Following strong criticism by organizations, including Future Farmers of America, DOL has withdrawn a section of the rule that would have made it harder for children to work on the farms of their parents or relatives. Senators Thune and Moran, however, have said their bill focuses on another section of the proposed rule that would make it harder for non-family members under 18 to engage in specific activities on farms.

- **Proposed Farm Payments and Farm Benefits Reform.** On Wednesday, March 21, Senators Chuck Grassley (R-IA) and Tim Johnson (D-SD) introduced bipartisan legislation (S. 2217) that would place a hard cap on payments farmers could receive annually and close loopholes in the farm payment program. The bill has two major provisions. The first provision would place a hard cap on commodity payments of \$250,000 per married couple per year by capping payments at \$100,000 and loan benefits at \$150,000. The second provision would limit the circumstances under which individuals providing only management and no farm labor could benefit.

The senators had previously introduced similar legislation earlier this year; however, the new legislation aims to accommodate any type of safety-net program adopted in a new Farm Bill.

- **House Hearing on Duplicative Federal Rural Development Programs.** On Wednesday, March 21, the House Agriculture Subcommittee on Rural Development, Research, Biotechnology, and Foreign Agriculture held a hearing to identify duplicative federal rural development programs. Subcommittee Chairman, Timothy Johnson (R-IL), expressed concern over the 88 programs operated by 16 federal agencies related to rural development. Subcommittee Members questioned the Department of Agriculture Undersecretary for Rural Development and the Director of the Government Accountability Office (GAO) on the efforts being made to streamline duplicative programs.
- **House Farm Bill Field Hearing.** On Friday, March 23, the House Agriculture Committee held another field hearing to assist in the formulation of the Farm Bill. The hearing took place at Carl Sandburg College in Galesburg, Illinois. The members heard from two panels of witnesses who represented corn, soybean, beef, and wheat producers. In their opening statements, witnesses focused on the following Farm Bill titles: conservation, nutrition, and horticulture, and discussed issues related to base acreage loss, protection of the crop insurance program, and price protections.
- **Upcoming Hearings.** On Friday, March 30, the House Agriculture Committee will hold a field hearing at Arkansas State University.

---

## Budget, Appropriations

### LEGISLATIVE ACTIVITY

- **House FY2013 Budget Resolution.** On Tuesday, March 20, House Budget Committee Chairman Paul Ryan (R-WI) released his FY2013 Budget Resolution - *The Path to Prosperity: A Blueprint for American Renewal*. Chairman Ryan's proposal sets the FY2013 discretionary spending limit at \$1.028 trillion, which is two percent, or \$19 billion, less than the cap of \$1.047 trillion established in the Budget Control Act ("BCA" / P.L. 112-25).

On Wednesday, March 21, the House Budget Committee held a marathon markup of the resolution and ultimately passed the measure with a narrow 19 - 18 vote. Republicans Tim Huelskamp (R-KS) and Justin Amash (R-MI) joined Democrats in opposing the resolution, albeit for different reasons. Additionally, Republican Rick Mulvaney (R-SC) voted for the resolution in committee, but later stated he may vote “no” when it comes up for a floor vote next week.

A number of Democratic amendments were proposed during the Committee markup primarily focused on protecting Medicare, preventing education cuts, and repealing tax breaks for oil companies and high earners. The sole amendment adopted concerned the importance of child support enforcement.

The House will likely pass the resolution this week along a party-line vote. With the Senate not likely voting on an FY2013 budget resolution (details below), the House resolution will serve as a campaign talking point and establish the overall level of funding which House appropriators can utilize in their FY2013 spending bills. House Appropriations Chairman Hal Rogers (R-KY) reiterated after the release of the Ryan proposal that while he favored the discretionary spending cap established in the BCA, he would work with the lower level approved by the Budget Committee. However, with the Senate using the higher cap established in the BCA, we can look forward to very tense negotiations to reconcile the bills.

#### Highlights of the Ryan Budget Resolution -

- Reduces spending by \$5.3 trillion and lowers taxes by \$2 trillion over ten years.
- Incorporates many of the budget reform and transparency measures proposed in a 10-bill package by the House Budget Committee in December 2011.
- Establishes a \$554 billion cap on Defense spending for FY2013 (nearly level to FY2012).
- Promotes new energy exploration.
- Privatizes Freddie Mac and Fannie Mae.
- Repeals healthcare reform law.
- Establishes a premium support model for Medicare in which Medicare beneficiaries would have the option to purchase coverage through a new Medicare Exchange or to remain in traditional Medicare. The Medicare program would provide a payment to offset the premium for individuals electing to purchase health insurance through the Medicare Exchange. This would not impact existing or near-term retirees.
- Converts the federal share of Medicaid into a block grant.
- Suggests a path be established to ensure the solvency of Social Security.
- Repeals the Independent Payment Advisory Board.
- Caps non-economic damages in medical liability lawsuits.
- Calls for the consolidation of duplicative federal job-training programs into a streamlined workforce development system with fewer funding streams. The proposal is based on language provided in H.R. 3610, which would consolidate 33 federal programs into four “Workforce Investment Funds”:

- The Workforce Investment Fund – to provide job training services to adults, unemployed workers, and youth seeking employment;
  - The State Youth Workforce Investment Fund – to serve the nation’s disadvantaged youth, with a focus on school completion;
  - The Veterans Workforce Investment Fund – to deliver employment and training services to America’s veterans; and
  - The Targeted Populations Workforce Investment Fund – to provide assistance to special populations, including Native Americans and seasonal farm workers.
- Proposes to reform the Credit Reform Act by authorizing the use of fair-value accounting principles for any legislation dealing with federal loan and loan-guarantee programs (including FHA and federal student-loan programs).
  - Calls for better coordination among job-training programs and with the Pell program.
  - Proposes to increase accountability for job-training and Pell programs by tracking data related to the type of training, cost per student, employment status after training, and relevance of employment field.
  - Proposes to remove regulatory barriers in higher education that restrict flexibility, such as those related to online coursework.
  - Proposes to “put the Pell Grant Program on a sustainable path by limiting the growth of financial aid and focusing it on low-income students who need it the most.”
  - Proposes two individual income tax brackets of 10 percent and 25 percent (there are currently six and the top rate is 35 percent).
  - Reduces the corporate tax rate from 35 percent to 25 percent and establishes a “territorial” system in which companies pay tax on income earned in the United States This was proposed last year by House Ways and Means Committee Chairman Dave Camp (R-MI).
  - Repeals the Alternative Minimum Tax (AMT).
  - Converts the Supplemental Nutrition Assistance Program (SNAP) into a block grant and cuts \$122.5 billion from the program over ten years.
  - Avoids Sequestration. The proposal provides budget reconciliation instructions to six authorizing committees to produce legislation that achieves necessary spending cuts (\$261 billion over 10 years) to avoid the sequestration process mandated by the Budget Control Act and scheduled to go into effect in January 2013. The committees are directed to report their recommendations by April 27, 2012, and the intent is to bring the reconciliation to the House floor in May. The six committees and the level of spending cuts they are directed to recommend include:
    - Agriculture - \$33.2 billion for FY2012 – FY 2022 (\$8.2 billion for FY2012 and FY2013);
    - Energy and Commerce - \$96.76 billion for FY2012 – FY2022 (\$3.75 billion for FY2012 and FY2013);

- Financial Services - \$29.8 billion for FY2012 – FY2022 (\$3 billion for FY2012 and FY2013);
- Judiciary - \$39.7 billion for FY2012 – FY2022 (\$100 million for FY2012 and FY2013);
- Oversight and Government Reform - \$78.9 billion for FY2012 – FY2022 (\$2.2 billion for FY2012 and FY2013); and
- Ways and Means - \$53 billion for FY2012 – FY2022 (\$1.2 billion for FY2012 and FY2013).

Chairman Ryan's proposal assumes these cuts will be achieved in part through transforming public sector pensions to work more like those in the private sector, restructuring the federal government's role in financial services, and changes to entitlement programs. This is reflected by the role of the six committees. The Agriculture Committee will likely target food stamps and farm subsidies; the Energy and Commerce Committee oversees Medicaid and portions of the healthcare reform law; the Oversight and Government Reform Committee controls federal workers and their retirement system; and the Ways and Means Committee oversees Medicare (taxes are not expected to be addressed).

By utilizing the reconciliation process, Chairman Ryan concedes the purpose of this procedure is primarily for political positioning leading up to the November elections. For a budget reconciliation to take effect, both chambers would have to adopt the same budget resolution and the Senate Majority Leader Harry Reid (D-NV) has repeatedly stated that an FY2013 budget resolution is unnecessary because the spending limit is already established (in the Budget Control Act).

- **Additional House Budget Resolutions.** This week House Democrats will release their FY2013 budget proposal which is expected to closely resemble President Obama's FY2013 Budget Proposal. The Congressional Progressive Caucus released its *Budget for All* on Wednesday, March 21, which allows for the expiration of the Bush-era tax rates and proposes the elimination of a number of other tax loopholes. It also calls for a "no cuts" policy for Medicare, Medicaid and Social Security benefits, public financing of Congressional and Presidential elections, and a public health care option.

On Tuesday, March 27, the House Republican Study Committee (RSC) will release its own FY2013 budget outline that is expected to propose an FY2013 discretionary spending cap to \$931 billion – which is an eleven percent, or \$116 billion, reduction from the discretionary spending cap established in the Budget Control Act ("BCA" / P.L. 112-25). The group is dissatisfied with Budget Committee Chairman Paul Ryan's (R-WI) proposal as it does not cut enough spending and does not balance the budget as quickly as RSC members would like.

- **Senate Budget Action.** On Tuesday, March 20, Senate Budget Committee Chairman Kent Conrad (D-ND) filed a "deeming" resolution which sets the FY2013 discretionary spending limits and budget enforcement levels at those established in the Budget Control Act ("BCA" / P.L. 112-25). This sets the stage for Senate Appropriators to begin their work on FY2013 spending bills. As previously reported, while Chairman Conrad and his committee may work on an FY2013 budget resolution (primarily to serve as a deficit reduction proposal), Senate Majority Leader Harry Reid (D-NV) maintains his stance that he will not bring an FY2013 budget resolution to the Senate floor as it is unnecessary because of the Budget Control Act.
- **Congressional Appropriations Committee Hearings.** Appropriators will continue hearings on the President's FY2013 Budget Request this week:



- Senate Appropriations Subcommittees: Navy and Air Force (MilCon – March 28); Defense Health Programs (Defense – March 28); NIH Director (LHHS – March 28); Army Corps of Engineers and Bureau of Reclamation (Energy & Water – March 28); and Secretary of Agriculture (Agriculture – March 29).
- House Appropriations Subcommittees will wrap up their FY2013 Budget Request hearings this week: GSA Administrator (Financial Services – March 27); DOE Assistant Secretary, Office of Energy Efficiency and Renewable Energy and Fossil Energy and Office of Electricity Delivery and Energy Reliability (Energy & Water – March 27); Clerk of the House of Representatives (Leg Branch – March 27); Secretary of the Treasury (State / Foreign Operation – March 27 - 28); K-12 Education (LHHS – March 27); National Drug Control Policy Director (Financial Services – March 27); Secretary of Labor (LHHS – March 28); Bureau of Reclamation Commissioner (Energy & Water – March 28); U.S. Judicial Conference Budget Committee / U.S. Courts (Financial Services – March 28); DOE ARPA-E Loan Guarantee Program Director (Energy & Water – March 28); Public Witnesses (LHHS – March 29); and National Intelligence Director (CLOSED Defense – March 29).

---

## Education

### LEGISLATIVE ACTIVITY

- **Fiscal Year 2013 Budget.** On Thursday, March 22, Education Secretary Duncan testified before the House Appropriations' Labor-HHS-Education Subcommittee on the President's FY2013 Budget Request for the Department of Education and the need for continued investment in education. The Secretary acknowledged the sharp contrast between the Administration's budget and that of Chairman Ryan's released March 20 (detailed in the Budget, Appropriations section). However, Subcommittee Chairman Denny Rehberg (R-MT) and Ranking Member Rosa DeLauro (D-CT) both criticized the department's emphasis on competitive grants at the expense of formula funding, particularly for K-12 programs. The discussion related to higher education spending centered on the importance of the Pell Grant program, student loan interest rates, as well as competitive grant funding. Additionally, Secretary Duncan explained that the increased mandatory funding requested would target primarily community colleges, technological schools, and vocational schools.

In a March 20 letter to the Appropriations' Labor-HHS-Education Subcommittee leaders, House Education and the Workforce Committee Chairman John Kline (R-MN) requested additional FY2013 funding for Part B of the Individuals with Disabilities Education Act (IDEA).

On Tuesday, March 27, the House Appropriations' Labor-HHS-Education Subcommittee will hold another hearing on the Department's FY2013 Budget Request as it relates to K-12 education.

- **Student Loan Debt.** The Senate Judiciary Subcommittee on Administrative Oversight and the Courts convened a hearing on Tuesday, March 20, titled, "The Looming Student Debt Crisis: Providing Fairness for Struggling Students." The hearing focused on the use of private and institutional student loans and the for-profit sector of higher education. Chairman Richard Durbin (D-IL) expressed concern of an impending student loan "bubble" and worries that private lenders target low-income borrowers. Chairman Durbin noted that

private student loans should be treated like all other types of debt and subject to discharge in bankruptcy proceedings, which would be provided for under a bill he introduced, the “Fairness for Struggling Students Act of 2011” (S. 1102). He committed to holding additional hearings on the issue in both the Judiciary and HELP committees.

- **Elementary and Secondary Education Act (ESEA) Reauthorization.** A leading foreign policy think tank, the Council on Foreign Relations, released a report on Monday, March 19, identifying the U.S.’ current failure to educate its students as a national security threat and encouraged policymakers to incorporate uniform academic standards, school accountability measures, and school choice as part of federal education law. The Congressional Budget Office (CBO) released two reports on Wednesday, March 21, as ordered by the House Committee on Education and the Workforce, which reviewed two pieces of the House Republicans’ plan to reauthorize ESEA: the Encouraging Innovation and Effective Teachers Act and the Student Success Act. According to CBO, combined the programs would authorize approximately \$24 billion for FY2013.

## REGULATORY ACTIVITY

- **Student Health Insurance.** On Wednesday, March 21, the Department of Health and Human Services published the final rule on student health insurance in the *Federal Register*. The rules will apply to religious and secular colleges, although religious institutions will have an additional year to comply with the new regulations. For those colleges that offer self-insured student health plans, rather than purchasing plans from an insurer to offer to students, the regulations provide a loophole by not requiring these institutions to cover contraception.

Also under the new rules, lifetime and annual benefit maximums will be phased out. Benefit caps can be no lower than \$100,000 in the 2012-2013 school year and \$500,000 in the 2013-2014 school year, and will then be eliminated. The medical loss ratio, the percentage of premiums that must be spent on health care programs and quality improvement, must be at least 70 percent in 2013 and 80 percent in 2014.

- **FAFSA Completion Project’s Launch.** Also on Wednesday, March 21, Secretary of Education, Arne Duncan announced the [second phase of an expansion effort](#) to provide additional school districts with student-specific Free Application for Federal Student Aid (FAFSA) completion data. More specifically, through a random selection process, 12 single-high-school local educational agencies (LEAs) may obtain FAFSA completion data for their students for the 2012-2013 FAFSA processing year that began on January 1, 2012. The Department of Education will accept requests to participate in the pilot program through May 1, 2012.

In 2010, the Department piloted a FAFSA Completion Project to assist LEAs and secondary school administrators in determining which of their students have completed a FAFSA form for the upcoming school year. As reported last week in the [Capital Thinking Weekly Update](#), the department released a new data tool used to track the number of students completing FAFSA. The data is available to the public and is intended to help high school counselors and families determine FAFSA submission and completion rates.



---

# Energy

## LEGISLATIVE ACTIVITY

- **Energy Taxes.** On Monday evening, March 26, the Senate is expected to hold a largely symbolic procedural vote on the “Repeal Big Oil Tax Subsidies Act” (S. 2204) offered by Senator Robert Menendez (D-NJ) and nine other Democratic co-sponsors, including Majority Leader Harry Reid (D-NV). The bill would repeal tax preferences for major integrated oil companies in order to “pay for” extending a suite of alternative energy tax credits. The bill is not expected to garner the 60 votes necessary to advance. A prior effort to repeal oil and gas tax preferences failed in this Congress, on a 52-48 vote last year when three “oil patch” Democrats crossed party lines to end consideration of S. 910, the “Close Big Oil Tax Loopholes Act”. A Republican alternative proposal (S. 953), to expand offshore energy production, also failed on a 42-57 vote.
- **Congressional Hearings.** On Tuesday, March 27, DOE’s Undersecretary for Energy, Assistant Secretary for Energy Efficiency and Renewable Energy, Assistant Secretary for the Office of Electricity Delivery and Energy Reliability, and Acting Assistant Secretary for Fossil Energy are scheduled to testify before a House Appropriations Subcommittee regarding the Administration’s FY2013 budget request for their respective program areas. The House Natural Resources Committee will also hold an oversight hearing on “Harnessing American Resources to Create Jobs and Address Rising Gasoline Prices: Family Vacations and U.S. Tourism Industry.” On Wednesday, March 28, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment is scheduled to consider the Administration’s FY2013 EPA budget proposal, where hydraulic fracturing-related activities has been a past topic of interest. A House Energy and Commerce Subcommittee will address rising gas prices and consider the Gasoline Regulations Act of 2012. On Thursday, March 29, the Senate Energy and Natural Resources Committee will hold a hearing on current and near-term gasoline prices and trends.

## REGULATORY ACTIVITY

- **Nuclear.** DOE is providing \$450 million in new funding to advance development of small modular reactors.
- **Nuclear SBO.** Comments on the Nuclear Regulatory Commission’s Advance Notice of Proposed Rulemaking regarding regulatory amendments to address “station blackouts” are due May 4.
- **OCS Lease Sales 225 & 226.** The Bureau of Ocean Energy Management will host four public scoping meetings on the Environmental Impact Statement for the proposed Outer Continental Shelf lease sales in the Eastern Gulf of Mexico Planning Area: in Tallahassee, Florida on April 3; in Panama City Beach, Florida on April 4; in Mobile, Alabama on April 5; and in New Orleans, Louisiana on April 9.
- **Offshore Safety.** The National Offshore Safety Advisory Committee will meet on April 11-12 in New Orleans.
- **FERC.** The Federal Energy Regulatory Commission’s Transmission Relay Loadability Reliability Standard final rule becomes effective May 7. It requires transmission owners, generation owners, and distribution providers to set load-responsive phase protective relays according to specific criteria to ensure that the relays reliably detect—and protect the electric network from—fault conditions, but do not limit transmission loadability or interfere with system operators’ ability to protect system reliability.

- **Hydraulic Fracturing.** In testimony before a House subcommittee, Bureau of Land Management Director Robert Abbey said a proposed rule should be released in April for public comment. It is expected to incorporate DOE's task force recommendations, prioritize monitoring of "high risk" hydraulic fracturing operations based on the number of violations and production volume, identify "FracFocus" as the preferred means for disclosing chemicals used by in HF operations, adopt API standards for cementing operations, and ensure that wastewater disposal complies with local and state laws. Subcommittee Chairman Doug Lamborn (R-CO) requested that BLM also consider granting a "safe harbor" to states like Colorado that have already undertaken robust HF regulatory activities.

---

## Environment

### LEGISLATIVE ACTIVITY

- **Pollution Reduction.** On Tuesday, March 27, the Senate Committee on Environment and Public Works, Subcommittee on Green Jobs and the New Economy and Subcommittee on Oversight will hold a joint hearing titled, "Oversight Hearing on EPA's Work with Other Federal Entities to Reduce Pollution and Improve Environmental Performance." The subcommittees will hear testimony from: Leslie Gillespie-Marthaler, Senior Advisor, Office of Research and Development, U.S. Environmental Protection Agency; Richard Kidd, IV, Deputy Assistant Secretary for Energy and Sustainability of the United States Army; Thomas Hicks, Deputy Assistant Secretary for Energy of the United States Navy, and Dr. Kevin Geiss, Deputy Assistant Secretary for Energy of the United States Air Force.
- **American Natural Resources.** On Tuesday, March 27, the House Committee on Natural Resources will hold an oversight hearing titled, "Harnessing American Resources to Create Jobs and Address Rising Gasoline Prices: Family Vacations and U.S. Tourism Industry."
- **Weather.** On Wednesday, March 28, the House Committee on Science, Space and Technology, Subcommittee on Energy and Environment Hearing will hold a hearing on the process used by the National Oceanic and Atmospheric Administration (NOAA) to procure data for weather forecasting. The subcommittee will hear testimony from: Mary Kicza, Assistant Administrator, National Environmental Satellite, Data, and Information Service, NOAA; Dr. Alexander MacDonald, Deputy Assistant Administrator for Research Laboratories and Cooperative Institutes, Office of Oceanic and Atmospheric Research, NOAA; John Murphy, Chief, Programs and Plans Division, National Weather Service, NOAA; Eric Webster, Vice President and Director, Weather Systems, ITT Exelis; Dr. David Crain, Chief Executive Officer, GeoMetWatch; and Dr. Berrien Moore, Dean, University of Oklahoma College of Atmospheric and Geographic Sciences and Director, National Weather Center.

### REGULATORY ACTIVITY

- **Biofuels.** The White House has announced up to \$35 million over three years to support research and development in advanced biofuels, bioenergy and high-value biobased products. The projects funded through the Biomass Research and Development Initiative (BRDI)—a joint program through the U.S. Department of Agriculture (USDA) and the U.S. Energy Department (DOE)—are intended to develop economically and environmentally sustainable sources of renewable biomass and increase the availability of renewable fuels

and biobased products to help replace gasoline and diesel in vehicles. Applications are due April 23. For FY 2012, applicants seeking BRDI funding must propose projects that integrate science and engineering research in the following three technical areas:

- **Feedstock Development:** Funding will support research, development and demonstration activities for improving biomass feedstocks and their supply, including the harvest, transport, preprocessing and storage necessary to produce biofuels and biobased products.
  - **Biofuels and Biobased Products Development:** Research, development and demonstration activities will support cost-effective technologies to increase the use of cellulosic biomass in the production of biofuels and biobased products. Funding will also support the development of a wide range of technologies to produce various biobased products, including animal feeds and chemicals that can potentially increase the economic viability of large-scale fuel production in a biorefinery.
  - **Biofuels Development Analysis:** Projects will develop analytical tools to better evaluate the effects of expanded biofuel production on the environment and to assess the potential of using federal land resources to sustainably increase feedstock production for biofuels and biobased products.
- **Chemical Reporting.** The U.S. Environmental Protection Agency (EPA) has proposed that companies be required to report to EPA all new uses, including in domestic or imported products, five groups of potentially harmful chemicals. These chemicals have been used in a range of consumer products and industrial applications, including paints, printing inks, pigments and dyes in textiles, flame retardants in flexible foams and plasticizers. The five chemicals EPA is targeting are polybrominated diphenylethers (PBDEs), benzidine dyes, a short chain chlorinated paraffin, hexabromocyclododecane (HBCD), and phthalate di-n-pentyl phthalate (DnPP). The agency is also proposing additional testing on the health and environmental effects of PBDEs. Although a number of these chemicals are no longer manufactured or used in the U.S. they can still be imported in consumer goods or for use in products. The proposed regulatory actions are known as significant new use rules (SNUR) under the Toxic Substances Control Act (TSCA). The proposed rules would require that anyone who intends to manufacture, import, or process any of the chemicals for an activity that is designated as a significant new use to submit a notification to EPA at least 90 days before beginning the activity. EPA will be able to evaluate the intended new use and take action to prohibit or limit that activity, if warranted. For PBDEs, the agency will also issue simultaneously a proposed test rule under section 4(a) of TSCA that would require manufacturers or processors to conduct testing on health and environmental effects of PBDEs.
  - **Chesapeake Bay Clean Up.** The EPA and the National Fish and Wildlife Foundation (NFWF) announced a \$4 million EPA-funded initiative providing financial and technical assistance to local governments needing to reduce water pollution to help restore the Chesapeake Bay. The grants will be competitively awarded to local governments to design and implement projects demonstrating the integration of green infrastructure into existing programs to meet community needs and improve local waterways and the Bay. The Bay total maximum daily loads (TMDL) requires approximately 25 percent reductions in nitrogen, phosphorus, and sediment pollution, with all of the of the pollution reduction measures needed for restoring the Bay in place by 2025. Grants of up to \$750,000 will be made available.

---

# Financial Services

## LEGISLATIVE ACTIVITY

- **President Obama to Sign Legislation to Stop Trading on Congressional Knowledge.** On Thursday, March 22, the Senate cleared the House version of the Stop Trading on Congressional Knowledge Act (STOCK Act) by unanimous consent. The legislation will now head to the President's desk to be signed into law. The legislation will explicitly prohibit Members of Congress, the President, and other Federal employees from trading stocks based on such information. The legislation that passed does not include two controversial provisions, originally inserted in the Senate, that would have increased the penalties made available to lawmakers in public corruption cases, and would have required "political intelligence consultants" to register as lobbyists.
- **Amended JOBS Act May Head Back to the House for Consideration.** On Wednesday, March 21, the Senate voted to cut off debate on legislation aimed at increasing access to capital for small businesses by loosening securities reporting requirements. However, Senate Democrats are expected to vote on various amendments to the legislation before returning it to the House, including an amendment to restrict "crowdfunding" and a requirement to include "beneficial owners" when considering the amount of shareholders to record for reporting.
- **House Financial Services Subcommittee to Discuss Aid to Eurozone.** On Tuesday, March 27, the House Financial Services Subcommittee on Domestic Monetary Policy and Technology will hold a hearing titled, "Federal Reserve Aid to the Eurozone: Its Impact on the U.S. and the Dollar." The witnesses testifying at the hearing will be Mr. William C. Dudley, President and Chief Executive Officer of the Federal Reserve Bank of New York, and Dr. Steven B. Kamin, Director at the Division of International Finance of the Board of Governors of the Federal Reserve System.
- **House Financial Services Committee and House Agriculture Subcommittee to Consider Swaps Legislation.** On Tuesday, March 27, the House Financial Services Committee will mark up the FHA Emergency Fiscal Solvency Act of 2012; H.R. 2446, the RESPA Home Warranty Clarification Act of 2011; H.R. 3283, the Swap Jurisdiction Certainty Act; and H.R. 4325, the Swap Data Repository and Clearinghouse Indemnification Correction Act of 2012. The next day, the House Agriculture Subcommittee on General Farm Commodities and Risk Management will hold a hearing to review H.R. 3283, the Swap Jurisdiction Certainty Act; H.R. 1838, to repeal Section 716 of Dodd-Frank; and the Swap Data Repository & Clearinghouse Indemnification Correction Act of 2012.
- **House Financial Services Subcommittee Continues Examining MF Global.** On Wednesday, March 28, the House Financial Services Subcommittee on Oversight and Investigations will hold the third in its series of hearings to examine the collapse of MF Global.
- **Senate Banking Subcommittee to Discuss Retirement Savings.** On Wednesday, March 28, the Senate Banking Subcommittee on Economic Policy will hold a hearing titled, "Retirement (In)security: Examining the Retirement Savings Deficit." Witnesses will include Mr. Michael Calabrese, Senior Research Fellow at the New America Foundation; Dr. Jack VanDerhei, Director of Research at the Employee Benefit Research Institute; and Mr. James G. Rickards, Senior Managing Director at Tangent Capital Partners, LLC.

- **House Financial Services Committee to Reflect on the Consumer Financial Protection Bureau.** On Thursday, March 29, the House Financial Services Committee will hold a hearing titled, “The Semi-Annual Report of the Consumer Financial Protection Bureau.”
- **Senate Banking Committee to Explore Mobile Payment Processes.** On Thursday, March 29, the Senate Banking Committee will hold a hearing titled, “Developing the Framework for Safe and Efficient Mobile Payments.” Witnesses will include Ms. Sandra F. Braunstein, Director of the Division of Consumer and Community Affairs at the Board of Governors of the Federal Reserve System; and Mr. Kenneth C. Montgomery, First Vice President and Chief Operating Officer at the Federal Reserve Bank of Boston.
- **Volcker Legislation.** On Thursday, March 22, Senators Mark Warner (D-VA), Kay Hagan (D-NC), Tom Carper (D-DE), Mike Crapo (R-ID), Pat Toomey (R-PA) and Bob Corker (R-TN), introduced bipartisan legislation to postpone the Volcker Rule's July 21 implementation deadline and align it with the date regulators are able to complete the final rulemaking. Representative Barney Frank (D-MA) also issued a statement on the Volcker rule, asking regulators to complete a simplified version of the rule before this Fall. Representative Frank also asked regulators to provide formal guidance “well in advance” of the upcoming July 21 deadline regarding any compliance requirements they will impose on industry participants, before issuing the final rule.

## REGULATORY ACTIVITY

- **Federal Advisory Committee on Insurance to Hold its First Meeting.** On Friday, March 30, the Federal Advisory Committee on Insurance will hold its first meeting to introduce and brief the Committee members on applicable ethics standards as well as the Committee Charter and Bylaws. The Committee will discuss topics of interest and its work on those topics of interest or focus. The Committee will also receive a report on the work to date of the Federal Insurance Office.

---

## Health Care

### LEGISLATIVE ACTIVITY

- **House GOP Budget.** House Budget Committee Chairman Paul Ryan released the GOP’s FY2013 Budget Resolution earlier this week, which was approved by the full Committee on a narrow margin on 19-18. The “Path to Prosperity” would cut \$5.3 trillion in spending over ten years, establish a premium support model for Medicare where beneficiaries would have the option to purchase coverage through a new Medicare Exchange or remain in traditional Medicare, repeal the Independent Payment Advisory Board (IPAB), convert the federal share of Medicaid into a block grant, and give six House committees reconciliation instructions to produce legislation by a date certain to achieve the savings called for under the Budget Control Act in order to avoid the cuts scheduled under sequestration. The legislation has already been rejected by Democrats, and is also expected to face resistance from some Republicans when it goes to the floor next week before receiving final approval.

- **Senate Judiciary Hearing.** On Monday March 26 the Senate Committee on the Judiciary Subcommittee on Crime and Terrorism will hold a field hearing in East Providence, RI titled, “Protecting Medicare and Medicaid: Efforts to Prevent, Investigate and Prosecute Health Care Fraud.”
- **House Oversight Hearing.** On Tuesday, March 27 the House Committee on Oversight and Government Reform will hold a hearing titled, “Can a USPS-Run Health Plan Solve its Financial Crisis?”
- **House Judiciary Markup.** The House Committee on the Judiciary will hold a markup on Tuesday, March 27, on H.R. 2299, the Child Interstate Abortion Notification Act” that would prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.
- **House E&C Hearing.** The House Committee on Energy and Commerce Subcommittee on Health has scheduled a hearing on Tuesday, March 27 on “Examining the Current State of Cosmetics.” Witnesses to be announced.
- **House Approps Hearing.** The House Appropriations Committee Subcommittee on Financial Services and General Government will hold a hearing on Tuesday, March 27 on the National Drug Control Policy budget. Gil Kerlikowske is scheduled to testify.
- **Senate HELP Hearing.** The Senate Committee on Health, Education, Labor and Pensions will hold a hearing on Thursday March 29 on “FDA User Fee Agreements: Strengthening FDA and the Medical Products Industry for the Benefit of Patients.”
- **House Ways and Means Hearing.** The House Committee on Ways and Means Subcommittee on Health will hold a hearing on Thursday March 29 on the Individual and Employer Mandates in the Democrats’ Health Care Law. The hearing will focus on the constitutional questions surrounding the individual mandae and the economic impact of the employer mandate.
- **House VA Hearing.** The House Committee on Veterans’ Affairs Subcommittee on Health will hold a field hearing in Modesto California on April 5 titled, “Vet Centers and the Veterans Health Administration: Opportunities and Challenges.”

## OTHER HEALTH NEWS

- **Supreme Court Oral Arguments on ACA Challenge.** The United States Supreme Court is set to begin hearing oral arguments in a lawsuit challenging the constitutionality of the Affordable Care Act (ACA) on Monday, March 26. The challenge is brought by twenty six states and the National Federation of Independent Business filed in Florida, but twenty five other lawsuits opposing the law have also been filed challenging various components of the law. The Court will hear six hours of oral arguments over three days following a specific schedule: two hours will focus on the constitutionality of the individual mandate and the monetary penalty for not having health insurance; ninety minutes will examine severability and whether the mandate can be severed from the rest of law; one hour will focus on the mandatory Medicaid expansion to 133 percent of the Federal Poverty Level to be implemented in 2014; and ninety minutes will consider the question of challenging a law that has not yet been implemented. Despite outstanding requests to televise the proceedings, the Court will not offer live coverage but has agreed to release the audiotapes of oral arguments immediately after they conclude. The Court is expected to announce a decision this summer in June/July.
- **IOM Meeting.** The Institute of Medicine has scheduled a workshop on March 28-29, titled “Examination of the Adequacy of Food Resources and SNAP Allotments.” The committee will examine the adequacy of



Supplemental Nutrition Assistant Program (SNAP) allotments, specifically the (1) feasibility of establishing an objective, evidence-based, science-driven definition of SNAP benefit adequacy consistent with the program goals of improving food security and access to a healthy diet, and other relevant dimensions of adequacy, and (2) data and analyses needed to support an evidence-based assessment of the adequacy of SNAP allotments.

The IOM's Committee on Integrating Primary Care and Public Health is scheduled to release their report on Wednesday March 28 at the National Press Club.

---

## Tax

### LEGISLATIVE ACTIVITY

- **House Budget Chairman Paul Ryan (R-WI) unveils House Republican FY2013 Budget.** On Tuesday, March 20, House Budget Chairman Paul Ryan (R-WI) released the House Republican's proposed blueprint for the fiscal year 2013 federal budget. The proposal was adopted by the Budget Committee on Wednesday, March 21, and is expected to be voted on by the full House next week. The budget recommends cuts in government spending and includes a template for reforming the tax code.

The blueprint contemplates a simpler individual income tax code, with only two tax brackets set at 10 and 25 percent, and would repeal the alternative minimum tax. The budget also proposes lowering the corporate tax rate to 25 percent and would shift the U.S. from a worldwide system of taxation to a territorial one. This stands in contrast to President Obama's Framework for Business Tax Reform proposal, which seeks to establish a minimum tax on U.S.-based multinational corporations' foreign earnings, eroding the use of "deferral" of foreign-source income. The budget proposal would eliminate various tax subsidies for individual and corporate taxpayers in order to achieve revenue to the government in the range of 18-19 percent of GDP, but it does not specify which exemptions, deductions, and credits it would reform or eliminate.

The House budget proposal is not expected become law and the Democratic-controlled Senate will not event take it up.

- **In a Procedural Vote, House Rejects Senate Transportation Bill; 90 Day Extension Possible.** On Wednesday, March 21, House Republicans defeated an attempt to force a vote on the \$109 billion Senate Transportation bill that passed the Senate by a bipartisan 74-22 vote. The current transportation funding authorization expires at the end of March. On Thursday, March 22, House Transportation and Infrastructure Committee Chairman John Mica (R-FL) introduced H.R. 4239, a 90-day extension that would continue transportation funding at current levels, providing House Republicans with additional time to line up votes for a more comprehensive bill. A 90-day extension would be the ninth such extension of the transportation bill that expired in 2009. The House is expected to vote on the 90-day extension next week, after which it will be sent to the Senate for further disposition where most observers believe that rather than risk a shutdown of federal surface transportation projects, the Senate will ultimately accept the three month extension.
- **Senate Majority Leader Reid (R-NV) Seeks Floor Action on Energy Incentives.** On Thursday, March 22, Senate Majority Leader Harry Reid (R-NV) filed a motion to limit debate and begin floor action on S. 2204

(introduced by Senator Robert Menendez (D-NJ)), the Repeal Big Oil Tax Subsidies Act. The bill would extend several tax incentives for the clean or renewable energy industries while repealing various tax breaks for the five largest integrated oil and gas companies. The provisions that would be repealed or altered would force the large oil companies to: (1) limit their use of creditable foreign taxes; (2) exclude gross receipts derived from the sale, exchange, or other disposition of oil or natural gas from the definition of “domestic production” for purposes of the Section 199 domestic manufacturing deduction; (3) capitalize intangible drilling costs as depreciable or depletable property rather than immediately expense them; (4) use cost depletion, rather than depreciating oil and gas wells on a fixed percentage of gross income; and (5) not utilize the deductions under Section 193 for tertiary injectants used in enhanced oil recovery and would instead have the companies capitalize those costs.

- **Camp and Tiberi issue statement on tax “extenders.”** House Ways and Means Committee Chairman Dave Camp (R-MI) and Select Revenue Measures Subcommittee Chairman Pat Tiberi (R-OH) announced on Thursday, March 22 that the Ways and Means Committee would soon begin reviewing “extender” provisions, with the Committee to hold a hearing on the issue in April. Tax extender provisions are expected to be methodically examined as lawmakers gear up for comprehensive tax reform.
- **Cantor and Camp Unveil 20 Percent Deduction Bill for Businesses with Fewer than 500 Employers** On March 21, House Majority Leader Eric Cantor (R-VA) and Ways and Means Committee Chairman Camp unveiled a bill that would allow all types of businesses, from financial services firms to traditional mom-and-pop businesses, to deduct 20 percent of their active business income. The legislation would allow businesses with fewer than 500 employees to deduct 20 percent of their income from taxes, up to 50 percent of their W-2 wages, regardless whether the companies file as a pass-through or corporation. This legislation is expected to be considered by the House next month, and it is possible the Ways and Means Committee will mark up the legislation in advance of floor action.
- **Tax Hearings Next Week.** The following hearings are scheduled next week in the House Ways and Means and Senate Finance Committees:  
  
March 27: Senate Finance Subcommittee on Energy, Natural Resources, and Infrastructure hearing on Renewable Energy Tax Incentives: How have the recent and pending expirations of key incentives affected the renewable energy industry in the United States?

---

## Transportation

- **SAFETEA-LU Reauthorization:** On Wednesday, March 21, House Transportation and Infrastructure Chairman John Mica (R-FL) announced that he would be introducing a clean three-month extension of SAFETEA-LU, extending current law through June 30. Last Friday, Chairman Mica filed the extension as H.R. 4239, and Speaker Boehner confirmed at his weekly press conference that the House will be moving forward with the stop-gap measure next week as the Leadership “continue[s] to work with our Members on how best to address rebuilding our Nation’s infrastructure and addressing rising gas prices and the need to have more domestic energy production.”

The introduction and expected passage of the three-month extension in the House comes as House and Senate Democrats have increased their calls for the House to instead take up and pass the Senate's two-year reauthorization bill, known as MAP-21, which passed the Senate by a bi-partisan vote of 74-22 last week. On Wednesday, Transportation and Infrastructure Committee Ranking Member Nick Rahall (D-WV), Rep. Peter DeFazio (D-OR), and Rep. Tim Bishop (D-NY) formally introduced MAP-21 in the House as H.R. 14 – along with 80 co-sponsors. House Democrats also attempted to attach MAP-21 as an amendment to unrelated legislation being considered on the House floor, but that move was blocked by the Majority on a party-line basis.

The three month extension in the House reflects the realities of the legislative calendar – with the House set to consider health care and budget matters for the remainder of March, before Congress goes on a two week spring recess for the first part of April—as well as the continuing effort to build consensus around H.R. 7 as the path forward in the House. However, it also reflects a broader political calculation that moving H.R. 7 and setting up a conference with the Senate allows House Republicans to continue pressing the domestic energy provisions in H.R. 7, a key election-year issue for Republicans, at a time of increasing national concern about rising gas prices. This focus on the energy production portions of H.R. 7 and the link to gas prices was reinforced in the Speaker's statement today, as well as Chairman Mica's statement on the extension which specifically emphasized that Republicans "continue to believe that linking energy and infrastructure is the responsible thing to do in order to meet our long-term needs."

While Senate Majority Leader Harry Reid (D-NV), Senate EPW Chairman Barbara Boxer (D-CA), Senator Chuck Schumer (D-NY), and House Democratic leaders have all expressed their opposition to a stop-gap measure and called on the House to instead pass MAP-21, most observers believe that the Senate will not force a showdown with the House over the extension and risk a partial shutdown of the nation's surface transportation programs. Instead, observers generally believe that the more likely course is for the Senate to accept the three-month extension as the House continues working to build consensus for its own long-term bill.