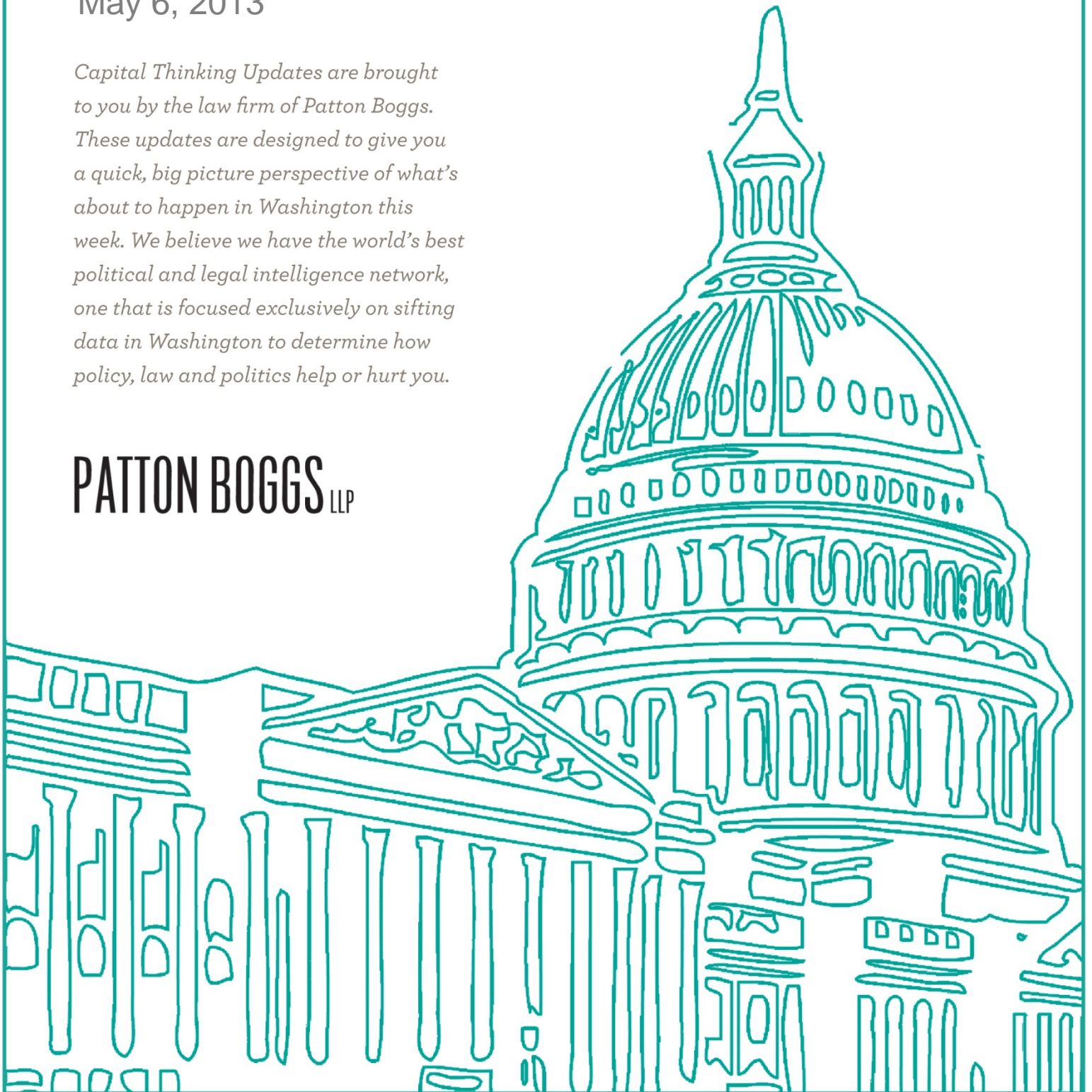


# CAPITAL **thinking** UPDATES

May 6, 2013

*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



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## General Legislative

Today, May 6, the House will meet at 12:00 pm for morning hour and 2:00 pm for legislative business. Votes will be postponed until 6:30 pm. Legislation Considered Under Suspension of the Rules will include: (1) [H.R. 291](#) - Black Hills Cemetery Act; (2) [H.R. 588](#) - Vietnam Veterans Donor Acknowledgment Act of 2013; and (3) [H.R. 507](#) - Pascua Yaqui Tribe Trust Land Act. On Tuesday, May 7, the House will meet at 10:00 am for morning hour and 12:00 pm for legislative business. On Wednesday, May 8, the House will meet at 9:00 am for legislative business and recess immediately. The House will reconvene at approximately 10:30 am for the purpose of receiving, in a joint meeting with the Senate, the Honorable Park Geun-hye, President of the Republic of Korea. On Thursday, the House will meet at 9:00 am for legislative business. Last votes expected no later than 3:00 pm. Legislation under consideration will include: (1) [H.R. 1406](#) - Working Families Flexibility Act of 2013 (Subject to a Rule); and (2) [H.R. 807](#) - Full Faith and Credit Act (Subject to a Rule).

The Senate will convene today, May 6, at 2:00 pm and being a period of morning business. Thereafter, the Senate will resume consideration of [S. 743](#), the Marketplace Fairness Act.

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## Agriculture and Food

### LEGISLATIVE ACTIVITY

- **House Farm Bill.** While the text of the Chairman's Mark of the bill has not yet been unveiled, Agriculture Committee Chairman Frank Lucas (R-OK) has said the bill will cut spending by \$38 billion over 10 years, \$20 billion of which will come out of the Supplemental Nutrition Assistance Program. The bill will likely largely leave last year's Commodity Title unchanged, but may cut deeper into the Conservation Reserve and Conservation Stewardship Programs.
- **Senate Farm Bill.** Senate Agriculture Committee Chairwoman Debbie Stabenow (D-MI) and Ranking Member Thad Cochran (R-MS) have yet to agree on the shape of Title I, the bill's Commodity Title, which may take a Member-level meeting to sort out when Congress returns from recess this week. Ranking Member Cochran is expected to seek to change last year's version of the Commodity Title in order to better defend his constituent rice interests.
- **Timeline for the Farm Bill:** The House Agriculture Committee has scheduled its markup of the Farm Bill for Wednesday, May 15. Chairwoman Stabenow has said the Senate Agriculture Committee will mark up the Senate Farm Bill during the first two weeks of May. While Majority Leader Harry Reid (D-NV) in the past has indicated he wanted to bring the bill to the floor in May, this timeline could get pushed back, partially depending on when the Markup is held. Floor time for the House bill has not yet been finalized, although House Majority Leader Eric Cantor (R-VA) has said that the bill will be considered on the House floor this summer.

## Contact Information

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## Budget and Appropriations

- **House Will Take Up Debt Prioritization Legislation.** This week, the House will likely approve The Full Faith and Credit Act (H.R. 807) which would require the Department of Treasury to prioritize the principal and interest on debt obligations and Social Security payments in the event the debt ceiling is reached. It is unlikely that Senate Majority Leader Harry Reid (D-NV) will bring up the bill for a Senate vote, but it will factor into the next round of debt ceiling negotiations expected to begin in late summer. Despite the mid-May expiration of the most recent extension, the Treasury Department is currently reporting that it will be able to stave off an increase in borrowing authority until fall. Broader deficit reduction and tax reform issues will also likely be raised in the debt limit discussions.
- **Congressional FY 2014 Appropriations Activity.** Although there is still no agreement on FY 2014 discretionary spending limits, Senate and House Appropriations Subcommittees will continue to hold FY 2014 budget hearings on their agencies of jurisdiction this week. The Senate Appropriations Committee hearing schedule can be found at: [www.appropriations.senate.gov](http://www.appropriations.senate.gov). The House Appropriations Committee hearing schedule can be found at: [www.appropriations.house.gov](http://www.appropriations.house.gov). The House is expected to begin consideration of FY 2014 spending bills in June, utilizing the \$967 billion cap proposed in the House Budget Resolution (H. Con. Res. 25).
- **Sequestration Replacement Efforts.** Last week, the President signed the Reducing Flight Delays Act of 2013 (P.L. 113-9) to allow the Department of Transportation and the Federal Aviation Administration (FAA) to transfer up to \$253 million from their accounts to prevent FAA air traffic control furloughs, which were causing significant flight delays and thus, significant public outcry. Hoping the FAA bill will serve as a precursor for additional legislation, a number of agencies and Congressional Members are advocating for action to alleviate the impact of sequestration on other federal programs. Although there were concessions by both parties in order to pass the FAA bill, Democrats still prefer a comprehensive approach, including new revenue, while Republicans prefer additional spending cuts. Moreover, last week it was reported that the economy added 165,000 jobs in April (lowering the unemployment rate to 7.5 percent, the lowest since December 2008) and that job numbers in recent months were underestimated by 114,000 positions. Hence, a near-term sequestration solution beyond the FAA 'fix' is not likely.

## Contact Information

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# Cybersecurity

## LEGISLATIVE BRANCH ACTIVITY

- **Cybersecurity Legislation.** Before leaving for its week-long recess, the House passed the controversial Cyber Intelligence Sharing and Protection Act (CISPA/H.R. 624), which again received a White House veto threat similar to what they issued in 2012. While the House did make changes via the amendment process to try and address the Administration's privacy concerns, the White House responded last week noting that the changes to CISPA were still not sufficient to fully address its concerns over privacy and civil liberties. Senate Intelligence Committee Chairman Dianne Feinstein (D-CA) and Ranking Member Saxby Chambliss (R-GA) are currently working on a separate cybersecurity information sharing bill which is intended to be a counterpart to CISPA.

House Homeland Security Chairman Michael McCaul (R-TX) is drafting cybersecurity legislation that will focus on codifying key aspects of the U.S. Department of Homeland Security's cybersecurity efforts and focus on improved information sharing with the private sector. The Senate Homeland Security and Governmental Affairs Committee is also working on a comprehensive cybersecurity bill but has not indicated when it intends to release the legislation.

- **This Week's Hearings:**
  - Wednesday, May 8: The Senate Judiciary Subcommittee on Crime and Terrorism will hold a hearing titled "Cyber Threats: Law Enforcement and Private Sector Responses." The hearing will explore the Department of Justice's current cyber resources and strategies, including its use of the Computer Fraud and Abuse Act (CFAA) against advanced cyber threats. A spokesperson for the Senate Judiciary Committee noted that the hearing this week will not be focused on any specific legislative proposals, referencing the House Judiciary Committee bill on the same topic that is currently being drafted. The Subcommittee has not yet named the witnesses that will testify at the hearing.

## EXECUTIVE BRANCH ACTIVITY

- **White House Cybersecurity Priorities.** White House Cybersecurity Coordinator Michael Daniel indicated in an interview last week that the White House is backing away from its push for mandatory cybersecurity standards for critical infrastructure. In the coming months, the White House plans to work with Congress to pursue an approach that would combine voluntary measures with incentives for companies that choose to comply with the standards. Daniel also noted that the Administration will also advocate for revised cybersecurity procedures for the federal government and the removal of barriers that prevent the private sector and government from sharing cyber threat information.

- **NIST Cybersecurity Framework.** The National Institute of Standards and Technology (NIST) is currently in the process of developing its Cybersecurity Framework for critical infrastructure as part of the President's Executive Order (EO) issued in February. NIST will hold its second workshop to discuss the Framework's development on May 29-31 at Carnegie Mellon University. The EO directed NIST to release a preliminary version of the Framework in October, with a final version due in February 2014.

#### Contact Information

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## Defense

### EXECUTIVE AND LEGISLATIVE BRANCH ACTIVITY

- **Pentagon Budget.** To off-set contingency operations spending shortfalls, the Pentagon has prepared a reprogramming budget request that would shift approximately \$9 billion from FY 2012 and 2013 accounts. The draft reprogramming request reportedly would reallocate the \$9 billion to these accounts: (1) \$6.7 billion into operations and maintenance accounts; (2) \$1.3 billion into defense capital working funds; (3) \$770 million into military personnel accounts; (4) \$240 million into research, development, test and evaluation projects; and (5) \$114 million into procurement accounts. In order to pay for the reprogramming, \$4 billion would be moved from weapons procurement programs, research and development and military personnel accounts.

Chairman of the Joint Chiefs of Staff Gen. Martin Dempsey said last Tuesday Pentagon officials could submit to Congress an alternative Fiscal Year (FY) 2014 budget that is more reflective of the sequestration spending caps. In early April, the Defense Department submitted a \$526.6 billion base budget for FY 2014, which exceeded the mandatory spending caps by \$52 billion. The Pentagon's initial FY 2014 budget request drew criticism from Republican Senator John McCain (AZ) and other lawmakers as not being reflective of fiscal reality, especially since there is no solution to repealing sequestration. Last Friday, it was reported that Senate Armed Service Committee Chair Carl Levin (D-MI) and Ranking Member James Inhofe (R-OK) asked the Pentagon to submit by July 1 an FY 2014 budget that reflects the sequester spending cap.

Last Wednesday, the Pentagon Press Secretary said Defense Secretary Hagel will make a decision "soon" on the scope of civilian furloughs in response to sequestration spending cuts. When originally proposed, all Defense civilian personnel were going to be furloughed for 22 days during the remainder of FY 2013, which ends September 30. Pentagon officials have since reduced that estimate to 14 days and are still examining requests for exemptions.

- **North Korea.** Last Thursday, in accordance with law, Secretary Hagel delivered to Congress the Defense Department's first-ever [\*Military and Security Developments Involving the Democratic People's Republic of Korea 2012 Report\*](#). The Report opens by noting "The Democratic People's Republic of Korea (DPRK) remains one of the United States' most critical security challenges in Northeast Asia."
  
- **This Week's Hearings:**
  - Tuesday, May 7: The Senate Armed Services Committee will hold an oversight hearing on *the Department of the Air Force in review of the Defense Authorization Request for FY 2014*.
  - Tuesday, May 7: The Senate Armed Services Subcommittee on Strategic Forces will hold a hearing on *the National Nuclear Security Administration's Management of its National Security Laboratories in review of the Defense Authorization Request for FY 2014*.
  - Wednesday, May 8: The Senate Armed Services Subcommittee on Seapower will hold a hearing on *Navy Shipbuilding Programs in review of the Defense Authorization Request for FY 2014*.
  - Wednesday, May 8: The Senate Armed Services Committee will hold a hearing on *Army Modernization in review of the Defense Authorization Request for FY 2014*.
  - Wednesday, May 8: The Senate Armed Services Subcommittee on Strategic Forces will hold a hearing on *Strategic Forces Programs of the National Nuclear Security Administration and the Department of Energy's Office of Environmental Management in review of the Defense Authorization Request for FY 2014*.
  - Wednesday, May 8: The House Armed Services Committee will hold a hearing on *The National Defense Priorities from Members for the FY 2014 National Defense Authorization Act*.
  - Wednesday, May 8: The House Armed Services Subcommittee on Strategic Forces will hold a hearing on *The FY 2014 National Defense Authorization Budget Request for Missile Defense Programs*.
  - Thursday, May 9: The Senate Armed Services Subcommittee on Strategic Forces will hold a hearing on *Ballistic Missile Defense Policies and Programs in review of the Defense Authorization Request for FY 2014*.
  - Thursday, May 9: The House Armed Services Subcommittee on Strategic Forces will hold a hearing on *The FY 2014 Budget Request for Atomic Energy Defense Activities and Nuclear Forces Programs*.

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# Education

## LEGISLATIVE ACTIVITY

- **IRS Oversight.** After the Internal Revenue Service released its [Final Report](#) of the Colleges and Universities Compliance Project – a five-year study of the audit results of colleges and universities – on April 25, Chairman of the House Ways and Means Subcommittee on Oversight, Charles Boustany (R-LA), scheduled a hearing for Wednesday, May 8, to discuss the results of the project. Chairman Boustany expressed concern for the “widespread noncompliance” of the sector and noted the importance of the Subcommittee’s oversight role of the sector, particularly as it relates to efforts to overhaul the nation’s tax system.
  
- **Feedback on Higher Education Act Reauthorization.** On April 25, House Education and the Workforce Committee leaders published a [notice](#) soliciting feedback from higher education stakeholders on policies and amendments to be considered during reauthorization of the Higher Education Act. The Committee is particularly interested in comments related to –
  - *Consumer protections,*
  - *Simplifying and improving student aid and loan programs,*
  - *Increasing college accessibility, affordability, and completion,*
  - *Encouraging cost reduction,*
  - *Promoting innovation to improve access to and delivery of higher education, and*
  - *Balancing accountability and federal regulations.*

Comments should be submitted to [HEA.Reauth@mail.house.gov](mailto:HEA.Reauth@mail.house.gov) by August 2.

- **Student Loan Reform.** With interest rates for subsidized federal student loans scheduled to double from 3.4 percent to 6.8 percent on July 1, the House Education and the Workforce Committee is expected to begin consideration of a long-term fix as early as mid-May, with House floor passage targeted for early June. As part of this “fast-track” strategy, Congressional Republicans have been working closely with the Administration to negotiate an agreement that would appeal to Democrats. On May 3, in a memorandum to his caucus, House Majority Leader Eric Cantor (R-VA) stated that reforming the student loan process is on the legislative agenda for May. Legislation replacing the current 3.4 percent rate with a market-based rate (aligned with the U.S. Treasury 10-year borrowing rate) is expected to move forward. However, House and Senate Democrats will take issue with any proposal that does not include an interest rate cap.



- **This Week's Hearings:**

- Tuesday, May 7: The House Education and the Workforce Committee will hold a hearing related to its Elementary and Secondary Education Act reauthorization efforts titled: "Raising the Bar: Exploring State and Local Efforts to Improve Accountability."
- Wednesday, May 8: As noted above, the House Subcommittee on Oversight of the Committee on Ways and Means will hold a hearing to discuss the results of the Internal Revenue Service's Colleges and Universities Compliance Project.

## REGULATORY ACTIVITY

- **FAFSA Changes.** On April 29, the Department of Education announced it will begin to collect "income and other information from a dependent student's legal parents regardless of the parents' marital status or gender, if those parents live together." As such, the 2014-2015 Free Application for Federal Student Aid (FAFSA) will provide, for the first time, an option for dependent applicants to describe their parents' marital status as "unmarried and both parents living together," which will recognize unmarried or same-sex parents who cohabitate in an effort to more accurately and fairly assess students' financial need. The Department is expected to publish the changes in the Federal Register this week for public comment as part of the draft FAFSA for the 2014-2015 School Year.

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## Energy

### LEGISLATIVE ACTIVITY

- **Energy Secretary.** Senator Lindsey Graham (R-SC) has placed a procedural "hold" on the nomination of Ernest Moniz, blocking a vote on his confirmation as Secretary of Energy. Senator Graham has expressed concerns about the Administration's plans to reduce funding for the Mixed Oxide Fuel program at the Savannah River Site in his home state.
- **Keystone XL.** The Northern Route Approval Act (H.R. 3), to expedite approval of the pipeline, has been favorably reported from both the House Energy and Commerce Committee and the Natural Resources Committee. The legislation is expected to be brought to the House floor for a vote on final passage in May.
- **This Week's Hearings:**
  - Tuesday, May 7: The House Appropriations Subcommittee will consider the Bureau of Land Management's FY 2014 budget request.

- Tuesday, May 7: A House Energy and Commerce Subcommittee will hold a hearing on geopolitical considerations for energy exports.
- Tuesday, May 7: A Joint House Science Subcommittee hearing will examine scientific and environmental issues for the Keystone XL pipeline.
- Wednesday, May 8: A House Natural Resources Committee will hold an oversight hearing on the Interior Department's forthcoming hydraulic fracturing rule to regulate drilling activities on federal lands.
- Thursday, May 9: A Senate Energy and Natural Resources Committee will markup energy efficiency and hydropower legislation.

## REGULATORY ACTIVITY

- **BLM Royalty Collections.** The Bureau of Land Management has begun gathering feedback on proposed updates to several Federal Onshore Oil and Gas Orders that measure and regulate energy production on public lands to ensure a fair rate of return to the American taxpayer. Comments are due by May 17.
- **USEITI.** The Interior Department is seeking nominations to serve as members and/or alternates on the U.S. Extractive Industries Transparency Initiative Advisory Committee. Nominations are due by May 24.
- **Nuclear.** The Nuclear Regulatory Commission has issued draft Japan Lessons-Learned Project Directorate Interim Staff Guidance for estimating flooding hazards due to dam failure. Comments are due by May 28.
- **FutureGen 2.0.** The Department of Energy has released the Draft Environmental Impact Statement for the project that would develop the world's first commercial-scale carbon capture and storage coal-fired power plant. A public hearing will be held in Jacksonville, Illinois on May 21; public comments are due by June 17.
- **Cybersecurity.** Comments on the Federal Energy Regulatory Commission's (FERC) Notice of Proposed Rulemaking, for Version 5 Critical Infrastructure Protection Reliability Standards, are due by June 24.
- **FERC.** Comments on FERC's Notice of Proposed Rulemaking, regarding Generator Requirements at the Transmission Interface, are due by June 24. The Commission has proposed modifications to improve reliability standards for facility connection requirements, transmission vegetation management, analysis and mitigation of transmission and generation protection system misoperations, and transmission and generation protection system maintenance and testing.
- **OCS Lease Sale 233.** The Bureau of Ocean Energy Management has posted the Proposed Notice of Sale for Western Planning Area Oil and Gas Lease Sale 233 (off Texas). Bid opening is scheduled for August 28.

- **Hydraulic Fracturing.** The Environmental Protection Agency (EPA) has extended the deadline, from April 30 to November 15, for submitting data and scientific literature to help inform the agency's study of potential impacts on drinking water resources.

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## Environment

### LEGISLATIVE ACTIVITY

- **This Week's Hearings:**
  - Tuesday, May 7: The House Committee on Science, Space and Technology, Subcommittee on Environment, will hold a joint hearing with the Subcommittee on Energy to consider environmental issues of the Keystone XL Pipeline.
  - Tuesday, May 7: The House Committee on Natural Resources, Subcommittee on Public Lands and Environmental Regulation, will hold an oversight hearing titled, "Impediments to Public Recreation on Public Lands."
  - Tuesday, May 7: The House Committee on Energy and Commerce, Subcommittee on Commerce, Manufacturing and Trade, will hold a hearing titled "Vacation Nation: How Tourism Benefits our Economy."
  - Wednesday, May 8: The Senate Committee on Energy and Natural Resources will hold a hearing to consider a series of bills addressing hydropower improvement and development, in addition to H.R. 678, a bill to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law.
  - Wednesday, May 8: The House Committee on Natural Resources will hold a full committee hearing concerning the U.S. Department of Interior's Hydraulic Fracturing Rule as it pertains to water contamination.

### REGULATORY ACTIVITY

- **Hurricane Sandy Grants.** The U.S. Environmental Protection Agency (EPA) has announced that it will provide grants of \$340 million to New York and \$229 million to New Jersey for improvements to wastewater and drinking water treatment facilities damaged by Hurricane Sandy. These funds, which will be provided to the New York State Department of Environmental Conservation and the New Jersey Department of Environmental Protection, were authorized by the Disaster Relief Appropriations Act of 2013. The funds will be awarded as grants to the two states, with most

expected to be awarded to local communities as low or no interest loans that will be paid back to the states. Up to 30 percent of the money can be awarded as grants to communities rather than as loans. Approximately 60 percent of the funds will go to New York and 40 percent of the funds will go to New Jersey. The determination of how the funds should be allotted to New Jersey and New York was based on the percentage of the population living in impacted counties that FEMA designated for disaster assistance. Projects to be funded will be selected by the states of New Jersey and New York using project priority ranking systems that are based on elements of the Clean Water Act, the Safe Drinking Water Act, the Disaster Relief Appropriations Act and state regulations. The highest rankings will be given to proposed projects that will most ensure water quality or provide the most protection to drinking water systems.

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## Financial Services

### LEGISLATIVE ACTIVITY

- **Senate Minority Leader McConnell Questions Legitimacy of CFPB Actions.** Senate Minority Leader Mitch McConnell (R-KY) stated that a recent court decision that found President Obama's recess appointments to the National Labor Relations Board to be unconstitutional also raises questions about the legitimacy of regulatory actions taken by the Consumer Financial Protection Bureau (CFPB), which has been led by recess-appointed Richard Cordray. Chairman of the House Financial Services Committee Jeb Hensarling (R-TX) indicated he plans to offer legislation that would change the structure of the CFPB from director-led to a multi-person committee.
- **This Week's Hearings:**
  - Tuesday, May 7: The Senate Banking Committee will hold a confirmation hearing on the nomination of Fred P. Hochberg to be president of the Export-Import Bank of the United States.
  - Tuesday, May 7: The House Appropriations Subcommittee on Financial Services and General Government will hold a hearing on proposed fiscal 2014 appropriations for the Securities and Exchange Commission (SEC). SEC Chairman Mary Jo White will testify.
  - Tuesday, May 7: The House Financial Services Committee will markup pending legislation related to Title VII of the Dodd-Frank Act and the JOBS Act. The bills that will be considered are:

- H.R. 701, to amend a provision of the Securities Act of 1933 directing the Securities and Exchange Commission to add a particular class of securities to those exempted under such Act to provide a deadline for such action
  - H.R. 801, the “Holding Company Registration Threshold Equalization Act of 2013”
  - H.R. 742, the “Swap Data Repository and Clearinghouse Indemnification Correction Act of 2013”
  - H.R. 1341, the “Financial Competitive Act of 2013”
  - H.R. 634, the "Business Risk Mitigation and Price Stabilization Act of 2013"
  - H.R. 677, the “Inter-Affiliate Swap Clarification Act”
  - H.R. 992, the “Swaps Regulatory Improvement Act”
  - H.R. 1256, the “Swap Jurisdiction Certainty Act”
- Wednesday, May 8: The House Financial Services Subcommittee on Monetary Policy and Trade will hold a hearing on reauthorizing the Defense Production Act.
  - Thursday, May 9: The Senate Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies will hold a hearing on transportation and HUD appropriations for 2014. FHFA Commissioner Carol Galante and Department of Housing and Urban Development Inspector General David Montoya will testify.

## REGULATORY ACTIVITY

- **President Obama Nominates Representative Melvin Watt to Lead FHFA.** On Wednesday, May 1, President Obama announced his nomination of Representative Melvin Watt (D-NC) to be Director of the Federal Housing Finance Agency (FHFA), the housing regulator in charge of overseeing Fannie Mae and Freddie Mac. Representative Watt will face a difficult confirmation process, as Senate Republicans continue to block Obama nominees, and in the case of the FHFA, demand a more specific housing reform plan from the Administration before confirming a Director to the agency.
- **SEC Proposes Rule for Cross-Border Security-Based Swaps Activities.** On Wednesday, May 1, the SEC unanimously approved a lengthy proposed rule on cross-border security-based swap activities. The SEC also reopened the comment period for rules not yet finalized related to Title VII of the Dodd-Frank Act.

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# Health Care

## LEGISLATIVE ACTIVITY

### ▪ This Week's Hearings:

- Tuesday, May 7: The House Committee on Ways and Means Health Subcommittee has scheduled a hearing on "Developing a Viable Medicare Physician Payment Policy."
- Thursday, May 9: The House Committee on Small Business Subcommittee on Health and Technology will hold a hearing on "The Health Insurance Fee: Impact on Small Business." Witnesses include William Dennis with the NFIB Foundation, Ryan Thorn with Thorn Insurance Planning on behalf of the National Association of Health Underwriters, Dean Norton with the New York Farm Bureau on behalf of the American Farm Bureau Federation, and Paul Van de Water with the Center on Budget and Policy Priorities.
- Thursday, May 9: The Senate Committee on Health, Education, Labor and Pensions will hold a hearing on "Pharmaceutical Compounding: Proposed Legislative Solution."

## REGULATORY ACTIVITY

- **CMS Releases IRF Proposed Rule.** CMS released the Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2014 Proposed Rule. This proposed rule would update the prospective payment rates for inpatient rehabilitation facilities (IRFs) for federal fiscal year (FY) 2014 (for discharges occurring on or after October 1, 2013 and on or before September 30, 2014) as required by the statute. It also proposes to revise the list of diagnosis codes that are used to determine presumptive compliance under the "60 percent rule," update the IRF facility-level adjustment factors, revise sections of the Inpatient Rehabilitation Facility-Patient Assessment Instrument, revise requirements for acute care hospitals that have IRF units, clarify the IRF regulation text regarding limitation of review, update references to previously changed sections in the regulations text, and revise and update quality measures and reporting requirements under the IRF quality reporting program.
- **IRS Posts Premium Tax Credit Notice of Proposed Rulemaking.** The Internal Revenue Service (IRS) released the Minimum Value of Eligible Employer-Sponsored Plans and Other Rules Regarding the Health Insurance Premium Tax Credit Notice of Proposed Rulemaking. These proposed regulations affect individuals who enroll in qualified health plans through Affordable Insurance Exchanges (Exchanges) and claim the premium tax credit, and Exchanges that make qualified health plans available to individuals and employers. They also provide guidance on determining whether health coverage under an eligible employer-sponsored plan provides minimum value and affect employers that offer health coverage and their employees.

## OTHER HEALTH NEWS

- **CRS Sequestration Report.** The Congressional Research Service (CRS) released a report on “Budget Control Act: Potential Impact of Sequestration on Health Reform Spending.” CRS reports the potential impact of spending reductions triggered by the BCA on health reform spending appears to be limited. Medicaid spending and most of the spending on subsidies is exempt from any reduction, and cuts to Medicare are capped at two percent. Mandatory appropriations are sequestrable, however, only new budget authority for each year is reduced while unobligated balances carries over from previous fiscal years are exempt. ACA-related discretionary spending generally is fully sequestrable.
- **MACPAC Meeting.** The Medicaid and CHIP Payment and Access Commission (MACPAC) has scheduled a public meeting on May 16 and 17. A meeting agenda will be released in advance of the meeting.

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## Homeland Security

### LEGISLATIVE ACTIVITY

- **Boston Terrorist Attack.** The House Homeland Security Committee and the Senate Homeland Security and Governmental Affairs Committee are scheduling hearings and launching inquiries into the details known by various law enforcement agencies prior to the attack. House Homeland Security Committee Chairman Michael McCaul (R-TX) sent U.S. Department of Homeland Security Secretary Janet Napolitano, Federal Bureau of Investigation Director Robert Mueller and Director of National Intelligence James Clapper letters asking for details in writing. House Intelligence Committee Ranking Member Dutch Ruppersberger (D-MD) is focusing on possible intelligence sharing breakdowns, and lawmakers from both parties are examining the asylum provisions of the comprehensive immigration reform bill to determine whether admissions rules for asylum seekers should be tightened.
- **Budget and Appropriations.** After lawmakers reached a deal in April to reverse furloughs for air traffic controllers by reallocating funds from elsewhere in the Federal Aviation Administration (FAA) budget, lawmakers are beginning to ask whether similar deals can be reached for the budgets of other agencies. Last week, Chairman McCaul suggested drafting similar legislation for the Coast Guard, Transportation Security Administration (TSA), U.S. Customs and Border Protection, and the Secret Service.
- **Border Security.** Before the Senate Judiciary Committee begins markup this week on the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744), the “Gang of Eight” Senators are already defending its bill against critics who believe the bill will not do enough to secure

the southwest border before granting provisional legal status to the 10 million undocumented immigrants in the U.S. In the House, where Members are considering a piecemeal rather than comprehensive legislative strategy, Chairman McCaul introduced the Border Security Results Act of 2013 (H.R. 1417), which was amended and adopted by voice vote by the Subcommittee on Border and Maritime Security. It is expected to be taken up by the full committee.

▪ **This Week's Hearings:**

- Tuesday, May 7: The Senate Committee on Homeland Security and Governmental Affairs will hold a hearing on "Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act." Five officials from the Department of Homeland Security will testify.
- Wednesday, May 8: The Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Emergency Management, Intergovernmental Relations and the District of Columbia will hold a hearing on "The Role of the Private Sector in Preparedness and Emergency Response."
- Wednesday, May 8: The House Homeland Security Committee, Subcommittee on Transportation Security will hold a hearing on "TSA Procurement Reform: Saving Taxpayer Dollars Through Smarter Spending Practices."
- Thursday, May 9: The Senate Judiciary Committee will hold its first markup on the Border Security, Economic Opportunity, and Immigration Modernization Act.
- Thursday, May 9: The House Homeland Security Committee will hold a hearing on "The Boston Bombings: A First Look." Former Senator Joseph Lieberman, Boston Police Commissioner Edward Davis, and Massachusetts Undersecretary for Homeland Security Director Kurt Schwartz will testify.

*Contact Information*

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**Immigration**

**LEGISLATIVE ACTIVITY**

- **Senate.** The Senate Judiciary Committee will hold its first markup of the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744) on Thursday, May 9. Senator Chuck Schumer (D-NY) submitted an Amendment in the Nature of a Substitute during recess, which will likely become the base text of the markup, and committee members will be able to file amendments



through 5:00 p.m. on Tuesday, May 7. Chairman Patrick Leahy (D-VT) has announced markups on Thursday, May 9, May 14, May 16, and a full week of markup from May 20-24 before the Senate adjourns for Memorial Day recess. Senator Dianne Feinstein (D-CA) and Senator Marco Rubio (R-FL) brokered an agreement on agricultural workers, and the technical corrections clarify that the USDA must consult with the Department of Labor when deciding whether to increase the farmworker visa cap. However, some issues may have surfaced with the AFL-CIO and U.S. Chamber of Commerce agreement on low-skilled workers. In addition, advocates on both sides of the high-skilled immigration debate think the provisions do not go far enough – advocates of foreign hiring want less regulatory burdens, and opponents want more protections for U.S. workers.

- **House of Representatives.** The bipartisan “Gang of Eight” Members of the House of Representatives are also drafting legislation, but they are still working out a number of issues and did not meet their April deadline to introduce a comprehensive bill. However, House Judiciary Committee Chairman Robert Goodlatte (R-VA) has stated his preference for taking up piecemeal bills that address discrete aspects of the immigration system. The Chairman introduced the AG Act (H.R. 1773) to reform the agricultural worker program and the Legal Workforce Act (H.R. 1772) to implement the E-Verify system and discourage hiring of undocumented immigrants. His office is also working on bills on high-skilled visas, the diversity visa, employment-based visas, family visas, border security, and DREAM Act children. The House Judiciary Committee will likely hold hearings on some of these bills this month. House Homeland Security Committee Chairman Michael McCaul (R-TX) also introduced the Border Security Results Act of 2013 (H.R. 1417), which was amended and adopted by voice vote by the Subcommittee on Border and Maritime Security. It is expected to be taken up by the full committee.
- **This Week’s Hearings:**
  - Tuesday, May 7: The Senate Committee on Homeland Security and Governmental Affairs will hold a hearing on “Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act.” Five officials from the Department of Homeland Security will testify.
  - Tuesday, May 7 and Wednesday, May 8: The Joint Economic Committee Vice-Chairwoman – and Senate Judiciary Committee member – Amy Klobuchar (D-MN) will preside over a two-day hearing on “Immigration and Its Contribution to Our Economic Strength.”
  - Wednesday, May 8: The Senate Commerce Committee will hold a hearing on “The Role of Immigrants in America’s Innovation Economy.” The hearing will examine the impact on economic growth of current U.S. immigration policies, and implications for immigration reform on the U.S. technology sector and STEM education.
  - Thursday, May 9: The Senate Judiciary Committee will begin a markup of the Border Security, Economic Opportunity, and Immigration Modernization Act.

## Contact Information

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# International

## EXECUTIVE AND LEGISLATIVE BRANCH ACTIVITY

- **Syria.** The U.S. acknowledged Syrian President Bashar al-Assad's government appeared to have used chemical weapons (specifically, sarin gas) on a small-scale against its citizens. Last Tuesday, the media pushed President Obama to explain why his Administration is now suggesting his previously stated "red line" on chemical weapons is not a clear line. In response, President Obama said his Administration is still investigating the situation, in part by working with neighboring countries. The Administration is also encouraging the United Nations to investigate. Meanwhile, the Assad government continues to block unconditional access to the U.N. investigating team, which is on standby. Despite some increased Congressional demand for the United States to intervene in Syria, President Obama signaled last week that any decision to intervene in Syria would not be rushed. Public opinion polls conducted last week reflect that 45% of the American public favors military intervention in Syria.
- **Boston Marathon Bombing.** The surviving bombing suspect, 19-year old Dzhokhar Tsarnaev, remains incarcerated on charges of using a weapon of mass destruction in the double bombing that killed three people and injured more than 170 others. He will be tried in U.S. federal court and may face the death penalty. Last week, the FBI arrested three of Tsarnaev's friends (two Kazakh students and a U.S. citizen) for obstructing the investigation by covering up evidence. The three allegedly disposed of Tsarnaev's laptop and a backpack containing fireworks after the two Boston bombing suspects were made public. The two students from Kazakhstan also face charges of having overstayed their student visas. The U.S. Government is also working with the Russian Government to further investigate the Tsarnaev brothers, particularly Tamerlan Tsarnaev, who traveled to southern Russia last year for a six-month visit.
- **Presidential Trip.** Last Thursday, President Obama met with Mexican President Enrique Peña Nieto in Mexico City. At a joint press conference, both Presidents sought to broaden the bilateral relationship beyond security and immigration. The Presidents agreed to form a high-level economic working group to improve bilateral trade and to foster economic growth on both sides of the border. They also agreed to establish a bilateral forum on higher education, innovation, and research toward a shared vision on educational cooperation.

President Obama next travelled to Costa Rica, where he met last Friday afternoon with President Laura Chincilla. On Saturday, the President attended the Central American Forum on Sustainable Economic Development.

- **Trade.** Before heading to Mexico last Thursday, President Obama nominated Penny Pritzker, a prominent businesswoman, to be the next Secretary of Commerce; and Michael Froman, current Assistant to the President and Deputy National Security Advisor for International Economic Affairs, to serve as the U.S. Trade Representative. Lawmakers, including Senate Finance Committee Chair Max Baucus (D-MT) have generally praised Froman's nomination, suggesting he may be quickly confirmed. House Ways and Means Committee Chair Dave Camp (R-MI) also welcomed Froman's nomination, saying: "I look forward to continuing to work with him to promote a robust trade agenda, including bipartisan trade promotion authority legislation, to create good jobs in America."

While in Mexico City, President Obama and President Peña Nieto committed to completing the Trans-Pacific Partnership (TPP) agreement by the end of the year. Last Wednesday, Acting U.S. Trade Representative Demetrios Marantis said USTR will soon release (likely next week) a notice in the *Federal Register* requesting public comments on U.S. negotiating objectives with Japan and areas of concern. He also shared that USTR will also hold a public hearing in "late spring" on Japan's membership in TPP.

- **Secretary of State Travel.** Acknowledging that the visit is "overdue," Secretary of State John Kerry will travel to Russia for talks with his counterpart Foreign Minister Sergei Lavrov. The Secretary is also expected to meet with Russian President Vladimir Putin. Topics of discussion are expected to focus on Syria, Iran, the upcoming June G8 Summit in London, Chechnya and the ongoing investigation of the Boston bombing suspects, human rights in Russia, adoptions of Russian children by U.S. citizens, and the ouster of the U.S. Agency for International Development (USAID).
- **Guantánamo Detention Center.** At last Tuesday's news conference, President Obama reaffirmed his commitment to closing the U.S. Detention Center at the U.S. military base in Guantánamo Bay, Cuba.
- **Latin America.** The State Department expressed "deep" regret last Wednesday after the Bolivian Government announced its decision to expel USAID. It further denied Bolivian President Evo Morales' accusations that USAID is undermining his government. With respect to Venezuela, the State Department continues to support a full recount of the April presidential election, saying it is important that the 7 million Venezuelans who voted for the opposition candidate "have their issues and concerns resolved."
- **This Week's Hearings:**
  - Tuesday, May 7: The Senate Foreign Relations Committee will hold a confirmation hearing for James Knight to be the U.S. Ambassador to Chad and Deborah Jones to be the U.S. Ambassador to Libya.
  - Tuesday, May 7: The House Foreign Affairs Committee will hold a hearing on *Local and Private Sector Initiatives to Combat International Human Trafficking*. The Administration is not expected to testify.

- Tuesday, May 7: The House Foreign Affairs Subcommittee on Africa will hold a hearing on *Increasing American Jobs through Greater Exports to Africa*. The Administration is not expected to testify.
- Wednesday, May 8: The House Foreign Affairs Subcommittee on Emerging Threats will hold a hearing on *The Threat of China's Unsafe Consumables*. The Administration is not expected to testify.
- Thursday, May 9: The House Foreign Affairs Subcommittee on Global Human Rights will hold a hearing on *Resolving International Parental Child Abductions to Non-Hague Convention Countries*. Special Advisor for Children's Issues Susan Jacobs will testify for the State Department.

#### Contact Information

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## Tax

### LEGISLATIVE ACTIVITY

- **Tax Writing Committee Meetings Continue.** The Senate Finance Committee has continued their series of closed-door Committee meetings on tax reform and have recently issued their latest Option Paper – this one on Infrastructure, Energy, and Natural Resources. The closed-door meetings are intended to facilitate discussion among Senators in an attempt to find where agreement on policy exists. The sessions are expected to include discussion on most major policy elements of tax reform. One issue covered in this option paper was how the government should handle the Highway Trust Fund, where revenues are slipping. A few options considered were limiting infrastructure spending to trust fund revenues, devolving federal revenues to states, maintaining the user fee model but increasing existing taxes and fees, or establishing new user fees and taxes to replace or supplement the current user fee system. For a full recap of the issues presented, the Committee released an option paper available [here](#).

In the House, work has concluded in their bipartisan Tax Reform Working Groups. This week the Joint Committee on Taxation will deliver a report to the Ways and Means Committee on Monday, May 6, 2013. The report will incorporate public comments that were submitted up until April 15, 2013.

- **This Week's Hearings:**
  - Tuesday, May 7: The House Ways and Means Committee will hold a hearing on Developing a Viable Medicare Physician Payment Policy

- Wednesday, May 8: The House Ways and Means Committee will hold a hearing on the Internal Revenue Service's Colleges and Universities Compliance Project
- Thursday, May 9: The House Ways and Means Committee will hold a hearing on Letting Kids Be Kids: Balancing Safety with Opportunity for Foster Youth

## REGULATORY ACTIVITY

- **Priority Guidance Plan Updated.** On May 2, 2013, the IRS released its third-quarter update to the agency's 2012-2013 Priority Guidance Plan. This update includes 10 additional projects that have become priorities, much of which are dedicated to those affected by Hurricane Sandy. The plan is available [here](#).
- **Progress Continuing on FATCA.** Expect the IRS to release technical corrections on FATCA. These technical corrections may be released in two parts – one with “truly technical” corrections and the second on “substantive” changes that can still be classified as technical.

In addition, U.S. Treasury lawyers are focused on the July registration deadline. The IRS is expected to open by July 15, 2013, an online portal for foreign financial institutions (FFI) to register. At that time, financial institutions will be able to register and, as appropriate, agree to comply with their obligations as participating FFIs. A list of participating FFIs (IRS FFI List) and registered deemed-compliant FFIs will be published on December 2, 2013. To be included the first IRS FFI List financial institutions must register on the portal by October 25, 2013. Treasury officials this past week have reiterated their intention to ensure that the system is ready by July 15, 2013, with the IRS releasing a draft registration form in April.

### Contact Information

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## Transportation

- **Secretary of Transportation.** On Monday, April 29, President Obama announced the nomination of Mayor Anthony Foxx, 42, as the next Secretary of Transportation. Mr. Foxx is the outgoing mayor of Charlotte, North Carolina, where his transportation accomplishments include the development of a streetcar corridor, light rail transit expansion, a major Interstate expansion, and a runway addition at Charlotte-Douglas International Airport. His nomination brings the perspective of a local executive who had a critical role in funding and delivering multi-modal transportation improvements to the leadership of the Department of Transportation. The Senate is expected to move swiftly to schedule confirmation hearings, though the date has not yet been announced. If confirmed, as expected, Mr. Foxx would become the youngest member of the President's Cabinet.

- **FAA Furloughs, Contract Towers and Sequestration.** This week, President Obama signed legislation allowing for the transfer of unobligated balances from the discretionary Airport Improvement Program to FAA's operations account to end air traffic controller furloughs that had led to delays at airports across the country. The legislation was developed largely by Senator Susan Collins (R-ME) and came as national frustration was building over the mounting delays. While the legislation allowed for the transfer of \$253 million into the operations account, more than the amount needed to prevent furloughs, it did not specifically provide that the remaining funds should be used to fund the 149 contract towers that FAA also slated for closing. This week, more than 40 Senators and 80 members of the House wrote to Secretary LaHood and FAA Administrator Michael Huerta stating that their support for the bill was based on the understanding that the contract towers would be fully funded and calling on FAA to maintain the contract towers consistent with that "clear" intent. More broadly, the high-profile issue implicated broader questions about handling sequestration cuts – with the President signing the legislation but criticizing piecemeal solutions to the sequester that favor the most visible impacts on influential constituencies, and with Republicans generally highlighting the approach as responsible prioritization of resources.
- **TIGER Funding.** The Department of Transportation (DOT) has announced a fifth round of TIGER funding for FY 2013. Applications for approximately \$475 million in funding are due on June 3. DOT is hosting two webinars for potential applicants, one on May 3, and then an upcoming webinar on May 6, focusing specifically on the cost-benefit analysis required under the application.
- **WRDA Reauthorization.** The full Senate is expected to take up the Water Resources and Development Act (WRDA) next week, which could be on the floor for some time. Leading up to floor consideration, Senate Environment and Public Works Chairman Barbara Boxer (D-CA) and Ranking Member David Vitter (R-LA) have made a strong push for stakeholder support, and a large group of construction, water, and transportation stakeholders have written in support of action on the WRDA measure. However, several issues remain to be worked out as the process moves forward, including a dispute between the EPW leaders and the Appropriations Committee as to Army Corps project funding decisions. EPW leaders are expected to release a substitute amendment for floor consideration addressing issues on which resolution has been reached since the mark-up, but a robust amendment debate is expected on the floor. The House continues to hold hearings and engage stakeholders in the process of developing their own WRDA legislation.

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