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City Manager's Office

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: January 27, 2011

Approved:

Date: 1/28/11

SUBJECT: PRESIDENT OBAMA AND THE 112TH CONGRESS: THE STATE OF THE UNION JANUARY 25, 2011

INFORMATION

The City's Federal lobbyist firm of Patton Boggs LLP has provided the attached comprehensive analysis of President Obama's State of the Union Address presented on January 25. The analysis includes a summary of major legislative and regulatory initiatives as proposed by the Administration including, but not limited to a focus on reducing the deficit, tax reform, renewable energy, reducing unemployment and ensuring that the U.S. can compete in a global economy. The President also offered proposals for infrastructure, education, and research grant spending.

The President will release his FY2012 budget proposal for Congressional consideration in mid-February. Congress as not yet concluded work on the FY2011 budget beyond March 4, when the current short-term Continuing Resolution funding the Federal Government expires.

This information and analysis will assist the City as we carry forward San Jose's 2011 Federal Legislative Priorities and develop strategies to work effectively with the Administration and the 112th Congress.

Betsy Shotwell

BETSY SHOTWELL
Director, Intergovernmental Relations

Attachment:

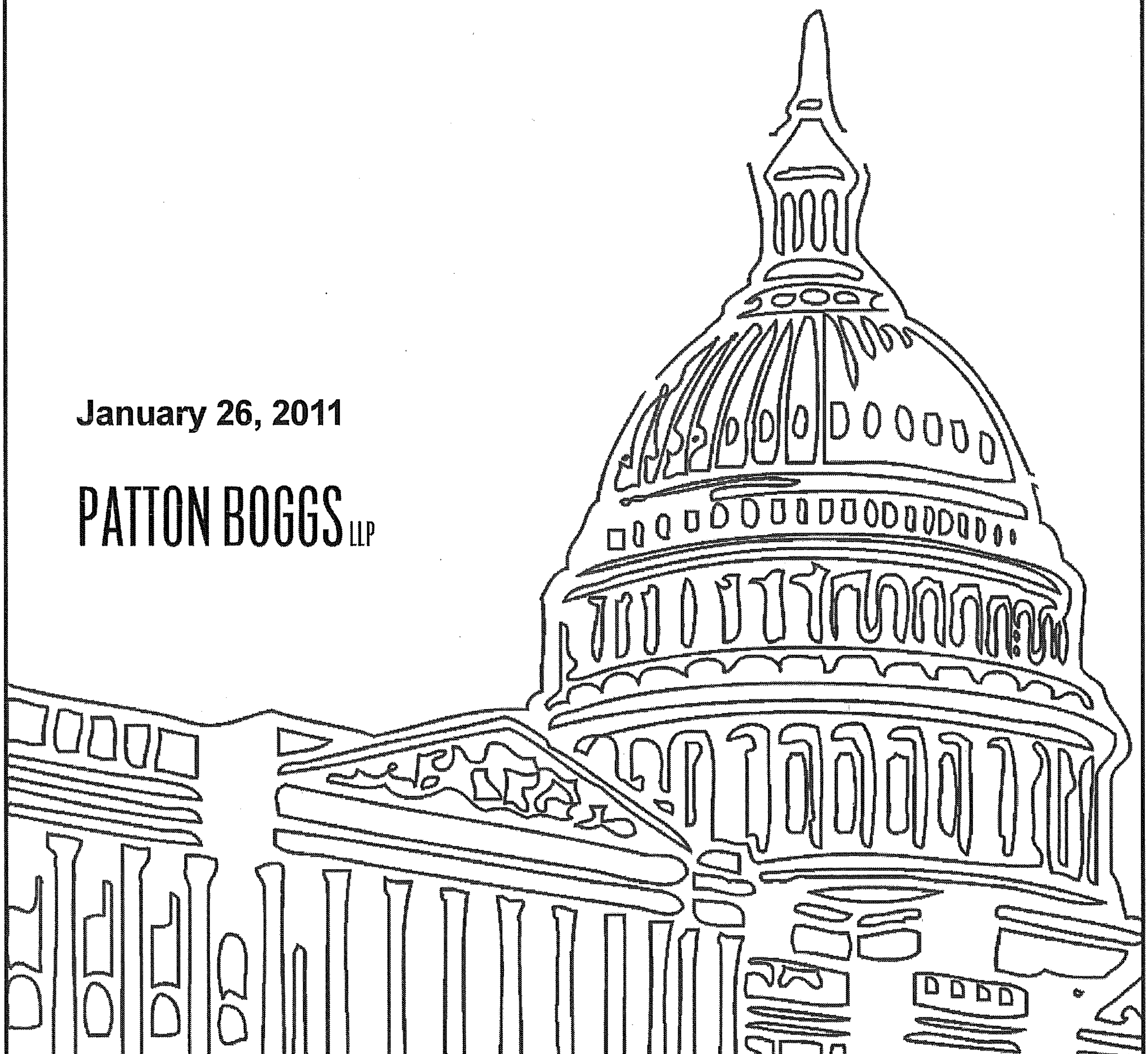
Patton Boggs' report: President Obama and the 112th Congress: The State of the Union

President Obama and the 112th Congress

The State of the Union

January 26, 2011

PATTON BOGGS LLP



Introduction

"There are no second acts in American lives."

--F. Scott Fitzgerald

On January 26, 1982, President Ronald Reagan appeared before the 97th Congress to give his first State of the Union Address. With the prime rate of interest having reached an all-time high (21.5%) shortly after the 1980 election and the unemployment rate having reached 8.6% by the time he addressed Congress, his approval rating had fallen to 47%. President Reagan's popularity--and apparent reelection prospects--declined even further over the ensuing year. By the time he delivered his second State of the Union Address on January 25, 1983, unemployment had risen to 10.4% and his approval rating had fallen to 35%. Less than three months earlier, Reagan's GOP had weathered sharp losses at the ballot box--Republicans suffered a net loss of 26 House seats and 7 governorships in the 1982 mid-term elections.

Last year, when President Barack Obama gave his first State of the Union Address, unemployment was running at approximately 10%. His approval rating, which stood at 67% on Inauguration Day, had by then sunk to 48% (comparable to President Reagan's at the same point in his first term). In that address, President Obama declared that "jobs must be our number one focus in 2010." But then the Administration spent the bulk of the year on financial services reform and other issues, including health care reform, which the President signed into law in March. Just as President Reagan's political party suffered significant mid-term election set-backs, President Obama's party suffered--in his words--a "shellacking" at the ballot box. In the view of voters, jobs were indeed number one.

Today, with the unemployment rate remaining stubbornly high at 9.4%, the public continues to be pessimistic about the health of the economy. Not since the Great Depression has the unemployment rate remained above 9% for 20 straight months. Counting those individuals who are seeking full-time employment while working part-time jobs and those who have dropped out of the labor market altogether, the current unemployment rate is nearly 17%. Nonetheless, approximately 53% of Americans now approve of President Obama's job performance, a marked increase from his all-time low approval rating of 41% just a few weeks before the mid-term elections. He now enjoys a significantly higher approval rating than President Reagan at the same point in his presidency. Undoubtedly, President Obama's decision to work with Republicans to extend the Bush-era tax rates and his uplifting speech on civility in Tucson have helped boost his approval rating, which has increased eight points just since December. Perhaps even more significantly, since the election polls have shown a 15% upward swing in his direction among independent voters.

It may be said that there are no second acts in American lives, but Presidents have a way of confounding the pundits. Consider this: in March 1982, the Associated Press was reporting that "[m]ost Americans are turning against President Reagan because of concerns about the economy and hope he does not seek a second term." At about the same time, in an editorial entitled "Captain Reagan and the Icebergs," the *New York Times* editorial board sought to put it all in perspective:

> Pain is being felt around the country, even as the impression mounts that Mr. Reagan has a vision but not a program. Even ignoring the economic iceberg, the political iceberg lies dead ahead. Republicans are scrambling for ways to put daylight between themselves and their President. Democrats are groping for ways to let him sink without taking the country down, too.

Well, that movie had a different ending. President Reagan was re-elected in a landslide. Second acts are indeed possible in American lives.

Will that plot line emerge again? Less than three months ago, talking heads had written off President Obama. At the end of October, his approval rating had sunk to an all-time low of 41%. In the mid-term elections, Democrats lost a net 63 House seats and six Senate seats. The President got the message. He decided to move towards the center, at the risk of alienating his core base in the Democratic party and on Capitol Hill.

Like President Bill Clinton before him, President Obama has already embraced "triangulation" (positioning himself between the extremes of both parties). President Clinton eventually dropped his more ambitious and controversial plans, such as health care reform, and instead worked with Republicans over the second two years of his first term on a more modest legislative agenda that appealed to middle-class Americans. In addition to building policy initiatives around a strategy of triangulation (*e.g.,* welfare reform), President Clinton adopted three tactics that may soon look very familiar: (1) he adopted a more fiscally conservative tone, message, and proposals; (2) he sought to achieve consensus on "small-ball" bipartisan legislative proposals that connected with the American public (*e.g.,* school uniforms) rather than complex and controversial measures (*e.g.,* healthcare); and (3) he used his Executive power to implement other elements of his agenda through Executive Orders and regulations (*e.g.,* firearms control) when he could not get Congress to act. He then cruised to reelection in 1996.

The first manifestation of the President's embrace of a comparable strategy, beginning with triangulation, came during the surprisingly productive lame-duck session in December, during which the President brokered a bipartisan compromise to extend the Bush-era tax rates and enact tax relief for businesses and individuals to help encourage job growth by stimulating the economy. With the support of the Republican establishment, he secured ratification of the New START Treaty. And in a move significant to his base, he persuaded Congress to repeal the military's "don't ask, don't tell" policy. He then gave a powerful speech in Tucson--watched by

31 million Americans--that resonated with Republicans, Democrats, and Independents, including many who had abandoned him and his party in the November mid-term elections.

Now that the American public is giving the President a second chance, can he keep them moving in his direction? And will the economy give him enough breathing room to succeed?

As he confronts a new Congress and focuses on the 2012 election, President Obama is using the power of the presidency to woo independent and moderate voters and to deny House Republicans the opportunity to define the agenda for the coming year. Two weeks ago, the President penned a *Wall Street Journal* op-ed in which he touted an executive order that would "root out regulations that . . . are not worth the cost, or are just plain dumb." Last week, as part of an initiative to engage with the business community, he named General Electric CEO Jeffrey Immelt to head a new economic advisory panel, the Council on Jobs and Competitiveness. Last night, he made it clear that the next two years will be all about jobs, jobs, jobs. None of his initiatives may bring down a seemingly stubborn high unemployment rate, but they nonetheless signal to independent voters in particular that he got the message they sent on November 2.

Last night, President Obama addressed Congress for the first time since Republicans wrested control of the House from Democrats and weakened the Democratic party's majority in the Senate. Aware that American voters are increasingly intolerant of failure and with an eye on his own reelection in 2012, President Obama will pursue an ambitious agenda. Like President Reagan, he understood well the power of the moment last night in addressing the nation, calling for shared responsibility in governing and referring to this time as "our generation's Sputnik moment." As he challenged the country to "win the future," he reminded the American public that as a nation "[w]e do big things." As he now moves forward with his new agenda, can he replicate President Reagan's success?

Some context. President Reagan's popularity returned when the economy started to improve, not just because he spoke optimistically about the future and effectively used symbolism to further convey a sense that things would get better and that the American public would do better. He also did a masterful job of using the Soviet Union as a foil, not just for foreign policy reasons, but also as a means of drawing a more positive picture of and for the American people ("Mr. Gorbachev, tear down this wall.").

Likewise, President Obama is capable of using lofty rhetoric and symbolic moves to convey a sense that things will get better. Consider, for example, the way in which he framed the Sputnik reference: "Half a century ago, when the Soviets beat us into space with the launch of a satellite called Sputnik, we had no idea how we'd beat them to the moon. The science wasn't there yet. NASA didn't even exist. But after investing in better research and education, we didn't just surpass the Soviets; we unleashed a wave of innovation that created new industries and millions of new jobs."

The President will continue to strike a note of optimism, but will the economy provide enough of a boost by the summer of 2012 to give the American public confidence in the future or will they be more concerned about too many family members and neighbors who still can't find work? To address their concerns, can he identify any additional measures to stimulate the economy, knowing the Republicans are done agreeing to "stimulus" legislation? As more job entrants come into the market each month, the economy needs to create 100,000 jobs--just to maintain the status quo. Moreover, there appear to be larger forces at work limiting job growth. For reasons economists still can't fully explain, the U.S. economy has failed to produce the jobs that would have been expected over the past decade. In fact, as a result of the recession, the country has lost the equivalent of every job created since the beginning of 2000. According to a recent report, the U.S. economy entered 2010 with 15 million fewer jobs than anticipated at the beginning of the decade. Job creation is now lagging more so than at any time of economic expansion since World War II.

Given the larger forces at work, the President may be limited in what he can do to turn things around in a way that creates substantial job growth in the near term. And he may not have a comparable international foil against which to wage battle. But he still has the power of the presidency, which in recent weeks has been put to maximum use.

Beyond what he can do personally to re-connect with voters, the President needs to help them understand how the world is changing as China's economic power continues to grow and the dollar is threatened as a reserve currency for the world. And he has to instill confidence that things are getting better, that momentum is on our side. Creating jobs through green energy initiatives, for example, may provide a way to demonstrate that good days still lie ahead, that the United States still can make things in factories by people who have good-paying jobs, but only if the United States seizes the initiative. It was thus no coincidence that he visited a GE plant to reaffirm his commitment to creating jobs through exports, such as renewable technology goods destined for China. Or that he went out of his way last night to emphasize the extent to which China and India are seeking to reshape the future.

As they face a re-energized President, the Republican leadership is facing the challenge of setting a legislative agenda that will appeal to faithful Republican voters without alienating the same independent voters that President Obama is now courting. Passing legislation in the House to repeal the new health care law was easy. Now the hard part begins, as Republicans focus on the "replace" part of their "repeal and replace" health care agenda—an effort likely to continue for the better part of the coming year. But the more pressing issue that will face the House Republican leadership in particular will be triggered by the need to raise the debt ceiling in order to ensure that the federal government does not default on its obligations.

The Republican leadership understands the challenge. As they focus on deficit reduction, they want to drive the debate about the size of government, at both the federal and state level. Aware of the challenge, the President will focus on what government does right and why further investments are warranted. Both agree that government can do more with less. But when you get down to details, one person's stuffed pork is another's sacred cow. The issue is who can best frame the subject for the American public.

In the Republican response to the President's address last night, House Budget Committee Chairman Paul Ryan (R-WI) emphasized the importance of creating jobs while reducing the deficit. He made it clear that Republicans are willing to work with the President. But he left little doubt about the challenges of finding common ground in doing so: "Whether sold as 'stimulus' or repackaged as 'investment,' their actions show they want a federal government that controls too much; taxes too much; and spends too much in order to do too much. And during the last two years, that is exactly what we have gotten--along with record deficits and debt--to the point where the President is now urging Congress to increase the debt limit. We believe the days of business as usual must come to an end. We hold to a couple of simple convictions: Endless borrowing is not a strategy; spending cuts have to come first."

Where do the President and 112th Congress go from here? We share below our thoughts with respect to deficit reduction and raising the debt ceiling, tax reform, energy policy, and trade policy.

Major Legislative and Regulatory Initiatives

Deficit Reduction

As of today, the nation's debt is growing at a rate not seen since 1792 (except during World War II), when official record keeping began. In the past decade, it has increased from $3.5 trillion to more than $14 trillion. During this period, the ratio of debt to gross domestic product has doubled. But it gets worse. In the absence of something dramatic, the Congressional Budget Office has projected that the ratio of debt to gross domestic product will hit 90 percent by 2020. It could be even worse. The International Monetary Fund has projected the ratio will hit 115% by 2020. Hence the desire of the President and Congress to do something significant to address this rapidly growing crisis, and soon.

Last night, the President indicated that he wants to work with Congress to address the fiscal deficit, beginning today. He challenged Congress to enact a five-year budget freeze and to eliminate all earmarks, saying he would veto any bill with earmarks that reached his desk. Within the overall limits that would be established under a new budget, the President would invest more for innovation, education, broadband deployment, and infrastructure, including high-speed rail.

The President will have a more than a willing partner in the Republican-controlled House in reducing the deficit, but it remains unclear how effective this partnership will be. House Republicans are intent on cutting spending, but they disagree on where many cuts should be made. Yesterday, as a first step, the House went on record in support of a measure calling on the Budget Committee to report a budget resolution that would reduce non-security spending for fiscal year 2011 to fiscal year 2008 levels or lower. And although it is far from clear that the Senate would support the House-passed bill, the cutting proposed by House Republicans is not likely to end there. Republicans are likely to go in a direction unacceptable, at least initially, to the President. For example, on January 20, the conservative House Republican Study Committee unveiled a package of proposed spending cuts that goes well beyond what the President proposed last night, cuts projected to save $2.5 trillion over ten years, including cuts of $80 billion for the current fiscal year. (Senator Jim DeMint (R-SC), Chairman of the Senate Steering Committee, endorsed the proposal as well.)

Under the Study Committee's ten-year plan, virtually all of the savings would be realized by reducing discretionary spending, including rolling back non-defense spending to fiscal year 2006 levels starting in fiscal year 2012, which is projected to save $2.29 trillion through fiscal year 2021. The proposal, for example, would "zero out" over three dozen entities or programs, including funding for Amtrak, the Legal Services Corporation, the Corporation for Public Broadcasting, the National Endowment for the Arts and for the Humanities, and the Agency for International Development, as well as the essential air service program, "new start" transit programs, a popular weatherization program, and even capital and preventative maintenance for the subway system that serves Washington, DC. In addition, the proposed legislation would prohibit any fiscal year 2011 funding from being used to carry out any of the provisions in the health care law and would even bar the Administration from defending the law in court. The proposal also would end automatic pay increases for civilian federal workers for five years, would cut the workforce by 15% through attrition, and would authorize the hiring of only one new worker for every two workers who leave federal employment.

Those kinds of cuts will likely appeal to Tea Party activists and the base of the Republican party, but will likely be of concern to independent voters and undoubtedly will be opposed by core Democratic constituencies. We cannot imagine the Senate agreeing to anything comparable, even if the proposed legislation makes it out of the House. And the President will no doubt pick apart the plan to show independent voters that their interests are at risk if deficit reduction becomes an end in itself.

By this spring, the battle will be fully joined when Congress and the President engage over increasing the debt limit. Based on current projections, the government will hit the $14.294 trillion statutory debt limit as early as March 31. Depending on tax receipts and economic growth, the Treasury Department has projected that the limit might not be reached until May 16. The Department has several tools that would allow it to manage cash flow in a way that would push back the day of reckoning until mid-July, such as drawing down on a $200 billion fund at the Federal Reserve that was created to finance emergency lending. But it cannot paper over the problem forever.

With the House Republican leadership having indicated that they are prepared to raise the debt limit in return for significant budget cuts, the day of reckoning approaches. They understand the risks of roiling the credit markets and bringing back memories of the government shutdown in 1995. But they also face the challenge of an energized base that simply wants to cut the size of government, and substantially. And Members who insist they were sent to Washington to cut the deficit and will not compromise. Period. Having not been in the House in 1995, some freshmen that make up part of their caucus may not fully appreciate the power of the presidency to shape a narrative that will appeal to independent and moderate voters. Will they provide this President with a similar opening?

Like President Clinton, President Obama may need to confront Republicans before he cooperates with them. For President Clinton, welfare reform came nearly a year after the confrontation over shutting down the government. If the Republicans were to go too far in their efforts to reduce spending as the price of agreeing to raise the debt ceiling, they might provide the President with just such an opening.

Tax Reform

"The tax code is 10 times the size of the Bible, with none of the good news."

–House Ways and Means Committee Chairman Dave Camp (R-MI)

Comprehensive reform of the corporate tax code is now squarely on the congressional agenda. Recent comments from the Obama Administration and the Democratic leadership had signaled a new receptiveness to measures that would combine a reduction in the current 35% corporate rate (one of the highest in the industrialized world) with targeted, revenue-raising reforms. Last night, as expected, President Obama more formally endorsed the notion that corporate tax reform is necessary to make U.S. businesses operating in a global economy more competitive with their foreign counterparts. This is a marked change of tone from just two years ago, when the President proposed raising taxes significantly on U.S.-based multinationals, which he accused of taking advantage of tax "loopholes," such as deferral, in order to "export" jobs overseas. Last night, he proposed tax increases only for the energy industry.

Enactment of fundamental reform of the corporate tax code seems unlikely this year, but it is an area where the President and a Republican House could find substantial common ground before the 2012 elections. To be sure, it is one thing to agree in principle that reform should be undertaken; it is quite another to agree on the details, especially since both sides begin the debate miles apart. It will be important to see what specific items or placeholder President Obama includes in his budget request to Congress, expected in mid-February.

Under the leadership of Chairman Camp, the House Ways and Means Committee last week initiated what will be the first in a series of oversight hearings on the need to address aspects of the U.S. tax system that undermine the ability of American companies to operate in an increasingly competitive world market. While there is general agreement that the U.S. Code is more complex and less efficient than systems used in other countries, industry-specific tax breaks that have evolved since the last successful reform effort in 1986 have influential political constituencies behind them. Thus, the principal challenge for the President and the tax writing committees will be reversing a two-decade old trend that has resulted in high rates and a narrow base caused by excessive tax expenditures. Complicating things further is the threshold and politically divisive question of whether tax reforms should be revenue neutral, a position supported by Republicans, or should result in a net increase in federal tax revenues that will contribute to an overall deficit-reduction plan, an approach favored by a majority of Democrats.

Last December, the National Commission on Fiscal Responsibility and Reform released recommendations on the individual side that would combine a reduction in the top individual tax rate to between 23 and 28 percent with significant reductions in what to date have been "sacred cows" on the tax expenditure side, namely, the mortgage interest deduction, state and local tax deductions, charitable deductions, and employer-paid health premiums. Similarly, to achieve a reduction in the corporate tax rate to a level of even 30 percent, the prospect of repealing, or scaling back, provisions considered vital to many companies--such as research and other credits and deductions, deferral mechanisms for overseas profits, deductions for domestic manufacturing activities, last-in/first-out accounting methods, and accelerated depreciation--will need to be actively considered. At this stage, however, the business community has not indicated any willingness to make such concessions.

While consensus on any one approach remains an elusive goal, mounting deficit pressures will continue to force the Administration and a closely divided Congress to consider a broad range of tax reform options. And similar to the 1986 overhaul, we anticipate that any reform legislation ultimately considered by Congress will, at least for the next two years, occur within the structure of the current income-based system, as opposed to wholesale replacement of the Code with an alternative approach, such as a national retail sales tax, value-added tax, or consumption tax.

Energy Policy

In 2008, then-candidate Barack Obama made enactment of comprehensive energy/climate change legislation a core part of his campaign. With the 111th U.S. Congress having rejected the bulk of President Obama's renewable energy agenda, the common perception is that the 112th Congress won't agree to any part of it in 2011. We have a different perspective.

We think the President can achieve much of his renewable energy agenda, but only if he reaches out to the new Republican majority in the House and works with moderates in the Senate. As a prelude of things to come, the President began talking shortly after the mid-term elections about trying to enact smaller, discrete elements of his broader renewable energy agenda. Last night, he provided more details about his revamped priorities. For example, he again called on Congress to support legislation that would put one million electric vehicles on the road by 2015--making the United States the first country to achieve that goal. And rather than asking Congress to adopt a comprehensive climate change bill, he instead urged it to enact legislation that would increase to 80% the percentage of electricity generated from clean energy sources by 2035. We believe he will be able to enact much of his renewable energy agenda. Coupled with new transmission siting authority for power lines, a clean electricity standard, measures to promote clean coal, nuclear energy, natural gas, and propane, and perhaps a new financing mechanism to encourage additional renewable energy development, a good bill could be enacted into law with strong, bipartisan support.

That the 111th Congress could not agree upon a comprehensive climate change bill should not have surprised the White House and its allies in the environmental community. In the last decade, Congress has passed only two comprehensive pieces of energy and environmental legislation and then only after lengthy committee deliberation and months of consideration on the Senate floor. In addition, there was real bipartisanship in developing those bills, even with divided government. Finally, the economy wasn't reeling at the time, and thus Congress had more flexibility in drafting legislation with a broad impact on many sectors of the economy. The President and the 112th Congress now have a chance to replicate those achievements.

With many electric utilities seeking greater certainty about what the future holds, Republicans have been presented with an opening to co-opt the legislative high-ground from Democrats by making the "business case" for a bill that would address climate change, grow the economy, and provide dividends to the American public. Any bill would be less ambitious than the "Waxman-Markey" bill that the House adopted in 2009. The legislation would likely allow the private sector to determine the best technologies to meet any new emission caps or standards. And to avoid the charge that consumers are being forced to bear the brunt of the cost of reducing greenhouse gas (GHG) emissions, the bill could refund directly back to consumers all or most of the proceeds from allowance auctions/sales. Finally, any such bill would likely preempt the Environmental Protection Agency (EPA) from moving forward on other GHG-related regulations and would likely block as well state and regional GHG systems (*e.g.*. AB 32 in California).

We believe that regulation of GHG emissions is inevitable; the only question is what form it will take. Rather than allow the EPA to create its own regulatory structure, the 112th Congress might conclude that the time is right for a market-based approach as an alternative. Thus, perhaps ironically and contrary to conventional wisdom, we believe that the prospects for legislation that would reduce GHG emissions have actually increased as a result of the shift to a Republican majority in the House and Republican gains in the Senate. But before reaching that point, Republicans (and Coal-State Democrats) in particular may seek to use the appropriations process or use other approaches, such as the Congressional Review Act, in an effort to block the EPA and force the debate to a different plane.

Without action by Congress (or the courts), more proposed regulatory initiatives can be expected as the President and his Administration seek to implement his renewable energy agenda. For that reason, Congress may seek to achieve business certainty through enactment of legislation that provides flexibility and promotes economic growth. That kind of legislation--combined with other parts of the President's renewable energy agenda--could mark a major accomplishment for the President and the new Congress.

Trade Policy

In last year's State of the Union Address, President Obama set a goal of doubling U.S. exports within five years, which he projected would create two million jobs. Last night, he indicated that the country is now on a path that can reach that goal. But more needs to be done to ensure that exports are increased as a result of policies at home rather than events abroad (such as China's decision last year to let the yuan appreciate by 3%, which raised the relative price of Chinese exports and decreased the relative price of U.S. exports).

With the President having now doubled down, 2011 will likely be a busy year for trade policy for both the Administration and the 112th Congress. The Administration will link passage of the three pending Free Trade Agreements--South Korea, Colombia, and Panama--with increasing jobs here and helping to fulfill the President's 2010 State of the Union objective of doubling U.S. exports. In addition to consideration of the three pending FTAs, likely beginning with South Korea, we anticipate movement on extension of the Generalized System of Preferences (GSP), the Andean Trade Preference and Drug Eradication Act (ATPDEA), and Trade Adjustment Assistance (TAA), progress on the Trans Pacific Partnership (TPP), and possible legislation related to Russia's accession to the World Trade Organization (WTO).

Free Trade Agreements. Although the Administration was unsuccessful in resolving all outstanding issues with respect to the Korea-U.S. Free Trade Agreement at the G-20 Summit in

Seoul in November, the United States and South Korea in mid-December resolved most of the outstanding issues (notably with respect to automobile trade). Notwithstanding some sentiment on the Hill to move all three FTAs as a package, we anticipate that the Administration will submit the Korea package first, probably this spring. Although the beef issue is still unresolved, administration negotiators and congressional staff are finalizing the legal text for the auto provision and the business community has already begun to initiate its outreach program in support of the agreement. The Colombia agreement remains the most controversial, but still should be submitted later this year.

The free trade agenda is rapidly moving to the fore in Congress, as Members are becoming increasingly vocal about their desire to move legislation forward. Yesterday, for example, the House Ways and Means Committee held a hearing to highlight the benefits of all three pending FTAs. Chairman Camp called on Congress to consider all three agreements in "the next six months," noting that "this deadline isn't being driven by politics or posturing--it is driven by the need to create jobs for American workers."

In the Senate, Senator Johanns (R-NE) and a bipartisan group of 11 additional Senators yesterday submitted a congressional resolution calling for passage of all three pending FTAs. Senate Finance Committee Chairman Max Baucus (D-MT) has called upon the U.S. and Colombian Governments to resolve outstanding issues with the Colombia FTA, noting recently that "we have delayed action on the Colombia Free Trade Agreement for too long--now is the time to resolve outstanding issues and approve the Free Trade Agreement so American ranchers, farmers and workers can have a chance to compete."

China Trade Legislation. Last year, the House overwhelmingly approved legislation that would allow the Department of Commerce to treat currency undervaluation as a "countervailable" subsidy under U.S. trade law. Although the legislation does not mention China by name, it clearly targets China's large foreign reserves that effectively tie the value of the yuan to the U.S. dollar. We expect the currency legislation to be a continued matter of interest for House Democrats, who may try as well to advance other China-related bills, such as legislation pertaining to indigenous immigration and matters related to the Strategic and Economic Dialogue.

Extension of GSP, ATPDEA, and TAA. Early this year, Congress will also need to address renewal of several expiring trade programs, particularly ATPDEA, GSP, and TAA. During the lame duck session, the 111th Congress extended ATPDEA and TAA, but only for a six-week period, which expires in mid-February. The GSP program, which provides duty-free treatment for imports from more than 130 developing countries, expired at the end of 2010. Without an "action forcing event," we remain skeptical that Congress will act to renew these programs in the near term. But action by the end of the year is in the cards.

Trans-Pacific Partnership. In 2011, the U.S. Government will continue negotiations on a multilateral free trade area with nine Asian and Latin American Pacific Rim countries. The Administration has declared the TPP another key element of the President's plan to double U.S. exports in five years. The negotiations aim to resolve concerns such as the interface between the TPP and existing free trade agreements with member nations Singapore, Chili, Australia, and Peru, as well as the non-market economy status of Vietnam. Meanwhile, support from congressional leaders such as Senators John Kerry (D-MA) and Jim Webb (D-VA), who have publicly supported the negotiations, will likely solidify the chance for U.S. participation in the multilateral agreement over the course of the 112th Congress. The stated deadline for completing the negotiations is the end of the year, which in our view seems unlikely to be met.

Russia's WTO Bid. With Presidents Obama and Medvedev having expressed a desire for Russia to join the World Trade Organization, accession by the end of this year is likely--seventeen years after Russia first applied. The Russian Government has accomplished critical steps in the past few years, including completion of bilateral agreements with the United States, the European Union, and other WTO members. In order for the United States to benefit fully from Russian membership in the WTO, however, Congress must repeal the Cold War-era Jackson Vanik law, which currently blocks normal trade relations between our two countries. The legislation was intended to curtail the then-Soviet Union's reluctance to allow Jewish citizens to emigrate to Israel in the 1970s, but it has remained in place as U.S.-Russian relations have ebbed and flowed in the succeeding decades.

* * *

As a firm with deep public policy roots, we are proud of our ability to help clients exercise a right enshrined in the U.S. Constitution by petitioning their government. We have been at it since 1965, when Jim Patton encouraged a young White House aide named Tom Boggs to help him build a different kind of law firm, one that understood that all three branches of government could provide solutions to challenging problems. By combining political know-how, legislative experience, and substantive knowledge of the law, they had a vision for helping clients achieve success. For our paying and pro bono clients alike, we look forward to helping them achieve their legislative objectives as President Obama engages with the 112th Congress.