



Distributed on:  
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City Manager's Office

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Betsy Shotwell

**SUBJECT:** PATTON BOGGS UPDATE ON  
SEQUESTRATION

**DATE:** March 4, 2013

Approved

Date 3/4/13

## INFORMATION

The City's Federal lobbyist firm of Patton Boggs LLP has provided their attached weekly report, "Capitol Thinking" which includes a summary of action taken on March 1 to implement the "sequester" in FY 2013, which will reduce \$85 billion in federal spending in the next seven months. The analysis includes a summary of the impacts to federal programs, both in the defense and in nondefense discretionary budgets. The President is expected to release his FY 2014 budget proposal for Congressional consideration on or around March 25.

On January 2, the House passed The American Tax Relief Act of 2012 following the Senate's passage of the bill in the early hours of January 1. The bipartisan compromise extended the majority of the Bush-era tax cuts, preserved unemployment benefits and included a number of other tax provisions as identified in the update. The measure delayed spending cuts (the "sequester") in the defense budget and domestic programs for two months. Half of these cuts will be borne by the Pentagon, while the other half will reduce spending for the rest of the government, with most agencies facing across-the-board funding cuts of approximately 9% from March 1 to October 1, 2013. It will be up to agencies to administer the cuts to the programs, projects and activities covered by the appropriations accounts. Among the programs that face cuts under sequestration are many that benefit local governments. These programs include Community Development Block Grant, HOME Investment Partnership, COPS and Byrne Justice Assistant Grants, the Workforce Investment Act Program, and operations of the Federal Aviation Administration, Transportation Security Administration, and Customs and Border Patrol. The sequester will also impose cuts to federal surface transportation funding that are funded out of the General Fund.

While Congress extended the federal debt ceiling authority to mid-May, the current Continuing Resolution (CR) expires on March 27. Expiration of the FY 2013 CR funding the government could lead to a government shutdown, though that appears highly unlikely. The House of Representatives is scheduled to take up legislation this week to continue funding beyond the end of the month and

**Honorable Mayor and City Council**

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Patton Boggs anticipates that this will allow for continued negotiations on the federal budget and proposals that have been "floated" relating to the sequestration.

Patton Boggs is following these issues closely and staff will continue to provide regular updates as information becomes available. Updates are also provided in Patton Boggs' weekly "Capital Thinking" reports found on their website: [www.pattonboggs.com](http://www.pattonboggs.com).



BETSY SHOTWELL

Director, Intergovernmental Relations

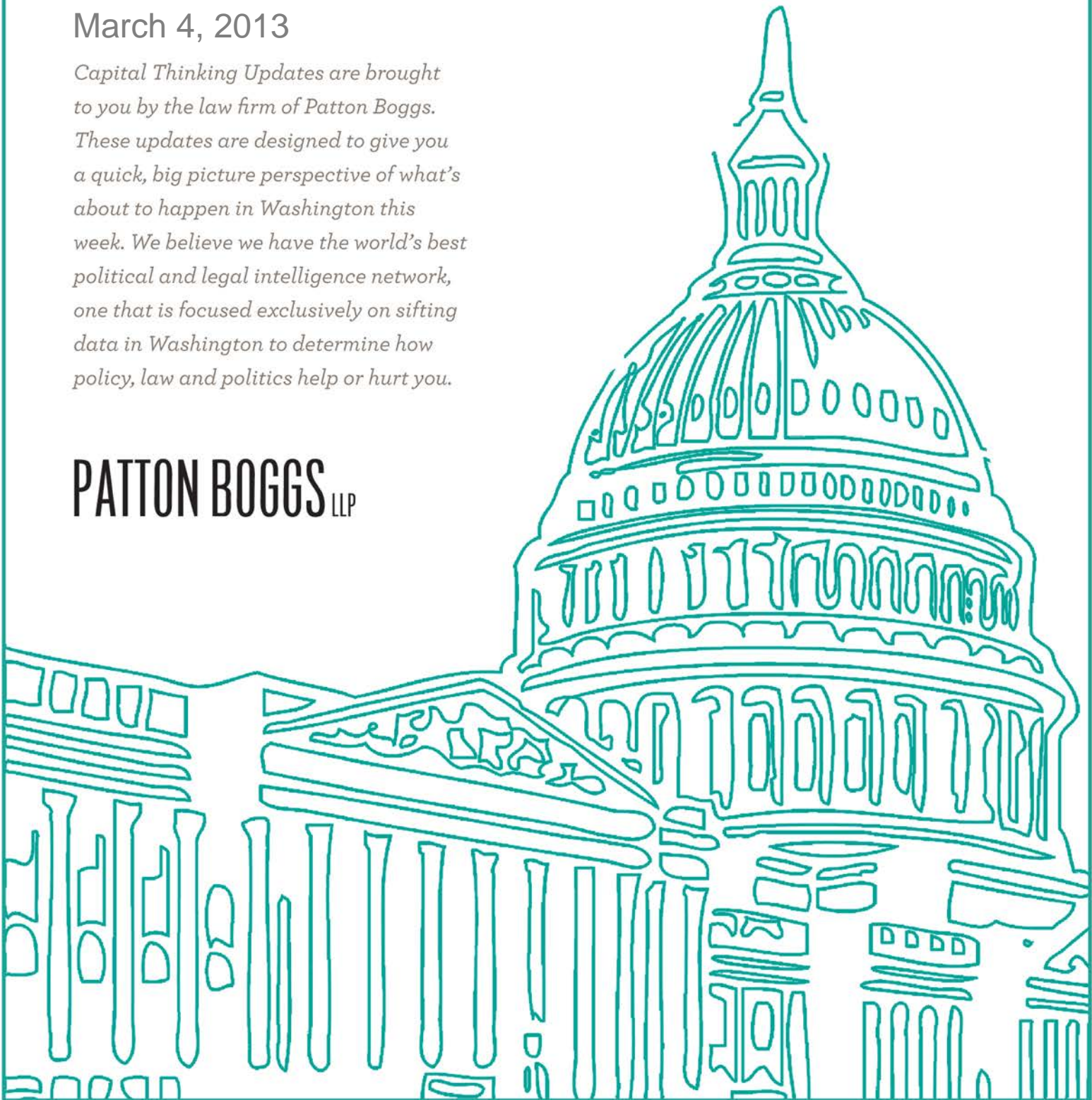
Attachment: Patton Boggs LLP Update on the Sequestration

# CAPITAL **thinking** UPDATES

March 4, 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



## General Legislative

Today, March 4, the House will meet at 12:00 p.m. for morning hour and 2:00 p.m. for legislative business. Votes will be postponed until 6:30 p.m. The House will consider a Senate Amendment to H.R. 307 – Pandemic and All-Hazards Preparedness Reauthorization Act of 2013. Then on Tuesday, March 5, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. Legislation Considered Under Suspension of the Rules will include: (1) H.R. 668 – To amend section 1105(a) of title 31, United States Code, to require that annual budget submissions of the President to Congress provide an estimate of the cost per taxpayer of the deficit, and for other purposes; and (2) H.R. 338 – The Stop Tobacco Smuggling in the Territories Act of 2013. On Wednesday, March 6, and Thursday, March 7, the House will meet to consider H.R. \_\_\_ - Department of Defense, Military Construction and Veterans Affairs, and Full-Year Continuing Appropriations Act, 2013 (Subject to a Rule). Last votes are expected no later than 3:00 p.m. on Thursday.

The Senate will convene today, March 4, at 2:00 p.m. and begin a period of morning business until 5:00 p.m. Thereafter, the Senate will proceed to executive session to consider the nomination of Pamela Ki Mai Chen to be United States District Judge for the Eastern District of New York.

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## Sequestration

After a meeting with Vice President Biden and Congressional leaders did not produce a last-minute agreement to avert sequestration, at 8:31 p.m. on Friday, President Obama signed an order implementing the first installment of the \$1.2 trillion in deficit reduction mandated by the *Budget Control Act of 2011* (“BCA” /P.L. 112-25).

The implementation of sequestration in FY 2013 will reduce \$85 billion from federal spending in the next seven months, evenly divided between security and non-security functions. The process will equally impact all non-exempt federal programs, projects and activities. In accordance with the BCA, to coincide with the President’s order, the White House Office of Management and Budget (OMB) released [a report](#) which detailed the sequestration reductions in each budgetary account. Generally, the FY 2013 sequestration will result in the following percentage reductions –

- 7.8 percent – Defense discretionary
- 7.9 percent – Defense mandatory
- 5.0 percent – Nondefense discretionary
- 5.1 percent – Nondefense mandatory
- 2.0 percent – Medicare (provider payments)

However, because the spending reductions for FY 2013 must be implemented over the remaining seven months of the fiscal year, the percentage reductions for non-exempt defense programs is estimated at 13 percent and at 9 percent for non-exempt nondefense programs.

Senate efforts to advance a sequestration alternative failed last week. A Democratic proposal (S. 388) to replace sequestration with a mixture of targeted spending cuts and tax revenue was rejected by a 51 – 49 vote and a Republican proposal (S. 16) to force the President to identify equal and alternative FY 2013 spending reductions by March 15 was rejected by a 38 – 62 vote.

Additional proposals are still being floated, some to replace sequestration and some intended to soften the impact of sequestration by providing the Administration and/or agencies the flexibility to apportion the cuts instead of reducing each activity account. However, party lines remain firmly drawn on spending cuts versus revenue and none of the pending proposals provide a basis for agreement. In fact, while the flexibility proposals have some bipartisan support, they have also renewed the clash of opinions on ceding Congress' power of the purse to the Administration.

The impacts of sequestration will not be immediate, thus leaving room for continued negotiations. While most federal agencies are planning for furloughs of one day per every two-week pay period (the Pentagon is planning for civilian furloughs of one day per week; military personnel are exempted), these furloughs require 30-day notices, none of which have been issued. Additionally, for a limited time, federal agencies will be able to manage funds to delay implementing the spending cuts, although with only seven months remaining in the fiscal year, this maneuver will risk a further concentration of cuts in a shorter period of time.

The most likely vehicle for any agreement is the upcoming FY 2013 appropriations package which must be enacted by March 27. At this time, it does not appear either party is willing to risk a government shutdown in order to continue the debate, thus, if an agreement is not reached, sequestration will remain in place.

## **SPECIFIC AGENCY ACTIVITY**

### **Education**

- While the Pell Grant program is exempt from FY 2013 sequestration cuts, many other Department of Education programs and high research-award granting agencies will be impacted by the percent reductions stated above. Select examples provided by the Administration and community stakeholders include:
  - Workforce development programs – According to the National Skills Coalition, two million fewer workers and employers will be served by community colleges and other aid recipients, including 300,000 fewer adults, youth, and dislocated workers served by WIA Title I programs;
  - Federal Work Study program - 33,000 fewer work-study awards;
  - Supplemental Educational Opportunity Grants (SEOG) - 71,000 fewer supplemental grants;

- Head Start and Early Head Start – up to 70,000 children would lose access and up to 30,000 working parents would lose child care services;
- Special Education – IDEA grants would be reduced by \$600 million, which could lead to laying off as many as 7,400 special education teachers and aides.

## Environment

- **Sequester.** In OMB's report to Congress on Friday, March 1, the U.S. Environmental Protection Agency will be cut by \$472 million and the U.S. Department of Interior will be cut by \$883 million in non-defense discretionary and mandatory funding for fiscal year 2013 due to sequestration.

## Transportation

- **Highway and Transit Funding.** Surface transportation programs funded out of the Highway Trust Fund (HTF) are exempt from sequestration. This accounts for almost all highway and transit funding. However, Capital Investment Grants which fund New Starts and Small Starts projects are subject to sequestration as they are funded out of the General Fund. FTA's Associate Administrator for Communications and Congressional Affairs has said that, "Right now, I can tell you that the sequester would require a 5 percent cut to the New Starts/Small Starts program, which would reduce funding for critical transit projects by approximately \$100 million this year, creating unplanned borrowing and financing costs for states and local government. The cuts would also require FTA to revise its payment schedule for New Starts/Small Starts projects, slowing the payments the federal government previously committed to making." Emergency aid for highway and transit projects in the Hurricane Sandy supplemental appropriations legislation is also subject to the 5.3% sequester.
- **Aviation Funding.** The Federal Aviation Administration's (FAA) operating budget is subject to sequestration. Transportation Secretary Ray LaHood warned on February 22 that sequestration will force the FAA to close more than 100 air traffic control towers, eliminate some midnight shifts, and furlough employees one day during every pay period, potentially resulting in significant air travel delays. House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) and the Ranking Member of the Senate Commerce, Science, and Transportation Committee, Senator John Thune (R-SD) responded that the Secretary was presenting a "sky is falling" picture of how the FAA would implement cost reductions under sequestration. Shuster and Thune encouraged the FAA to "review their \$2.7 billion in non-personnel costs, such as \$500 million for consultants and \$200 million for supplies and travel," before implementing furloughs.

## Contact Information

For additional insights about likely policy developments, please feel free to contact the author of this section: Pam Welsh, at 202-457-6493 or [pwelsh@pattonboggs.com](mailto:pwelsh@pattonboggs.com).

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## Agriculture & Food

### LEGISLATIVE ACTIVITY

- **Immigration Reform.** Last Tuesday, the House Judiciary Committee's Subcommittee on Immigration and Border Security held a hearing on agricultural labor. During the hearing, Full Committee Chairman Bob Goodlatte (R-VA) suggested agricultural labor could be the first of many issues tackled in a piecemeal approach to immigration reform. American Farm Bureau Federation President Bob Stallman proposed a new market-driven guest worker program, and United Farm Workers of America Vice President Giev Kashkooli was open to the idea of a program but stressed the need for worker protections. The groups had disagreed in the past as to whether there should be a guest worker program at all, but now the disagreement lies in the details of what the program should look like. Subcommittee Ranking Member Zoe Lofgren (D-CA) praised the two groups for the progress they made on the issue thus far.

This week, Chairman Goodlatte, along with House Majority Whip Kevin McCarthy (R-CA), and House Judiciary Subcommittee on Immigration and Border Security Chairman Trey Gowdy (R-SC) will begin preliminary discussions on an approach to immigration reform. The group may follow Chairman Goodlatte's suggestion of moving smaller bills that address specific problems on a bipartisan basis. However, this approach may conflict with the House bipartisan group working behind the scenes to put together a comprehensive agreement. A key Republican member of the group, Representative Mario Diaz-Balart (R-FL), said that the individual issues in the comprehensive agreement are so interwoven that it may be difficult to separate them into discrete bills.

- **Upcoming Hearings.** The House Agriculture Committee has rescheduled its hearing on the State of the Rural Economy for Tuesday, March 5. On Wednesday, March 6, the House Appropriations Subcommittee on Agriculture, Rural Development, and FDA will hold a hearing on Fiscal 2014 Appropriations: Agriculture, Rural Development, and FDA.

#### *Contact Information*

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## Budget and Appropriations

- **FY 2013 Continuing Resolution.** The House will vote this week on a final FY 2013 appropriation package, combining Defense and Military Construction-Veterans Affairs spending bills with a six-month Continuing Resolution (CR) for the remaining federal departments and agencies. The bill will cap FY 2013 discretionary funding at \$1.043 trillion, as mandated by the *Budget Control Act of 2011*

("BCA"/P.L. 112-25), although when factoring in sequestration (assuming an agreement to avert the process is not reached), overall discretionary funding for FY 2013 will be reduced to approximately \$974 billion.

Senate Appropriations Chairwoman Barbara Mikulski (D-MD) will likely replace the CR with an omnibus including appropriations bills for all agencies. Unless Congress includes language in the legislation which amends the BCA sequestration mandate, the budgetary flexibility provided through a comprehensive appropriations bill, as opposed to a continuing resolution, will not alter the sequestration process as it does not provide enhanced reprogramming authority. However, plus-ups in some accounts could lessen the impact on certain Congressional priorities.

- **President's FY 2014 Budget Proposal Remains Delayed.** Reportedly, the President's FY 2014 Budget Proposal will now be delivered to Congress on or around March 25, following expected action by the House and Senate on FY 2014 budget resolutions. The Budget Committees in each chamber intend to hold mark ups the week of March 11<sup>th</sup>, with possible floor action occurring the following week, just before Congress begins their scheduled two-week recess.

#### *Contact Information*

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## Cybersecurity

### LEGISLATIVE BRANCH ACTIVITY

- **Cybersecurity Legislation and Upcoming Hearings.** Cybersecurity continues to remain a priority for the 113<sup>th</sup> Congress in the coming months as Congress begins to hold cybersecurity-related hearings on a variety of topics. Upcoming hearings this week include the following:
  - Wednesday, March 6 – 10:30 a.m. The House Homeland Security Committee will hold a hearing titled "DHS Cybersecurity: Roles and Responsibilities to Protect the Nation's Critical Infrastructure."
  - Thursday, March 7 – 2:30 p.m. The Senate Homeland Security and Governmental Affairs Committee and the Senate Commerce, Science and Transportation Committee will hold a joint hearing titled "The Cybersecurity Partnership Between the Private Sector and Our Government: Protecting our National and Economic Security." The hearing will focus on the development and implementation of President Obama's Executive Order (EO), as well as explore the need for comprehensive cybersecurity legislation.

### EXECUTIVE BRANCH ACTIVITY

- **NIST Request for Information (RFI).** Last week, the National Institute of Standards and Technology (NIST) within the U.S. Department of Commerce issued a Request for Information (RFI) to solicit



comments regarding the standards-based framework that the agency is required to develop to reduce cyber risks to critical infrastructure. The EO mandated that NIST develop these standards within 240 days of the EO's release on February 12 and publish a final draft of the framework within a year. NIST plans to hold a workshop on April 3 with private sector stakeholders to discuss and gather feedback on the framework. According to the RFI, comments are due by 5:00 p.m. on April 8.

- **White House Legislative Proposal.** According to White House cybersecurity coordinator Michael Daniel, the White House is currently working to oversee the implementation of the EO and is also drafting a set of legislative principles to guide Congress's work on cybersecurity legislation. Daniel noted that the principles will be similar to those included in the May 2011 cybersecurity legislative proposal that the Obama Administration sent to Congress and will likely include provisions such as a national data breach notification law, liability protections and more stringent criminal statutes for cybercrime. The legislative principles will not include bill language but will reaffirm the Administration's support for the 2011 legislative proposal.

#### Contact Information

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## Education

### LEGISLATIVE ACTIVITY

- **Workforce Investment Act (WIA).** After unveiling and holding a subcommittee hearing on *The [Supporting Knowledge and Investing in Lifelong Skills \(SKILLS\) Act](#)* (H.R. 803) last week, the full House Committee on Education and the Workforce will markup the bill on Wednesday, March 6. The bill is expected to pass along partisan lines and move quickly to the House floor, as it remains a top priority for House Republican leaders. Senators continue to work in a bipartisan fashion on rewriting WIA, as well, with Senator Johnny Isakson (R-GA) taking the lead for Republicans.
- **Elementary and Secondary Education Act.** Senate education leaders are planning to meet with Secretary Arne Duncan in the coming weeks concerning the long overdue reauthorization of the Elementary and Secondary Education Act (ESEA). After that meeting, they are expected to get to work on a reauthorization bill; however, Health, Education, Labor and Pensions (HELP) Committee Chairman Tom Harkin (D-IA) will likely resist bringing a bill to the floor if the House does not work in a bipartisan fashion on its measure to reauthorize ESEA.
- **Deregulation in Higher Education.** Senate HELP Ranking Member Lamar Alexander (R-TN) is forming a bipartisan working group within the Committee, which includes Senators Richard Burr (R-NC), Barbara Mikulski (D-MD), and Michael Bennet (D-CO), to consider opportunities to provide some deregulation of higher education reporting and other federal requirements.

- **Upcoming Hearings.** Several hearings of relevance are scheduled for this week, including:
  - Tuesday, March 6. The House Oversight and Government Reform Committee will hold a hearing titled “Reducing Waste and Mismanagement: Implementing Agency Watchdogs’ Recommendations Could Save Taxpayer Billions.” Several Education Department officials are scheduled to testify.
  - Tuesday, March 6. The House Energy and Commerce Subcommittee on Commerce, Manufacturing and Trade will hold a series of hearings on U.S. manufacturing issues, including a hearing Tuesday titled “Powering U.S. Automobile Manufacturing Forward.”

*Contact Information*

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## Energy

### LEGISLATIVE ACTIVITY

- **Interior Nominee.** On Thursday, the Senate Energy and Natural Resources Committee will consider the nomination of Sally Jewell to be the next Secretary of the Interior.
- **Congressional Hearings.** On Tuesday, a House Natural Resources Subcommittee will hold an oversight hearing on “America’s Offshore Energy Resources: Creating Jobs, Securing America, and Lowering Prices” and a House Energy and Power Subcommittee will hold a hearing on “The Role of a Diverse Electricity Generation Portfolio.” On March 14, a House Natural Resources Subcommittee will hold a hearing on “America’s Onshore Energy Resources: Creating Jobs, Securing America, and Lowering Prices.”

### REGULATORY ACTIVITY

- **Keystone XL Pipeline.** The State Department [released](#) a copy of the Draft Supplementary Environmental Impact Statement on Friday. Once formally noticed in an upcoming issue of the Federal Register, a 45-day public comment period will begin. The State Department will then prepare a Final SEIS before a final determination is made on whether this project serves the national interest and can be constructed.
- **Pole Attachment Fees.** A federal court has [ruled against](#) the American Electric Power Service Corporation and other power companies in a case that will have an impact on the fees that can be charged to telecommunication carriers when seeking to attach their wires, cable or other network equipment to utility poles.

- **Nuclear.** The Nuclear Regulatory Commission is requesting comments by April 1 on [proposed revisions](#) to the Standard Review Plan regarding design structures, components, equipment and systems (including evaluating the acceptability of seismic and civil structural design and analysis issues, and updates to improve the efficiency and consistency of staff reviews).
- **Hydraulic Fracturing.** The Environmental Protection Agency has extended the nominations deadline for experts to serve on [upcoming technical workshops](#) regarding well construction/operation and subsurface modeling, wastewater treatment/modeling, water acquisition modeling and hydraulic fracturing case studies.
- **Eastern Gulf Lease Sale 225 & 226.** The Bureau of Ocean Energy Management has prepared a draft Environmental Impact Statement for offshore drilling lease sales scheduled for 2014 and 2016 in the Eastern Gulf of Mexico. Public meetings to provide comments will be held in Tallahassee, Florida on March 26; Panama City Beach, Florida on March 27; Mobile, Alabama on March 28; Gulfport, Mississippi on March 29; and New Orleans, Louisiana on April 1.

*Contact Information*

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**Environment**

**SEQUESTRATION**

- **Sequester.** In OMB's report to Congress on Friday, March 1, the U.S. Environmental Protection Agency (EPA) will be cut by \$472 million and the U.S. Department of Interior will be cut by \$883 million in non-defense discretionary and mandatory funding for fiscal year 2013 due to sequestration.

**LEGISLATIVE ACTIVITY**

- **Secretary of Interior.** On Thursday, March 7, the Senate Committee on Energy and Natural Resources will hold a full committee hearing to consider the nomination of Sally Jewell to be the next Secretary of the Interior.
- **Climate Change.** On Wednesday, March 6, the House Committee on Science, Space and Technology, Subcommittee on Environment, will hold a hearing to examine policy-relevant climate issues.
- **Government's Energy Efficiency.** Senator Lisa Murkowski (R-AK) testified before the House Energy and Commerce Subcommittee on Energy and Power that she soon plans to call on the Government Accountability Office (GAO) to review existing efficiency programs at the U.S. Department of Energy (DOE) for overlapping authorities and duplicative programs that can be combined or eliminated to improve operations of the government. Senator Murkowski noted that she will ask GAO "to review current funding and past performance of residential, commercial and

industrial energy efficiency programs at DOE – and then propose new authorization levels based on this review.”

- **E-15 Fuel.** Legislation authored by Congressman Jim Sensenbrenner (R-WI) would require that the EPA contract with the National Academy of Sciences to assess the state of the science regarding E-15, including research needs, gaps in understanding, recent testing, and consumer education efforts in reaction to EPA’s decision to allow mid-level ethanol blends (E15) into the marketplace. There is concern that E-15 fuel could cause engine damage if not used with appropriate vehicles.

## REGULATORY ACTIVITY

- **EPA Releases 2012 Chemical Reporting.** EPA has released the 2012 Chemical Data Reporting (CDR) information on more than 7,600 chemicals in commerce. The CDR database contains use and exposure information on the most widely used chemicals in the United States. Companies are now required to provide information on chemicals used in children’s and other consumer products, commercial applications and industrial uses. The CDR information includes data on chemicals that are used in children’s products such as toys, playground and sporting equipment, arts and crafts materials, and textiles and furniture. The data is intended to help EPA evaluate potential exposures and expand efforts to encourage the use of safer chemicals. The 2012 CDR information is available at <http://www.epa.gov/cdr>.
- **Sustainable Ocean Power.** The U.S. Department of Energy (DOE) has launched a new database that includes results of environmental monitoring and research efforts on wave, tidal and current energy development worldwide. The database is intended to help industry regulators and energy project developers deploy sustainable ocean energy projects. The report was compiled by DOE’s Pacific Northwest National Laboratory, in partnership with the Bureau of Ocean Energy Management, the Federal Energy Regulatory Commission, and the National Oceanic and Atmospheric Administration. Partner nations in the Ocean Energy Systems initiative, including Canada, Ireland, Spain, Norway, New Zealand and South Korea, also provided funding and input to this effort. The accompanying report can be accessed at: [http://www1.eere.energy.gov/water/pdfs/annex\\_iv\\_report.pdf](http://www1.eere.energy.gov/water/pdfs/annex_iv_report.pdf) and the database can be accessed at: [http://mhk.pnnl.gov/wiki/index.php/Knowledge\\_Base](http://mhk.pnnl.gov/wiki/index.php/Knowledge_Base).

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# Financial Services

## LEGISLATIVE ACTIVITY

- **Senate to Consider Reauthorization of the Commodity Futures Trading Commission.** During a Senate hearing on Wednesday, February 27, Agriculture Committee Chairwoman Debbie Stabenow (D-MI) announced that she and Committee Ranking Member Thad Cochran (R-MS) would be releasing a joint letter to invite public comment on the legislation to reauthorize the Commodity Futures Trading Commission (CFTC). The reauthorization legislation will be an opportunity to discuss increased funding for the CFTC, and changes to the CFTC rules on position limits and customer protections in the swaps and futures markets.
- **Senate Banking Committee to Address Bank Secrecy Act.** On Thursday, March 7, the Senate Committee on Banking, Housing, and Affairs will hold a hearing titled “Patterns of Abuse: Assessing Bank Secrecy Act Compliance and Enforcement.” The witnesses participating at the hearing will be: The Honorable David S. Cohen, Under Secretary for Terrorism and Financial Intelligence, United States Department of the Treasury; The Honorable Thomas J. Curry, Comptroller, Office of the Comptroller of the Currency; and The Honorable Jerome H. Powell, Governor, Board of Governors of the Federal Reserve System.
- **House Financial Services Subcommittee to Examine Monetary Policy.** On Tuesday, March 5, the House Financial Services Subcommittee on Monetary Policy and Trade will hold a hearing on the effectiveness of “unconventional” monetary policy. The hearing will be titled “Near-Zero Rate, Near-Zero Effect? Is ‘Unconventional’ Monetary Policy Really Working?” The witnesses at the hearing will include Mr. David Malpass, President, Encima Global; Dr. Allan H. Meltzer, Professor of Political Economy, Tepper School of Business, Carnegie Mellon University; Dr. John B. Taylor, SIEPR Senior Fellow and Mary and Robert Raymond Professor of Economics, Stanford University; and Dr. Joseph E. Gagnon, Senior Fellow, Peterson Institute for International Economics.
- **House Financial Services Subcommittee to Discuss Failures in U.S. Housing Policy.** On Wednesday, March 6, the House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises will hold a hearing titled “Fannie Mae and Freddie Mac: How Government Housing Policy Failed Homeowners and Taxpayers and Led to the Financial Crisis.” The witnesses at the hearing will include Mr. John Ligon, Policy Analyst, Center for Data Analysis, The Heritage Foundation; Mr. Joshua Rosner, Managing Director, Graham Fisher & Co.; Dr. Susan M. Wachter, Richard B. Worley Professor of Financial Management, Professor of Real Estate and Finance, and Co-Director, Institute for Urban Research, The Wharton School, University of Pennsylvania; and Dr. Lawrence J. White, Robert Kavesh Professor of Economics, Leonard N. Stern School of Business, New York University.

## REGULATORY ACTIVITY

- **Jack Lew Confirmed as New Treasury Secretary.** Jack Lew, former Chief of Staff for President Obama, was confirmed as the new Treasury Secretary after a relatively smooth nomination process. In his new position, he is expected to tackle some thorny issues such as continuing implementation of the Dodd-Frank Act, the potential tax code comprehensive reform, and expanded sanctions on certain countries.
- **Federal Reserve Extends Comment Period for Proposed Rule on Enhanced Prudential Standards for Certain Foreign Financial Institutions.** Due to the complexity of the rule, the Federal Reserve has announced that it will extend until April 30, the comment period for its proposed rulemaking to implement the enhanced prudential standards and early remediation requirements for foreign banking organizations and foreign nonbank financial companies supervised by the Board. The proposed rule is substantially similar to the agency's proposed rule on enhanced prudential standards for U.S. financial institutions designated as systemically important, which was published in December 2011 and has not yet been finalized.
- **Securities and Exchange Commission to Hold Meeting on Regulations Systems Compliance and Integrity.** On Wednesday, March 6, the Securities and Exchange Commission (SEC) will hold an open meeting to consider whether to propose Regulation Systems Compliance and Integrity (Regulation SCI) under the Securities Exchange Act of 1934 ("Exchange Act") and conforming amendments to Regulation ATS under the Exchange Act.
- **SEC to Discuss Report on Credit Rating Agencies.** On May 14, the SEC will hold a public roundtable to provide a forum for discussion of the SEC staff's Report on Assigned Credit Ratings, exploring issues such as reliance on credit rating agencies, conflicts of interest, and internal controls.

### *Contact Information*

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## Health Care

### LEGISLATIVE ACTIVITY

- **House Ways and Means Hearing.** The House Committee on Ways and Means Subcommittee on Oversight will hold a hearing on Wednesday, March 5, on the Tax-Related Provisions in the President's Health Care Law. Key provisions include: a tax on medical device and drug manufacturers and health insurers; a tax on individuals and families who do not purchase government-mandated health insurance; a tax on employers that do not offer government-mandated health insurance; and additional Medicare taxes and taxes on investment income. In its review of the tax provisions of the President's health care law, the Subcommittee will consider the: (1) status

of implementation of key tax provisions; (2) compliance issues associated with the tax provisions and accompanying regulations; and (3) economic effects of the provisions.

- **House Energy and Commerce Hearings.** The Subcommittee on Oversight and Investigations has also scheduled a hearing on Tuesday, March 5, titled “After Newtown: A National Conversation on Violence and Severe Mental Illness.” The Subcommittee on Health will hold a hearing on Wednesday, March 6, titled “Saving Seniors and Our Most Vulnerable Citizens from an Entitlement Crisis.” The Subcommittee on Health will also hold a hearing on Thursday, March 7, on “Unaffordable: Impact of Obamacare on Americans’ Health Insurance Premiums.”
- **House Small Business Hearing.** The House Committee on Small Business has scheduled a hearing on Wednesday, March 6, on “The Health Care Law: Implementation and Small Business.” Witnesses include Douglas Holt-Eakin with the American Action Forum, William Gouldin on behalf of the National Federation of Independent Business, Louisa McQueeney on behalf of Main Street Alliance, and Kevin Tindall on behalf of the Plumbing-Heating-Cooling Contractors National Association.
- **Congress on MA Plans.** Senate Finance Committee Ranking Member Orrin Hatch (R-UT), House Energy and Commerce Committee Chairman Fred Upton (R-MI), and Ways and Means Chairman Dave Camp (R-MI) sent a letter to the Centers for Medicare and Medicaid Services’ (CMS) Acting Administrator Marilyn Tavenner outlining their concerns with how cuts of more than \$300 billion to the Medicare Advantage (MA) program under the Patient Protection and Affordable Care Act (PPACA) will impact patient care. CMS is set to close its comment period covering the programs’ payment policies for MA plans on Friday, March 1.

## REGULATORY ACTIVITY

- **HHS Releases Benefit and Payment Parameters Final Rule; Exchanges and SHOP Proposed Rule.** HHS released Amendments to the (1) HHS Notice of Benefit and Payment Parameters for 2014 Interim Final Rule, (2) Establishment of Exchanges and Qualified Health Plans; Small Business Health Options Program Proposed Rule, and (3) HHS Notice of Benefit and Payment Parameters for 2014 Final Rule.

## OTHER HEALTH NEWS

- **MedPAC Meeting.** The Medicare Payment Advisory Commission has scheduled a public meeting on Thursday, March 7 through Friday, March 8. The agenda includes sessions on refining the hospital readmissions reduction program, competitively-determined plan contributions, effects of adherence to Part D-covered drugs on Parts A and B spending, addressing Medicare payment differences across settings, Medicare’s health professionals shortage areas (HPSA) payment adjustment, and an update on shared decision-making.
- **Census Report on Employer-Based Insurance.** The U.S. Census Bureau released a report that found that the rate of individuals with employer-sponsored health coverage dropped from 64.4 percent in 1996 to 56.5 percent in 2010. This report uses data from the Survey of Income and

Program Participation (SIPP) to examine the characteristics of people with employer-provided health insurance coverage as well as characteristics of employers that offer health insurance. This documentation of the current distribution of employment-based health insurance coverage across socioeconomic characteristics is needed to establish the changes associated with recent health care legislation. The report is composed of two sections. The first section provides a brief overview of historical trends in employer-provided coverage rates by source of coverage as well as the reasons for nonparticipation in health insurance from 1997 to 2010. The second section focuses on data collected in 2010 and describes health insurance offer and take-up rates by employee and employer characteristics.

- **GAO Report on Pharmacy Services Admin Organizations.** The Government Accountability Office (GAO) released a report on the number, role and ownership of pharmacy services administrative organizations. GAO found that at least 22 pharmacy services administrative organizations (PSAO), which varied in the number and location of the pharmacies to which they provided services, were in operation in 2011 or 2012. In total, depending on different data sources, these PSAOs represented or provided other services to between 20,275 and 28,343 pharmacies in 2011 or 2012, most of which were independent pharmacies. While the number of pharmacies with which each PSAO contracted ranged from 24 to 5,000 pharmacies, most PSAOs represented or provided other services to fewer than 1,000 pharmacies. GAO found that while PSAOs provide a broad range of services to independent pharmacies, and vary in how they offer these services, PSAOs consistently provide contract negotiation, communication, and help-desk services. GAO also reported that the majority of PSAOs in operation in 2011 or 2012 were owned by drug wholesalers and independent pharmacy cooperatives.
- **OIG Report on SNF Planning and Discharge Planning.** The Office of Inspector General (OIG) released a report titled “Skilled Nursing Facilities Often Fail to Meet Care Planning and Discharge Planning Requirements.” OIG found that for 37 percent of stays, SNFs did not develop care plans that met requirements or did not provide services in accordance with care plans. For 31 percent of stays, SNFs did not meet discharge planning requirements. Medicare paid approximately \$5.1 billion for stays in which SNFs did not meet these quality-of-care requirements. Additionally, reviewers found examples of poor quality care related to wound care, medication management and therapy. OIG states that these findings raise concerns about what Medicare is paying for. OIG also stated that these findings demonstrate that SNF oversight needs to be strengthened to ensure that SNFs perform appropriate care planning and discharge planning. OIG recommends that CMS: (1) strengthen the regulations on care planning and discharge planning, (2) provide guidance to SNFs to improve care planning and discharge planning, (3) increase surveyor efforts to identify SNFs that do not meet care planning and discharge planning requirements and to hold these SNFs accountable, (4) link payments to meeting quality-of-care requirements, and (5) follow up on the SNFs that failed to meet care planning and discharge planning requirements or that provided poor quality care. CMS concurred with all five of our recommendations.



## Contact Information

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# International, Defense, and Homeland Security

## EXECUTIVE AND LEGISLATIVE BRANCH ACTIVITY

- **Iran Sanctions.** While in Germany last week, and as the P5+1 Talks commenced in Kazakhstan, Secretary of State John Kerry urged a diplomatic path forward in resolving Iran's nuclear ambitions. P5+1 negotiators reportedly tabled a proposal that would allow Iran to resume its gold and precious metals trade and limited international banking activity, but only if Iran limits its enrichment operations. As Iranian negotiators resumed nuclear negotiations with the P5+1, House Foreign Affairs Committee Chair Ed Royce (R-CA) and Ranking Member Eliot Engel (D-NY) introduced the *Nuclear Iran Prevention Act* last Wednesday which is designed to greatly expand sanctions on Iran. Specifically, the bipartisan measure – which is expected to pass both the House and the Senate – would widen the list of blacklisted Iranian companies and individuals, further restrict business dealings with Iran, penalize foreign companies and individuals that violate U.S. sanctions by threatening them with restrictions on doing business with the United States, and possibly block Iran's access to its foreign bank assets held in euros.
- **Syria.** Last Thursday, at a *Friends of Syria* meeting in Rome, Secretary Kerry asserted that Syrian President Bashar al-Assad is “out of time and must be out of power,” after meeting with Moaz al-Khatib, the leader of the Syrian Opposition Coalition (SOC). The Secretary also announced \$60 million in new assistance in the form of food rations and medical kits that will be provided to the SOC. The State Department justified the policy shift by stating the new direct – yet still non-lethal – assistance will allow the SOC to improve the delivery of basic services to areas under their control in Syria.
- **Middle East Developments.** Last Tuesday, President Obama spoke with Egyptian President Mohamed Morsy. President Obama emphasized the need for all political parties to participate in the upcoming parliamentary elections. Secretary Kerry arrived in Cairo on Saturday and met with government officials, opposition leaders and members of civil society. The Secretary echoed President Obama's message on building consensus and advancing political transition. Before travelling to Cairo, Secretary Kerry stopped in Ankara, where he met with Turkish Foreign Minister Ahmet Davutoğlu and President Abdullah Gul. Topics of discussion included Syria, counterterrorism, Israel and Iran.
- **Asia-Pacific.** Last Thursday, the Tom Lantos Human Right Commission held a hearing on human rights in Burma. Assistant Secretary of State for Democracy, Human Rights and Labor Michael Posner testified that the government of Burma has made positive progress, but noted that human rights challenges remain. He reaffirmed the United States is working with the Burmese Government to address these and other issues. While in Berlin last week, Secretary Kerry acknowledged the

United States is “paying attention to Asia,” but “not ... at the expense of Europe.” Meanwhile, last Tuesday, Acting Assistant Secretary of State for East Asian and Pacific Affairs Joseph Yun testified before the House Foreign Affairs Subcommittee on Asia and the Pacific about the U.S. “strategic rebalance” and shift to the Asia-Pacific region. This Tuesday, the House Foreign Affairs Committee will hold a hearing on North Korea’s “criminal” activities and explore the regime’s financing.

- **Russia.** While in Berlin last week, Secretary Kerry and Russian Foreign Minister Sergey Lavrov met to discuss Syria. U.S. adoptions of Russian children and other issues were also raised. At the conclusion of the meeting, Foreign Minister Lavrov indicated a more “constructive” relationship may emerge on solving international issues. Last week, the media also reported that the Russian government denied a visa for House Foreign Affairs Human Rights Subcommittee Chair Chris Smith (R-NJ). Congressman Smith was an original co-sponsor of the *Sergei Magnitsky Accountability and Rule of Law Act of 2012*, which became U.S. law and denies U.S. visas to Russian human rights violators.
- **Cabinet Turnover.** Last Tuesday, Chuck Hagel was confirmed by the Senate (58-41) as the new Secretary of Defense. The next day, Jacob “Jack” Lew was confirmed (71 to 26) as the new Secretary of the Treasury. Last Thursday, the State Department announced Assistant Secretary for the Bureau of Democracy, Human Rights and Labor Michael Posner and will head to the New York University Stein School of Business.

#### Contact Information

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## Tax

### LEGISLATIVE ACTIVITY

- **Law Officially Assumes Role as Treasury Secretary.** Jack Lew was sworn in as Treasury Secretary on Wednesday, February 28, officially succeeding former Treasury Secretary Tim Geithner. The day before, the Senate voted 71-26 to approve Lew’s nomination.
- **Senate Finance Subcommittee Assignments Announced.** On Tuesday, February 26, the Senate Finance Committee announced [assignments](#) for its six subcommittees.
- **Tax Hearing Next Week.** The following tax hearing is scheduled in the Senate Budget Committee next week:
  - Tuesday, March 5: Senate Budget hearing on Reducing the Deficit by Eliminating Wasteful Spending in the Tax Code

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# Transportation & Infrastructure

## SEQUESTRATION

- **Impact on Transportation Programs.** Highway and transit programs funded out of the Highway Trust Fund are exempt from sequestration, but programs funded out of the General Fund - including New Starts/Small Starts and emergency supplemental appropriations for highway and transit projects after Hurricane Sandy – are subject to the 5.3 percent cut. FAA operations funding is also subject to sequestration, leading to a robust debate about the impact on the flying public. For further discussion, see the section on sequestration at the outset of *Capital Thinking*.

## LEGISLATIVE ACTIVITY

- **Committee Priorities.** House Transportation and Infrastructure Chairman Bill Shuster (R-PA) and Senate Environment and Public Works (EPW) Committee Chairman Barbara Boxer (D-CA) remain committed to working together on revenue strategies to address the structural deficit in the Highway Trust Fund and place highway and transit funding on sounder financial footing. Boxer and Shuster have been meeting to consider revenue options and “all options” have been on the table as they explore potential paths forward. Chairman Shuster, however, has backed off somewhat from earlier statements that suggested a Vehicles Miles Traveled (VMT) fee was among the potential paths forward, stating that he did not believe the technology or systems were there for widespread, near-term implementation. In addition to the surface transportation program, the Committees continue to focus on reauthorizing the Water Resources and Development Act (WRDA), with Chairman Boxer working closely with Ranking Member David Vitter (R-LA) on legislation building off the draft that Boxer released late last year.
- **The American Infrastructure Investment Fund Act.** Senate Commerce Chairman Jay Rockefeller (D-WV) along with Surface Transportation Subcommittee Chairman Frank Lautenberg (D-NJ) have re-introduced the American Infrastructure Investment Fund Act to create a \$5 billion infrastructure investment fund that would function like a combination of the TIGER multi-modal grant program and a National Infrastructure Bank. The legislation is intended to incentivize private, State and regional investments in transportation projects around the country by providing eligible projects with financial assistance – including loans, loan guarantees and grants. The fund would be housed within the Department of Transportation. Senators Rockefeller and Lautenberg have introduced the American Infrastructure Investment Fund Act in previous years but the proposal has not gained widespread traction. In addition, the dramatic expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program in the recent transportation bill, MAP-21, is seen as already providing a robust innovative financing program for surface transportation projects, and leading stakeholders

are focused on enacting a Water Infrastructure Finance and Innovation Act (WIFIA) for water infrastructure projects. A version of WIFIA was included in Chairman Boxer's draft WRDA legislation.

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