Washington Update

February 3, 2014

The new year began with lawmakers facing many issues that were left unfinished in 2013. Upon returning in January, Congress approved a $1.1 trillion appropriations bill to fund the federal government through September 30, 2014. Legislators continued to look for a path forward on the debt ceiling and tax reform, and attention continued to swirl around concerns related to the Affordable Care Act (ACA). Congress moved closer to a reauthorization of the expired Farm Bill while also beginning the process discussion of reauthorizing key transportation programs. Finally, President Obama ended the month by staking out his agenda in his annual State of the Union address to Congress, refocusing public attention on issues that remain a priority for the White House.

ISSUE—FUNDING THE FEDERAL GOVERNMENT

In the October 2013 deal that reopened the government, Congress approved funding for the federal government until mid-January 2014 and called for both legislative chambers to produce a compromise over the federal budget. In December 2013, Senate Budget Chairwoman Patty Murray (D-WA) and House Budget Chairman Paul Ryan (R-WI) announced an agreement that would set the topline discretionary spending numbers for Fiscal Year 2014 (FY14) and Fiscal Year 2015 (FY15), while simultaneously providing some sequester relief in each of those two fiscal years through savings and new revenue from increased fees. The deal set the FY14 level at $1.012 trillion (about $45 billion more than the sequester level for FY14 of $967 billion) and the FY15 level at $1.014 trillion (about $19 billion more than the sequester level for FY15 of $995 billion). Both the House and the Senate approved the budget before the end of 2013.

With the topline numbers set, appropriators in Congress, led by Senate Appropriations Chairwoman Barbara Mikulski (D-MD) and House Appropriations Committee Chairman Hal Rogers (R-KY), set about drafting an omnibus appropriations bill to fund the federal government for the remainder of FY14. The House passed the omnibus legislation on January 15 by a bipartisan vote of 359-67. Despite resistance from some conservative Republican senators, including Senator Ted Cruz (R-TX), the Senate approved the measure on January 16 by a vote of 72-26, with 17 Republicans voting in favor. President Obama signed the legislation on January 17.

With the passage of the omnibus bill for FY14, Congress will now turn its attention to the regular order of debating appropriate FY15 funding levels for agencies and programs. The White House has announced that the President plans to submit his budget proposal for FY15 by March 4, which is about a month late but still earlier than his FY14 budget was submitted. Regardless of the President's request, Congress is likely to stick to the Murray-Ryan topline number of $1.014 trillion for FY15.

ISSUE—DEBT CEILING

The October deal that reopened the government included a provision to increase the nation's statutory debt ceiling until February 7, 2014. However, there are competing views about the exact date when the debt ceiling will be breached and the U.S. will default on its obligations. Secretary of the Treasury Jacob Lew has stated that the debt limit will need to be increased by the end of February and has asked Congress to do so by February 7. However, the Congressional Budget Office (CBO) has suggested that increased tax revenues through the first part of 2014 could push back the actual default date to possibly May or June.

While the actual default date may be in question, Republicans will still pursue some form of concessions in exchange for raising the debt ceiling, a move Democrats are certain to oppose. Unlike previous battles over the debt limit, however, Republicans may abandon past calls for spending cuts and instead pursue reforms to the ACA in return for an increase in the debt limit. Several Republican leaders are zeroing in on the ACA as a point of leverage in debt ceiling negotiations, with House Speaker John Boehner (R-OH) stating that a "clean" debt ceiling increase (one without any concessions) will not pass the Republican-controlled House. However, even some Tea Party leaders in the House have speculated that a clean debt ceiling could pass with mostly Democrat votes, while Republicans can point to President Obama's refusal to negotiate as the explanation for having to go that path. At this point, it unclear whether the House or the Senate will act first in passing debt ceiling legislation.

ISSUE—TAXES

Tax policy issues continued to move at a slow pace this month as Congress looked for a path forward on several fronts, including tax reform and tax extenders.

Tax Reform

The proposed rewrite of the federal tax code remains in limbo as several of the key players continue to look for a way forward on the long-stalled reform efforts, but most are not optimistic. Over the course of 2013 and in the previous Congress, Senate Finance Committee Chairman Max Baucus (D-MT) and House Ways and Means Chairman Dave Camp (R-MI) attempted to gain support for the tax reform effort, but recent events have created uncertainty on how and when the process will move forward.

In December 2013, President Obama nominated Chairman Baucus to serve as the next U.S. Ambassador to China. Chairman Baucus spent the end of 2013 releasing several draft proposals addressing key areas of taxation—international tax reform, tax administration, and cost recovery and tax accounting, and energy. However, the absence of Chairman Baucus throws into doubt the prospects of tax reform happening in 2014.

Chairman Baucus' presumed successor, Senator Ron Wyden (D-OR), has been an avid supporter of tax reform in the past, authoring his own tax reform plan in 2011. However, it remains to be seen if Senator Wyden will choose to continue his predecessor's efforts or wait until after the election when tax reform may be more likely to gain traction in Congress.

Uncertainty over tax reform's future also exists on the House side. Chairman Camp previously pledged to bring tax reform legislation before his committee by the end of 2013. However, concerns from Republican leadership over the political perils of dealing with many controversial topics within tax reform sidelined Chairman Camp's efforts. He is expected to eventually produce something, whether that is an outline of principles or full legislative text, but continued resistance from leadership and within the House Republican caucus may stall his efforts.

Tax Extenders

Beyond tax reform, both tax writing committees will also need to address the expired package of short-term tax provisions known as "extenders," which are typically extended for only a couple of years at a time. The current packaged expired on December 31, 2013, despite an attempt from Majority Leader Harry Reid (D-NV) to pass an extension through the Senate at the end of the year, which many viewed as more about political messaging than achieving a legislative result. Technically speaking, the tax provisions can be extended retroactively, but that delay creates uncertainty for businesses needing to make investment decisions based on these temporary tax provisions.

The timeline for extenders legislation remains murky. Senator Wyden is rumored to be eager to pass an extension. Conversely, Chairman Camp's continued commitment to the tax reform process will make him hesitant to address extenders until later in the year.

Questions remain on what exactly a new extenders package would include. Some tax provisions remain unpopular with legislators and the American public, so it is possible that legislators may narrow which extenders live on in the next bill. Moreover, the extenders' hefty $50 billion price tag may be a difficult pill to swallow as Congress looks for ways for pay for the bill; although, some have speculated that it may be possible to avoid paying for this extension if combined with other must pass items, such as the debt limit increase.

ISSUE—HEALTHCARE

January saw several developments on the healthcare front. On January 27, Senators Richard Burr (R-NC), Tom Coburn (R-OK), and Orrin Hatch (R-UT) released a proposal that would repeal and replace the ACA. The measure is the most expansive policy alternative that Republicans have introduced in the Senate since the ACA was signed into law four years ago. While legislative text and cost estimates have yet to be released, analysts predict that the bill will cost less than the ACA by repealing some major provisions of the law. The proposal calls for a cap on tax exclusions for employee health plans, which would help to finance other provisions of the measure, including allowing states to establish high-risk pools and providing tax credits to people who do not work at large companies to help offset the cost of purchasing health insurance. A summary of the proposal can be found here, and a side-by-side comparison with the ACA is available here.

Democrats immediately attacked the bill. White House Press Secretary Jay Carney criticized the legislation for empowering insurance companies, raising taxes on the middle class, and limiting access to seniors and individuals with preexisting conditions. Proponents of the proposal, however, defended the measure by saying it would continue providing affordable coverage to seniors, patients with preexisting conditions, and adult dependents (under 26) while also eliminating lifetime limits on benefits.

House Republicans also moved forward with two pieces of ACA-related legislation in January. First, the body approved a bill on January 10 that would require the Obama Administration to notify individuals within two days of any potential data breach on the online exchanges. The bill passed on a 291-122 vote with 67 Democrats voting in favor. On January 16, the House passed a second ACA-related bill that would require the Administration to produce weekly reports of ACA enrollment figures. The legislation was approved on a 259-154 and was supported by 30 Democrats. In both instances, Democratic opponents complained that the new requirements would put unnecessary burdens on Administration officials, diverting them from properly enacting the ACA's provisions. Despite the tepid bipartisan support the bills received in the House, the Democratically-controlled Senate is not expected take action on the legislation.

Sustainable Growth Rate – "Doc Fix"

The Murray-Ryan budget included a three month "doc fix," a short-term patch to prevent major cuts in Medicare reimbursement rates for physician services due to the flawed Sustainable Growth Rate (SGR) formula. Lawmakers spent much of December and January developing legislation to permanently replace the SGR formula and prevent the need for future temporary fixes.

The House Ways and Means Committee passed an SGR repeal bill on December 12, which followed the House Energy and Commerce Committee (E&C) repeal bill passed in July. The Senate Finance Committee also approved a similar bill on December 12. Staffers are meeting regularly to come to an agreement on how to move forward, which is something that Chairman Baucus would like to accomplish before his nomination to become U.S. Ambassador to China is approved by the Senate in early February.

The most significant obstacle to a permanent solution for the "doc fix" is agreeing on a way to pay for the repeal. Offsets are becoming increasingly difficult to find, and the price tag of an SGR bill is quite large. CBO recently updated its estimates for the cost of each bill:

- House Ways and Means: $121 billion
- House Energy and Commerce: $146 Billion
- Senate Finance: $150 billion (includes $40 billion in Medicare extender provisions which will likely be included in the final measure)

While the SGR bill could move on its own, it is also possible that it gets wrapped into a larger package with the debt ceiling increase.

ISSUE—FARM BILL

After months of negotiations, the Farm Bill is nearing final passage. The country had been operating on an extension of the 2008 Farm Bill, but that extension expired in September 2013 after House and Senate conferees failed to reach a compromise over their competing bills. On January 27, Senate Agriculture Chairwoman Debbie Stabenow (D-MI) and House Agriculture Chairman Frank Lucas (R-OK) announced that Farm Bill conferees had reached a compromise. The bill will cost nearly $100 billion over the next ten years. Among other provisions, the legislation:

- Cuts funding to the Supplemental Nutrition Assistance Program (SNAP), also known as food stamps, by $8 billion;
- Ends direct subsidy payments to farmers;
- Expands crop insurance programs; and
- Cuts around $2.3 billion a year in overall current spending.

On January 29, the House passed H.R. 2642, the Agricultural Act of 2014, by a vote of 251-166. The Senate is expected to pass the bill in early February.

ISSUE—TRANSPORTATION

In January, Congress began to address several lingering transportation issues. The $1.1 trillion omnibus spending bill set funding levels for transportation programs through the end of FY14. Included in the bill is an increase in Transportation Investment Generating Economic Recovery (TIGER) discretionary grants. The measure appropriates $600 million to the grant program, $100 million more than requested. TIGER grants fund projects that can often be difficult to fund through existing programs and represent an investment in nationally-significant infrastructure.

Transportation spending issues will be at the forefront in the coming months as appropriators work on the annual spending issues in the FY15 bill and the House Transportation & Infrastructure (T&I) Committee discusses a reauthorization of the highway bill.

The highway bill has become increasingly difficult to put together as funds from the Highway Trust Fund (HTF) have continued to decline year after year. Discussions continue among transportation leaders on how best use transportation funding sources, such as the gasoline tax, to stem the decline of transportation monies and fully fund needed infrastructure projects.

On Tuesday, January 14, the House T&I Committee held its first hearing of the year on the reauthorization of federal surface transportation programs. These programs were last authorized under the Moving Ahead for Progress in the 21st Century Act (MAP-21), which was signed into law in July 2012. The bill expires on September 30, 2014. T&I Chairman Bill Shuster (R-PA) has announced that he expects the bill to be marked up by late spring and hopes to bring it to the floor of the full House before Congress' August recess. The Senate Environment and Public Works Committee, chaired by Senator Barbara Boxer (D-CA), has jurisdiction over the reauthorization process in the upper chamber.

Members in both chambers are continuing efforts to create a new infrastructure fund to help finance transportation, energy, and education projects. The latest move comes from Senator Michael Bennet (D-CO), who joined with a bipartisan group of co-sponsors to introduce S. 1957, the Partnership to Build America Act. The bill would set up a $50 billion infrastructure bank funded by repatriated profits from multinational companies and would provide bonds for infrastructure projects across the country. The central feature of the proposal would be a limited tax exemption for the repatriated foreign profits for companies that place winning bids to buy the new infrastructure bonds in Treasury auctions. A similar proposal from Rep. John Delaney (D-MD) was introduced in the House in 2013 and has fifty co-sponsors. Debate over the creation of an infrastructure bank has swirled for years without much success. It remains to be seen if the recent efforts by Sen. Bennet, Rep. Delaney, and others will be successful.

ISSUE—STATE OF THE UNION

On January 28, President Obama delivered his annual State of the Union (SOTU) address before a joint session of Congress. The event gives the President the opportunity to review accomplishments, lay out his priorities for the coming year, and garner public support for his agenda items. As with any president, President Obama has seen mixed results for previous ideas introduced during his SOTU addresses, with some faring well while others have stalled.

The President focused much of his 2014 address on domestic policy. He urged Congress to make 2014 a "year of action" and to address the economic challenges facing Americans. He continued his recent focus on income inequality and ways to address poverty in America. A key proposal to achieve this goal is the President's call to raise the minimum wage to $10.10. The White House and congressional Democrats have been floating such a proposal recently ahead of the 2014 mid-term elections, and the issue is likely to play a leading role in their national campaign strategy.

The President presented a bevy of other proposals, including:

- **Education**: Spending $75 billion over the next ten years to expand early education programs and creating new job training programs and apprenticeships through community colleges;
- **Energy:** Continuing to combat climate change while fostering developments in natural gas usage and renewable energy sources;
- **Healthcare:** Praising the ACA and calling on Congress to fund medical research, specifically citing vaccines;
- **Immigration:** Continuing to push for immigration reform;
- **National Security:** reforming the controversial National Security Administration's surveillance program;
- **Tax:** Reforming the corporate tax code and expanding the Earned Income Tax Credit for low-income childless workers;
- **Technology:** Outfitting 15,000 schools with high-speed broadband over the next ten years as part of the larger connectED initiative and reforming the patent system; and
- **Transportation:** Developing new methods to fund transportation and waterway projects.

One of the more controversial portions of the President's address was his pledge to use executive authority to implement some of these policies should Congress not act, citing an executive order he plans to sign to raise the minimum wage for employees of companies with federal contracts. The threat was met with stiff Republican opposition, with members of the GOP attacking the President for unconstitutionally overstepping Congress.

Rep. Cathy McMorris Rodgers (R-WA) delivered the official Republican response to the President's address. Jointly chosen for the role by Speaker Boehner and Senate Minority Leader Mitch McConnell (R-KY), Rep. McMorris Rodgers attempted to deliver a "more hopeful Republican vision." This included a focus on lower taxes, cheaper energy, improvements in education and training systems, immigration reform, and an alternative to the ACA. The GOP Response also relied heavily on the personal biography of McMorris Rodgers as an attempt to help the GOP reframe its message and image with the American public, particularly women,.

RECENT POLLING

Job Approval: President Obama

Poll	Date	Results
Rasmussen Reports	January 30	Approve 48, Disapprove 51
Gallup	January 29	Approve 42, Disapprove 49
Economist/YouGov	January 27	Approve 45 Disapprove 52

Job Approval: Congress

Poll	Date	Results
Economist/YouGov	January 27	Approve 7, Disapprove 78
NBC News/Wall St. Journal	January 25	Approve13, Disapprove 81
ABC News/Wash Post	January 23	Approve 13, Disapprove 84

Generic Congressional Ballot

Poll	Date	Results
PPP(D)	January 26	Democrats 40, Republicans 42
Rasmussen	January 26	Democrats 42, Republicans 37
ABC News/Wash Post	January 23	Democrats 45, Republicans 46

Public Approval of Health Care Law

	Date	Results
Rasmussen	January 26	Support 43, Oppose 52
NBC News/Wall St. Journal	January 25	Support 34, Oppose 48
ABC News/Wash Post	January 23	Support 47, Oppose 48