



Washington Update

April 1, 2014

Legislators were pulled in a variety of directions in March, from “patching” the Medicare reimbursement rate for physician services to trying to carve a path forward on pressing tax issues, while controversy over the Affordable Care Act (ACA) remained a source of contention between Republicans and Democrats. Work also began on the Fiscal Year 2015 appropriations process as appropriators try to stay on schedule this year. Discussion also began to heat up this month as Senate Democrats pushed forward on extended unemployment benefits, an increase in the minimum wage, and patent reform. It remains to be seen how many of these issues will be addressed as we move closer to the November mid-term elections and legislators shift their attention toward reelection efforts.

ISSUE—FUNDING THE FEDERAL GOVERNMENT

In March, legislators began laying out their plans to fund the federal government for the next fiscal year.

Congressional Action

In mid-January, Congress passed an omnibus spending [bill](#) to fund the federal government through September 30, the end of Fiscal Year 2014 (FY14). The omnibus spending bill followed a topline funding level for FY14 of \$1.012 billion, which was established by the December bipartisan budget agreement and was \$45 billion over the sequester cap, thanks to some sequester relief included in the budget deal. The December budget deal also established a topline number of \$1.014 trillion for FY15, which runs from October 1, to September 30, 2015.

House Budget Committee Chairman Paul Ryan (R-WI) released his budget on April 1. The budget proposes to cut spending by \$5.1 trillion over a decade. The savings largely come from changes to social welfare programs, divestment from Fannie Mae and Freddie Mac, and repealing the ACA. The Committee is scheduled to mark up its budget on April 2,

and Majority Floor Leader Eric Cantor (R-VA) predicted floor action on the budget during the week of April 7.

Senate Democrats have resisted calls to produce a budget for FY15 saying that the already established topline number is sufficient, a move that allows vulnerable Democrats to avoid taking tough votes.

President Obama's Budget Proposal

On March 4, The White House released President Obama's FY15 [budget proposal](#). The blueprint came after the congressionally-mandated deadline, but earlier than in previous years. The proposal calls for \$3.901 trillion in spending, including spending on mandatory programs like Social Security and Medicare. Among its provisions, the budget would raise taxes on wealthy Americans, expand tax credits for the poor and middle class, and raise the minimum wage to \$10.10 per hour and indexing it for inflation thereafter.

In a year where the topline numbers were already agreed to months prior in the bipartisan budget agreement, both the President and Chairman Ryan's budgets are largely seen as attempts to shape the political landscape ahead of the mid-term elections.

Appropriations

Regardless of what happens with the budget, the House and Senate Appropriations Committees have already begun their work on FY15 spending bills that will spell out specific funding levels for various federal agencies and programs. That process is expected to continue throughout the summer, with House appropriators hoping to move bills to the floor before the August recess.

ISSUE—TAXES

Lawmakers spent much of March debating how to move forward on several stalled tax policy issues.

Tax Reform

House Ways and Means Committee Chairman Dave Camp (R-MI) spent 2013 building support for his attempt to rewrite the federal tax code. Chairman Camp's plans have been a long shot from the beginning, with the wide differences between Republicans and Democrats on the issue of new tax revenue seen as a likely insurmountable challenge to tax reform.

Chairman Camp initially had a steadfast partner in former Senate Finance Committee Chairman Max Baucus (D-MT). However, Baucus' early departure from the Senate to take a post as U.S. Ambassador to China threw tax reform's chances into question. Ambassador Baucus' replacement as Chairman, Ron Wyden (D-OR), has said repeatedly

that he wants to focus on other, more immediate tax policy concerns before moving on to a revamp of the tax code.

Chairman Camp released a [comprehensive tax reform proposal](#) in late February, which tackled many tough issues that Republicans have been unwilling to touch in the past. Pro-tax reform groups offered mainly muted support for Camp's ongoing efforts, but quietly grumbled about many of the choices that Camp and his staff had to make in order to meet the goals of revenue and distribution neutrality.

Tax reform is unlikely to advance before the November election, but Camp is expected to hold hearings in his committee to further examine the issues and reactions to his reform plan. Also, as many Republicans feared, Democrats will likely continue to cherry-pick individual provisions of the draft and use them to pay for spending elsewhere. On March 31, Chairman Camp announced that he would not be running for reelection. During his remaining time in the House, Chairman Camp pledged to redouble his efforts to fix the federal tax code. While tax reform will remain a topic of conversation in 2014, it is unlikely that the issue will see any resolution before the new Congress convenes in 2015.

Tax Extenders

Despite the stalled tax reform efforts, tax extenders are seen as a potential item for progress in the coming months. Chairman Wyden has stated his support for the idea of addressing the expired corporate and individual tax provisions before dealing with tax reform at a later date. Chairman Camp initially resisted, preferring to address the expired provisions in the context of a larger, permanent tax reform bill. However, due to the increasing unlikelihood that his tax reform proposal will gain traction this year, Camp has turned some of his Committee's focus to addressing the expired tax extenders. Chairman Camp announced this month in a memo to his members that the Ways and Means Committee will begin holding hearings on renewing tax extenders starting in April.

Chairman Wyden released a draft of his tax extenders plan on April 1 and plans to hold a markup of his [tax extenders bill](#) on April 3. Wyden's proposal would extend all but about a dozen provisions for two years through 2015, although some that were initially excluded are expected to be added back in prior to or during the mark up.

Three major points of contention exist between the House and Senate approaches to tax extenders:

1. Whether to pay for it (Traditionally, tax extenders have not been paid for. Camp may want to try to pay for them this time. Wyden will not.),
2. What to include (Wyden narrowed the number of provision slightly, while Camp may want to address considerably fewer), and

3. For how long (Wyden's bill is a two year extension. Camp wants to make permanent any provisions that he extends.).

Tax extenders have been retroactively renewed in the past (for the prior tax year). For planning purposes, the business community would prefer that Congress resolve the issue sooner in the year rather than later, but most believe that tax extenders will ultimately be a *Lame Duck* exercise.

ISSUE—HEALTHCARE

As in previous months, the battle over the President's signature health reform law dominated discussion in Washington. As Republicans sharpened their attacks on the ACA ahead of the mid-term elections, Democrats were ultimately successful in meeting enrollment goals by March 31.

ACA – The Administration's Enrollment Push

Administration and supporters spent much of March aggressively promoting the ACA ahead of the March 31 deadline to enroll for coverage via the online state and federal exchanges. The White House and the Department of Health and Human Services (HHS) carried out an organized publicity campaign that included everything from encouraging mothers to urge their children to enroll to President Obama's controversial appearance on a satirical web series to plug the healthcare law.

The Administration caused controversy in late March when HHS announced that it was extending the enrollment period past the March 31 deadline for users who had technical difficulties while trying to sign up for coverage. Democrats welcomed the move to allow more time for Americans to enroll while Republicans blasted the decision as another example of mismanagement and skirting around the law by HHS.

Despite low early enrollment numbers at the beginning, early reports indicate that the Administration's enrollment efforts paid off with 7.1 Americans enrolled via the online exchanges. However, there are growing concerns that even after enrolling such a large number of Americans, insurers may still run into difficulties.

The ACA is structured so that coverage does not begin until enrollees pay their first month's premium. Analysts predict that the number of people who both enroll in coverage and pay their first premium is likely to fall far short of the total number of Americans who successfully picked an insurance plan. A large discrepancy between these two figures would likely cause problems for insurers, who require a large and relatively young insurance risk pool in order to spread out the risk of the ACA's expanded coverage requirements. Republicans have also pressured HHS to release data on enrollees who have paid the first month's premium to no avail. HHS has said they do not have reliable data on this yet because the premium is paid to the insurance companies. However, at the end of March, HHS Secretary Kathleen Sebelius said that, based on

conversations with insurers, 80-90 percent of exchange enrollees have paid their first premium.

ACA – Cancelled Plans Extended

The Press discovered this month that an unnoticed technical bulletin released in December actually delayed the individual mandate for some until 2016. The delay allows individuals whose coverage was cancelled to avoid the tax penalty of not complying with the individual mandate for another two years. Republicans heavily criticized the decision and renewed their calls for the Administration to suspend the mandate for all Americans.

In another effort to provide relief to enrollees, the Administration also announced in March that it would provide subsidy assistance in the form of tax credits to eligible individuals who experienced technological difficulties on the federal exchange and were forced to purchase insurance outside of the exchange. The announcement is likely to affect only a small portion of ACA customers.

ACA – HHS Spending Report

The omnibus spending bill that President Obama signed in January of this year contained a provision that required HHS to disclose the amount of funds expended by the department in support of the ACA. To comply, the Administration included the numbers in the President's budget proposal released at the beginning of March. HHS reports that \$1.6 billion was diverted from other departmental programs to support the implementation and marketing of the law. The report failed to provide a detailed account of how the funds were spent, which is likely to lead to more calls from Republicans for greater transparency.

ACA – Electoral Impact

Events in March supported the increasingly accepted notion that the ACA may prove to be a political bomb for Democrats in the upcoming mid-term elections. On March 11, Florida's 13th Congressional District held a special election to fill the seat of the late Rep. Bill Young (R). The race was seen as a barometer for national trends and an opportunity for the parties to fine tune their electoral messages ahead of the November election. Democrats came in with a large advantage with their nominee, former Florida CFO and 2010 gubernatorial nominee Alex Sink. The district went for President Obama in both the 2008 and 2012 presidential elections, and Sink won the district in her failed gubernatorial bid. Republican nominee David Jolly was hampered by his lobbyist past and criticized by some in Washington after running a lackluster campaign. Despite the challenges, including a significant Democratic cash advantage, Jolly defeated Sink and national Democrats on the ACA and successfully, albeit narrowly, captured the seat.

The Republican victory in a seat that was trending Democratic sent shockwaves through progressive circles in Washington and around the country. Sink had run on the standard Democratic playbook of supporting the core of the healthcare law while being open to

slight modifications. Fears have grown among Democratic operatives that the preferred Democratic defense of the ACA may not be adequate enough to convince voters to choose their candidates in November, potentially leading to Republican gains in the House and a Republican takeover in the Senate. The special election has also proven to Republicans that their messaging strategy is resonating with voters, making it more likely that they will increase their attacks on the ACA over the coming months.

Sustainable Growth Rate (“Doc Fix”)

Negotiations on a bill to replace the flawed Sustainable Growth Rate (SGR) formula continued this month. Leaders from both parties have spent months hammering out an agreement to repeal and replace the flawed SGR formula and agreed on compromise legislation that would:

- Repeal the SGR and institute a 0.5 percent payment update for five years;
- Improve the fee-for-service system by streamlining Medicare’s existing web of quality programs into one value-based performance program;
- Incentivize movement to alternative payment models to encourage doctors and providers to focus more on coordination and prevention to improve quality and reduce costs; and
- Make Medicare more transparent by giving patients more access to information and supplying doctors with data they can use to improve care.

While leaders agreed on the substance of the legislation, paying for the bill has consistently been the greatest obstacle throughout negotiations. The issue took on partisan tones in March when House Republicans passed an [SGR bill](#) that was paid for by suspending the ACA’s individual mandate for five years. Though the bill easily passed the House, it stands no chance of passing through the Democratic Senate in its current form. Meanwhile, Senate Republicans—led by Minority Leader Mitch McConnell (R-KY), Minority Whip John Cornyn (R-TX), and Finance Committee Ranking Member Orrin Hatch (R-UT)—introduced their own [measure](#) that is very similar to the House counterpart. Senate Democrats remain united in their support for the individual mandate, and neither bill in its current form will pass Senate.

Republicans and Democrats continued to negotiate behind the scenes to come up with the savings to pay for the SGR repeal and replace bill, but the clock was ticking and they were unable to reach a compromise before the current doc fix expired on March 31, forcing them to produce another short-term patch. The House passed a doc fix [bill](#) on March 27, though both Republican and Democratic leaders angered rank-and-file members of both parties by rushing the legislation through on a surprise voice vote. On March 31, the Senate passed the doc fix bill, hours before the previous extension was set to expire. The bill now goes to the President’s desk for final approval.

ISSUE—TRANSPORTATION

Transportation issues were thrust to the forefront this month, as several reports indicated that the country could face some serious infrastructure challenges in the coming months.

Highway Trust Fund

For months, Congress has witnessed a growing crisis with the Highway Trust Fund (HTF). Declining revenues from fuel taxes has put federal infrastructure funding in serious jeopardy, with the Department of Transportation (DOT) originally estimating that funds would be exhausted by fall 2014. In mid-March, DOT updated its estimation, suggesting the HTF could become insolvent as early as late July.

The announcement sent panic waves through Washington and state governments. At a March 27 hearing before the Senate Environment and Public Works Committee (EPW), several state officials suggested that unless Congress closes the funding gap caused by the exhaustion of HTF funds, they will be forced to cancel or delay critical construction projects, potentially leading to infrastructure degradation and economic shock.

Legislators continue to struggle to find a way forward on HTF funding. Already under pressure to provide a solution, the updated deadline from DOT is likely to make it even more imperative that Congress address the funding shortfall. At the March 27 EPW hearing, Chairman Barbara Boxer (D-CA) and Ranking Member David Vitter (R-LA) were unified in their support for addressing the funding gap. However, partisan differences over where the money should come from will likely make it difficult for lawmakers to reach a compromise.

Surface Transportation and Rail Reauthorization

In addition to the HTF, Congress will also need to address the surface transportation reauthorization. Legislators passed the most recent two-year authorization bill in 2012. Entitled the “Moving Ahead for Progress in the 21st Century Act (MAP-21)”, the law is set to expire on September 31. Transportation leaders in both chambers have held hearings on reauthorization and remain committed to producing a multi-year reauthorization bill before MAP-21 expires. Indeed, the March 27 EPW hearing probed transportation issues and indicated broad bipartisan support for reauthorization, though controversial provisions, like alternative transportation programs, are likely to face partisan scrutiny as the effort moves forward. The White House has also waded into the debate, with DOT Secretary Anthony Foxx promising Congress that the Administration will be sending them their own version of a surface transportation reauthorization bill.

Separately, lawmakers are also moving forward on rail reauthorization. While several leaders, including President Obama, had called for merging the surface transportation and rail reauthorization, key players insisted on keeping the two issues separate. Rep. Jeff Denham (R-CA), the House Transportation and Infrastructure Subcommittee on Railroads Chairman, stated that he did not want rail programs forced to compete with

highway projects for federal funds. As such, he is working with Subcommittee members to produce separate rail reauthorization legislation. In the Senate, Senator Richard Blumenthal (D-CT), who chairs the Senate Commerce Committee's surface transportation subcommittee, is also moving forward on drafting a rail reauthorization bill. Specifically, Chairman Blumenthal is said to be considering the creation of a railroad trust fund or infrastructure bank, though he has denied a desire to increase total spending. Neither chairman has laid out a specific timeline for their respective bills.

Positive Train Control

The debate over the mandatory implementation of positive train control systems, which are designed to automatically slow trains in some situations, continued this month, with Chairman Blumenthal blasting federal agencies for inadequately enforcing the safety requirement. He promised more congressional scrutiny as the December 31, 2015, deadline for full implantation draws nearer.

Conversely, Senator John Thune (R-SD) introduced [legislation](#) last year that would delay the mandate, allowing train operators an additional five years to implement the systems. The Federal Railroad Administration has complained that the current deadline is unworkable, citing the ample amount of time and money required to fully deploy the complex safety systems.

Federal Tolling Policy

March saw increased attention on the issue of tolling. The International Bridge, Tunnel, and Turnpike Association held a conference in D.C. this month during which it spotlighted several tolling and transportation experts. The organization's leaders continue to make the case on Capitol Hill for extending to states tolling authority on existing interstate highways, which is currently prohibited by law. In related news, the Reason Foundation released a [report](#) in March that also seeks to build support for reforming federal tolling policies.

ISSUE—PATENT REFORM

Efforts to reform federal patent laws made little progress in March. In December, the House passed a [bill](#) that would address the issue of patent assertion entities, more commonly known as "patent trolls." The Senate Judiciary Committee was set to take up a similar [bill](#) introduced by Chairman Patrick Leahy (D-VT), but a markup was delayed due to continued policy disagreements between Republicans and Democrats on the Committee. The Chairman stated that he is working to include new language that would assuage Republican doubts, including those related to the bill's treatment of fee shifting and heightened pleading requirements.

ISSUE—MISCELLANEOUS

Several others issues dominated the busy congressional agenda in March.

Ukraine

By far, the developing international situation in Ukraine captured the majority of Washington's attention throughout March. Following the public ousting of the pro-Russian president of Ukraine, Russian forces mobilized military forces, moving them into the Ukrainian-held Crimean Peninsula. Under the auspices of protecting Russian citizens living in Crimea, Russian forces gained control of the Peninsula, which was followed by a public referendum in which the Crimean electorate overwhelmingly voted to sever ties with Ukraine and be absorbed into Russia. Despite international protests claiming the referendum was illegal and fraudulent, Russian President Vladimir Putin officially recognized Crimea as a part of the Russian Federation.

The global community reacted swiftly but cautiously. Western leaders condemned the Russian aggression. Subsequently, the United States and European nations imposed economic and travel sanctions on high profile Russian officials and businessmen. Moreover, several leaders who were to attend the G-8 Summit in Russia decided to boycott the event and Russian participation, choosing instead to convene a G-7 Summit in Brussels.

Despite the quick economic response, President Obama and other world leaders have rejected calls to provide military support to Ukraine, even as Russian forces increase their presence on the eastern Ukrainian border. Several Republicans, including Senators John McCain (R-AZ) and Lindsey Graham (R-SC), have advocated for a more aggressive response, but for now, the President does not seem willing to budge from his non-interventionist position.

Congress also took action. A [bill](#) was introduced that would provide aid to the Ukrainian government in the form of cost of loan guarantees. The measure was delayed after Senate Republicans objected to the inclusion of somewhat unrelated legislative language that would ratify an international treaty to reform U.S. participation in the International Monetary Fund (IMF). Republicans were wary of the proposal's effect on American taxpayers. In a bid to expedite the bill's passage, Senate Majority Leader Harry Reid (D-NV) stripped out the language. The move secured safe passage for the aid package, with the Senate overwhelmingly approving the measure on March 27. The House is expected to follow suit on April 1.

Unemployment Insurance

Senate Democrats continued to push this month for an extension of long-term unemployment insurance. At the end of 2013, long-term unemployment benefits expired, leaving many jobless Americans with only regular, short-term unemployment benefits to support them. Lawmakers have struggled for months to reach an agreement to renew the long-term benefits. Democrats are strongly in favor of an extension and

have harshly criticized Republicans for blocking their jobless aid measures. Republicans, however, continue to demand reforms to the unemployment system and believe Democratic proposals fall far short in making the necessary changes.

A bipartisan group of senators reached an agreement on a compromise plan to extend these benefits at a cost of nearly \$10 billion, which would be offset by extending fees on goods imported through U.S. Customs as well as changes to federal pension laws. The bill is expected to pass the Senate this week.

While the bill continues to wind its way through the Senate, its prospects in the House are dim. Speaker John Boehner (R-OH) has sharply criticized the bill for insufficiently finding offsetting cuts to pay for the bill and cited statements for state workforce directors that claim it would be difficult to administer the retroactive nature of the bill's extension of benefits.

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Rasmussen Reports	March 31	Approve 48, Disapprove 51
Gallup	March 31	Approve 44, Disapprove 51
Economist/YouGov	March 24	Approve 44 Disapprove 53

Job Approval: Congress

Poll	Date	Results
Economist/YouGov	March 24	Approve 9, Disapprove 69
CBS News	March 23	Approve 18, Disapprove 76
GWU/Battleground	March 20	Approve 13, Disapprove 82

Generic Congressional Ballot

Poll	Date	Results
Rasmussen	March 30	Democrats 39, Republicans 38
CBS News	March 23	Democrats 39, Republicans 39
GWU/Battleground	March 20	Democrats 43, Republicans 43

Public Approval of Health Care Law

	Date	Results
ABC News/Wash Post	March 30	Support 48, Oppose 50
Fox News	March 25	Support 40, Oppose 56
Associated Press/GfK	March 24	Support 26, Oppose 43