Weekly Legislative Update
Week of February 2, 2015

Congressional Outlook

Week of February 2nd

The House and Senate are in session this week. President Obama unveiled his fiscal year 2016 budget proposal today and cabinet members will be on Capitol Hill this week to discuss their respective department budget proposals. The nearly $4 trillion budget proposal will increase discretionary spending by as much as 7 percent and end sequestration for both defense and non-defense discretionary programs.

Tomorrow the House is expected to vote on repealing the Affordable Care Act. The chamber has voted to repeal, weaken or defund the 2010 health care law more than 50 times. As in the past, the legislation stands no chance of becoming law, with President Obama saying he will veto it.

The Senate will vote tomorrow on a motion to proceed on House-passed legislation that would fund the Homeland Security Department through September 30. At issue are provisions that would bar the President from using any funds to delay deportation of as many as 5 million undocumented immigrants. Democrats likely have enough votes to block the legislation's progress.

On Wednesday, the House Transportation and Infrastructure and Senate Environment and Public Works Committees will hold a joint hearing on the “Impacts of the Proposed Waters of the United States Rule on State and Local Governments.” In April 2014, the Environmental Protection Agency and the Army Corps of Engineers issued a proposed “Waters of the United States” rule that would broaden the scope of the Clean Water Act and alter a long-standing federal-state partnership to regulate waters. The hearing will examine the potential impacts of the proposed rule on state and local governments.

Week in Review

Keystone Passes the Senate
On Thursday, the Senate passed legislation approving the Keystone XL pipeline with a vote of 62-36 - nine Democrats supported the measure. House Republicans must now decide whether to vote on the Senate bill or start talks to merge it with their bill that passed earlier this month. The White House stands by its threat to veto any Keystone legislation, which still lacks enough House and Senate support to override a veto.

**Bipartisan Senate Bill to Help Pay for Transportation Reauthorization**

Last week, Senators Rand Paul (R-KY) and Barbara Boxer (D-CA) announced that they will be introducing the "Invest in Transportation Act of 2015," which would allow U.S. companies to bring home their foreign-based revenue at a 6.5% tax rate. Under current law, U.S. companies must pay a 35% tax rate when they bring home profits from overseas and it is estimated that U.S. companies have stockpiled about $2 trillion outside the country. All tax revenues from the repatriation program would be transferred into the Highway Trust Fund, but the rub is that the Joint Committee on Taxation has calculated that a similar proposal would eventually cost the feds about $90 billion over 10 years.

**Conservative Groups Say No to Gas Tax Hike**

Fifty conservative groups signed and sent a letter to Members of Congress opposing a hike in the 18.4 cents-per-gallon federal gas tax. "Not only is increasing the gas tax an ineffective way to address the nation's transportation infrastructure needs, it would further increase the burden of government on families and business - and would disproportionately hurt lower income Americans already hurt by trying times in our economy," the groups wrote. "A higher gas tax means higher prices not just on gas, but on goods and services throughout the economy. These increased costs would inevitably be passed down to consumers, resulting in a regressive tax hike on middle- and lower-income Americans.

The letter also attacks diversions away from the Highway Trust Fund and Davis-Bacon rules that require construction workers on federal projects to be paid the prevailing wage. The groups claim lower gas prices will give families an additional $100 year, creating $100 billion in economic growth.

**President Releases Executive Order on New Resilience Standard**

On Friday, President Obama issued an Executive Order that would implement a new flood risk management standard for new and rebuilt federally funded structures in and around floodplains. The White House says that the new resilience standard will help ensure taxpayer dollars are well spent on infrastructure that can better withstand the impacts of flooding. For more, click here.

**Supreme Court: City Council Minutes OK for Cell Tower Rejection Explanation**

In a 6-3 decision, the Supreme Court affirmed in *T-Mobile South v. City of Roswell* that local governments must, according to the Telecommunications Act, provide a written explanation when denying an application to build a cell phone tower. Roswell, GA had provided this explanation in the form of city council minutes for a meeting where the application by T-Mobile to construct a cell tower in a residential area was discussed and voted down. The Court ruled that the use of
city council minutes is permissible; however, because wireless providers have only 30 days to seek judicial review of a denial, the council minutes- or any other form of written explanation- must be provided at essentially the same time as the denial of the application. In the dissenting opinion, Chief Justice John Roberts says that this "could be a trap for the unwary hamlet or two," as many towns that issue city council minutes do so with a delay. Read more...

**Land and Water Conservation Fund Reauthorization Fails by One Vote in the Senate**

Last week, the Senate came within one vote of passing an amendment to the Keystone XL bill by Sen. Richard Burr (R-NC) that would have permanently reauthorized the Land and Water Conservation Fund (LWCF), which is set to expire in September, while also ensuring a small portion of funds would be used to increase recreational access to public lands. The proposed amendment at one point had 62 yes votes, enough to attach it to S. 1, the bill to approve the Keystone XL pipeline. But Sens. Jerry Moran (R-KS), David Perdue (R-GA) and Johnny Isakson (R-GA) changed their votes to "no" before the roll call concluded. The measure needed 60 yes votes to move forward on S.1, but ultimately failed on a 59-39 vote. It was unclear why Moran, Perdue and Isakson changed their votes, although there was speculation that including the LWCF reauthorization would not have been approved when S.1 moves over to the House, either for a vote or a conference with the House-passed version of the Keystone bill.

**Legislation to Reform FWS ESA Settlements - Listing Process Introduced in the Senate**

Last week, Sen. John Cornyn (R-TX) and 13 Senate cosponsors introduced the "Endangered Species Act Settlement Reform Act" as S.293. While the text of the bill has not yet been released, the language is expected to be similar to the bill Sen. Cornyn introduced last Congress (and died in committee), which would require the Department of the Interior to provide notification of when ESA suits are filed and would set a lower standard for when outside groups can intervene, allowing more input from the intervenors when the Fish and Wildlife Service (FWS) moved to settle litigation. The bill would also require judges, prior to approving such settlements, to obtain consent from local governments affected by a settlement, direct the FWS to provide notice of any proposed settlements to states involved, and limit federal payment of attorney fees to plaintiffs involved in ESA litigation. A companion to the endangered species settlements bill, H.R. 585, was introduced the same day by Rep. Bill Flores (R-TX). It has five co-sponsors so far, all of whom are Republican.

Another bill introduced last week by Sen. Cornyn, the "21st Century Endangered Species Transparency Act," or S. 292, would require the Interior and Commerce Secretaries to publish any scientific and commercial data online that are used for listing and delisting species protected by the ESA, but would prohibit the posting of landowners' personal information. The ESA transparency bill was also introduced in the last Congress, and has 11 Republican co-sponsors. Environmentalists were not supportive of either bill, describing them as unnecessary and dangerous to species that are close to extinction.

**What To Expect in February**

Last week, House Majority Leader Kevin McCarthy (R-CA) released a memo containing the House's February floor agenda, which will include:

- A bill to make permanent provisions of the tax code related to charitable giving - tax-free distributions from IRAs for charitable purposes, donation of real property for
conservation, and enhanced deductions for the contributions of food inventory;
• A bill to make permanent the increased expensing benefits for small businesses (Section 179);
• An anti-Common Core bill combined with a bill to replicate high-performing charter schools; and
• A bill prohibiting the taxing of Section 529 college saving accounts.

Congressional Schedule

Monday, February 2

• House Rules Full Committee business meeting on H.R. 596, to repeal the Patient Protection and Affordable Care Act and health care related provisions in the Health Care and Education Reconciliation Act of 2010, and for other purposes.

Tuesday, February 3

• House Ways and Means Full Committee hearing on the President's Fiscal Year 2016 budget proposal with U.S. Department of the Treasury Secretary Jacob J. Lew.
• House Transportation and Infrastructure Committee Subcommittee on Railroads, Pipelines, and Hazardous Materials hearing on "How the Changing Energy Markets Will Affect U.S. Transportation."
• House Science, Space, and Technology Committee Subcommittee on Oversight hearing on the "NSFs Oversight of the NEON Project and other Major Research Facilities Developed under Cooperative Agreements."
• House Judiciary Full Committee hearing "Examining the Adequacy and Enforcement of Our Nations Immigration Laws."
• House Homeland Security Committee Subcommittee on Transportation Security hearing to review access control measures at our nation's airports.
• House Rules Full Committee hearing on H.R. 50, the Unfunded Mandates Information and Transparency Act of 2015, and H.R. 527, the Small Business Regulatory Flexibility Improvements Act of 2015.
• Senate Budget Full Committee hearing on the President's FY 2016 budget.
• Senate Health, Education, Labor and Pensions hearings to examine No Child Left Behind, focusing on innovation to meet the needs of students.

Wednesday, February 4

• House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee Joint Hearing on "Impacts of the Proposed Water of the United States Rule on State and Local Governments."
• House Budget Full Committee hearing on the President's FY 2016 budget with OMB Director Shaun Donovan.
• Senate Armed Services Full Committee hearing to examine the nomination of Ashton Carter to be Secretary of Defense.
• Senate Commerce, Science, and Transportation hearing to examine private sector experience with the National Institute of Standards and Technology (NIST) framework, focusing on building a more secure cyber future.
- Senate Finance Full Committee hearing to examine the President's proposed budget request for FY 2016.
- Senate Homeland Security and Governmental Affairs Full Committee hearing to examine deferred action on immigration, focusing on implications and unanswered questions.
- Senate Commerce, Science, and Transportation Committee Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard hearing to examine the impacts of vessel discharge regulations on shipping and fishing industries.
- Senate Armed Services Full Committee hearing to examine the Guantanamo detention facility and the future of United States detention policy.

**Thursday, February 5**

- House Energy and Commerce Committee Subcommittee on Environment and the Economy hearing on H.R. 212, the Drinking Water Protection Act.
- Senate Armed Services Full Committee hearing to examine the Guantanamo detention facility and the future of United States detention policy.
- Senate Finance Full Committee hearing to examine the President's proposed budget request for FY 2016.