Congressional Outlook

Week of February 9th

The House and Senate are in session this week. The House will debate 2 tax bills: H.R. 644 would permanently renew tax credits for charitable giving, including contributions of food inventory and allowing tax-free distributions from individual retirement accounts for charitable purposes; and H.R. 636 would extend tax breaks for small businesses, like the Section 179 credit that allows businesses to write off certain expenses. The House will also take up the Senate's version of the Keystone XL Pipeline bill, and send the bill to President Obama for an expected veto.

Week in Review

Obama's FY 2016 Budget Proposal Released

President Obama sent to Capitol Hill last week a $3.99 trillion budget proposal for fiscal year 2016. The budget proposes $1.091 billion in discretionary spending. It would fully reverse the sequester and increase non-defense spending from $493 billion to $530 billion. Defense spending would increase from $523 billion to $561 billion. The budget proposes to pay for the additional discretionary spending through a number of mandatory and discretionary spending reductions and changes to the tax code.

Major spending proposals in the president's budget are $277 billion in new or expanded tax breaks aimed at the middle class, as well as $478 billion to repair the nation's crumbling
transportation infrastructure. Notable spending reductions include saving $382 million by retiring
the A-10 Warthog aircraft; cutting $450 million in grants to airports; cutting $200 million from
Community Development Block Grants; and spending $223 million less in FY 2016 by
consolidating National Preparedness Grants. On the mandatory side, the president proposes to
cut $16 billion over 10 years from crop-insurance payments.

Tax Proposals
The tax credit proposals include a child care tax credit of up to $3,000, a college tax credit of up
to $2,500, a second-earner credit of up to $500, and an expanded Earned Income Tax Credit for
workers without children. These credits are estimated to provide an average benefit of $600 per
household and would be paid for by a proposal unveiled in January to increase the capital gains
tax rate, close the so-called trust fund loophole and impose a fee on the nation's largest financial
firms. The budget also includes a proposal to cap tax-exempt municipal bonds at 28 percent for
high-income earners. (A recent study showed that the 28 percent cap would have cost state and
local governments an additional $173 billion over the last decade.)

Transportation Proposal
Approximately half of the six-year, $478 billion transportation infrastructure proposal would be
paid for under the existing Highway Trust Fund, which cannot fund current needs, much less the
expanded proposals from the president. The other half would come from a new proposal by the
president to collect one-time transition revenue from changes to the business tax code. The
president is proposing a 14 percent transition tax on the up to $2 trillion of untaxed foreign
earnings that U.S. companies have already accumulated overseas. The budget would take the
$238 billion raised from the tax and invest it in infrastructure.

For budget highlights of select agencies, click here.

No Resolution on Homeland Security Funding for Remainder of FY 2015

The Senate ground to a halt last week after voting no less than 3 times to break a Democrat-led
filibuster against proceeding to the House version of the FY 2015 Homeland Security
Appropriations bill (containing language to stop the President's actions on immigration), despite
an attempt by Senator Susan Collins (R-ME) to broker a compromise. This week the Senate will
take up the nomination of acting White House Drug Czar Michael Botticelli (who on Friday said
that DC should be allowed to make its own rules on legalizing marijuana), and may continue to
work to find a way to break the impasse on the Homeland Security Appropriations bill - current
funding for the Department expires on February 27.

EPA Plans CWA WOTUS Rule Changes to Revise Exclusions, 'Tributary' Definition

Last Wednesday, a rare joint hearing held by the Senate Environment and Public Works (EPW)
and the House Transportation and Infrastructure (T&I) Committees on the state and local impacts
associated with the proposed rule over what "waters of the U.S." (WOTUS) are jurisdictional
under the Clean Water Act (CWA). During a 3 ½ hour questioning of EPA Administrator Gina
McCarthy and Assistant Secretary of the Army for Civil Works Jo-Ellen Darcy, the EPA
Administrator said that the EPA is planning several revisions to the controversial proposed rule,
including expanding exclusions from the law to include stormwater infrastructure and other
features. EPA is also rewriting its definition of a "tributary" subject to the CWA in order to resolve
uncertainty on the term when dealing with situations such as agricultural erosional features,
ditches and drains, and ephemeral streams.
The agencies are currently reviewing more than 800,000 comments received on the proposed version of the rule. Lawmakers participating in the hearing remained skeptical as to whether EPA and the Corps would be able to address the massive number of comments adequately and still make the agencies' self-imposed April 2015 deadline for a final rule. EPA Administrator McCarthy suggested that a need to fully vet the hundreds of thousands of comments on the proposed rule could mean that the EPA could slip beyond its non-binding April deadline for issuing a final rule until an unspecified time in the spring.

**EPA, Corps Formally Withdraw CWA 'Interpretive' Rule**

The Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) have issued a memorandum formally withdrawing their contested joint "interpretive" rule aimed at clarifying 56 agricultural conservation practices exempt from Clean Water Act (CWA) permits, after Congress inserted language in the fiscal year FY2015 CRomnibus law that forced the agencies to scrap the regulation. The January 29 memo, signed by EPA Deputy Assistant Administrator for Water Ken Kopocis and U.S. Department of the Army Assistant Secretary for Civil Works Jo-Ellen Darcy, says that the interpretive rule published March 25 is withdrawn "[e]ffective immediately" in line with the FY15 law's mandate. A related memorandum of understanding that the two agencies signed March 24, 2014 with the U.S. Department of Agriculture on how to implement the rule is also withdrawn, according to the new memo. The EPA/Corps draft rule defining federal jurisdiction over "waters of the U.S." (WOTUS) was not impacted by the withdrawal of the interpretive rule and is still expected to be finalized sometime this year.

**House Passes Regulatory Reform Bill - White House Veto Threatened**

The House last week passed legislation that would require federal agencies to adopt more stringent reviews of proposed regulations. H.R. 50, known as the "Unfunded Mandates Information and Transparency Act of 2015," passed on a 250-173 vote. The legislation moved largely on party lines, with only nine Democrats voting for the bill and Republicans voting unanimously for it. The bill would place several new requirements on agencies, such as assessing alternatives to proposed rules, as well as doing more reviews of regulations as they are being crafted. The Obama Administration issued a veto threat on the bill earlier in the week.

**EAB Backs EPA's CWA Permitting Authority for 'Satellite' Sewer Systems**

EPA's Environmental Appeals Board (EAB) in a new order is backing the agency's authority to require Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) discharge permits for municipal "satellite" sanitary sewer systems that collect wastewater from different entities and send it on to treatment plants, years after EPA dropped plans for a satellite sewer system CWA rule.

The EAB upheld in its order a NPDES permit crafted by EPA Region 1 for the Charles River Publicly Owned Treatment Works (POTW) that requires the four Massachusetts towns to upgrade their sewer infrastructure to prevent permit exceedances in wet weather conditions. It rejected arguments from the towns that their sewer systems are legally separate from the POTW, and that their transfers of wastewater to the treatment plant are not "discharges" subject to permit requirements under the CWA. The towns could now appeal the order to federal appeals court.

**Bill Would Require Notification for Food Produced on**
'Sewage Sludge' Land

Rep. José Serrano (D-NY) reintroduced a bill last week that would ensure that consumers are notified when their meat, chicken or produce was raised or grown on land where sewage sludge was applied. Sewage sludge, known as "biosolids" in the industry, is the solid material from a wastewater treatment plant that is often used as a fertilizer in fields. H.R. 737 would amend the Food, Drug and Cosmetic Act to require labels on food produced with biosolids, effectively banning the practice. Biosolids proponents say the practice is safe if operators follow EPA rules; however, a U.S. Geological Survey study last year found that the use of sewage sludge could introduce prescription drugs and other contaminants into the soil.

New Executive Order to Strengthen Flood Risk Standard for Federally Funded Projects

On January 30, President Obama issued Executive Order 13690, "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input." The order creates a new Federal Flood Risk Standard, which will require future Federally-funded investments in and around floodplains to adopt higher flood standards. By improving the resiliency of federally-funded projects, the new Standard will support efforts by local governments across the country that have strengthened their own floodplain management standards to protect their communities from future flood events.

Prior to implementation, the Administration is accepting public comments until April 6, 2015 on a draft version of the Federal Flood Risk Management Standard Implementing Guidelines. The Federal Emergency Management Agency (FEMA) will be hosting a series of listening sessions to further ensure stakeholder input in gathered. Please visit the Federal Flood Risk Management Standard (FFRMS) webpage at FEMA for more information on how to submit public comments. This webpage will also post the locations and times of the listening session once they are announced.

Congressional Schedule

Tuesday, February 10

- House Rules Full Committee business meeting on the following measures: S.1, the Keystone XL Pipeline Approval Act; H.R. 636, Americas Small Business Tax Relief Act of 2015; H.R. 644, the Fighting Hunger Incentive Act of 2015; and the Oversight Plan of the Rules Committee for the 114th Congress.
- Senate Banking, Housing, and Urban Affairs Full Committee hearing to examine regulatory relief for community banks and credit unions.
- Senate Commerce, Science, and Transportation Committee Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security hearing to examine keeping goods moving.
- Senate Health, Education, Labor and Pensions Full Committee hearing to examine the reemergence of vaccine-preventable diseases, focusing on exploring the public health successes and challenges.
**Wednesday, February 11**

- House Financial Services Full Committee hearing on "The Future of Housing in America: Oversight of the Federal Housing Administration."
- House Homeland Security Full Committee hearing on "Countering Violent Islamist Extremism: The Urgent Threat of Foreign Fighters and Homegrown Terror."
- House Transportation and Infrastructure Full Committee hearing on "Surface Transportation Reauthorization Bill: Laying the Foundation for U.S. Economic Growth and Job Creation Part I."
- House Education and Workforce Full Committee markup of H.R. 5, the Student Success Act.
- House Agriculture Committee hearing to review the state of the rural economy.
- House Energy and Commerce Committee Subcommittee on Health hearing examining ICD-10 implementation.
- House Judiciary Committee Subcommittee on Immigration and Border Security Hearing on the following measures: H.R.____, to improve immigration law enforcement within the interior of the United States, and for other purposes; H.R.____, to modify the treatment of unaccompanied alien children who are in Federal custody by reason of their immigration status, and for other purposes; and, H.R.____, to amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to provide for the expedited removal of unaccompanied alien children who are not victims of a severe form of trafficking in persons and who do not have a fear of returning to their country of nationality or last habitual residence, and for other purposes. House Energy and Commerce Committee Subcommittee on Energy and Power hearing on FY 2016 Department of Energy Budget.
- Senate Environment and Public Works Full Committee oversight hearing to examine the EPA's proposed carbon dioxide emissions rules from new, modified, and existing power plants.
- Senate Homeland Security Full Committee hearing to examine the GAO's 2015 list of high risk government programs.

**Thursday, February 12**

- House Agriculture Full Committee business meeting to consider the budget views and estimates letter of the Committee on Agriculture for the agencies and programs under the jurisdiction of the Committee for FY 206 and other organizational matters.
- House Science, Space and Technology Committee Subcommittee on Environment hearing on "Bridging the Gap: Americas Weather Satellites and Weather Forecasting."
- House Education and the Workforce Committee Subcommittee on Early Childhood, Elementary, and Secondary Education hearing on "How Emerging Technology Affect Student Privacy."
- House Science, Space and Technology Committee Subcommittee on Research and Technology hearing on "Can Americans Trust the Privacy and Security of their Information on HealthCare.gov?"
- House Appropriations Committee Subcommittee on Agriculture, Rural Development,

- Senate Energy and Natural Resources Full Committee hearing to examine the President's proposed budget request for FY 2016 for the Department of Energy.
- Senate Rules and Administration Full Committee business meeting to markup the Omnibus Budget resolution for Senate committee for the period March 1, 2015 through February 28, 2017 and an original resolution to amend Rule XXII of the Standing Rules of the Senate.

**Friday, February 13**