Weekly Legislative Update
Week of March 2, 2015

Congressional Outlook

Week of March 2nd

The House and Senate are in session this week. Congress has until Friday to pass the FY 15 Department of Homeland Security Appropriations Bill after a one-week stopgap measure was passed last week to avert a partial shutdown. The Senate scheduled a vote for Monday night to end a filibuster on the House's request to conference the bill, however Senate Democrats are expected to block the effort. Lawmakers have just five more days to resolve the impasse created by House language that overturns President Obama's executive orders on immigration that allow as many as 5 million undocumented immigrants to stay in the U.S.

On Tuesday, Israeli Prime Minister Benjamin Netanyahu will address a joint meeting of Congress, an event that has drawn criticism from the White House and Democrats. Vice President Joe Biden and over a dozen Congressional Democrats will not attend the planned speech in an effort to show their disapproval of House leadership and Prime Minister Netanyahu's lack of consultation with the White House about the event.

This week the Senate is expected to vote on overriding Obama's Presidential veto of the Keystone XL pipeline bill. If all members vote, the Senate will need 67 votes to override the veto, a grim outlook for supporters who will need to turn several votes in order to meet the threshold. The cloture vote is expected Wednesday and the final vote is expected Thursday.

The House will have a busy week considering rail legislation and two EPA reform bills. The $7.8 billion four-year Amtrak and rail reauthorization would provide a slight increase from the present levels of funding. The House will also consider two EPA bills that would reform the EPA's science used to support agency regulatory actions. H.R. 1030 seeks to reform so-called "secret science" used in furthering EPA regulations, while the other, H.R. 1029, would reform the agency's Science Advisory Board.

On Wednesday, the Supreme Court will hear arguments on the latest Affordable Care Act
litigation, King v. Burwell. This case will determine if subsidies paid to lower-income American's by the federal government are permitted in all states or only in states that have established their own health care exchanges.

Week in Review

Department of Homeland Security Barely Averts a Shutdown

Hours before the midnight deadline last Friday, the House of Representatives, with support from Democrats, voted 357-60 in favor of a one-week stopgap funding bill for the Department of Homeland Security (DHS) that punts a fight over immigration into this week (The measure was attached as an amendment to H.R. 33, the Protecting Volunteer Firefighters and Emergency Responders Act.) The Senate unanimously passed the bill and the President signed the measure into law. Hours earlier, the House had failed to pass a three-week stopgap funding bill, throwing efforts to avoid a shutdown into disarray. The vote was 203-224. The Senate passed a measure to fund the agency through September earlier in the day. House Republicans said they won't take up that plan because it doesn't seek to block the President's orders on immigration as the House majority seeks to do.

Also earlier on Friday, the Senate failed to advance legislation from Sen. Susan Collins (R-ME) that would overturn the President's immigration actions. The vote was 57-42. Democrats blocked the measure because they did not want to debate it until the House passed a clean funding bill for DHS through the end of the fiscal year.

House Agriculture Committee Reviewing Food Stamp Program

Last week, the House Agriculture Committee held a series of hearings to review the "past, present and future" of the $74 billion Supplemental Nutrition Assistance Program, or SNAP. This program grew from a pilot program serving 500,000 people in 1964 to 47 million during the most recent recession. Lawmakers heard that caseloads have dropped 11 percent in the last year as the economy improves, setting the stage for possible program cuts. Read more...

85 Cities Sign Up for Administration's Pedestrian Safety Challenge

Mayors from 85 communities around the country have signed up for DOT's project aiming to increase pedestrian safety. The cities range from metropolises like New York, NY, car-reliant cities like Orlando, FL, college towns like Ithaca, NY, and tiny towns like West Simsbury, CT. The mayors will participate in a pedestrian safety summit on March 12 before the "Mayors' Challenge for Safer People and Safer Streets" begins. A list of participating communities can be found here.

FCC Rules on Net Neutrality, Municipal Broadband
Last Thursday, the FCC Board voted to approve Chairman Tom Wheeler’s net neutrality proposal. The rule, called the Open Internet Order, reclassifies broadband internet service as a telecommunications service that the FCC can regulate under Title II of the Communications Act. The order: Prohibits ISPs from blocking, slowing, or prioritizing any lawful internet traffic beyond the needs of reasonable network management; creates new transparency and disclosure requirements regarding fees and network performance and management; and establishes an enforcement process based on investigations of consumer complaints. The FCC will forbear from applying most sections of Title II to broadband, including Universal Service Fees (USF), and utility-style rate regulations and last-mile unbundling. The full text of the Open Internet Order is not public yet, but the FCC’s press release and overview of the rule can be viewed here.

The FCC also voted to preempt laws in two states that restrict municipal broadband services, using its power under Section 706 of Telecommunications Act to remove barriers to broadband investment in competition. The ruling came after Wilson, North Carolina and Chattanooga, Tennessee filed petitions to the FCC over state laws that prevented them from expanding their broadband services to nearby communities. Around twenty other states have similar restrictions or complete bans on municipal broadband, and while this ruling does not affect those states directly, it does provide precedent for communities wishing to build or expand their own broadband networks. However, Republican lawmakers introduced a bill shortly after the ruling that would prevent the FCC from preempting state municipal broadband laws.

**EPA Plans to Finalize CWA WOTUS Rule in 2015**

At last week’s House Interior and Environment Appropriations Subcommittee hearing, EPA Administrator Gina McCarthy stated that the agency plans to finalize their controversial proposed “waters of the U.S.” (WOTUS) rule under the Clean Water Act (CWA) this year, possibly by June (slightly delayed from EPA’s original goal of April). The statement was made despite criticisms that major potential changes to the draft rule may warrant a re-proposed rule requiring a new public comment process under the federal Administrative Procedures Act (APA). However, Administrator McCarthy said that the agency is not planning revisions that would rise to the level of requiring a new rule.

The Obama Administration may have relatively broad discretion, under a 1987 U.S. Court of Appeals for the District of Columbia Circuit ruling in Natural Resources Defense Council v. EPA, in deciding whether or not to re-propose the regulation. That appellate decision allows agencies to finalize substantial changes to a draft rule provided they can show that the revisions represent a ‘logical outgrowth’ from the proposal and public comments. The EPA and the U.S. Army Corps of Engineers received almost one million comments on the proposed WOTUS rule. The WOTUS regulation is designed to resolve confusion over the CWA’s scope in the wake of Supreme Court decisions that created competing tests for determining when waters are subject to regulation.

### Congressional Schedule

**Monday, March 2**

- House Rules Full Committee business meeting on H.R. 749, the Passenger Rail Reform
and Investment Act of 2015.

Tuesday, March 3

- House Appropriations Committee Subcommittee on Labor, Health and Human Services, Education, and Related Agencies budget hearing on the National Institutes of Health.
- House Transportation and Infrastructure Committee Subcommittee on Aviation hearing on the "Federal Aviation Administration Reauthorization: Enabling a 21st Century Aviation System."
- House Armed Services Full Committee hearing on "The President's Proposed Authorization for the Use of Military Force against ISIL and U.S. Policy Strategy and Posture in the Greater Middle East."
- House Judiciary Full Committee markup of the following measures: H.R. 1147, the "Legal Workforce Act"; H.R. 1149, the "Protection of Children Act of 2015"; H.R. 1153, the "Asylum Reform and Border Protection Act of 2015"; and H.R. 1148, the "Michael Davis, Jr. in Honor of State and Local Law Enforcement Act" (Part 1)
- House Appropriations Committee Subcommittee on Military Construction, Veterans Affairs, and Related Agencies budget hearing on "Installations, Environment, Energy and BRAC."
- House Energy and Commerce Committee Subcommittee on Oversight and Investigations hearing on "Understanding the Cyber Threat and Implications for the 21st Century Economy."
- House Appropriations Committee Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies budget hearing on Agriculture Marketing and Regulatory Programs.
- House Rules Full Committee business meeting on H.R. 1029, the "EPA Advisory Board Reform Act of 2015" and H.R. 1030, the "Secret Science Reform Act of 2015."
- Senate Commerce, Science, and Transportation Full Committee hearing to examine the President's proposed budget request for FY 2016 for the Department of Commerce and the Department of Transportation.
- Senate Judiciary Committee Subcommittee on Immigration and the National Interest oversight hearing on examine U.S. citizenship and immigration services, focusing on ensuring agency priorities comply with the law.

Wednesday, March 4

- House Appropriations Committee Subcommittee on Military Construction, Veterans Affairs, and Related Agencies budget hearing on the Department of Veterans Affairs.
- House and Senate Veteran's Affairs Full Committee Joint hearing to receive the Legislative Presentation of the Veteran's of Foreign Wars.
- House Judiciary Full Committee markup of the following measures: H.R. 1147, the "Legal Workforce Act"; H.R. 1149, the "Protection of Children Act of 2015"; H.R. 1153, the
“Asylum Reform and Border Protection Act of 2015”; and H.R. 1148, the "Michael Davis, Jr. in Honor of State and Local Law Enforcement Act" (Part 2).

- House Appropriations Committee Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies budget hearing on the Food and Drug Administration.
- House Appropriations Committee Subcommittee on Defense budget hearing on the Department of Defense.
- House Appropriations Committee Subcommittee on Labor, Health and Human Services, Education, and Related Agencies budget hearing on the Department of Education.
- House Energy and Commerce Committee Subcommittee on Communications and Technology hearing on the reauthorization of the FCC: The FCC’s FY 2016 budget request.
- House Small Business Full Committee hearing on "Building an Opportunity Economy: State of Small Business and Entrepreneurship."
- Senate Environment and Public Works Full Committee oversight hearing to examine the President's proposed budget request for FY 2016 for the Environmental Protection Agency.
- Senate Appropriations Committee Subcommittee on the Department of the Interior, Environment, and Related Agencies hearing to examine proposed budget estimates and justifications for FY 2016 for the Department of the Interior.
- Senate Commerce, Science and Transportation Committee Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security hearing to examine surface transportation reauthorization, focusing on oversight and reform of the Federal Motor Carrier Safety Administration.
- Senate Homeland Security and Government Affairs Full Committee business meeting on the following measures: S.280, to improve the efficiency, management, and interagency coordination of the Federal permitting process through reforms overseen by the Director of the Office of Management and Budget; “Inspector General Empowerment Act of 2015”; H.R.460, to direct the Secretary of Homeland Security to train Department of Homeland Security personnel how to effectively deter, detect, disrupt, and prevent human trafficking during the course of their primary roles and responsibilities; “Federal Improper Payments Coordination Act”; “Presidential Library Donations Act”; “Federal Vehicle Repair Costs Savings Act”; S.546, to establish the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation (RESPONSE) Subcommittee under the Federal Emergency Management Agency's National Advisory Council to provide recommendations on emergency responder training and resources relating to hazardous materials incidents involving railroads; S.242, to amend title 5, United States Code, to provide leave to any new Federal employee who is a veteran with a service-connected disability rated at 30 percent or more for purposes of undergoing medical treatment for such disability; S.86, to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns; and S.136, to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligible’s for treatment in the civil service.
- Senate Budget Full Committee hearing to examine wasteful duplication in the federal government.
- Joint Economic Committee hearing to examine the Economic Report of the President for
Thursday, March 5

- House Natural Resources Full Committee oversight hearing on "Examining the Department of the Interior's Spending Priorities and the President's Fiscal Year 2016 budget proposal."
- House Appropriations Committee Subcommittee on Interior, Environment, and Related Agencies budget hearing on the National Parks Service.
- House Agriculture Committee Subcommittee on Conservation and Forestry hearing to review the definition of "Water of the U.S." proposed rule and its impact on rural America.
- House Appropriations Committee Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies budget hearing on the Department of Agriculture research agencies.
- House Small Business Committee Subcommittee on Economic Growth, Tax and Capital Access hearing on "Improving Capital Access Programs within the Small Business Administration."
- Senate Health, Education, Labor and Pensions Full Committee hearing to examine America's health information technology transformation, focusing on translating the promise of electronic health records into better care.