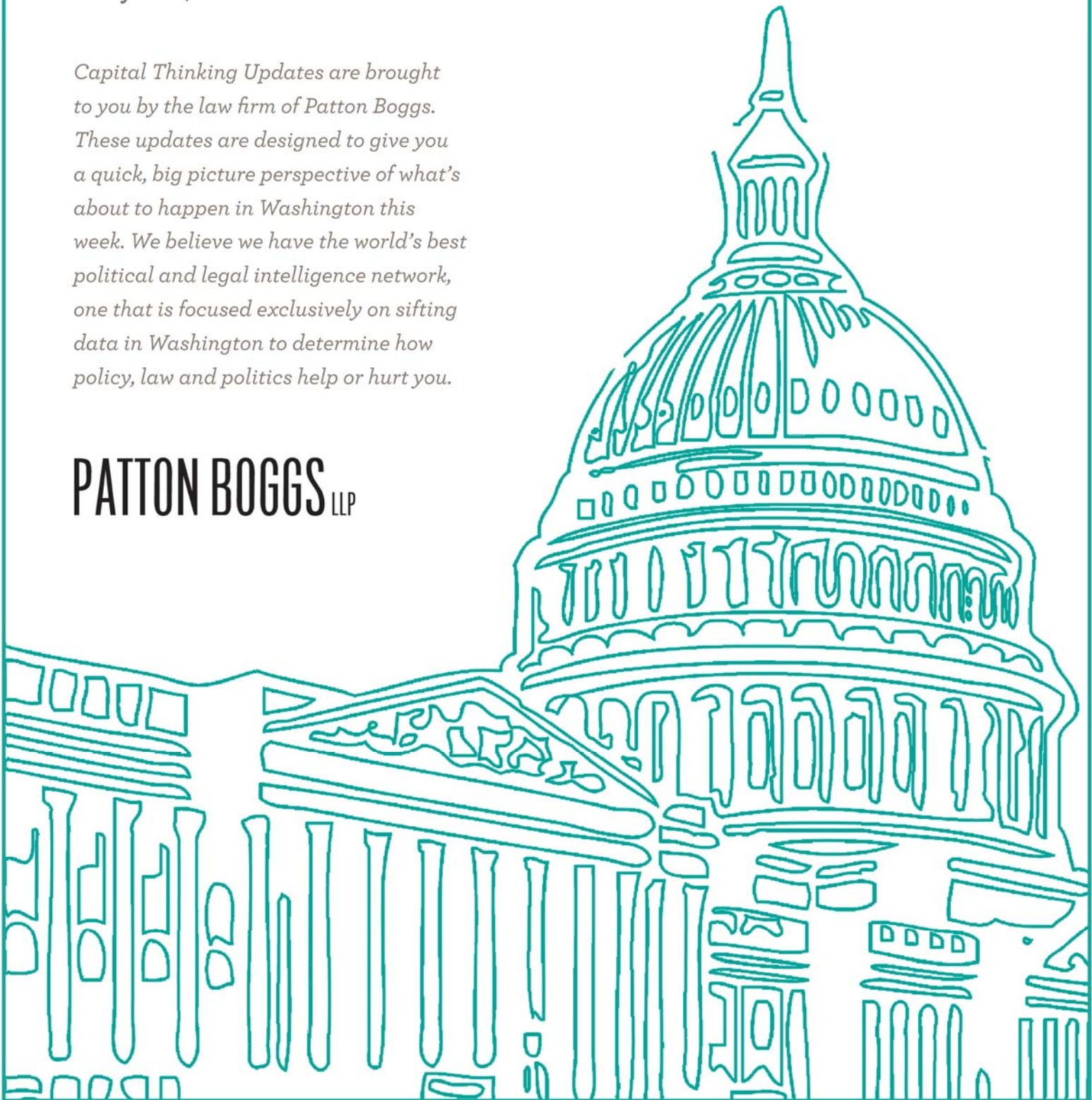


CAPITAL **thinking** UPDATES

July 30, 2012

Capital Thinking Updates are brought to you by the law firm of Patton Boggs. These updates are designed to give you a quick, big picture perspective of what's about to happen in Washington this week. We believe we have the world's best political and legal intelligence network, one that is focused exclusively on sifting data in Washington to determine how policy, law and politics help or hurt you.

PATTON BOGGS LLP



General Legislative

On Monday, July 30, the House will meet in Pro Forma session at 2:00 p.m. On Tuesday, the House will meet at 2:00 p.m. for legislative business. Legislation considered under suspension of the rules beginning on Tuesday will include: H.R. 828 - Federal Employee Tax Accountability Act of 2011, as amended; S. 679 - Presidential Appointment Efficiency and Streamlining Act of 2011; H.R. 4365 - To amend title 5, United States Code, to make clear that accounts in the Thrift Savings Funds are subject to certain Federal tax levies; S. 300 - Government Charge Card Abuse Prevention Act of 2011, as amended; Concur in the Senate amendment to H.R. 1627 - Honoring American Veterans Act of 2011; H.R. 4606 - To authorize the issuance of right-of-way permits for natural gas pipelines in Glacier National Park; H.R. 3641 - Pinnacles National Park Act; H.R. 3706 - To create the Office of Chief Financial Officer of the Government of the Virgin Islands; S. 270 - La Pine Land Conveyance Act; S. 271 - Wallowa Forest Service Compound Conveyance Act; H.R. 3803 - District of Columbia Pain-Capable Unborn Child Protection Act; H.R. 1950 - To enact title 54, United States Code, "National Park System," as positive law, as amended; H.R. 3120 - Student Visa Reform Act; H.R. 6029 - Foreign and Economic Espionage Penalty Enhancement Act of 2012; H.R. 6063 - Child Protection Act of 2012; H.R. 4362 - STOP Identity Theft Act of 2012; H.R. 3796 - Adam Walsh Reauthorization Act of 2012, as amended; H.R. 6062 - Edward Byrne Memorial Justice Assistance Grant Program Reauthorization Act of 2012; H.R. 1550 - Federal Law Enforcement Recruitment and Retention Act of 2011, as amended; H.Con.Res. 127 - Expressing the sense of Congress regarding actions to preserve and advance the multistakeholder governance model under which the Internet has thrived; H.R. 4273 - Resolving Environmental and Grid Reliability Conflicts Act of 2012; H.R. 897 - Residential and Commuter Toll Fairness Act of 2011; H.R. 5797 - Mille Lacs Lake Freedom To Fish Act of 2012; H.R. 3158 - Farmers Undertake Environmental Land Stewardship Act; H.R. 1171 - Marine Debris Act Amendments of 2012; and H.R. 2446 - RESPA Home Warranty Clarification Act of 2011. On Wednesday and through the balance of the week the House will also consider: H.R. ___ - To provide a one-year extension of the Food, Conservation, and Energy Act of 2008, with certain modifications and exceptions, to make supplemental agricultural disaster assistance available for fiscal years 2012 and 2013, and for other purposes; H.R. 8 - Job Protection and Recession Prevent Act of 2012; and H.R. 6169 - Pathway to Job Creation through a Simpler, Fairer Tax Code Act of 2012.

The Senate will convene at 2:00 p.m. on Monday, July 30 and recognize the Majority Leader. At 5:00 p.m., the Senate will proceed to executive session to consider the nomination of Robert E. Bacharach, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit.

The August Congressional recess begins next week. The next edition of *Capital Thinking* will be published on September 10, 2012.

Agriculture & Food

LEGISLATIVE ACTIVITY

- **Farm Bill and Disaster Aid Package.** On Thursday, July 26, House Majority Leader Eric Cantor (R-VA) announced that the House may vote, as early as August 1, on a disaster aid package and a one-year extension of the Farm Bill before the August recess. The plan is for the bill to then be conferenced with the Senate-passed Farm Bill, which may result in two possible outcomes – a one-year extension or a five-year Farm Bill.
 - **Disaster Aid Package.** The House disaster aid package will likely include about \$200 to \$300 million in funding, which would be offset by funding cuts to the direct farm payments program, to assist livestock producers. Specialty crop groups have been pressuring the leadership for disaster assistance; however, it is unclear whether the package will apply to them.
 - **Farm Bill.** As of now, details on the House's one-year extension of the Farm Bill have not been disclosed, as it is unlikely that the House will introduce a clean, one-year extension of the 2008 Farm Bill. Most likely the bill will include funding above the baseline for commodity programs and crop insurance programs. We expect the House to start releasing details as early as Monday, July 30.

While House Agriculture Committee Ranking Member Collin Peterson (D-MN) at one time opposed an extension. He is willing to support a one-year extension only with the assurance that the Senate and House could go to conference on a five-year Farm Bill. If there is a conference on a five-year Farm Bill, Ranking Member Peterson would then have the option to come back to the House with an unamendable five-year Farm Bill and possibly attach it to “must-pass, end-of-the-year” legislation (e.g., extension of the Bush-era tax cuts). Although the deadline for farm programs to be authorized is September 30, Congress actually has until December 31, 2012 to reauthorize the Farm Bill.

House Republicans have started to express their reservations about the one-year extension. Representative Jeff Flake (R-AZ) is leading a growing group of his colleagues to pressure the leadership against a one-year extension, if passing such an extension would allow the Farm Bill to bypass regular order and a full debate in the House in order to get to conference.

- **Federal Cage Standards for Egg Farmers.** On Thursday, July 26, the Senate Agriculture Committee on Agriculture, Nutrition, and Forestry held a hearing on the Egg Products Inspection Act (S. 3239) introduced by Senator Dianne Feinstein (D-CA). If enacted, the bill would provide national standards for treatment of egg-laying hens based on an agreement reached between the Humane Society of the United States and the United Egg Producers. Witnesses included Senator Feinstein and representatives from producer associations. All of the witnesses, except for one, supported the bill, arguing that egg producers are deterred from selling into interstate markets due to myriad state standards.

In November of 2008, a California State ballot proposition known as Proposition 2 – which would prohibit the confinement of certain farm animals in a manner that does not allow them to turn around freely, lie down, stand up, and fully extend their limbs – passed with 63 percent of the vote. The law applies to calves raised for veal, egg-laying hens, and pregnant pigs. Concerned about the potential that more States will ultimately enact diverse standards governing egg production, the U.S. egg industry, represented by the United Egg Producers, earlier this year entered into a voluntary agreement with the Humane Society of the United States that sets new standards for the production methods for eggs, particularly as they relate to the size of the cages in which hens are kept.

Budget, Appropriations

LEGISLATIVE ACTIVITY

- **FY2013 Appropriations Action.** The Senate Defense Appropriations Subcommittee will mark up its FY2013 spending bill this week on Tuesday, July 31 and the full Appropriations Committee may also take up the measure before the Senate adjourns for the August recess.
- **FY 2013 Continuing Resolution.** It appears a consensus is building among Congressional Democrats and Republicans to support a six-month FY 2013 Continuing Resolution (CR), thereby avoiding a contentious pre-election debate on spending and also removing the spending bills from the crowded lame duck agenda. A bill may be released as early as this week, though it is unclear if votes will be held before the August recess (a measure must be enacted prior to the start of the fiscal year on October 1). The CR will reportedly adhere to the discretionary spending level of \$1.047 trillion established last year in the Budget Control Act (P.L. 112-25).

Cybersecurity

LEGISLATIVE ACTIVITY

- **Senate Cybersecurity Legislation.** The Senate brought *Cybersecurity Act of 2012* (S. 3414) to the floor this week and voted overwhelmingly with a vote of 84-11 to proceed with debate on cybersecurity legislation. The revised bill that Senators Joe Lieberman (I-CT) and Susan Collins (R-ME) introduced last week includes a number of changes to their original bill including moving from mandatory regulations for critical infrastructure to voluntary participation, changes in information sharing as well as research and development components. There are still a number of issues to be addressed with other Members of the Senate including data security, data breach, privacy, cybercrimes to name a few. It is expected that the SECURE IT Act (S. 3342), introduced by a number of Ranking Members in the Senate, will be offered as an amendment on the floor, as well as other potential amendments.

Negotiations within the Senate focused on seeking compromise solutions to a variety of issues, including liability protections for businesses that follow the voluntary critical infrastructure standards proposed in the bill, privacy protections for information sharing between the public and private sector, and how involved the government will be in setting industry security standards.

Industry groups began expressing support for the revised Lieberman-Collins bill, including the Aspen Institute's Homeland Security Group, two of the largest information technology firms in the world – Oracle and Cisco, and global IT management and software company CA Technologies. Other groups like the U.S. Chamber of Commerce continue to remain opposed to the Lieberman-Collins bill, sending a letter on Wednesday stating their strong opposition to the legislation.

The Senate will begin debate on the bill on Monday and it hopes to pass the cybersecurity bill this week before leaving for the August recess. From there, Conference negotiations with the House can proceed-- Vice Chairman of the House Armed Services Committee William "Mac" Thornberry (R-TX) stated last week that the revised bill was a "hopeful sign" that cybersecurity legislation will be signed into law in this Congress. While noting that there are many issues between the two chambers' bills, Rep. Thornberry said that it is important for the Senate to pass a bill so that the House and Senate can work out the more controversial issues in a conference setting.

Education

LEGISLATIVE ACTIVITY

- **FY 2013 Appropriations/Sequestration.** On Wednesday, July 25, the Senate Committee on Appropriations Subcommittee on Labor, HHS, and Education held a hearing on the effects of sequestration on education. With Education Secretary Arne Duncan and other education stakeholders testifying, the hearing focused on how the projected 7.8 percent across-the-board cuts would affect programs in education, and the impact such cuts would have on students, teachers, jobs, the economy, national security, and U.S. competitiveness abroad. During the hearing, Subcommittee Chairman Tom Harkin (D-IA), who also serves as Chairman of the Senate Health, Education, Labor and Pensions Committee, presented his [report](#) that details the effects of sequestration on education. Subcommittee Ranking Member Richard Shelby (R-AL) questioned the assumptions made in Chairman Harkin's report and explained that the effects of sequestration are largely uncertain because the Administration has not provided appropriate guidance, and the Office of Management and Budget has been silent on the issue. After the hearing, Chairman Harkin joined other Congressional Democrats at a "Rally to Restore Balance" organized by the Non-Defense Discretionary Coalition to urge for a balanced approach to deficit reduction.

Deputy Secretary of Education Anthony Miller sent a letter to state school officers on July 20 in an attempt to clarify the impact of sequestration on four education accounts with advanced funding, including Education for the Disadvantaged, School Improvement Programs, Special Education, and Career, Technical, and Adult Education. The letter noted that, if sequestration occurs, "the Department will take the sequester from funds that would become available in July 2013 for school

year 2013-14, not from the 2012 advance appropriations available in October 2012.” According to the letter, “the damage from across-the-board cuts in that year would be severe.”

A full committee markup of the FY 2013 Labor-HHS-Education spending bill is not likely to occur before the August recess, as House appropriators have yet to schedule it.

- **Tax Reforms.** On Wednesday, July 25, the Senate Finance Committee held a hearing titled “Education Tax Incentives and Tax Reform,” which examined areas for potential education tax incentive reform, including: the most effective incentives; consolidation of various education assistance programs; and simplification of the application and eligibility processes. The hearing also focused on the potential need for increased transparency from higher education institutions regarding tuition increases and endowment spending. A [study](#) released the same day by the Government Accountability Office (GAO) found that 14 percent of filers in 2009 did not claim a credit or deduction for which they were eligible, costing them approximately \$466 in tax savings or refunds.

Later that day, the Senate approved (51-48) the Middle Class Tax Relief Act (S. 3412), which would extend the Bush-era tax cuts for all households with income below \$250,000. The bill would also extend for one year the American Opportunity Tax Credit, provided for in the 2009 stimulus bill, which is set to expire at the end of 2012. The Office of Management and Budget (OMB) released a [Statement of Administration Policy](#) strongly supporting Senate passage of the bill and encouraging Congress to act, stating “[i]f this temporary tax relief is not extended ... 11 million middle-class families will no longer get help paying for college from the American Opportunity Tax Credit.” Though expected to fail, House Republican leaders committed to allow a vote next week on the measure.

- **Student Visa Reform.** A bipartisan group of Senators announced Tuesday, July 24 plans to introduce legislation aimed at tightening controls on institutions that enroll foreign students. The bill, as outlined during a Senate Judiciary Committee hearing, would include, among other changes:
 - stiffer penalties on those who commit fraud by running bogus institutions;
 - required annual visits from federal investigators for unaccredited schools and colleges in the visa system (though may exclude them entirely); and
 - required state certification for academic institutions enrolling international students.
- **Hearings and Events.** On Wednesday, August 1, the Research and Science Education Subcommittee of the House Science, Space and Technology Committee will hold a hearing titled “The Relationship Between Business and Research Universities: Collaborations Fueling American Innovation and Job Creation.”

REGULATORY ACTIVITY

- **Financial Aid Award Letters.** On Tuesday, July 24, the Department of Education released its final version of its financial aid award letter – the “Shopping Sheet.” The Department aims for the Shopping Sheet to standardize award letters and provide students with the following information: (1)

cost of college for one year; (2) financial aid options; (3) net costs after grants and scholarships are taken into account; and (4) projected monthly payment for the federal student loans post graduation.

As part of the release, Secretary of Education Arne Duncan sent an open letter to college and university presidents requesting them to use the Shopping Sheet as part of their financial aid awards starting for the 2013-2014 academic year.

- **Executive Order - Educational Outcomes for African Americans.** On Thursday, July 26, President Obama issued an Executive Order establishing the White House Initiative on Educational Excellence for African Americans, which will be housed within the Department of Education and work with the Executive Office of the President and federal agencies to identify evidence-based best practices to improve African American student achievement in school and college. The Initiative will also look to develop a national network of key stakeholders to share and implement the identified practices.

The Executive Order also establishes a Federal Interagency Working Group on Educational Excellence for African Americans, which will convene senior government officials to coordinate federal investments in education programs and initiatives aimed at enhancing outcomes for African Americans from early childhood education to postsecondary education, career and technical education, and adult education.

- **Moody's Forecast of Higher Education.** On Thursday, July 26, Moody's Investors Service released its U.S. Higher Education Mid-Year Outlook, which forecasts problems for higher education, including declining endowment portfolios for FY 2012 (first decline since 2009), increasing federal regulations and outcomes-driven state and federal funding, and increasing warnings and sanctions imposed by accreditation agencies that may seek to avoid stricter regulations.
- **Guidance on State Authorization.** On Friday, July 27, the Department of Education released its [guidance](#) on program integrity regulations relating to State authorization. On October 29, 2010, the Department of Education issued its final rules on program integrity issues, including State authorization.

Energy

LEGISLATIVE ACTIVITY

- **Congressional Hearings.** On Wednesday, August 1, the Senate Environment and Public Works Committee will examine the latest climate change science and local adaptation measures. On Thursday, August 2, a House Energy and Commerce subcommittee will receive testimony on the growing differences for energy development on federal versus non-federal lands; the House Natural Resources Committee will hold an oversight hearing regarding the "independence and accountability" of the Acting Inspector General of the Interior Department.

REGULATORY ACTIVITY

- **DOE Transmission Congestion Study.** The Department of Energy (DOE) will host three webinar briefings on preliminary findings of the 2012 National Electric Transmission Congestion Study on August 7, 16 and 21. DOE will then release a draft study for public comment.
- **FERC Gas-Electric Markets.** The Federal Energy Regulatory Commission has announced the following schedule for regional technical conferences on natural gas-electric market coordination: in St. Louis, Missouri on August 6; in Boston, Massachusetts on August 20; in Portland, Oregon on August 28; and in Washington, DC on August 23 and August 30.
- **Western States Solar.** The Bureau of Land Management and DOE have issued the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Arizona, California, Colorado, Nevada, New Mexico and Utah). The “Solar PEIS” will serve as a roadmap to facilitate utility-scale solar energy development on public lands in those states.
- **ITA Renewable Energy and Energy Efficiency Advisory Committee.** The International Trade Administration has extended the deadline for submitting nominations to serve on the Committee to Wednesday, August 1.
- **Western Gulf of Mexico Lease Sale.** The Bureau of Ocean Energy Management has released the Proposed Notice of Sale for Lease Sale 229 off Texas, the first lease sale scheduled under the new Five-Year Outer Continental Shelf Program with bids set to open on November 28.
- **Cooling Water Intake Rule.** The Environmental Protection Agency has delayed finalization of Section 316(b) standards under the Clean Water Act by one year, until June 27, 2013, to “allow EPA to complete analysis of data, options and public comments” on the Notices of Data Availability prior to finalizing the rule.
- **USEITI.** Nominations to service on a newly-established Advisory Committee for the U.S. Extractive Industries Transparency Initiative, to advise the Interior Department on its implementation, are due August 27.
- **Hydraulic Fracturing.** The Environmental Protection Agency (EPA) is expected to conduct industry outreach meetings in the coming weeks as a means to “strengthen stakeholder engagement in the EPA’s study of the impact of hydraulic fracturing on drinking water.”

Environment

LEGISLATIVE ACTIVITY

- **Rural Water Projects.** On Tuesday, July 31, the Senate Committee on Energy and Natural Resources will hold a hearing to receive testimony on S. 3385, a bill to authorize the Secretary of the Interior to use designated funding to pay for the construction of authorized rural water projects.

- **Federal and Non-Federal Lands.** On Thursday, August 2, the House Committee on Energy and Commerce, Subcommittee on Energy and Power, will hold a hearing to examine the differences in energy development on federal vs. non-federal lands.
- **Indian Lands.** On Thursday, August 2, the House Committee on Natural Resources, Subcommittee on Indian and Alaska Native Affairs, will hold an oversight hearing titled “Indian Lands: Exploring Resolutions to Disputes Concerning Indian tribes, State, Local Governments, and Private Landowners Over Land Use and Development.”

REGULATORY ACTIVITY

- **Public Water Systems.** EPA has made a correction to its Unregulated Contaminant Monitoring Regulation (UCMR 3) for Public Water Systems. The table for “Applicability of UCMR 3 To Water Utilities By System Type And Size” now reads as follows:

EXHIBIT 1—APPLICABILITY OF UCMR 3 TO WATER UTILITIES BY SYSTEM TYPE AND SIZE

UCMR 3 Assessment Monitoring		
<i>System Type</i>	<i>System size</i> ¹	
	<i>Serving > 10,000</i>	<i>Serving ≤ 10,000</i>
CWS & NTNCWS	Requires all systems to monitor for List 1 chemicals	Requires 800 randomly selected systems to monitor for List 1 chemicals. EPA will pay for the analysis of samples.
TNCWS	No requirements	No Requirements.
UCMR 3 Screening Survey		
<i>System Type</i>	<i>System size</i> ¹	
	<i>Serving > 10,000</i>	<i>Serving ≤ 10,000</i>
CWS & NTNCWS	Requires all systems serving more than 100,000, and 320 randomly selected systems serving 10,001 to 100,000 to monitor for List 2 chemicals.	Requires 480 randomly selected systems to monitor for List 2 chemicals. EPA will pay for the analysis of samples.
TNCWS	No requirements	No Requirements.
UCMR 3 Pre-Screen Testing		
<i>System Type</i>	<i>System size</i> ¹	
	<i>Serving > 10,000</i>	<i>Serving ≤ 10,000</i>
CWS, TNCWS & NTNCWS	No requirements	Requires 800 randomly selected systems to permit EPA to sample and analyze List 3 microbes. The selected systems will be served by non-disinfecting ground water wells in vulnerable areas. EPA will pay for the analysis of samples.

¹ Based on the retail population, as indicated by SDWIS/Fed on December 31, 2010.

- **National Climate Assessment.** The U.S Department of Commerce, National Climate Assessment and Development Advisory Committee (NCADAC) will hold a public meeting concerning the production of a “National Climate Assessment.” The NCADAC was established in December 2010

and the committee's mission is to synthesize science and information regarding current and future impacts of climate change upon the United States. It also provides advice and recommendations toward the development of an ongoing national assessment of global change impacts, adaptation and mitigation strategies for the country. The committee's specific objective is to produce a National Climate Assessment. The meeting will be held on August 15 from 3:00-5:00 pm at the U.S. Global Change Research Program, Conference Room A, Suite 250, 1717 Pennsylvania Avenue NW., Washington, DC 20006.

Financial Services

LEGISLATIVE ACTIVITY

- **Geithner Defends Record on LIBOR.** During hearings before the Senate Banking Committee and the House Financial Services Committee last week, Treasury Secretary Tim Geithner faced continued questioning about the recent LIBOR scandal and the potential role that Secretary Geithner may have played while serving as President to the New York Federal Reserve in 2008. During the hearings, which were intended to consider the Financial Stability Oversight Council's annual report, Congressmen also addressed the "fiscal cliff" facing the United States at the end of the year, and the FSOC's efforts to address the riskiest behaviors of large banks and non-bank financial companies.
- **Senator Shelby Outlines Agenda as Banking Committee Chairman.** In a speech before the U.S. Chamber of Commerce, Senate Banking Committee Ranking Member Richard Shelby (R-AL) set forth his priorities as Chairman of the Committee should Republicans claim a majority in the Senate after November's election. Senator Shelby identified four primary objectives: repealing Dodd-Frank Act provisions unrelated to the financial crisis; passing legislation requiring "rigorous cost/benefit analysis" for all financial regulation; amending Dodd-Frank to fix "flawed" provisions; and holding hearings to bring reform to areas not addressed by the Dodd-Frank Act, including the housing market and government-sponsored entities Fannie Mae and Freddie Mac.
- **Consumer Financial Protection Bureau to Present Annual Report to Senate Banking Committee.** On Wednesday, August 1, Consumer Financial Protection Bureau (CFPB) Director Richard Cordray will present the CFPB's semi-annual report to Congress.
- **Senators to Discuss MF Global, Peregrine Scandals.** On Wednesday, August 1, the Senate Agriculture Committee will hold a hearing titled "Examining the Futures Markets: Responding to the Failures of MF Global and Peregrine Financial Group." Witnesses will include Commodity Futures Trading Commission (CFTC) Chairman Gary Gensler (who has recused himself from the MF Global investigation) and CFTC Commissioner Jill Sommers. A second panel will include the President of the Futures Industry Association; President and Executive Chairman of CME Group; and the President and CEO of the National Futures Association (the self-regulatory organization for futures markets, and a representative of the National Grain and Feed Association).

- **Tri-Party Repo Market Focus of Senate Hearing.** On Thursday, August 2, the Senate Banking Subcommittee on Securities, Insurance and Investment will hold a hearing titled “The Tri-Party Repo Market: Remaining Challenges.” The witnesses will include Matthew Eichner, Deputy Director of the Division of Research & Statistics, Federal Reserve; Karen Peetz, Vice Chairman, BNY Mellon; Steven Meier, Executive Vice President, State Street Global Advisors; and Thomas Wipf, Managing Director and Global Head of Bank Resource Management, Morgan Stanley.

REGULATORY ACTIVITY

- **Office of Financial Research Releases First Annual Report.** The Department of the Treasury’s Office of Financial Research (OFR) recently released its inaugural Annual Report to Congress. The OFR, created by the Dodd-Frank Act, is charged with improving the quality of financial data available to policymakers and facilitating a more robust and sophisticated analysis of the financial system. The report identifies significant gaps in the understanding of the financial system and in metrics to quantify financial activity and how these gaps can threaten financial stability. The OFR also reports how it and the FSOC intend to fill these gaps.

FINANCIAL SERVICES NEWS

- **Former Citi CEO Calls for Break up of Big Banks.** During an interview with CNBC, former Citi CEO Sanford Weill called for the resurrection of Glass-Steagall provisions to limit bank activities and divide securities activity from depository businesses. These provisions were repealed by the Gramm-Leach-Bliley Act in 1999, allowing banks to expand their permitted activity beyond traditional banking business. The comments caused instant reactions from both sides of the aisle and financial services industry leaders.

Health Care

LEGISLATIVE ACTIVITY

- **House VA Hearing.** The House Committee on Veterans’ Affairs Subcommittee on Health has scheduled a hearing on Tuesday, July 31, on “Optimizing Care for Veterans with Prosthetics: An Update.”
- **House Ways and Means Hearing.** The House Committee on Ways and Means has announced a joint hearing with the Social Security and Health Subcommittees on Wednesday, August 1, on removing Social Security numbers (SSNs) from beneficiaries’ Medicare cards. The Subcommittees will examine options for removing SSNs from Medicare cards, including the cost and impact of doing so, along with why CMS has failed to develop and execute a plan to remove the SSN from beneficiary Medicare cards.
- **House Oversight Hearing.** The House Committee on Oversight and Government Reform will hold a hearing on Thursday, August 2, titled “IRS: Enforcing ObamaCare’s New Rules and Taxes.”

REGULATORY ACTIVITY

- **Hospice Wage Index Notice.** The Centers for Medicare and Medicaid Services (CMS) released a notice that sets the hospice wage index for FY 2013 and will continue the phase out of the wage index budget neutrality adjustment factor (BNAF) with an additional 15 percent BNAF reduction for a total BNAF reduction through FY 2013 of 55 percent. The BNAF phase out will continue with successive 15 percent reductions from FY 2014 through FY 2016. The notice clarifies that providers should report additional diagnoses on hospice claims, and also includes updates on the status of hospice payment reform and the quality reporting program.
- **IRF PPS Notice.** CMS released a notice to update payment rates for inpatient rehabilitation facilities (IRFs) for FY 2013, including the classification and weighting factors for the IRF prospective payment system's case mix groups and a description of the methodology and data used in computing the prospective payment rates. No policy changes were proposed. The overall economic impact of the notice is an estimated \$140 million in increased payments to IRFs during FY 2013.
- **HHS Regional Implementation Forums.** The U.S. Department of Health and Human Services (HHS) is holding a series of "Regional Implementation Forum" during August to provide an opportunity for states and stakeholders to learn more about the next steps in implementation of the health care law and ask questions about efforts to build health insurance exchanges in every state. HHS leadership will provide an overview of topics related to coverage provisions of the Affordable Care Act effective in 2014. Each session will run from 9:00 a.m. to 4:30 p.m. and is open to the public. The dates and locations include August 14, Washington, DC; August 15, Atlanta, GA; August 21, Chicago, IL; and August 22, Denver, CO.

OTHER HEALTH NEWS

- **CBO ACA Reports.** The Congressional Budget Office (CBO) released two reports related to the Affordable Care Act (ACA). One report presents updated projections of the budgetary effects of the coverage provisions of the ACA to reflect the Supreme Court's recent decision. The report found that the cost of the health care reform law would drop by \$84 billion over 11 years because not all states would opt in to Medicaid expansion. Six million fewer people will be covered by Medicaid and the Children's Health Insurance Program than originally anticipated, but about half of them would end up covered in the state-based health insurance exchanges, leaving approximately three million more people uninsured. The other report presents a cost estimate for the repeal of the ACA that passed the House of Representatives on July 11 which would add \$109 billion to long-term deficit estimates.
- **MedPAC Meeting.** The Medicare Payment Advisory Commission (MedPAC) has scheduled a public meeting on September 6 and 7, 2012. An agenda will be released in advance of the meeting.
- **IOM Meetings.** The Institute of Medicine will hold a workshop on Tuesday, July 31 and Wednesday, August 1, on Developing and Strengthening the Global Supply Chain for Second-Line Drugs (SLDs) for Multidrug-Resistant Tuberculosis (TB). This public workshop will explore innovative solutions to the problem of how to get the right SLDs for multidrug-resistant TB to people who critically need them. More specifically, the workshop will examine current problems and potential opportunities for

coordinated international efforts to ensure that a reliable and affordable supply of high-quality SLDs is available.

The IOM will hold a workshop on Wednesday, August 8 and Thursday, 9, on “The Role of Telehealth in an Evolving Health Care Environment.” The workshop will give perspectives on the potential for telehealth to serve geographically isolated individuals and extend the reach of scarce resources, while also emphasizing quality and value in the delivery of health care services. Other topics to be covered include the evolution of telehealth, current evidence base, technological developments, effects of public policies, and the role of the Department of Health and Human Services in promoting the use of telehealth.

International, Defense, Homeland Security

- **Russia PNTR Developments.** As expected on Thursday, July 26, the House Ways and Means Committee reported out legislation (HR 6156) to lift Jackson-Vanik trade restrictions and grant Permanent Normal Trade Relations (PNTR) status to Russia and Moldova. Ways and Means Chairman Dave Camp (R-MI), Senate Finance Committee Chairman Max Baucus (D-MT), and other trade leaders in Congress expect to be able to send President Obama a final Russia PNTR bill prior to adjourning for the August recess, in order to provide “Most Favored Nation” trading status in advance of Russia’s August 22 accession to the World Trade Organization (WTO). Prior to a House floor vote on Russia PNTR, the House Leadership, most likely via the Rules Committee, will add targeted human rights sanctions that already have passed the House Foreign Affairs Committee (HFAC). However, the promise of the so-called “Magnitsky bill” human rights language was insufficient to assuage a handful of Ways and Means Democrats, such as Congressman Bill Pascrell (D-NJ), who voted “no” on Russia PNTR. Nevertheless, Russia PNTR is expected to pass the full House by a substantial margin, with bipartisan support. Notably, though, the House and Senate still will have to work out the final Magnitsky language before sending Russia PNTR to the President. The Senate-passed language would bar U.S. visas and freeze U.S. assets for those responsible for “gross violations” against victims promoting human rights globally, whereas the narrower HFAC-approved approach only applies to alleged human rights violations in Russia
- **National Security and the Campaign Trail.** Presumptive Republican Presidential nominee Mitt Romney left for the United Kingdom, Israel and Poland this week, in an attempt to blunt President Obama’s current polling edge on national security issues. (This week’s Pew poll reports a 48 percent-40 percent lead for the President on the question of which candidate would make better foreign policy decisions, a narrower margin than in some previous polling on national security issues.) At the outset of the trip, Governor Romney suffered some unwanted, if indirect, criticism from British Prime Minister David Cameron and London Mayor Boris Johnson, fellow conservatives, over his questioning of the sufficiency of Great Britain’s Olympic preparations. The presumptive nominee likely will receive a warm welcome in Israel, especially given his longstanding personal ties to Prime Minister Benjamin Netanyahu and his general support for the Prime Minister’s hawkish approach to Israeli-Palestinian matters and larger regional issues. In the process, Governor Romney will have an opportunity to

comment on new and highly restrictive Iran sanctions legislation, which Congress is likely to consider next week. However, the Obama Administration acted quickly to respond to Governor Romney's charge that President Obama has paid insufficient attention to Israel's security concerns, sending Secretary of State Hillary Clinton to Jerusalem earlier this month and Secretary of Defense Leon Panetta to Israel next week, signing into law the U.S-Israel Enhanced Security Cooperation Act today, and announcing a visit to Israel if President Obama wins re-election. Meanwhile, Governor Romney also expects a friendly reception in Poland, which generally shares his wariness over Russia's geopolitical intentions.

- **Homeland Security Hearings.** At a hearing on Wednesday, August 1, Senator Daniel Akaka's (D-HI) Homeland Security and Governmental Affairs Government Management Subcommittee will examine efforts to ensure data security and privacy in the Federal government. A day earlier, the House Homeland Security Committee's (HHSC's) Counterterrorism and Intelligence Subcommittee, led by Chairman Patrick Meehan (R-PA), will hold a field hearing in Buffalo, New York on the effectiveness of the Department of Homeland Security's international intelligence-sharing agreements. On Thursday, a hearing in Chairman Mike Rogers's (R-AL) HHSC Transportation Security Subcommittee will consider how to respond to alleged malfeasance by Transportation Security Administration (TSA) screeners. Subcommittee Democrats are expected to contend that subcommittee Republicans are unfairly tainting all TSA security personnel in the process.

Sequestration

- **Senate Approves Sequestration Transparency Act.** Reflecting mounting bipartisan concern regarding a lack of progress in forestalling the budget sequester, on Wednesday, July 25, the Senate cleared a measure requiring a report on the effects of the automatic budget sequester set to take effect at the beginning of next year (H.R. 5872). The legislation passed by unanimous consent and instructs the Obama Administration to detail, within 30 days, how federal agencies would implement the \$109 billion in automatic cuts scheduled for January 2. As reported in last week's *Capital Thinking* report, the House passed the bill on July 17 by a vote of 414-2. On Thursday, July 26, White House Spokesman Jay Carney indicated that the President will sign the measure.
- **House Armed Services Committee Hearings.** On Wednesday, July 25, defense officials testified before the House Armed Services Emerging Threats and Capabilities Subcommittee of the House Armed Services Committee as to the effects of the sequester on Department of Defense cybersecurity plans. Air Force Maj. Gen. Suzanne Vautrinot described the potential cuts as a "devastating" measure that would not only harm current efforts to boost military cybercapabilities, but undo past advancements. Marine Corps Lt. Gen. Richard Mills concurred, stating that across-the-board cuts could undermine efforts to retain and train enough people to handle cybersecurity operations. He explained that the speed required to acquire new technology to combat cyber incursions at military facilities means that sequester-driven cuts would disproportionately hurt cybersecurity. Navy Vice Adm. Michael Rogers, commander of the U.S. Fleet Cyber Command,

expressed concerns that the mandatory cuts would prevent him from being able to protect vital programs.

On Wednesday, August 1, the Committee will continue its series of hearings titled “Sequestration Implementation Options and the Effects on National Defense: Industry Perspectives.” Testimony in this week’s hearing will be provided by Jeffrey Zients, Acting Director, Office of Management and Budget, and Ashton Carter, Deputy Secretary of Defense.

- **Senator Harkin Unveils Report on Sequestration Impact on Domestic Programs.** On Wednesday, July 25, Senator Tom Harkin (D-IA) - Chairman of the Senate Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee and the Health, Education, Labor and Pension Committee - released a [report](#) outlining the potential impact of sequestration on programs within the Departments of Labor, Health and Human Services, and Education. The report is based on the Congressional Budget Office’s (CBO) estimation of a 7.8 percent across-the-board cut to non-defense discretionary programs. In conjunction with the release of the report, Chairman Harkin held a hearing on the effects of sequestration on education (see *Education* section for details) and a “Rally to Restore Balance” was held in the Upper Senate Park. Joining Chairman Harkin for the event: Mayor Greg Stanton of Phoenix, Arizona; Martin G. Knott, Jr., President, Knott Mechanical; and Rita Ngabo, a working parent.

Transportation

LEGISLATIVE ACTIVITY

- **MAP-21 Implementation.** On Friday, July 27, Secretary Ray LaHood announced that the Department of Transportation would be moving quickly to open the TIFIA low interest loan program for applications. Under MAP-21, TIFIA was dramatically expanded from \$120 million in budget authority in FY 2012 to \$750 million in FY 2013 and \$1 billion in FY 2014. Because each dollar of budget authority can leverage up to \$10 dollars in credit assistance, it is estimated that the \$1.75 billion provided in MAP-21 will leverage up to \$17.5 billion in federal TIFIA loans. The Notice of Funding Availability was delivered to the federal register today and can be accessed [here](#). In related news, Secretary LaHood also announced that the Department was establishing a Project Finance Center (PFC) to assist state and local government project sponsors to analyze financial options for highway, transit, rail intermodal and other surface transportation projects.