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Next Week in Congress

Record-breaking snowfall in Washington and a week-long President's Day recess essentially gave Congress a two-week break until this week, and many hearings and floor schedules were rearranged to accommodate the lengthy break. However, jobs remain a top priority (see below) and the Senate is expected to debate a second job-creation measure next week that includes tax extenders as well as federal funding for state Medicaid programs. A bill to reauthorize Federal Aviation Administration programs could also come to the Senate floor next week. The House is likely to debate (and possibly modify) a funding formula for the distribution of federal highway dollars the Senate included in the jobs measure it approved this week, and possibly address a to-be-determined (but certainly targeted and specific) health reform measure.

Budget/Appropriations

On Wednesday, the Senate approved a job-creation measure ([70-28](#)) that, among other provisions, includes tax incentives for businesses to hire (and retain) employees. Businesses that hire new workers would be exempt from their portion of the Social Security payroll tax for the rest of the year and if those workers remain employed with the company for 12 months, the business receives a \$1,000 tax credit. The bill also contains a one-year reauthorization of federal surface transportation programs based on a distribution formula that is causing opposition among various members of the House of Representatives. The House passed a \$154 billion jobs measure last year that is over ten-times the size of the \$15 billion Senate measure. A second jobs measure (see below) extending a number of expiring/expired tax provisions is expected to be taken up by the Senate shortly.

Last week, the President announced the leaders of his 18-member National Commission on Fiscal Responsibility and Reform, tapping former Clinton White House Chief of Staff Erskine Bowles and former Republican Senator from Wyoming Alan Simpson. The Commission is charged with the daunting task of crafting recommendations for the reduction of annual budget deficits, a way to tackle long-term federal debt obligations, and modifications to put entitlement programs on stable financial footing. The panel is expected to be comprised of 10 Democrats and 8 Republicans, and 14 votes of approval would be needed to report out any recommendations (the official White House release can be found [here](#)). Senate Majority Leader Harry Reid (D-NV) announced his appointments this week, naming the Chairmen of the Senate Budget and Finance Committees, as well as the Senate Majority Whip, who was appointed after the Chairman of the Senate Appropriations Committee declined an invitation. While the Senate Majority Leader and Speaker of the House have indicated they would bring recommendations forward, there is no mechanism to force the ideas of a presidential commission before Congress. In addition, those recommendations would be amendable.

Commission recommendations that involve Social Security would also be subject to a high threshold for approval as the result of a provision in a bill recently signed by the President to increase the nation's debt limit and enact a statutory Pay-As-You-Go budget law. At the end of the measure ([Page 22](#)) is a provision that requires a 60-vote hurdle in the Senate to consider the conclusions of any fiscal responsibility panel that "contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act," or tax pertaining to the Social Security program.

Healthcare

In anticipation of the [bipartisan healthcare summit](#) on Thursday, President Obama released the details of his \$950 billion [proposal](#) for healthcare reform legislation on Monday. His plan would delay the excise tax on high-cost health insurance plans, a provision of the Senate version of the bill to which many House Democrats objected, until 2018 and increase the threshold from \$23,000 to \$27,500 for a family plan. This and other changes would reduce the projected revenue for the legislation, and President Obama included several provisions to make up for that lost revenue. In what was also an effort to appease House Democrats, the President's plan would extend the Medicare portion of the payroll tax to investment and passive income for individuals making more than \$200,000 and couples making more than \$250,000. After criticism that the 5.4 percent tax on adjusted gross income for the highest tax brackets was discriminatory toward small businesses, the President amended the tax so that it would not apply to active income earned from a business. A Senate plan to create a new 0.9 percent payroll tax on wealthy individuals would be maintained, and new fees for pharmaceutical companies would be raised from a total of \$23 billion to \$33 billion, but many fees would be tax deductible initially. The plan would also close Medicare's prescription drug coverage gap. Rather than committing to federally subsidizing all of Nebraska's Medicaid costs, the new bill would provide a certain level of federal funding for all states to expand their Medicaid programs. A new Health Insurance Rate Authority would provide assistance and have oversight authority over states to review unreasonable rate increases and any other insurance company practices deemed "unfair." Some critics have raised concerns that this provision will encourage companies to rearrange and reclassify their businesses as subchapter S corporations to avoid qualifying for the tax. A number of more popular provisions, including preventing insurance companies from discriminating against individuals with pre-existing conditions, were maintained.

Earlier in the month, several Senate Democrats, including John Kerry (MA) and Sheldon Whitehouse (RI) signed a [letter](#) to Senate Majority Leader Harry Reid (D-NV), asking him to revive the possibility for a public-run health insurance option. The public option had been removed from proposed legislation after it failed to garner 60 votes in the Senate to beat a possible filibuster, but many progressives are pushing for its re-inclusion under reconciliation rules requiring only 51 votes to pass. Health and Human Services Secretary Kathleen Sebelius said last week that should the Senate bring a public option to a vote, the Administration would support it. On Wednesday, the House passed legislation ([H.R. 4626](#)) that would end health insurance companies' exemption from federal antitrust laws by a vote of 406 to 19. Despite strong Republican support for the measure, many Republican members question the need for the bill, arguing that there is already sufficient regulation at the state and federal levels. Insurance industry officials have said that the legislation, if passed, would result in higher premiums due to litigation costs being passed on to consumers.

Energy/Environment

Negotiations over compromise climate legislation continue on Capitol Hill, with an April deadline looming for the Environmental Protection Agency to possibly begin regulating greenhouse gas emissions under the Clean Air Act. However, earlier this week the EPA head assured a bipartisan group of U.S. senators that significant regulatory steps would not take effect until 2011 at the earliest. In a letter, EPA Administration Lisa Jackson noted "no stationary source will be required to get a Clean Air Act permit to cover its greenhouse gas emissions in calendar year 2010." However, she notes that "I expect that EPA will phase-in permit requirements and regulations of greenhouse gases for large stationary sources beginning in calendar year 2011," and continue its inclusion of smaller GhG emitters through 2016. The entire letter can be found [here](#). The window seemingly gives Congress time to pass its own emissions reduction legislation before EPA regulations would take effect. However, still hovering is a disapproval resolution in the Senate offered by the Ranking Member of the Senate Energy Committee (with 40 cosponsors) to prevent the EPA from acting on emissions under the Clean Air Act, and similar initiatives have been introduced in the House.

Last week, President Obama announced \$8.3 billion dollars in loan guarantees to create two new nuclear reactors (located in Burke County, GA) run by Southern Co., the first nuclear reactors created in the U.S. in three decades. The announcement came as part of the Administration's push for great production of clean energy, with the President saying "to meet our growing energy needs and prevent the worst consequences of climate change, we'll need to increase our supply of nuclear power. It's that simple." The loan guarantees will help create 3,500 on-site construction jobs and 850 permanent operations jobs when the facility is fully operational in 5 years. Administration officials estimate the reactors will eventually provide power to over 550,000 homes and 1.4 million people. The announcement marks what may be the first of several as the Administration's recently proposed Fiscal Year 2011 budget triples loan guarantees for nuclear power plants to over \$54 billion. U.S. Energy Secretary Steven Chu, who was also present at the announcement, added that the Administration is now considering at least a half-dozen additional loan applications for nuclear facilities.

Earlier this month, Secretary Chu traveled to Capitol Hill to [testify](#) before the Senate Energy and Natural Resources Committee to support the Administration's Fiscal Year 2011 budget proposal for the Department of Energy, lauding the President's commitment to developing a clean energy economy and fostering advanced energy research. In his comments, the Secretary continued to reiterate the Administration's opposition to the Yucca Mountain nuclear waste facility and touted the creation of the President's Blue Ribbon Commission on nuclear waste. The Department's three strategic priorities for FY11 include investing in next generation energy innovations, a reliance on clean energy and energy efficiency programs, and increasing the security of nuclear and dangerous materials. The request includes \$144 million for research activities into "smart grid" technologies "ensuring reliability, integration of renewable energy resources, and improving security." During the hearing, Secretary Chu was asked about the 7% increase in the Department's budget request for FY11 (\$28.4 billion) in light of the relatively slow spend-out rate of the \$36.7 billion in economic stimulus funds the Energy Department received last year. The stimulus bill was focused on jump-starting economic activity, however, the Energy Department details only \$2.42 billion of stimulus funding has been distributed.

Financial Services

Negotiations over financial services industry reform bill continue among members of the Senate Banking Committee. The Chairman of the Committee, Senator Chris Dodd (D-CT) was expected to release a draft bill this week, but talks continue over a handful of unresolved issues. These include the creation of a Consumer Financial Protection Agency to have a strong hand in the regulation of common banking and loan services used by consumers. The creation of the CFPB is a top Administration priority and was included in the reform bill that passed the House last year. However, late this week reports surfaced that the Administration is prepared to compromise on ensuring the CFPB be a stand-alone agency, but they stressed the Agency would need to retain strong enforcement powers. Also being debated is the "Volcker Rule" which seeks to prohibit commercial banks from making investments with their own money (proprietary trading), although it appears unlikely the proposal will be included in draft legislation. The bill is expected to include a series of steps for the orderly wind-down of struggling financial firms deemed to pose a systematic risk, as well as new market transparency rules for financial derivatives.

Senators Judd Gregg (R-NH) and Ron Wyden (D-OR) introduced a bill this week to dramatically change the U.S. tax code, both for individuals and businesses. The measure, the Bipartisan Tax Fairness & Simplification Act, aims to reform "the tangled web of nearly 10,000 exemptions, deductions, credits and other preferences

that currently clutter the U.S. tax code.” The bill is an attempt to streamline and simplify the tax code, and according to the sponsors, will allow “most taxpayers” to use a “straightforward and shortened one-page 1040 IRS form to file their federal income taxes.” A number of the changes for individuals include eliminating a handful of tax brackets – boiling the number down from six to three (15%, 25%, and 35%) – and eliminating the alternative minimum tax. Lower and middle-class filers will see significant expansion of the standard tax deduction, and while many exemptions will be eliminated, many of the most commonly claimed exemptions, like for mortgage interest and charitable contributions, will remain. Businesses will benefit from a lowering of the corporate tax rate and additional incentives to make capital investments. However, to offset the overall cost (including lowering the corporate tax rate from 35% to 24%, the bill repeals the rule “that allows U.S. companies to defer taxes on their foreign incomes.” A more thorough summary of the various proposals included in the bill can be found [here](#).

Late last week, President Obama travelled to Las Vegas, a metropolitan area hit especially hard by the downturn in the housing market, to announce a \$1.5 billion federal program to assist state housing agencies in blunting continued foreclosures and assist struggling or unemployed homeowners. The program will apply to states that have seen home values fall by one-fifth since their peak – which currently includes five states. The funding will come from loan authority through the Troubled Asset Relief Program. The Treasury Department will ask local housing authorities to create individual programs specific to their region to alleviate the crunch of foreclosures. In addition to the new \$1.5 billion program, last week the Treasury Department announced updated numbers from its Home Affordable Modification Program, trumpeting more than 116,000 homeowners with permanent mortgages modifications with an additional 76,000 offers extended.

Technology

An early version of the jobs bill passed by the Senate on Wednesday included a number of tax credits for individuals and businesses – including an extension of the expired research and development tax credit. The \$85 billion measure, offered by the Chairman and Ranking Member of the Senate Finance Committee, appeared to have enough job-creating policies and an appropriate price-tag to garner solid bipartisan support. However, mere hours after the Finance Committee leaders introduced the bill, Senate Majority Leader Harry Reid (D-NV) swatted down the proposal and introduced the leaner jobs bill (\$15 billion) that passed eventually passed the Senate which did not include the R&D credit. However, Senate leaders are readying a second jobs package, which does include a number of expired/expiring tax provisions -- including a retroactive extension of the R&D credit. Successful packaging of the measure still faces hurdles that include the need for possible budgetary off-sets and determining a way forward on addressing the Estate Tax before many possible supporters will back a tax extender bill.

The Federal Communications Commission will be unveiling its long-awaited National Broadband Plan on March 16, and earlier this month the FCC Chairman previewed the initiative in remarks to the National Association of Regulatory Utility Commissioners. Chairman Julius Genachowski outlined the Plan will contain a 2020 goal that includes “A ‘100 Squared’ initiative -- 100 million households at 100 megabits per second -- to unleash American ingenuity and ensure that businesses, large and small, are created here, move here, and stay here.” In addition, the FCC will set a target of 90% of American households to include broadband service, up from the less than 2 in 3 that subscribe currently. The Chairman briefly mentioned upcoming changes to the \$8 billion current funding mechanism for telecommunications infrastructure, saying the Plan will “set us on a course for a once-in-a-generation transformation of the Universal Service Fund -- cutting waste, driving efficiencies, and converting it over time to broadband support.” [In his remarks](#), the Chairman also briefly mentioned improvements greater broadband distribution can have on telemedicine programs and the deployment of smart grid technologies.

Late last week, NetWitness, a Virginia-based firm that hails itself as “the world leader in advanced persistent threat detection and real-time network forensics,” announced it has uncovered a massive number of computer breaches at nearly 2,500 different organizations affecting a total of approximately 75,000 computers. The on-going operation records log-in information to access private commercial and individual data. NetWitness describes the scope of the attack as “an extensive compromise of commercial and government systems that included 68,000 corporate login credentials, access to email systems, online banking sites...2,000 SSL certificate files, and dossier-level data sets on individuals including complete dumps of entire identities from victim machines.” While nearly 3 dozen bills have been introduced in Congress to address various aspect of federal cyber-security policy, none of a comprehensive nature has made significant progress. On Tuesday, the Senate Commerce Committee held a hearing on cyber-security with the former Director of National Intelligence Vice Admiral Michael McConnell [saying bluntly](#) “If we were in a cyberwar today, the United States would lose. This is not because we do not have talented people or cutting edge technology; it is because we are simply the most dependent and the most vulnerable. It is also because we have not made the national commitment to understanding and securing cyberspace.”

Transportation

After recalls involving millions of vehicles, Toyota’s president and CEO Akio Toyoda and the National Highway Traffic Safety Administration (NHTSA) both came under fire for safety lapses during two days of House Oversight and Government Reform and Energy and Commerce Committee hearings. Energy and Commerce head Henry Waxman (D-CA) was among those who supported increased powers for NHTSA, and he is looking toward allowing NHTSA to track information on vehicle defects in order to provide early warnings to consumers. Engineers and expert witnesses were unable to come to an agreement over what exactly was causing some Toyota vehicles to accelerate suddenly to dangerous speeds. During stern questioning from Oversight Committee members on Wednesday, Transportation Secretary Ray LaHood testified that NHTSA had not grown lax in its investigation into consumer complaints, and decried the idea that Toyota was too close to the federal agency. David Strickland, head of NHTSA, was originally scheduled to testify at the same hearing, but Secretary LaHood told members that he took full responsibility for the actions of the Transportation Department. Pressed to explain his comment that the recalled Toyotas are “not safe,” Secretary LaHood responded that owners of a vehicle listed on the Transportation Department’s website should “take it to their dealers and make sure that it gets fixed.” Mr. Toyoda and Yoshimi Inaba, president of the company’s North American division, took responsibility for the defective vehicles, saying that the company had incorrectly prioritized rapid expansion over quality control. Despite lengthy and sometimes heated discussion, the hearings failed to yield clear policy or regulatory outcomes. An additional hearing before the Senate Commerce, Science and Transportation Committee is planned for March 2.

The House Transportation and Infrastructure Committee held a hearing on transportation stimulus funding on Tuesday. Recovery Act funds dedicated as of January 2010 include a total of \$9.3 billion for rail. \$1.1 billion has gone toward 141 Amtrak projects currently underway and \$1.2 billion is funding Aviation projects. Secretary LaHood announced the awarding of 51 [Transportation and Investment Generating Economic Recovery](#) (TIGER) grants on February 17, out of a total of 1,400 grant applications received. The \$1.5 billion in TIGER grants will fund transportation improvement projects in 40 states, with 60 percent of funding directed to projects in economically distressed areas. The New England region received almost \$135 million for six projects.

At a House Transportation and Infrastructure Aviation Subcommittee hearing on Wednesday, members chastised the Federal Aviation Administration (FAA) for failing to implement aircraft icing safety recommendations. Subcommittee chair Jerry Costello (D-IL) called it “unacceptable” that the FAA has yet to produce regulations requiring manufacturers to demonstrate the safety of their aircraft in icy weather. The National Transportation Safety Board (NTSB) first recommended safety improvements related to so-called “instant” icing after the 1994 crash of an American Eagle plan in Indiana killed 68 people. Instant icing occurs when rain freezes upon contact with the plane, changing the shape and aerodynamics. FAA safety official John Hickey told the subcommittee that the agency has been gathering extensive research in order to develop a solution, and he expects new regulations to be proposed in mid-June. He added that since 1994, the FAA has issued over 100 directives addressing icing issues, although none on the NTSB recommendations regarding instant icing.

Higher Education

At a meeting with the nation’s governors on Monday, President Obama declared his support for higher national math and reading standards as part of any reauthorization of the Elementary and Secondary Education Act (ESEA), also known as No Child Left Behind. This goal is in line with the Administration’s stated desire to move away from ESEA’s present focus on standardized testing and toward college and career readiness. The Administration’s plan would require states to adopt new standards in order to receive Title I funding for assistance to low-income students from ESEA by 2014. The National Governors Association and the Council of Chief State Schools Officers are currently developing a set of education standards under the Common Core State Standards Initiative. Under the Administration’s plan, states could either adopt these standards or develop their own higher standards by working with local institutions of higher education to ensure that students are prepared for either college or a career when they graduate from high school. Compliant states would also be eligible for federal funds to improve math and reading curricula and teaching. President Obama applauded states like Massachusetts, where eighth-graders are now tied for first in science in the world, for having “upped their game” in science and math education, but said that many other states are still faltering in these areas. Some \$1 billion dollars in education funding from President Obama’s 2011 budget proposal hinges on a reauthorization of the legislation, which the President has asked lawmakers to complete by the end of the year. Education Secretary Arne Duncan echoed the need to prepare high school students for higher education or careers in his testimony on the Administration’s budget proposal on Wednesday. Included in the request is \$450 million for the Assessing Achievement program to help implement new standards and measurements, a 10 percent increase over the current authorization. House Education and Labor Committee ranking member John Kline (R-MN) said that any plan to impose federal standards on states within the reauthorization of ESEA would result in “a rebellion” from his caucus. Kline said that the reauthorization should emphasize local control, and suggested that any set of standards derived from the Department of Education, rather than bipartisan agreement, would be unacceptable to the Republican Conference.

Also concerned about the country’s scientific and economic competitiveness were university administrators at a House Research and Science Education subcommittee hearing on Tuesday. Witnesses testified that the research facilities, equipment, and salaries of academic institutions are all under-funded. They also agreed that more should be done to coordinate the grant-making efforts of government agencies like the National Science Foundation and National Institutes of Health in order to maximize the benefit throughout the university research community. Subcommittee ranking member Vernon Ehlers (R-MI) supported more focus on increasing student interest in the STEM fields, but voiced reservations about the federal government directly funding research infrastructure.

In an effort to track student achievement and allow data-sharing among states, the Administration established a technical working group to develop core standards for a linked system of state educational databases. National education data sharing has drawn support from industry and research groups as well as several major foundations.