



*Week of 3-21-16  
Volume 16 | Issue 10*

### **Congressional Overview**

This week, the Senate is in recess. However, this is not technically a recess since Senate Republicans plan to gavel in for pro forma sessions to avoid any chance of a presidential recess appointment. When the Senate returns on April 4, it will hold votes on a bill (S. 1890) that would combat the theft of corporate trade secrets. The Commission on the Theft of American Intellectual Property estimates that trade secret theft costs the U.S. economy more than \$300 billion each year. Meanwhile, the House left town Thursday for a two-and-a-half week recess without voting on a FY 17 budget blueprint. Speaker Paul Ryan (R-WI) will have only four days to bridge wide gaps within the GOP on the spending blueprint when members return.

### **House Democratic Leaders Pushing for Emergency Funding for Zika, Drug Addiction and Water Contamination Crisis**

House Democratic leaders are pushing for emergency funding to combat the Zika virus, battle drug addiction and address the water contamination crisis in Flint, MI. In a letter to House Speaker Ryan, House Democratic Leader Nancy Pelosi (D-CA) urged passage of emergency funding that would total \$3.27 billion for the three problems. Designating the funding as an emergency makes it exempt from discretionary spending limits, but Republicans have resisted, saying funding requests should go through the regular appropriations process.

### **House FY 17 Budget Resolution Update**

With the FY 17 budget resolution now on life support, the idea of a budget bypass is under consideration. Conservative opposition to a budget blueprint, that allows for \$30 billion in extra discretionary spending compared to the 2011 deficit-cutting law, threatens to derail the resolution if and when it reaches the House floor. A lesser version of a budget resolution, known as a deeming resolution, could suffer the same fate, unless Republican leaders turn to Democrats for help passing it.

Budget experts say House leaders could bypass any resolution by setting topline spending limits and proceed directly to the annual appropriations bills. The Congressional Budget Act allows the House to consider appropriations bills on the floor after May 15 in the absence of an adopted budget or deeming resolution. Such bills could even come to the floor before May 15 if the House waives budget rules blocking their consideration.

The advantage of such a strategy is clear enough: Conservative Republicans who oppose higher spending limits could bypass a vote on that issue while voting for the appropriations bills needed to keep the government open. House leaders remain focused on passing a budget resolution, which lays out the enforceable spending limits that the more-detailed appropriations bills must follow. The House Budget Committee approved the measure last week on a 20-16 vote, with two Republicans joining all Democrats in opposition. That said, with the 40-odd-member Freedom Caucus vowing to oppose the resolution, House leaders postponed floor action until after the spring recess.

### **Lawmakers Nearing Agreement on Legislation to Allow Puerto Rico to Restructure Some of its Debt**

Republican lawmakers are nearing agreement on a bill that would allow Puerto Rico to restructure some of its \$72 billion debt under the supervision of a federal court. While details of the legislation are still being worked out, the bill stops short of making Puerto Rico eligible for Chapter 9 bankruptcy protection, a route previously sought by

Democrats and the Obama administration. As a U.S. territory, Puerto Rico is not eligible to file for bankruptcy protection.

### **President Obama Becomes First Sitting U.S. President to Visit Cuba in Nearly 90 Years**

On Monday, President Obama met with Cuban President Raul Castro. While it's unclear what kind of negotiations could be kick-started, American business interests, including telecommunications, agriculture and airlines, have already taken steps to gain footholds in the country, possibly adding pressure to lawmakers to further roll back economic sanctions. Obama's delegation included Commerce Secretary Penny Pritzker, USDA Secretary Tom Vilsack, Secretary of State John Kerry and many business executives including CEOs of Xerox and Marriott International, as well as President's Export Council Chairwoman Ursula Burns.

While the administration can say easing the tension between the two former Cold War foes will result in the lifting of travel and business restrictions, President Obama cannot point to significant changes in Cuba's communist regime, particularly on human rights and opening up the private sector. Supporters of Obama's move say this is an important first step and note that other U.S. allies have spotty human rights records. President Obama is the first sitting U.S. president to visit Cuba since Calvin Coolidge was invited to speak in Havana in 1928.

### **Senate Passes Evidence-Based Policymaking Commission Act**

Last Thursday, the Senate passed anti-poverty legislation that was sponsored by Speaker Ryan and Sen. Patty Murray: the Evidence-Based Policymaking Commission Act. Ryan stated, "...we won't be able to expand opportunity in this country until we figure out which policies actually work. That's why we need to make use of all the data we already collect, and that's exactly what the Evidence-Based Policymaking Commission would help us do. This bill is a big step in the fight against poverty, and I want to commend Sen. Murray for getting it one step closer to the finish line." The Commission is charged with reviewing the inventory, infrastructure and protocols related to data from federal programs and tax expenditures while developing recommendations for increasing the availability and use of this data in support of rigorous program evaluation.

### **Lawmakers Agree on Opioid Abuse Epidemic but Disagree on its Cause**

Lawmakers agree that the nation's opioid drug abuse epidemic affects every district (urban or rural, black or white), but a hearing yesterday exposed rifts in the House over the most important factors driving the problem. Democrats attribute the increase in deaths related to prescription painkillers to a lack of access to treatment and overdose-prevention drugs. The House will soon begin to consider a bill that passed the Senate earlier this month (S.524) that would authorize the administration to offer grants to states to expand their treatment offerings and increase access to naloxone, an overdose prevention drug. It would also give the Justice Department additional tools to combat drug trafficking. It passed by 94-1, even after Democrats signaled that they might withhold support due to the absence of \$600 million in emergency supplemental funding, a fight that House Democrats are also likely to pursue.

However, House Republicans do not seem to view the lack of treatment as a priority, perhaps foreshadowing discontent among their ranks about the Senate bill's primary aims. Republicans on the House Committee on Oversight and Government Reform instead pointed to different culprits: a failure to stop drug traffickers, the liberalization of marijuana laws and a decrease in the number of drug-related prosecutions in recent years. Some of the five witnesses offered facts supporting Republican assertions, citing the increase in heroin coming across the border and the increasingly common addition of illicit fentanyl to heroin, which can increase the chance of an overdose.

### **DOL Sends Proposed Overtime Regulation to the OMB for Review**

On March 15, the DOL moved its anticipated final overtime regulation to the White House's Office of Management and Budget (OMB) for review, bringing one of the administration's top remaining rulemaking priorities one step

closer to fruition. The DOL's Wage and Hour Division sent the draft final rule to the OMB's Office of Information and Regulatory Affairs (OIRA). If approved by the OIRA, the department could then publish a final rule. Last summer, the DOL issued a proposed rule to expand access to overtime wages by more than doubling the threshold under which salaried employees are eligible for overtime pay. Several hundred construction industry employers made comments voicing opposition to the proposed rule. By sending the final rule to the OMB, the department set in motion a review period that can last up to 90 days. However, that deadline could be extended by either the DOL or the OMB, and the OMB could also decide to return the rule to the DOL for further consideration.

The office is not bound by a minimum review period. When questioned by several lawmakers at a March 15 budget hearing, Labor Secretary Thomas Perez declined to discuss the timing of publication of the final rule other than stating that it now sits at the OMB. The office's review period also allows for the scheduling of meetings with outside stakeholders who can weigh in one final time about their support for or concerns about the regulation.

### **OSHA Releases Guidance Memorandum on Enforcement of Workplace Injury Reporting Rule**

On March 9, OSHA released their new guidance memorandum on how it will enforce the reporting rule for employee hospitalizations, amputations and eye losses, which will allow area offices to increase fines and conduct inspections of workplaces that were not visited after an initial report. While the guidance is intended for OSHA staff, its directions provide insight for employers, attorneys and safety & health managers into complying with the rule and deciding what information to share with the agency.

Among the changes the new guidance makes is increasing the proposed fine for employers that fail to notify OSHA within 24 hours of learning about a reportable incident. The old recommended maximum penalty was \$1,000, not including reductions if the employer was a small business and other allowed reductions. The new guidance raises the recommended penalty to \$5,000, but it still allows the penalty to be reduced. Under the new and old guidelines, area directors retain the right to raise the fine to \$7,000 to achieve the "necessary deterrent effect" and the violation is still classified as "other than serious," the least severe of OSHA's violation categories. In FY 15, OSHA issued 627 citations for reporting violations, with fines averaging \$1,445.

### **DOL Extends Public Comment Period for Paid Sick Leave Rule**

The Labor Department has extended the public comment period to April 12 for a proposed rule requiring federal contractors to provide workers with paid sick leave. The comment deadline was originally scheduled for March 28 (30 days after the DOL's Wage and Hour Division (WHD) first published the proposal in the Federal Register last month). The rule would require government contractors to provide employees with one hour of paid sick leave for every 30 hours worked, or about seven days per year. The regulation is implementing President Barack Obama's 2015 executive order, which gives the WHD until September 30 to issue a final rule.

### **OIG Report Claims U.S. Citizenship and Immigration Service has not yet Benefited from Transfer to Electronic System**

On March 15, the Department of Homeland Security's Office of Inspector General (OIG) released its report claiming that the U.S. Citizenship and Immigration Services (USCIS) has little to show for the many years and billions of dollars spent on transforming its paper-based immigration benefits system into an electronic one. The OIG's findings were one of several subjects at a March 15 Senate hearing focused on the security of U.S. visa programs and immigration enforcement.

While members of the Senate Homeland Security and Governmental Affairs Committee mostly addressed the Visa Waiver Program and visa overstays, DHS Inspector General John Roth painted the USCIS' paper-reliant system as a security risk. Roth testified that the USCIS is working with an antiquated system of paper-based files that creates inefficiencies and risks to the program. Furthermore, the agency spends more than \$300 million per year shipping,

storing and handling over 20 million immigrant files. Past efforts to make the system electronic have been hampered by ineffective planning, multiple changes in direction and inconsistent stakeholder involvement.

Per the report, "...the USCIS dumped some \$500 million into a now-abandoned electronic transformation program, and the agency currently expects to spend an additional \$1 billion on future efforts to get its system fully online, about four years after originally projected." To date, the electronic transformation effort has been the subject of six OIG audits and five Government Accountability Office investigations.

### **2016 Presidential Campaign Update: Strategic Voting**

There appears to be a lot of strategic voting this election cycle, which is evident in voter registration figures. In Pennsylvania, nearly 50,000 Democrats have become Republican this year, presumably to vote in the presidential primary. Similarly, in Massachusetts 20,000 Democrats dropped their party affiliation to join the ranks of the unaffiliated, enabling voting in the Republican or Democratic primary. Other primary data supports this trend such as exit polling from Michigan, where self-described Democrats represented seven percent of the Republican primary electorate.

### **Ontario Issuing Grants for Trade-Training Efforts**

Ontario is pumping another \$4.5 million into trades-training efforts in Hamilton and area. The grants come from the province's Apprenticeship Enhancement Fund and Pre-Apprenticeship Training programs. These contain a total of \$36 million to finance 47 new capital projects at colleges and other training organizations and to support 84 pre-apprenticeship training programs to help more than 1,500 people traditionally under-represented in skilled trades such as women, Indigenous people and at-risk youth.

### **First American Shale Gas Shipment**

On Wednesday, the first American shipment of Marcellus Shale Gas departed from refineries headed to Europe. The ship is carrying a type of natural-gas liquid known as ethane that was extracted from the Marcellus Shale in western Pennsylvania, where companies such as Range Resources and Consol Energy have been looking to diversify the markets for their ethane because of pipeline and storage limitations. The Ineos Group Holdings (a Swiss petrochemical giant) is accepting this shipment underpinning a 15 year contract with both companies. No doubt, adding customers abroad would help stabilize U.S. producers, which could convince domestic buyers that they can count on rising supply. Unlike crude oil and natural gas, ethane is not restricted for export from the U.S. By 2020, Ineos said it aims to be importing about eight shipments a month from the U.S. to supply its European petrochemical facilities and refinery.