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Washington Outlook for 2016

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Welcome to 2016 and our annual look at what's in store for the United States Congress in the coming year. Here you will find a preview of the US legislative agenda as well as a look at the Obama Administration's regulatory plans. In addition, in our Appendix, we provide an election season cheat sheet, including the dates of the US state primaries as well as lists of the important Senate and House races to watch.

To discuss any of the issues raised here — or any legislative or agency-level opportunities — please contact one of the professionals on our ML Strategies team. You will find our contact information at the end of this article.

Introduction

The first session of the 114th Congress has been the most productive first session in recent years, with passage of numerous measures, including a major tax extenders bill that made permanent certain provisions, Cybersecurity legislation, renewal of the Export-Import Bank, a long-term Surface Transportation reauthorization bill, a six month extension of FAA funding, Trade Promotion Authority, renewal of the Land and Water Conservation Fund, reauthorization of the Elementary and Secondary Education Act, a two-year budget agreement that provided sequestration relief for defense and domestic spending, Fiscal Year 2016 Appropriations, the annual Defense Authorization bill, and an extension of the Perkins Student Loan Program.

For a sense of how the 114th Congress compares to recent congresses, before adjourning in December, the 114th Congress had enacted into law just over 100 measures. By comparison, the first session of the 113th Congress saw enactment of just 55 bills, and the first session of the 112th Congress saw enactment of 81 bills.

Looking ahead to 2016, the presidential and congressional primary season leading up to the November elections will clearly be at the forefront of everyone's minds, but Congress and President Obama will continue to work on moving their priorities. Included in the Appendix is a discussion of several House and Senate races to watch in November, as well as the caucus and primary schedules.

Given the high stakes of the elections, the congressional calendar has the House and Senate in session for far fewer days than normal this year. Early party conventions this summer mean that the House will adjourn on July 15 for the annual "August recess" and will not return until September 6. The Senate adjourns on July 17 and returns on September 6. Upon their return, both chambers will work for the month of September, with the Senate scheduled through the first week of October, before leaving again to allow members to campaign. The 2016 House and Senate calendars are located in the Appendix.

Appropriations, Budget & Tax

Fiscal Year 2017 Appropriations

It may seem that we only just finished Fiscal Year 2016 appropriations with passage of an Omnibus spending bill in mid-December, but the House and Senate Appropriations Committees are already hard at work developing their spending bills for Fiscal Year 2017, which begins on October 1.

The President is scheduled to submit his Fiscal Year 2017 budget request on February 9. Since Congress approved last year the top-line spending levels for Fiscal Year 2016 and Fiscal Year 2017, a Budget Resolution is not required this year, although there is some likelihood that congressional Republicans will seek to approve a resolution so that they can use Budget Reconciliation as part of the Fiscal Year 2017 budgetary process.

In recent years, the appropriations process has broken down over disagreements over spending levels, necessitating passage of a Continuing Resolution and/or Omnibus bill, but there is some hope that this year the process may adhere to something close to "regular order," with last fall's two-year budget agreement which set top-line spending levels for defense and domestic programs. The House and Senate Appropriations Committees, each with 12 subcommittees dedicated to the 12 annual spending bills, will be holding hearings and mark-ups over the coming months with the ambitious goal of completing the

appropriations process by September 30.

International Tax Reform

Following December's $680 billion agreement to extend and make permanent certain tax provisions, there is increasing optimism about a bipartisan agreement on international tax reform for multinational corporations. A prime motivator for action is the growing trend of inversion, where multinationals invert their corporate structure and merge with companies outside the U.S. in order to lower their tax rates. Any agreement could include provisions to create a preferential tax rate for income derived from certain types of intellectual property. Senate Finance Committee Chairman Orrin Hatch (R-UT) and House Ways and Means Committee Chairman Kevin Brady (R-TX) have both indicated a desire to pass international tax reform this year, and key Democrats such as Senate Finance Committee Ranking Member Ron Wyden (D-OR) and Senator Chuck Schumer (D-NY) have expressed a willingness to engage in a discussion of the issue.

Internet Access Tax Moratorium / Internet Sales Tax

Senators Dick Durbin (D-IL) and Lamar Alexander (R-TN), leading sponsors of the Marketplace Fairness Act, S. 698, are gearing up for potential floor action in late January. The measure would allow state and local governments to require out-of-state Internet vendors to collect sales taxes on goods sold online, so supporters see an opportunity to bring the bill to the floor on the heels of the Customs bill, which includes a moratorium on Internet access taxes. These two issues have historically been dealt with separately, but there have been efforts to combine the two different measures in recent years. If the Customs conference report is approved with the Internet access tax language intact, then supporters of the Marketplace Fairness Act will have to move forward with the plan to act on the standalone bill. However, if efforts to remove the moratorium provision are successful, we will likely see a renewed effort from MFA supporters to join the two measures.

As Congress wrapped up 2015, they included a provision in the end of the year funding package to briefly extend the Internet Tax Moratorium through September 30, 2016. Language that would make the moratorium permanent is also included in the Customs bill, discussed later in the Trade section, which we expect will be on the Senate floor by the end of January. The idea of the moratorium has broad bipartisan support on Capitol Hill, as well as industry and consumer support. With the fate of the FCC's Open Internet Order still up in the air, broadband service providers are anxious to see this measure pass. In addition, if the Internet Tax Moratorium is made permanent, it will finally be separated from the more controversial debate surrounding online sales tax legislation.

Digital Goods and Services Tax Fairness Act

H.R. 1643, the Digital Goods and Services Tax Fairness Act, was approved by the House Judiciary Committee last June. The bill would bar multiple or discriminatory taxes on sales of digital goods such as downloaded music. The Senate version of the bill, S. 851, has not yet been approved by the Senate Finance Committee.

Banking

Restructuring of Puerto Rican Debt

As part of the year-end negotiations on the FY16 omnibus appropriations bill, congressional Democrats pressed House and Senate leadership to attach an aid package for Puerto Rico, which continues to struggle to pay off its debt. While such a provision was not included in the spending bill, both House Speaker Paul Ryan (R-WI) and Senate Majority Leader Mitch McConnell (R-KY) have agreed to address the issue early this year. More specifically, House Minority Leader Nancy Pelosi (D-CA) has said that Speaker Ryan has privately committed to reaching a plan for resolving the Puerto Rican debt crisis by March 31st. In the Senate, a starting point may be the Puerto Rico Assistance Act, which was introduced in December by Finance Committee Chairman Orin Hatch (R-UT), Judiciary Committee Chairman Chuck Grassley (R-IA), and Energy and Natural Resources Committee Chairman Lisa Murkowski (R-AK). While it does not provide Puerto Rico with bankruptcy protection, the Senate bill would direct up to $3 billion in federal assistance to Puerto Rico by providing some tax relief and financial oversight to help the territory achieve greater economic stability. Under current law, territories like Puerto Rico, which has $72 billion in debts and is teetering on the brink of default, are barred from restructuring debt in bankruptcy. As the Senate considers policy options for a longer term solution to the Puerto Rican debt crisis, the body could also consider the Puerto Rico Emergency Financial Stability Act, which was introduced by Minority Leader Harry Reid (D-NV) along with Senators Chuck Schumer (D-NY), Richard Blumenthal (D-CT), and Elizabeth Warren (D-MA). This bill would establish a short-term stay on creditor litigation until Congress acts to allow Puerto Rico to restructure its debts. Companion legislation was introduced in the House by Minority Leader Nancy Pelosi (D-CA). With Puerto Rico defaulting on about $37 million in bond payments on January 1st, island officials have ramped up their lobbying on this issue and threaten to close schools and cut back emergency services on the island unless Congress acts to provide the territory with protection from its creditors.

National Flood Insurance Program Reauthorization

With the Federal Emergency Management Administration (FEMA) National Flood Insurance Program (NFIP) set to expire in September 2017, there is a push to reauthorize the program in advance of the deadline. Created in 1968, the program offers flood insurance to homeowners, renters, and business owners if their community participates in the NFIP. Participating communities agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding. Part of the urgency in reauthorizing the NFIP is the backlog of claims from previous weather events. For instance, as of December 2015, the program has closed just 16 percent of the claims from Hurricane Sandy. The Flood Insurance Market Parity and Modernization Act was introduced in June of last year by Reps. Dennis Ross (R-FL) and Patrick Murphy (D-FL). Already this year, there have been two congressional hearings on NFIP reauthorization at the House Financial Services Subcommittee on Housing and Insurance.

Defense and National Security

Fiscal Year 2017 National Defense Authorization Act (NDAA)

On November 25th, President Obama signed the FY16 National Defense Authorization Act (NDAA) into law. While President Obama vetoed the legislation in October, once an agreement on a two-year spending deal was reached between the White House and Congress, the House and Senate quickly passed the legislation again, sending the bill back to President Obama for his signature. While President Obama's veto was somewhat controversial, in recent years the NDAA has come to be viewed as "must pass" legislation. As the NDAA has been enacted into law for the past 54 consecutive years, conventional wisdom is that FY17 NDAA will also ultimately make its way through the legislative process. With Congress wrapping up the FY16 NDAA relatively early, work has already begun in identifying priorities issues for the FY17 NDAA. With the budget agreement providing the Department of Defense (DOD) with a clear FY17 budget topline, some defense experts are optimistic this year's defense authorization process can be carried out swiftly, and perhaps conclude before Congress goes into recess ahead of the November 2016 elections. However, others suggest because the budget agreement calls for defense spending to fall roughly $15 billion from the levels DOD projected for FY17, there is the potential for the process to be slowed by defense hawks seeking to revisit the budget agreement to raise DOD's base budget. Ultimately this could play out with higher levels of funding authorized for the Overseas Contingency Operations (OCO) account, a strategy Congress attempted to use this past year to boost net defense dollars.

DOD has submitted its FY17 budget request to the Office of Management and Budget (OMB), and the President's FY 17 budget request, to be unveiled on February 9th, could provide soon and this could provide the first glimpse into how the department may address the budget shortfall. Also as part of the FY17 NDAA process, expect the House and Senate Armed Services Committees to execute oversight of the Obama Administration's actions to transfer Guantanamo Bay detainees, probe for opportunities to overturn language in the FY16 omnibus appropriations bill that permits the use of Russian-made engines for military satellite launches, and advance the implementation of acquisition reform provisions in the FY16 NDAA, including those related to DOD procurement of commercial items. In addition, Senate Armed Services Committee Chairman John McCain (R-AZ) has expressed interest in streamlining military structure through revisions to the Goldwater-Nichols Act, while House Armed Services Committee Chairman Mac Thornberry (R-TX) has said the Committees will also consider military health care reforms. President Obama has signaled his intent to work with Congress on developing a new military retirement system based on the recommendations put forward by the Military Compensation and Retirement Modernization Commission.

Fight Against the Islamic State of Iraq and the Levant (ISIL)

In December, President Obama delivered an oval office address intended to reassure the nation in his Administration's approach to fighting ISIL. Without announcing any major policy shift, the President reiterated the U.S., working in coordination with international partners, is committed to defeating ISIL by continuing military campaigns against terrorists wherever they are active, providing training and equipment to Iraqi and Syrian forces fighting ISIL on the ground, disrupting terrorist plots by cutting off terrorist financing and preventing the recruitment of foreign fighters, and establishing a strategy for supporting a political solution to the civil war in Syria.

While the President has provided a draft authorization for the use of military force (AUMF) to Congress for its consideration, his most recent request that Congress take up the war authorization is perceived to be largely symbolic. This is the case because the Administration has already justified its counter-ISIL actions using the 2001 and 2002 AUMFs and because Congress appropriated roughly $58.6 billion in the FY16 omnibus appropriations bill for counterterrorism activities. Under its current authority, the White House has authorized 3,500 military advisers in Iraq, in addition to 50 special operations forces in Syria. As a whole, lawmakers have shown little political appetite to take on an ISIL-specific AUMF, although House Speaker Paul Ryan (R-WI) has implored committee chairmen to reexamine support in the House. The House Republican Conference has pushed back against Speaker Ryan's request, arguing any debate on the AUMF is likely to divide those who want to limit the scope of the U.S. military response to ISIL and those who would prefer to use an AUMF to push the Administration to take ISIL on more aggressively.

As a result, and in light of the terrorist attacks in Paris and San Bernardino, expect Congress to play more of a reactive oversight role in the fight against ISIL, and potentially some legislative movement on smaller measures intended to protect the homeland, such as tying the No Fly List to limitations on the purchase of

guns and assault weapons and putting in place stronger visa requirements and screenings for visitors to the U.S. One additional piece of legislation related to the fight against ISIL that could receive some recognition is a proposal from Senator Chris Coons (D-DE) that would authorize a temporary war surtax to pay for U.S. operations against ISIL. Senator Coons attempted to attach this proposal as an amendment to the FY16 budget resolution, but it failed on a vote of 46-54.

Syrian Refugee Crisis

Before the Thanksgiving recess, the House passed the American Security Against Foreign Enemies (SAFE) Act, aimed at putting an end to the resettlement of Syrian and Iraqi refugees in the U.S. and overhauling the process for screening refugees. While Republican members of Congress have been the most vocal in expressing their opposition to President Obama's plan to resettle as many as 10,000 Syrian refugees in the U.S., 47 Democrats in the House joined Republicans in voting for passage of the SAFE Act. The bill would make the Federal Bureau of Investigation (FBI) the primary agency for conducting background checks for refugees instead of the Department of Homeland Security (DHS), which is currently performing the bulk of background checks in coordination with other agencies. Additionally, the legislation would require the DHS Secretary, the FBI Director, and the Director of National Intelligence (DNI) to personally acknowledged that each individual admitted refugee poses no national security threat – an element of the bill the Administration claims is not feasible.

Despite these concerns, House Republicans launched an effort to see the SAFE Act attached to the FY16 omnibus appropriations bill, which was ultimately unsuccessful. Instead, Majority Leader Mitch McConnell (R-KY) pledged to take up legislation on the Administration's refugee acceptance program in the first quarter of 2016. The Senate will vote on the House-passed measure on January 20th, although it is expected Democrats will block the bill from moving forward. President Obama has also vowed to veto the SAFE Act should it reach his desk, although he and other members of the Administration who are opposed to the bill have indicated openness to working with Congress on other bipartisan legislation aimed at keeping terrorists from entering the U.S.

As noted above, aside from addressing the urgent issue of an influx of refugees from Syria, the Administration must simultaneously solidify its position on ending the country's civil war, due to extend into a fifth year. With international peace talks on the situation in Syria slated to begin in late January, U.S. officials will be challenged to develop a strategy to bridge the gap with Russia over Syrian President Bashar al-Assad clinging to power. This will be no easy task, especially given the worsening tensions between Sunnis and Shias in the Middle East, as evidenced by the recent dispute between Saudi Arabia and Iran.

Afghanistan Troop Withdrawal

Upon assuming office, President Obama aspired to bring nearly all American forces home from Afghanistan by the end of his presidency. However, with the unstable security situation in the country and the importance of the region to other U.S. foreign policy objectives, many believe the Administration's modified timeline for troop withdrawal could be in jeopardy. In October, following an extensive review of the U.S. strategy for Afghanistan, President Obama announced his decision to keep U.S. troops in Afghanistan, while pursuing force reductions to 5,500 by the start of 2017. Because growing the capabilities of Afghan soldiers has been a greater challenge than anticipated, and due to the need to continue counterterrorism activities to mitigate any further deterioration of security in the region that could create openings for the rise of new extremist groups, there is growing consensus that President Obama is likely to receive pushback from his military advisors should he strive to meet the 5,500 troop reduction target over the course of this year. There are currently 9,800 U.S. troops in the country.

Army General John Campbell, the leader of U.S. forces in Afghanistan, is expected to visit Washington early this year to provide briefings on the situation on the ground. General Campbell has publically advocated for the scheduled troop reduction to be put off as long as possible. His warning comes as the most recent quarterly assessment of the U.S. strategy in Afghanistan revealed increases in insurgent attacks carried out by the Taliban and higher Afghan security force casualties. As a result, expect a number of congressional hearings with top military brass regarding the Administration's timeline for troop withdrawal from Afghanistan.

Guantanamo Bay Detention Facility (GTMO)

While the Obama Administration has long viewed the closure of GTMO as a legacy issue, Republicans in Congress continue to restrict the President's authority to close the facility. The end of the year FY16 omnibus appropriations bill included a provision that would block the Administration from moving GTMO prisoners to any prison facilities within the U.S. With President Obama entering the final year of his presidency, some expect the White House may explore ways in which it might be able to use its regulatory authorities to achieve this policy goal, despite resistance from Republicans in Congress who are seeking a detailed plan for the transfer of the remaining GTMO detainees. With a number of detainee transfers already completed since the start of the New Year, there are just 93 detainees now housed at GTMO.

During his end of the year press conference, President Obama indicated his preference would be to provide Congress with draft legislation outlining a plan for the closure of the facility. However, the White House rejected an initial plan put forward by the Pentagon that provided a blueprint for redistributing

inmates to either other countries or, for those 50-70 detainees deemed too dangerous to release, to various U.S. federal prisons or military facilities, claiming it was too costly. If this legislative effort stagnates or eventually fails, President Obama may look to the extreme alternative by invoking his constitutional rights as Commander-in-Chief to determine the facilities in which military detainees are held — an approach the White House has not ruled out. Should President Obama pursue this strategy, there could potentially be legal consequences, as Senate Armed Services Committee Chairman McCain (R-AZ) has vowed to sue the Administration should it undertake any initiative to close GTMO while bypassing Congress.

Education

New Acting Secretary of Education

With the departure of Secretary of Education Arne Duncan at the end of 2015, the Department of Education is now headed by Acting Secretary of Education John King, who joined the department early last year as the Senior Advisor Delegated Duties of Deputy Secretary with oversight over all preschool-through-12th grade education policies, programs, and strategic initiatives, as well as the operations of the Department. The son of New York City public school educators, Mr. King was previously the chief executive officer of the New York State Education Department and president of the University of the State of New York.

Higher Education Act (HEA) Reauthorization

Following last year's approval and enactment into law of the reauthorization of the Elementary and Secondary Education Act, which replaces the No Child Left Behind Act, the education agenda for Congress and the Administration will pivot to reauthorization of the HEA. The HEA is the cornerstone of the Federal government's commitment to post-secondary education. HEA governs the Department of Education's programs on accreditation, international and graduate education, teacher training and, perhaps more importantly, dozens of financial aid programs for students. The HEA was first signed into law in 1965 and has been reauthorized at various times since, most recently in 2008. That reauthorization expired at the end of 2013, but there have been several temporary extensions since that time with the most recent expiring on September 20, 2015. Last December, Congress approved and President Obama signed into law H.R. 3594, the Federal Perkins Loan Program Extension Act, which renewed the federal student loan program along with other HEA provisions and programs through the current fiscal year ending on September 30, 2016. It is important to note that the last long-term reauthorization in 2008 took five years to complete.

Campus Discrimination

Former Secretary of Education Arne Duncan and the current Acting Secretary of Education John King issued a year-end guidance letter urging the nation's education sector, both higher education and K-12, to ensure that schools and institutions of higher education are learning environments in which students are free from discrimination and harassment based on their race, religion, or national origin. The letter was in response to reports of campus anti-Muslim and anti-refugee sentiment.

Student Data Privacy

Last year, Representatives Luke Messer (R-NV) and Jared Polis (D-CO) introduced H.R. 2092, the Student Digital Privacy and Parental Rights Act. The bill prohibits an operator of a school's Internet or online service that is designed and marketed for K-12 educational or administrative purposes from presenting students or parents with targeted advertisements that are selected based on information obtained or inferred from: (1) students' online behavior or use of online or mobile applications, or (2) personally identifiable information about the student. The bill exempts online advertisements that are contextually relevant and selected based on a single visit or session of use during which the advertisements are presented, provided that information about students' online behavior is not collected or retained over time. The bill further prohibits operators from: (1) selling students' personal information to third parties; or (2) collecting student information to create a personal profile or for purposes unrelated to educational instruction, school collaboration, or administrative activities.

Student Loan Forgiveness

Nearly all – 45 – states plus the District of Columbia have instituted some form of student loan forgiveness program, with many focused on specific career fields such as education, health care, dentistry, and law. At the federal level, the Department of Education is now seeking to expand the right of all student loan recipients to seek loan forgiveness, with a negotiated rulemaking proceeding to promulgate new regulations that will clarify the process. Taking place from January to March of this year, the rulemaking hearings will set a schedule for public comment with the goal of a final rule by November 2016.

College Scorecard

In 2013, President Obama unveiled a plan to create a federal rating system that would enable parents and students to easily compare colleges. The proposal was intended to rank the nation's 7,000 institutions of higher education in order to draw attention to low-rated schools that leave students with high student loan debt and poor earning potential. In September 2015 the President abandoned the plan, which was opposed by many colleges and universities. In its place, the Administration has created a new College Scorecard that does not rank colleges but instead provides students and parents with annual costs, graduation rates, and salary potential post-graduation. The College Scorecard provides information on how to pay for college with information on types of financial aid, GI Bill benefits, and a calculator to determine what aid is available. As an example of how the Scorecard provides background for students and parents, it is currently highlighting four-year schools with low costs that lead to high incomes, two-year colleges where students earn high salaries after graduation, four-year schools with high graduation rates and low costs, and public four-year colleges with high graduation leading to high income. The Department of Education will work over the year to promote use of the new Scorecard.

Energy & Environment

Congress

Following weeks of intense negotiations, Congress approved the $1.1 trillion omnibus appropriations and $680 billion tax extenders package (H.R. 2029), which includes a long-term extension and phasing down of the wind production tax credit and the solar investment tax credit. It provides an extension, retroactive to January 1, 2015, of the wind production tax credit at its current 2.3 cent rate through 2020, with a phase down of 20 percent per year beginning in 2017. The measure extends the investment tax credit for solar with a phase down of 30 percent through 2019, 26 percent in 2020, 22 percent in 2021, and then expires in 2022 for residential projects and reverts to the existing 10 percent credit for commercial projects at that time. The bill lifted the four-decades old crude oil export ban, but did not include many of the environmental riders that were being considered, such as language prohibiting the Environmental Protection Agency from implementing power plant or ozone standards or the Waters of the US rule, nor did it prohibit the administration from contributing to the Green Climate Fund. In additional to related legal battles, however, we expect congressional challenges to the rules to continue through 2016. The tax extenders package impacts 52 tax breaks, providing two-year renewals for some and five-year renewals for others, making still others permanent, containing Internal Revenue Service administrative practice language, and offering new rules related to real estate investment trusts, among other issues. The package extends or creates more than $33 billion in energy-related tax credits over ten years, including, in addition to the above, extending through 2016 the $1 per gallon biodiesel tax credit; the $1.01 per gallon cellulosic biofuel tax credit; and a tax deduction for energy efficiency improvements to commercial buildings.

The omnibus spending bill funds the government until September 30, 2016, and provides $29.7 billion to the Department of Energy, including $2.1 billion for the Office of Energy Efficiency and Renewable Energy, $986 million for nuclear energy programs, and $632 million for fossil fuel research and development; $8.14 billion to the Environmental Protection Agency for the 2016 fiscal year, an identical figure to its 2015 funding level; $990 million to the Nuclear Regulatory Commission, a small decrease from the $1.03 billion requested; and $319.8 million to the Federal Energy Regulatory Commission, meeting the administration's request. Following an enormously productive legislative session in 2015, congressional appropriators hope to be able to address each of the appropriations bills separately rather than via an omnibus package at the end of the year.

TSCA Reform

With the three-year reauthorization of the Land and Water Conservation Fund causing Senators Richard Burr (R-NC) and Kelly Ayotte (R-NH) to lift their holds on the bipartisan compromise Toxic Substances Control Act reform legislation, the Senate approved the measure (H.R. 2576 with a substitute amendment from Senator James Inhofe) December 17. The Senate and House will conference their bills shortly, with the hope of finalizing TSCA reform in early 2016.

Tax Extenders

In the midst of an election year, Congress faces a fairly full schedule for 2016. Included in that list, of course, will be renewed debates over tax issues, including hearings and markups that address 2016 expiring energy tax provisions that, through a drafting error or otherwise, were neither made permanent nor extended in the approved package, like investment tax credits for non-solar technologies such as qualified fuel cells, microturbines, combined heat and power facilities, thermal energy properties, and more. Those tax extenders may be included in the upcoming Federal Aviation Administration reauthorization, a bipartisan energy bill, international tax reform, or a stand-alone 2016 tax extenders bill, which is likely to move as part of some end of the year measure or during the lame duck session.

Climate Change

Other energy and environment issues on Congress's plate this year include a response to the outcome of the 21st Conference of Parties to the United Nations Framework Convention on Climate Change, which

concluded its international climate negotiations in Paris mid-December with a global accord. The international agreement to reduce greenhouse gas emissions and mitigate climate change beginning in 2020 calls for keeping global warming to below two degrees above pre-industrial levels and for pursuing efforts to limit the temperature increase to 1.5 degrees Celsius; achieving carbon neutrality by the second half of the century; adapting to adverse climate impacts and fostering climate resilience and low GHG development in a way that does not threaten food production; making consistent financing flows with a pathway toward low GHG emissions and climate resilient development. A legally binding portion of the accord requires countries to reconvene and increase their GHG reduction commitments every five years beginning in 2020, and how well countries are meeting their commitments, as outlined in their Intended Nationally Determined Contributions, will be examined every five years beginning in 2023. The agreement addresses loss and damage and calls on developed nations to increase their financial support before 2020 to achieve the $100 billion annual global climate fund goal for mitigation and adaptation efforts. The text sets up land use rules, REDD, and transparency frameworks, including independently monitoring, reporting, and verifying national emissions. With a unanimous vote, the pact requires ratification beginning in April by legislatures from at least 55 countries representing 55 percent of the world's emissions in order for it to enter into force, which must happen by 2020. While President Obama, Capitol Hill Democrats, and others in the environmental and public health communities praised the accord, Senate Environment and Public Works Committee Chair James Inhofe (R-OK) opposed it, and some in Congress continue to insist that the United States is not legally bound to any international climate agreement without Congressional approval. Expect to see hearings on the agreement in 2016.

Bipartisan Energy Bill

Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK), who is up for reelection, is hoping to secure floor time as soon as possible for the bipartisan energy package (S. 2012) that cleared the committee last summer. Among other things, the measure includes language to increase energy efficiency, renewable energy, and energy infrastructure, as well as impose deadlines on the Department of Energy to make final decisions on natural gas exports, and permanently reauthorize the Land and Water Conservation Fund. Senate Democrats unveiled an alternative package focused on clean energy last fall that could preview some of the amendments likely to surface during floor debate. There is no guarantee that a bill will move in 2016, though there may be a scaled back package, most likely before late fall. After a bipartisan effort fell apart last year in the House, the lower chamber approved its own energy bill (H.R. 8) before the close of the year on a near party line vote. House Energy and Commerce Committee Chair Fred Upton (R-MI) recently said that he is open to removing some of the more controversial measures of the package in order to craft a more bipartisan measure. Representative Upton is interested in pursuing a measure that replaces the crude oil export language of the House-passed package with LNG language to reflect the Senate bill as well as return to a more bipartisan approach along the lines of what he had initially intended.

Other Issues

Additional topics among the list of potential issues for consideration this year include efforts to reform the national biofuels mandate, better protecting the power grid against cyber-attacks, and overseeing Environmental Protection Agency and other Administration energy and environment related regulations during President Obama's final year in office.

Administration Regulatory Efforts

While the fate of much of this Administration's energy and environment agenda awaits rulings in the judicial branch this year, President Obama will finalize several additional energy and environment regulations during his final year in office, from efficiency rules at the Department of Energy, to pipeline safety at the Department of Transportation, to medium- and heavy-duty vehicle fuel efficiency at the Environmental Protection Agency, to a Department of Interior plan that could allow limited oil and gas development off the coasts of Georgia, North Carolina, South Carolina, and Virginia.

Environmental Protection Agency

The Environmental Protection Agency will continue its theme from the past seven years, facing lawsuits and criticism from both sides of the political aisle on almost everything the agency does. If 2015 was the year the Obama Administration pushed its environmental agenda forward, 2016 could be the year to preserve it.

Until and unless the U.S. Court of Appeals for the District of Columbia Circuit stays the Clean Power Plan court challenges from 27 states and a number of industry groups, federal and state regulators must begin working to implement the rule, with implementation plans due starting in 2018 and emissions reductions beginning by 2022. In addition to defending the rule in court, the agency is likely to spend much of the year working with states to craft acceptable implementation plans as well as develop its own federal implementation plan. Lawsuits are expected to extend well past this year. Additionally, legal battles over the New Source Performance Standards for new and modified power plants will continue throughout the year.

Immediately following the Obama Administration's finalization of the Ozone Rule last year, an intense legal battle began, with industry groups as well as public health and environmental organizations

displeased with the new 70 parts per billion standard. We expect the legal battle to continue through 2016 as well.

The agency is expected to finalize its Methane Rule this June, regulating new and modified oil and gas sources as part of the Administration's plan to reduce methane emissions from the oil and gas sector by 40 to 45 percent from 2012 levels by 2025. The rule would require drillers to use advanced technologies to track and prevent accidental and purposeful leaks when producing and transmitting oil and gas.

The Environmental Protection Agency published its Renewable Fuel Standard volume mandates for 2014-2016 in the Federal Register December 14, kicking off litigation from the oil and refining industries, biofuel producers, and corn growers, all challenging parts of the rule and defending others. Lawsuits can be filed through February 12.

The U.S. Court of Appeals for the District of Columbia Circuit ordered December 15 that it would leave in place the Environmental Protection Agency's Mercury and Air Toxics Standard while the agency fixes the regulation. The agency must do so by April 15.

Although a federal court stayed the Waters of the United States rule last year, stalling implementation of a rule setting regulatory authority over streams, wetlands, and other small waterways, the Environmental Protection Agency and the Army Corps of Engineers maintain that the rule is legal and plan to continue to fight the lawsuits against it this year. The appeals process could eventually bring the water rule to the Supreme Court.

The agency also plans to release a final version of its report on fracking and drinking water this year, and will consider critical comments released the first week of January by the Science Advisory Board at its shapes the final project.

In other 2016 priorities, the agency plans to finalize, in conjunction with updated average fuel economy standards from the National Highway Traffic Safety Administration, new fuel efficiency standards for medium- and heavy-duty vehicles; finalize efforts to reduce the production and use of hydrofluorocarbons; and work with countries around the world to implement the Paris climate accord by providing global technical leadership in measuring and reporting their greenhouse gas emissions.

Department of Energy

The Department of Energy finalized more than a dozen energy efficiency standards last year, rounding out the year with standards for ceiling fans and ceiling fan light kits, rooftop air conditioners, commercial and industrial pumps, beverage vending machines, residential boilers, pre-rinse spray valves used in restaurants, and walk-in coolers and freezers.

Following the most recent rules, the administration is about 75 percent of the way toward its goal of reducing 3 billion tons of CO2 emissions through final efficiency rules during the Obama Administration. We anticipate 2016 to see a similar flurry of activity on efficiency standards from the agency.

The agency also plans to complete the second Quadrennial Energy Review by late 2016. The second review will address the United States' electricity from generation to end use. Stakeholders will start meeting early this year, with an interagency review expected by late summer; 13 teams will consider electricity sector topics, including markets, finance, and grid operations.

Department of the Interior

The Bureau of Ocean Energy Management is likely to move forward in January or February with its five-year offshore drilling lease plan, setting a schedule for lease sales of offshore oil and natural gas drilling rights. The 2017-2022 plan, the first draft of which was released in early 2015, will be finalized later in the year. The most recent version of the plan includes proposals to allow offshore drilling in the Atlantic Ocean for the first time as well as sell more drilling rights in the Arctic Ocean north of Alaska.

The Bureau of Land Management will finalize its venting and flaring rule for gas wells on public lands by August, and may also raise royalties.

The Fish and Wildlife Service plans to finalize several Endangered Species Act reforms, including rules for how to designate and protect critical habitat and how to make the law less burdensome to land users. The Service, along with the National Park Service, will also pursue its own oil and gas drilling reforms to ensure that sensitive landscapes are protected from spills.

The department is also likely to address the Endangered Species Act sage grouse listing as it faces a 2016 challenge of implementing land-use plans preserving sagebrush habitat across Western lands while maintaining access for oil and gas developers, miners, and ranchers. The Bureau of Land Management is also likely to address renewable energy development on public lands in a significant way.

As part of his legacy, President Obama is also considering millions of acres of Western lands for permanent protection under the Antiquities Act, which allows presidents the power to withdraw federal lands from oil, gas, and mining development, among other uses.

Federal Energy Regulatory Commission

December 14 marked the Supreme Court's last opinion day for 2015 and the justices have yet to resolve the future of the Federal Energy Regulatory Commission's demand response rule, Order No. 745. They returned January 11, and a ruling could come on the case soon. [A1] Oral arguments in the case were held October 14.

Additionally, the Federal Energy Regulatory Commission is expected to finalize a connected entities rule this year to detect and reduce energy market manipulation.

Nuclear Regulatory Commission

The commission will issue a report in March as part of its Project Aim 2020 program to outline how to re-baseline the agency's mission and priorities and reduce staff.

The commission is expected to receive the first design certification for a small modular reactor from NuScale Power by the end of the year.

The commission will use remaining funds appropriated for the Yucca Mountain project to issue a final supplemental environmental statement early this year.

Food Safety, Labeling & Nutrition

Congress

Healthy, Hunger-Free Kids Act Reauthorization

Congress has yet to reauthorize the Child Nutrition Act, last passed in 2010 as the Healthy, Hunger-Free Kids Act. In an end-of-year press conference, President Obama highlighted reauthorization as a 2016 priority. The Act authorizes funding and sets policy for USDA's core child nutrition programs, including the School Breakfast, National School Lunch, Child and Adult Care Food, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and the Fresh Fruit and Vegetable Programs.

Genetically Engineered (GE) Product Labeling

The FY2016 Omnibus Appropriations bill did not include any of the proposed language preempting state laws on the labeling of GE foods. Congress may turn back to this issue in 2016, including revisiting the Safe and Accurate Food Labeling Act of 2015 (H.R. 1599), introduced by Representative Pompeo (R-KS) and passed by the House in July 2015. H.R. 1599 stops states from mandating food labels on GMO products. The bill also calls for the creation of a voluntary USDA certification process for GMO-free foods and for FDA to regulate "natural" claims used on food labels. Supporters of the bill point to the dearth of any credible evidence showing foods produced with biotechnology pose any risks to health or safety.

Administration Regulatory Efforts

Food and Drug Administration (FDA)

Proposed Changes to the Nutrition Facts Label
FDA's overhaul of Nutrition Facts labels, a priority for President Obama, may be finalized this year. The changes, which include increasing the font size for calories, smaller serving sizes, and a separate column and a Daily Value percentage for added sugars, have been hotly debated within the industry.

Food Safety Modernization Act (FSMA)
FDA is required to release its final two FSMA rules on sanitary transport and intentional adulteration in March and May of 2016, respectively.

Labeling of "Natural" Products
FDA's request for information and comments on the use of the term "natural" in the labeling of Human Food Products was extended to May 10, 2016, giving interested parties three additional months to submit comments. FDA is taking this action partly in response to three Citizen Petitions asking the agency to define the term "natural" for use in food labeling and one Citizen Petition asking the agency to prohibit the term "natural" on food labels, as well as recent requests from judges in the context of private lawsuits involving the term "natural" on consumer products.

Department of Agriculture (USDA)

2015 Dietary Guidelines
On January 7, USDA, along with the Department of Health and Human Services (HHS), released the 2015 Dietary Guidelines. The final guidelines advised Americans to increase their fruit and vegetable consumption and add low-fat or non-fat yogurt to their daily routine. The guidelines also removed a previous suggestion that Americans limit their cholesterol to 300mg/day, advised limiting calories from

added sugars to 10 percent of daily caloric intake, and cautioned men and teenage boys from eating too much protein. The final guidelines did not include language from the Dietary Guidelines Advisory Committee that recommended Americans eat less meat for environmental reasons.

Organic Checkoff and Rules
USDA is expected to finalize a rule that will exempt additional organic farmers and handlers from paying into commodity checkoff programs. The rule, mandated by the 2014 farm bill, stipulates that producers and handlers of National Organic Program–certified "organic" products, which must be 95 percent organic, and certified "100 percent organic" products are exempt from paying commodity promotion program assessments. The existing exemption applies only to "100 percent organic" products — as opposed to all certified and labeled organic products.

Catfish Facility Inspections
USDA will begin Catfish facility inspections in March 2016 as required by its 2015 Final Rule implementing legislative amendments to the Federal Meat Inspection Act that brought catfish under USDA jurisdiction.

Foreign Policy

Iran Sanctions

Having won a huge victory in achieving the Iran nuclear deal last July, the Obama Administration will focus heavily on its implementation during its final year. In accordance with the Joint Comprehensive Plan of Action (JCPOA), on January 16th, the International Atomic Energy Agency (IAEA) certified Iran's completion of the agreed upon steps to curtailing its nuclear program, triggering the lifting of sanctions tied to Iran's nuclear regime and the start of United Nations (U.N.) monitoring. On Implementation Day, the White House lifted executive orders regarding nuclear sanctions on Iran, while Secretary of State John Kerry signed waivers on other restrictions. According to the Treasury Department, the end of U.S. nuclear-related sanctions allows Iran immediate access to an estimated $50 billion in frozen assets. Implementation Day also saw a prisoner swap of five Americans held in Iran for seven Iranians detained in the U.S.

With Implementation Day on the horizon, on January 13th, the House took up the Iran Terror Finance Transparency Act, which would restrict the President's ability to lift sanctions on Iranian and other financial institutions by requiring various certifications to Congress. While the legislation passed, the House vacated the vote after 140 members missed it. Meanwhile, in the Senate, Democrats including Senate Foreign Relations Committee Ranking Member Ben Cardin (D-MD) and Senator Chris Coons (D-DE) suggested Congress could take legislation early this year intended to protect the Administration's authority to "snap back" sanctions should Iran violate its commitments under the nuclear deal. While the Senate Banking Committee has yet to take up legislation authored by Senators Mark Kirk (R-IL) and Robert Menendez (D-NJ) that would extend the Iran Sanctions Act for ten years, Chairman Richard Shelby (R-AL) has supported extending Iran sanctions and suggested this could be one area of focus for the Committee this year.

Also complicating U.S. sanctions policy toward Iran is the recent confirmation of Iran's ballistic missile test carried out in October in violation of two U.N. Security Council resolutions. In the days leading up to the New Year, the White House notified Congress the Treasury Department was planning to announce new sanctions this week on companies known to be providing Iran assistance in the development of its ballistic missile program. The White House's plan to announce new financial sanctions on Iran in early January was delayed, a move that was met with criticism by many members of Congress who also opposed the nuclear deal. However, just one day after the Iran nuclear agreement went into effect and the U.S. and Iran exchanged prisoners, the Obama Administration proceeded with new sanctions against Iranian entities, including 11 individuals and companies, involved in ballistic missile programs. As it remains to be seen how Iran will respond to the new sanctions, it is possible Congress may consider legislation directing the Administration to consider even further sanctions this year in response to Iran's ballistic missile tests.

Global Response to North Korean Nuclear Test

In North Korea, the New Year started with a literal bang, with regional U.S. allies picking up seismic activity consistent with the testing of a nuclear bomb. North Korean authorities quickly announced they had successfully completed testing of a hydrogen bomb, which some suggest may have been timed as a birthday gift for Korean leader Kim Jong Ung. Meanwhile, others believe the nuclear test is better characterized as a desperate attempt by North Korea to elevate its profile on the world stage in an era plagued by a number of complex foreign policy challenges. While the U.S., multilateral organizations, and allies were working to substantiate North Korea's claims that it had, in fact, developed a hydrogen bomb, there is some skepticism the North Koreans had achieved such capabilities, especially as evidence from the test was more consistent with that of the detonation of a more traditional nuclear weapon, such as a boosted fission bomb. Regardless, the test immediately drew international condemnation, with the U.N. scheduling an emergency meeting to consider the consequences for North Korea conducting the test in violation of U.N. Security Council resolutions.

North Korea's behavior has rapidly become a focus on the presidential campaign trial, forcing the Obama Administration to consider what unilateral actions it might take to address the nuclear test beyond U.S. participation in multilateral bodies. While the U.S. has maintained sanctions on North Korea in recent years and options exist for ramping up sanctions, some question the effectiveness of sanctions in this case, especially as North Korea has executed three nuclear tests over the duration of the Obama presidency. Despite questions regarding the effectiveness of sanctions, the House overwhelming passed the North Korea Sanctions Enforcement Act of 2015 on January 12th by a vote of 418-12. This bill would authorize sanctions on foreign financial institutions and governments that assist North Korea in acting in violation of U.N. Security Council rules. The White House has noted some technical concerns with the House-passed bill, leading many to believe the Administration will work with the Senate to craft similar legislation allowing the President greater flexibility in implementing sanctions, including secondary sanctions targeting third-party countries.

The U.S. may also consider a military response to North Korea's provocations in the realm of missile defense. Defense leaders have long supported South Korea deploying the Terminal High Altitude Area Defense (THAAD) missile system, which South Korea has opposed due to concerns such action would increase tensions with North Korea and China. North Korea's recent nuclear activity may also be viewed as a test for President Obama's engagement with China, especially as the recent explosion was picked up along the North Korean border with China. Chinese President Xi Jinping has taken more of a hands-off approach to North Korea than his predecessor, Hu Jintao, and U.S. allies in the region may look to the U.S. to pressure China to exert its influence on North Korea. In the aftermath of the nuclear test, China called for the resumption of the Six-Party Talks between North Korea, South Korea, the U.S., China, Japan, and Russia aimed at curtailing North Korea's nuclear program. Alluding to the P5+1 talks that concluded this summer, some have suggested the Iran nuclear agreement could be used as a model for similar diplomacy with North Korea. However, it remains to be seen if North Korea would be willing to participate in such a dialogue.

Russian Sanctions/Ukraine Assistance

For the indefinite future, the U.S. and the European Union (EU) are expected to remain aligned on continuing their respective sanctions regimes on Russia until the Minsk Protocol is fully implemented. While the Minsk agreement has stemmed some of the violence centered on Russian aggression in eastern Ukraine, the State Department continues to closely monitor developments on the ground, ready to broaden and/or deepen existing sanctions in conjunction with the EU, as the situation requires. In particular, the State Department is expected to be closely monitoring the February elections in the Donetsk and Luhansk areas of Ukraine, which are dominated by Russian separatists, and could spark new tensions. Further, the State Department is expected to continue its collaboration with the Treasury Department's Office of Foreign Assets Control (OFAC) on sanctions maintenance. Through this process, the Administration will continue to identify violators and subject them to sanctions. For example, just days before Christmas, the Treasury Department identified additional subsidiaries of Russian entities already covered by sanctions, including VTB Bank and Sberbank, two of Russia's largest financial entities, and arms manufacturer Rostec. This process will continue throughout 2016.

More generally concerning sanctions policy, expect the Administration to ramp up its pressure on the Senate to confirm Adam Szubin, who was nominated in April to serve as Under Secretary of Treasury for Terrorism and Financial Crimes, a key position in the enforcement of sanctions. While members of the Senate Banking Committee have lauded Szubin's qualifications, Chairman Richard Shelby (R-AL) continues to maintain a hold on all nominees before the Committee until President Obama nominates a Federal Reserve Vice Chair for Supervision.

Chinese Aggression in the South China Sea

The early years of the Obama Administration's foreign policy agenda envisioned a historic "pivot to the Asia Pacific" throughout the course of the President's time in office. President Obama's ambitions of building stronger and more positive ties with the region, and in particular with China, could be in jeopardy given the Administration's failure to influence a stemming of Chinese aggression in the South China Sea. This issue can be expected to top the agenda of upcoming Association of Southeast Asian Nations (ASEAN) meetings this year. During the Obama years, the U.S. Government has largely taken no position on China's expansive territorial claims over waters in the region, with the exception of China's insistence that waters off the coasts of China's recently created artificial islands fall under Chinese jurisdiction. U.S.-Chinese tensions have been high in light of China's diplomatic protests following incidents in which a U.S. Navy ship sailed near the islands in October and a U.S. B-52 bomber flew over an island in December. Matters have been made worse by the Chinese landing a test flight on one of the islands in the first days of 2016. Analysts believe the success of the civilian test flight could pave the way for additional Chinese military flights and potentially the staging of military aircraft on the islands, which are in an area contested by the Philippines. China has also recently commissioned a new spy ship, which many presume will be used to gather intelligence from other ships in the South China Sea, including U.S. naval vessels. With these recent developments creating some urgency, there is a new potential the Obama Administration may consider steps to make the Pacific Fleet more robust, especially as both U.S. Pacific Command (USPACOM) and the U.S. Navy as a whole are experiencing their lowest ship numbers in decades.

Normalization of U.S. Relations with Cuba

In December, the Administration celebrated the one-year anniversary of President Obama's historic announcement of the normalization of U.S. relations with Cuba. Over the past year, through a number

administrative actions, the U.S. Government eliminated some restrictions on remittances, eased limitations on exports to Cuba's private sector, opened trade in the telecommunications and agricultural sectors, and authorized travel to Cuba. While the Obama Administration's objective is to lift the U.S. trade embargo on Cuba in its entirety, this will be a heavy lift this year, especially as legislation is required to fully lift the embargo. While a number of bills were introduced in the first session of the 114th Congress aimed at lifting the embargo, passage of any such legislation is unlikely in a Republican-controlled Congress, especially during an election year. The White House is likely aware of this reality and, as a result, can be expected to pursue additional regulatory changes to help facilitate greater commerce with Cuba. For example, the Obama Administration could announce new regulations in the financial space that would allow U.S. businesses to provide credit to Cuban customers outside the agricultural sector. The Treasury Department could also enact new policies permitting Cuban banks to establish correspondence accounts with U.S. banks to facilitate payments to Cuban customers and to allow U.S. banks to engage in "u-turn" transactions with Cuban banks.

House Select Committee Report on Benghazi

Since its October 22nd hearing with former Secretary of State Hillary Clinton, the House Select Committee on Benghazi has continued conducting classified interviews with government officials related to the September 2012 attacks on U.S. facilities in Benghazi, Libya. While the Committee sought to maintain a low profile following Secretary Clinton's testimony, the Benghazi attacks are once again expected to pique public interest around the January 15th release of a new film chronicling the attacks. The Select Committee can be expected to release its report before the November elections. Not surprisingly, the Committee's final report is anticipated to draw criticism of Secretary Clinton's role in developing U.S. foreign policy towards Libya leading up to and in the aftermath of the Benghazi attacks. Most Democrats continue to suggest the Select Committee's sole purpose is to tarnish Secretary Clinton's prospects in the 2016 presidential contest. It also remains to be seen what additional recommendations the panel may offer beyond earlier reports, including the one issued by the Accountability Review Board (ARB) on Benghazi, to improve security at U.S. embassies and diplomatic posts abroad.

President Obama's Overseas Travel

Throughout 2016, President Obama can be expected to follow in the footsteps of many of his predecessors who spent a significant amount of time on official travel overseas during their last year in office. In the coming months, President Obama will travel to Asia, Europe, and Latin America with the aim of solidifying some of his key achievements in foreign policy. After convening a meeting for leaders of ASEAN in California in February, President Obama will visit Japan in May for a Group of 7 (G7) summit meeting and China in September for a meeting of the Group of 20 (G20). His September visit to the region also includes a stop in Laos to participate in an ASEAN meeting. These trips may eventually be expanded to include additional stops in Asia, such as Vietnam.

In April, President Obama is scheduled to travel to Germany to meet with Chancellor Angela Merkel on the margins of the largest international trade show for industrial technology, the Hannover Messe. It is also widely speculated President Obama will expand a trip to Poland this summer to participate in a NATO summit meeting to also include additional stops in the region. During his visit to Europe, expect President Obama to hold talks with his counterparts on the steps Europeans are taking to help stem a global migrant crisis.

In a signal of improving U.S. relations with Latin America, President Obama is already scheduled to travel to Peru in November for the Asia-Pacific Economic Cooperation (APEC) meeting, although another trip to the region is rumored to be in the works for early this year. This trip might include stops in Cuba to promote further normalization of bilateral relations, Columbia to follow up on President Juan Manuel Santos's planned visit to Washington in February, and Argentina to recognize the recent election of President Mauricio Macri.

Health Care

With one year left in his Administration, President Obama's signature health care law will continue to be at the forefront of the Administration's domestic agenda. Following last month's end-of-year Omnibus spending bill, which saw the President and Congress agree to delay three key tax provisions in the Affordable Care Act (ACA), the House of Representatives kicked off the second session of the 114th Congress with an affirmative vote on the Senate-passed budget reconciliation package. The reconciliation package would permanently repeal the individual and employer mandates, the medical device tax, and the Cadillac tax, and eliminate the Independent Payment Advisory Board (IPAB)—key pillars of the Affordable Care Act. This was a political vote with no expectation of changing policy, and the package was promptly vetoed by the President.

While the President has successfully warded off most Republican attempts to alter or repeal the law, recent moves by Democrats supporting changes to the law have created openings not previously accessible to opponents of the law. In the span of a year, we saw Democrats rally around the repeal of the Cadillac tax, which had only garnered a handful of support from Democrats up until this summer. While the Cadillac tax was delayed two years until 2020 in last month's Omnibus package, there are still those calling for its total repeal who will look for more opportunities to do just that in 2016.

We expect further legislative activity on other targeted bipartisan reform efforts to modify the ACA. One issue in particular—the "30-hour work week" fix—could be a topic for debate as the employer mandate goes into full effect, not to mention Democratic frontrunner Hillary Clinton hinting at opposition to the rule. The 30-hour rule took effect in January 2015 and a vote to repeal the measure that month received support from 18 Democrats. The companion legislation introduced by Senator Susan Collins (R-ME) received support from Democrats Joe Manchin (D-WV) and Joe Donnelly (D-IN), but has yet to be voted on by the full chamber. If Clinton becomes a more vocal opponent of this provision, it is possible more vulnerable Democrats would join the Republican-led effort to repeal the measure. Of course, election year politics should not be discounted, and the degree to which Republicans may want to provide Democrats with successful votes to enact changes to the ACA — as opposed to waiting until after the November election — is an aspect that should not be discounted.

Other targeted measures that could see action include: (1) the Simplifying Technical Aspects Regarding Seasonality Act, or the "STARS Act", introduced by Rep. James Renacci (R-OH) in the House and Sen Kelly Ayotte (R-NH) in the Senate, which would exempt seasonal employees from the definition of "full time employee" of the ACA's employer mandate; (2) the "Small Business Healthcare Relief Act," with companion legislation introduced by Rep. Charles Boustany (R-LA) and Senator Chuck Grassley (R-IA), which would allow for small businesses with fewer than 50 employees that do not offer health insurance coverage to establish a health reimbursement arrangement (HRA); and (3) efforts to address rising insurance prices in the exchanges, which could include efforts to modify insurance "rating," or pricing rules.

While Republicans and some Democrats will be eager to demonstrate their policy prowess heading into an election year, amending the Affordable Care Act may be difficult given the ambitious agenda being rolled out by the Senate Finance Committee and the Committee on Health, Education, Labor, and Pensions—which would oversee any proposed revisions to the health care law. Considering there is no guarantee the Administration would sign off on any standalone changes to the law, expect to see the Senate focus its attention on securing passage of its version of the House-passed 21st Century Cures Act, enacting legislation around the Senate chronic care initiative, and passing significant mental health reform – the prospects for which are outlined below.

21st Century Cures Act

The Senate version of the House-passed 21st Century Cures Act — the Innovations for Healthier Americans Act — has been held up in committee for months as stakeholders and advocacy groups await bill introduction. While Chairman Lamar Alexander (R-TN) had planned to have the bill marked up by the end of 2015, one issue that held up the Senate version of legislation was the Democrats' insistence on additional funding for the National Institutes of Health (NIH), and whether to make said funding mandatory, as well as action on prescription drug pricing, among other issues.

The Cures legislation is designed to boost NIH funding, streamline clinical trials, and accelerate the discovery, development, and delivery of life-saving therapies. It would also require the FDA to provide guidance on the development and utilization of drug development tools like biomarkers and personalized drugs. The House-passed version is projected to reduce the deficit by over $500 million.

Both sides are also split on how to address off-label use of drugs and devices. The FDA is reportedly working on a guidance that would outline the FDA's thinking on information needed regarding unapproved uses of medical devices or drugs. The Administration stands to benefit from passage of this bill given the funding that would be directed at the President's Precision Medicine initiative.

At the end of the day, political pressure appears to be causing challenges for the Cures-Innovations process — as well as competing agenda items and a compressed calendar of legislative days. For example, HELP Committee leadership must decide how to prioritize focus on Cures-Innovation and mental health reform legislation — while at the same time balancing that against Higher Education Act reauthorization, also a top priority for the Committee.

Senate Chronic Care Initiative

In December, the Senate Finance Committee's Bipartisan Chronic Care Work Group, led by two Senators with a penchant for working across the aisle — Senator Johnny Isakson (R-GA) and Senator Mark Warner (D-VA) — released its long-awaited policy options document, which outlined policy options that are available to the Committee as it moves forward in developing legislation this year. On the heels of the 2015 White House Conference on Aging, stakeholders are engaged and there is bipartisan agreement that chronic care coordination can be improved now for the sake of Medicare beneficiaries.

The policy options, many of which have been introduced in the past as standalone pieces of legislation, are being presented together for greater public engagement and to determine which proposals need increased attention. The proposals range from expanding in-home services, loosening some of the restrictions on what Medicare Advantage plans can provide, and amending geographic or originating site restrictions, to incorporating telehealth services. Here's a look at some of the high-level issues the working group is considering:

In-Home Services. The Independence at Home (IAH) demonstration under Medicare was established by the Affordable Care Act and tests payment incentives and service delivery models that use physician and

other primary care providers to delivery care designed to reduce expenditures and improve health outcomes. Under the demonstration, qualifying providers are eligible for incentive payments for meeting certain performance standards and quality measures if expenditures are less than the estimated spending target for that year.

The working group is considering making the program permanent and expanding the demonstration nationwide, in addition to putting in place a mechanism for identifying complex chronic care beneficiaries rather than requiring an individual to undergo a non-elective hospitalization within 12 months of joining the IAH program.

Medicare Advantage. There are a number of proposals that would amend Medicare Advantage (MA), including establishing a hospice benefit currently provided under traditional Medicare. This would impact both the MA payment system and the five-star quality rating, but given the growing participation in MA in recent years, this seems certain to receive consideration. Similar questions have been raised on whether people with end-stage renal disease (ESRD) should be allowed to enroll in MA.

Geographic and Originating Site Restrictions. The group is considering a proposal to eliminate the originating site geographic restriction for identifying and diagnosing strokes. This is similar to a proposal by Senator Mark Kirk (R-IL), who is himself a stroke survivor, introduced in May 2015. Given that Senator Kirk is facing a tough reelection battle back home, this could be a proposal that receives consideration.

The group is also requesting feedback on a proposal to expand Medicare's qualified originating site definition to include freestanding renal dialysis facilities located in any geographic area. This would enable beneficiaries who receive dialysis therapy at home to go to a freestanding renal dialysis facility to have their monthly visit with their clinician via telehealth, thus eliminating the geographic restriction.

Telehealth/Reimbursement. Telehealth is garnering significant attention on both sides of the aisle, with the working group considering a proposal to permit Medicare Advantage plans to include certain telehealth services in the annual bid amount. Additionally, the group is considering modifying the requirements for reimbursement for telehealth services provided by ACOs in the Medicare Shared Savings Program.

Alzheimer's. There is no question that Alzheimer's disease is one of the greatest challenges facing health care policy experts. An aging nation coupled with rapidly growing costs makes it imperative to redouble efforts to alleviate the burden of this disease. The chronic care working group is considering requiring CMS to establish a one-time payment to clinicians to allow for the additional time needed to discuss options and outcomes for treatment with beneficiaries who have been diagnosed with a life-threatening illness such as Alzheimer's..

Preventive Care. The group is considering a proposal that would enable Medicare Part B to provide payment for evidence-based lifestyle interventions that would help people with prediabetes reduce their risk of developing diabetes. The group is considering whether such a program could be delivered by non-providers who could still be eligible for reimbursement, such as a non-profit or state department of health. Lastly, the group is considering establishing a study to determine the utilization of obesity drugs in Medicare and non-Medicare patients. Obesity is a serious problem nationwide and is proven to worsen chronic diseases.

We anticipate further action from the working group and within the Finance Committee this year, while the Congressional Budget Office (CBO), through its scoring of various components, will have a significant say in the ultimate potential prospects for this initiative. The aforementioned are just a handful of proposals under consideration and we expect additional proposals to be brought up through hearings or by members with standalone legislation. Given the deliberative discussion and drafting of this legislative proposal, it would appear that time is on the side of the stakeholder and advocacy groups to make sure issues are given their due attention.

Mental Health Reform

Last month, Speaker of the House Paul Ryan urged his colleagues to support Rep. Tim Murphy's (R-PA) mental health legislation, the Helping Families in Mental Health Crisis Act of 2015, which would enable individuals with mental illness to receive psychiatric and psychological services by requiring Medicare and Medicaid to cover more mental health services. The legislation would also eliminate the 190-day lifetime limit on coverage for inpatient psychiatric hospital services under Medicare.

One holdup for members on both sides of the aisle appears to be in changes to the Health Insurance Portability and Accountability Act (HIPAA) that opponents of the legislation say loosen patient privacy statutes. Additionally, Democrats have expressed concerns about funding for the Substance Abuse and Mental Health Services Administration, and provisions related to assisted-outpatient treatment.

On the other side of the Hill, Senators Chris Murphy (D-CT) and Bill Cassidy (R-LA) introduced legislation which would require states to study the barriers to improving the mental health care system. In addition, this legislation would establish a grant program focused on early intervention for children who demonstrate risk factors associated with mental illness. The legislation would elevate the issue of mental illness by establishing an Assistant Secretary for Mental Health and Substance Use Disorder with the Department of Health and Human Services, in addition to establishing a Mental Health Policy Laboratory

to fund innovation grants that would expand effective models of care for adults and children. It would also require the Departments of Labor, Health and Human Services, and Treasury to monitor and audit the implementation of the Mental Health Parity Act.

Senator Lamar Alexander (R-TN), Chairman of the Senate HELP Committee, recently suggested that senators working in the mental health space may work to combine initiatives into a larger mental health package. This larger package, which would include the Murphy-Cassidy package, would also include legislation introduced by Ranking Member Patty Murray (D-WA) to reauthorize suicide prevention legislation like the Garrett Lee Smith Memorial Act as well as establish grants that raise mental health awareness, among other provisions.

Legislation introduced by Majority Whip John Cornyn (R-TX) that focuses on mental health in the criminal justice system will also be considered, and a hearing in the Senate Judiciary Committee is expected in early 2016. These three pieces of legislation in the Senate, coupled with work being done in the House of Representatives, set the stage for an active year on the mental health front in 2016.

In the Administration, a final rule on the way mental health is covered by Medicaid managed care, CHIP, and other benefit plans will be released by the Administration in early 2016. The final rule addresses certain provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and will compel states to establish capitation rates for mental health services to ensure MCO compliance within 18 months of the rule being finalized.

One aspect worth considering is how President Obama's recent executive order on gun control could impact mental health legislation. Congressional Republicans, led by Rep. Murphy, have been pushing for improvements to the nation's mental health system in the face of gun violence. The President's action increases the likelihood that gun control measures may be attached to mental health legislation, especially in the Senate. Would Senate Democrats be willing to filibuster mental health legislation in order to get votes on gun control? That is a key question. Mental health legislation has a long way to go and the pathway has become potentially more complicated with the President's announcement.

Rising Costs of Prescription Drugs

With an eye towards action in the 115th Congress, there are several investigations on both sides of Capitol Hill by Senators Wyden (D-WA) and Grassley (R-IA); Senator Sanders (I-VT) and Rep. Cummings (D-MD); Senators Collins (R-ME) and McCaskill (D-MO); and the House Committee on Oversight & Government Reform. While the Presidential election is sure to elevate the issue, a jam-packed calendar (noted above) plus a shortened legislative calendar is sure to delay major action on a number of issues.

The Medicare Dependent Hospital (MDH) program

The Medicare Access and CHIP Reauthorization Act of 2015, which repealed the flawed Sustainable Growth Rate (SGR) formula, extended a number of provisions through fiscal year 2017 in an effort to avoid a showdown in an election year. One provision that was only extended through fiscal year 2016 is the MDH program, which supports rural health networks in maintaining access for beneficiaries who are typically older and poorer. There are approximately 200 MDHs nationwide. The program, which was previously extended through March 31, 2015, is set to expire September 30, 2016.

Electronic Cigarettes

The electronic cigarette community found its champion in California Representative Duncan Hunter, who last monthly boldly proclaimed his support for the product. The industry has caught some heat after the FDA issued a proposed rule that would regulate the product, much to the ire of the industry. However, Rep. Duncan may be too late to the party. A policy rider in last month's omnibus spending package failed to be included in the final package that would have exempted the vast majority of these products from the proposed rule, which would require these products to undergo the pre-market tobacco applications process. The final rule currently sits at the Office of Management and Budget—the final step before it is published.

Opioids

HHS intends to issue regulations designed to combat the abuse of prescription opioids and enable individuals to seek necessary treatment. In addition, the department will seek to increase access to Buprenorphine.

The opioid issue is sure to receive increased attention during the 2016 election cycle. Not only do a number of presidential candidates have personal connections to the issue, but a number of states with Senate seats up for grabs are seeing the dramatic effects of drug overdoses on communities and are being thrust into action. One state in particular — Pennsylvania — has been ravaged by overdoses in recent years, with one county recording eight drug overdoses in just 70 minutes earlier this year. Republican Senator Pat Toomey, who chairs the Subcommittee on Health Care for the Senate Finance Committee, introduced legislation late last year to prevent drug diversion in the Medicare program. This legislation, cosponsored by fellow Pennsylvania Senator Bob Casey, would lock in patients to one physician and one pharmacist if they are suspected of using multiple doctors to receive medication.

Still, Toomey's Democratic challengers are putting pressure on the junior Senator to act, criticizing his approach to the issue. While Toomey is poised to lead on this issue, he seems hesitant to act on issues that could compromise doctor's ability to treat patients, which could turn the issue into another unnecessary partisan battle. It is worth noting that the issue of opioid abuse is conspicuously absent from his campaign website, which is primarily focused on the ills of the Affordable Care Act, a safe move given the public's perception of the law heading into an election year.

In Illinois, where Senator Mark Kirk is already locked into a dead heat with Representative Tammy Duckworth, the issue of how to address overdoses is certain to come up on the campaign trail. Illinois saw an 8.3 percent increase in drug overdoses between 2013 and 2014, and with a new Republican governor, Rep. Duckworth is in position to own the issue. Senator Kirk has worked with the FDA in recent years to approve a nasal spray that can treat heroin overdoses. The Narcan nasal spray was approved by the FDA in November.

Last month, New Hampshire Governor Maggie Hassan called a special session to establish a bipartisan task force to address substance abuse, with legislation to be introduced sometime this month under expedited procedures. Hassan, who is challenging Republican Senator Kelly Ayotte this year, is sure to tout her efforts to establish this task force. Ayotte has several pieces of legislation designed to combat addiction, and given her tight reelection race, is sure to look to elevate those issues given nationwide interest in addressing this issue.

One piece of legislation which has received the support of both Senators Kirk and Ayotte is legislation introduced by Senator Whitehouse known as the Comprehensive Addiction and Recovery Act of 2015. This legislation would convene a Pain Management Best Practices Inter-Agency Task Force to develop best practices for prescribing pain medication. It would also authorize grants to states to expand educational efforts to prevent opioid abuse, and incentivize states and organizations to utilize resources to better combat addiction. The legislation currently has 20 cosponsors, and has been cosponsored by Attorneys General in 38 states.

Judiciary

Patent Reform

Following a number of patent bills introduced in the first half of 2015, the most widely supported bills in the House and the Senate are likely to be combined into one measure in 2016. The House bill, the Innovation Act (H.R. 9), was introduced by Rep. Bob Goodlatte (R-VA). It seeks to curb abusive litigation and proposes several changes to patent litigation, including raising pleading standards for patent complaints, limiting discovery, limiting the venues in which patent suits can be brought and requiring fee-shifting in many cases. The Senate Bill, the STRONG Act (S. 632), was introduced by Senator Chris Coons (D-DE). It is concerned with the ease of invalidating patents and proposes modifications to inter partes review, post-grant and reexamination proceedings, including how Patent Trial and Appeal Board (PTAB) panels are structured and how the PTAB can construe patent claims. It also proposes making it easier to show willful infringement. Lawmakers may water down both bills to make it easier to combine them into one piece of cohesive legislation and satisfy some demands of the myriad stakeholders, including manufacturing and life sciences companies, pharmaceutical companies, and technology companies. In addition to these two bills, other patent reform legislation, including the PATENT Act authored by Senators Grassley, Leahy, Cornyn, Schumer, Lee, Hatch, and Klobuchar may also be marked for action. We may also see the passage of legislation intended to deter demand letters that seek fees for vague patent infringement allegations.

Copyright Reform

In 2016, the House Judiciary Committee is expected to continue its efforts to reform the 1976 Copyright Act, including continued information gathering from the content and technology industries. Last year, the Committee held several hearings on this issue and Chairman Goodlatte began a listening tour, traveling to copyright epicenters in Nashville, Los Angeles, and Silicon Valley. We expect these hearings and meetings to continue in 2016, as copyright reform is a priority for Chairman Goodlatte. In addition to copyright reform, Congress will also have to address oversight of the Library of Congress, which includes the Copyright Office. Librarian of Congress James Billington, who held the position for almost thirty years, stepped down in September. This vacancy provides an opportunity to address and potentially remedy complaints from stakeholders that the Copyright Office and Library of Congress have not kept up with the constantly evolving technologies that require copyright protection.

EB-5 Regional Center Program

Created by the Immigration Act of 1990, the Immigrant Investor Program, more commonly referred to as the EB-5 program, offers foreign investors an opportunity to secure permanent residency in the United States by making a minimal capital investment per investor into a New Commercial Enterprise that will create at least 10 jobs for U.S. workers. In 1992, in an effort to spur interest in the program, Congress followed up by creating a pilot program that allowed for the establishment of EB-5 Regional Centers, which are private for-profit or government-affiliated entities that receive special designation from U.S. Citizenship and Immigration Services to administer EB-5 investments and oversee job creation. Congress has reauthorized the Regional Center program numerous times since its inception in 1993, with the most

recent long-term reauthorization passed in 2012 and running through September 30, 2015. Last year, several measures to reform and reauthorize the Regional Center program were introduced in the House and Senate by Senators Grassley (R-IA) and Leahy (D-NH), Senator Flake (R-AZ), Representatives Amodei (R-NV) and Polis (D-CO), and Representatives Lofgren (D-CA) and Gutiérrez (D-IL). Those bills have not yet advanced, and after a short-term extension last September, the Regional Center program was extended again, without reforms, in December as a part of the Omnibus spending bill and is now authorized through September 30, 2016. The next nine months will see congressional and industry proponents of the Regional Center program push for a long-term, or even permanent, authorization of the program.

Criminal Justice Reform

The issue of criminal justice reform has gained traction on the campaign trail, with the White House, and on Capitol Hill. Unlike many other issues, this is one that is generally viewed as an opportunity for bipartisan cooperation.

Last October, a bipartisan group of senators introduced the Sentencing Reform and Corrections Act of 2015, a comprehensive criminal justice reform measure aimed at recalibrating prison sentences for certain drug offenders, targeting violent criminals, granting judges greater discretion at sentencing for lower-level drug crimes, and tackling recidivism by helping prisoners successfully reenter society. The bill is a compromise measure following months of negotiation, and did not include some proposals such as doing away with minimum sentences and reform of the rules regarding criminal intent, whereby otherwise honest persons find themselves in violation of the law without knowing they are committing an offense.

In the House of Representatives, another similar bipartisan bill was also introduced in October by House Judiciary Committee Chairman Bob Goodlatte (R-VA) and Ranking Member John Conyers (D-MI). Their bill, the Sentencing Reform Act, reduces certain mandatory minimums for drug offenses, reduces the three-strike mandatory life sentence to 25 years, broadens the existing safety valve for low-level drug offenders, and provides judges with greater discretion in determining appropriate sentences while ensuring that serious violent felons do not get out early. The bill also contains sentencing enhancements for trafficking Fentanyl, a highly addictive and deadly drug that is becoming a growing epidemic in the United States.

Gun Control

Increasing incidents of gun violence and President Obama's recent executive action to require increased background checks for gun purchases mean that this is an issue that is sure to see heated debate on Capitol Hill, at the White House, and on the campaign trail throughout the year. In Congress, Senate Democrats have said that they will seek to force a vote on several gun control measures, including proposals to expand background checks and to close the so-called "gun show loophole."

Labor

Department of Labor Fiduciary Rule

Last February, President Obama directed the Department of Labor to move forward with a proposed rulemaking to require retirement advisors to abide by a "fiduciary" standard — i.e., putting their clients' best interest before their own profits. In April, the department issued a Notice of Proposed Rulemaking (NPRM) to require that best interest standard across a broader range of retirement advice to protect more investors, opening a 75-day notice and public comment period.

While awaiting the Department of Labor rule, legislation has been introduced in the House that would require the department to wait for the Securities and Exchange Commission to release its broader fiduciary regulation that would cover all investors, not just those saving for retirement. The Retail Investor Protection Act, H.R. 1090, was approved by the House of Representatives by a vote of 245-186 last October and has been sent to the Senate, where it falls under the jurisdiction of the Banking Committee.

There was an unsuccessful attempt to include policy riders on the Fiscal Year 2016 Omnibus spending bill last December that would have prevented or delayed the Department of Labor rule from moving forward.

The final rule is expected early this year.

On Demand Economy

As new technologies enable the increased adoption of an on-demand economy for such services as Airbnb lodging, and Uber or Lyft rides available with the use of a smartphone, look for increased attention from Congress, the Administration, and the presidential campaigns. The Federal Trade Commission is planning to release a report on the implications to consumer protection and competition by on-demand services. The planned report follows a workshop held by the FTC last year. Partisan disagreements arise over whether such services should be left unregulated and on the issue of whether employees of such services are contractors or employees.

Telecommunications & Technology

Spectrum

All eyes are on the FCC broadcast incentive auction, which is set to begin in March. FCC Chairman Tom Wheeler has expressed excitement about participation in the auction, saying that he expects a spectrum extravaganza with lots of interest in selling and buying. The Chairman also described the event as an opportunity for broadcasters of all sizes to benefit. Commissioners Jessica Rosenworcel and Mignon Clyburn share Chairman Wheeler's excitement, while Republican Commissioners Ajit Pai and Mike O'Rielly are less optimistic. Commissioner Pai expressed concern about the complexity of the auction and the possibility of the issues surrounding designated entities in the AWS-3 auction repeating. Commissioner O'Rielly would like to see more information about the auction released to Capitol Hill and the public, and also pushes back against the notion that this auction is the last chance to bid on highly valuable low-band spectrum.

Lawmakers are also focused on the incentive auction. House Energy & Commerce Committee Ranking Member Frank Pallone (D-NJ) recently unveiled a draft bill that seeks to protect broadcast viewers and mobile broadband users during the course of the incentive auction. The Viewer Protection Act would fund a viewer education effort to educate consumers about how to protect their TV signal after the incentive auction, create an emergency fund to keep viewers' TVs from going dark, and direct the FCC to create a spectrum band repacking plan within five months of the conclusion of the incentive auction so broadband consumers can reap the benefits of the auction as soon as possible.

In addition to the incentive auction, Capitol Hill is exploring ways to fill the spectrum pipeline in the coming years. The MOBILE NOW Act, a draft bill circulated by Senate Commerce Committee Chairman John Thune (R-SD) in November, is currently the main spectrum vehicle in Congress. The bill deals with compensating federal agencies for giving up unused spectrum for commercial use, and also codifies President Obama's pledge to make 500 MHz of spectrum available for consumer wireless service by 2020. In addition, the bill contains a requirement that the Administration identify 100 MHz in the lower part of the 3 GHz band to be shared with unlicensed operations. It also contains a "dig once" provision, which codifies an Executive Order that requires federal funded road projects to include conduits to house broadband cables. Senator Brian Schatz (D-HI), Ranking Member of the Commerce Communications Subcommittee, is continuing to work with industry and public interest groups on the Promoting Unlicensed Spectrum Act in an effort to wrap it into the Thune bill. The Senate Commerce Committee is expected to address spectrum legislation early this year.

FCC Reauthorization / Communications Act Update

Chairman Thune has stated that he hopes to continue the FCC reauthorization effort in 2016. This will likely be a topic at the hearing on FCC oversight that the Senate Commerce Committee is planning for February or March. On the House side, E&C Telecommunications Subcommittee Chairman Greg Walden (R-OR) is leading a similar effort and will likely continue the trend of bringing FCC leadership before the Committee every few months.

Both chambers will also likely continue exploring a path towards updating the Communications Act. House E&C staff began this process in 2014 with a series of white papers and hearings. Senate Commerce Communications Subcommittee staff is planning to undertake a similar effort in 2016 by conducting an internal review of the Act in order to advise Chairman Roger Wicker (R-MS) and Ranking Member Brian Schatz (D-HI).

Video

There is bipartisan interest in examining video reform through hearings and potentially legislation. On the House side, this effort is led by House Telecommunications Subcommittee Ranking Member Anna Eshoo (D-CA) and GOP Whip Steve Scalise (R-LA). On the Senate side, Commerce Committee Chairman Thune and Ranking Member Bill Nelson (D-FL) have expressed interest in video reform in 2016. Capitol Hill, industry, and public interest groups are keeping an eye on the Commission as the review of the Charter/Time Warner Cable/Bright House continues. The Commission is expected to complete this merger review this spring. In addition, the FCC continues its review of the proposed purchase of Cablevision by Altice. The Commission approved Altice's purchase of Suddenlink just before Christmas, and it is expected to approve the Cablevision transaction later this year.

Net Neutrality

As we wait for the federal court to rule on the FCC Open Internet Order this spring or summer, Capitol Hill continues to explore opportunities for legislative action. The House Subcommittee on Communications & Technology held its first hearing of the year on January 12, with two net neutrality related proposals on the agenda. H.R. 2666, the No Rate Regulation of Broadband Internet Access Act, would prevent the FCC from regulating the rates charged for broadband Internet service. Even though Chairman Wheeler has stated that the Order is not about regulating rates, Republican lawmakers would like to see this guaranteed by statute. On the Senate side, Chairman Thune and Ranking Member Nelson are still

working on a net neutrality bill to codify rules to prevent legal Internet traffic from being blocked or slowed by broadband service providers while still preserving providers' ability to innovate. Bipartisan support for this type of bill largely depends on the court's ruling. Republicans are mostly already on board, and if key parts of the Order are struck down, Democratic members may be more likely to support legislation to enshrine Internet protections in statute.

Cybersecurity

The Cybersecurity Information Sharing Act (CISA) was signed into law in December as part of the FY2016 Omnibus Appropriations Bill. This legislation is designed to encourage sharing of data between private companies and the government to prevent and respond to cybersecurity threats, and represents a compromise between the Senate bill passed in October 2015 and two complementary bills that passed the House in April 2015. There was significant debate over the appropriate limits for sharing consumer information and which federal agencies should be granted access to private sector data. CISA and its provisions will likely stay in the spotlight as cybersecurity remains a top concern for policymakers and private companies alike. In 2016, we expect to see a focus on the implementation of CISA's provisions and a continuation of privacy advocates' fight for legislation to protect consumers from what are seen as the government's overreaching surveillance practices.

Privacy

Efforts to pass the Email Privacy Act, H.R. 699, are expected to continue in 2016. The Act would amend the 1986 Electronic Communications Privacy Act to close a loophole that lets the government use a subpoena, rather than a warrant, to force email and Internet service providers to hand over customers' electronic communications if they are more than 180 days old. The bill has broad bipartisan support with over 300 cosponsors, but has failed to move in the past two and a half years. A related Senate measure, S.356, the Electronic Communications Privacy Act Amendments Act of 2015, also has bipartisan support. Both bills were discussed in hearings in the fall of 2015, and we expect the conversation to continue throughout 2016.

In addition, Congress is also expected to begin examining online surveillance activities under the FISA Amendments Act. Even though the Act does not expire until the end of 2017, House Judiciary Committee Chairman Goodlatte (R-VA) has committed to not waiting until the deadline to begin conversations. After the success of 2016 surveillance reforms with the passage of the USA Freedom Act, which made major changes to the NSA's bulk collection of phone data, privacy advocates are turning their attention to FISA in a continued effort to overhaul controversial surveillance programs. While USA Freedom focused on domestic surveillance, the FISA Amendments Act focuses on foreign surveillance.

Trade

Customs Reauthorization

The Trade Facilitation and Trade Enforcement Act ("Customs Reauthorization") has been approved by the House and Senate, but has yet to see final approval. The conference agreement, reconciling differences between the House- and Senate-passed bills, included a provision to make permanent the Internet Tax Freedom Act (PITFA), banning a tax on Internet access, and has been approved by the House. While the Customs Reauthorization itself has significant support, the inclusion of PITFA, which was "air-dropped" into the conference agreement after not being included in the House- or Senate-passed bills, has delayed final approval in the Senate. Republican leaders in the Senate hope to have the Customs Reauthorization on the floor later this month, but much work remains to secure the votes to approve the bill with the PITFA provision intact. With that said, the Fiscal Year 2016 Omnibus spending bill included an extension of the Internet tax ban through September 30, 2016.

Trans-Pacific Partnership (TPP)

Viewing it as a legacy issue, the Obama Administration will make a forceful push for final congressional approval of the Trans-Pacific Partnership free trade agreement between the U.S. and 11 other nations – Australia, Brunei, Chile, Canada, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The U.S. Trade Representative (USTR) announced the conclusion of TPP negotiations last October. The agreement would encompass nearly 40 percent of global GDP. Final approval of the agreement will likely have to be bipartisan given some level of resistance from both Republicans and Democrats, and final action isn't expected until after the November elections. In the meantime, on February 4, the 12 TPP countries will sign the agreement in New Zealand, starting the clock toward ratification, with the goal of having the agreement in force by the middle of 2017. Once at least six of the 12 countries have ratified the agreement it can come into force, provided that those six countries represent at least 60-percent of the gross domestic product of all 12 nations. This means that the United States or Japan must be among the first six to ratify.

Transatlantic Trade and Investment Partnership (T-TIP)

While pushing for congressional approval of TPP, the Administration will also continue its work to negotiate the Transatlantic Trade and Investment Partnership (T-TIP), an expansive trade agreement between the U.S. and the European Union (E.U). The trade agreement, for which negotiations were launched in 2013, is significant as the U.S. and the E.U. account for nearly half of the world's GDP. The 11th round of T-TIP talks was held in Miami last year and the 12th round of talks is scheduled for early this year in Brussels.

Transportation

Federal Aviation Administration (FAA) Reauthorization

The last long-term FAA reauthorization was passed in 2012 with an expiration date of September 30, 2015. In late September, Congress approved a six-month reauthorization for the FAA that expires on March 31. The straight extension of the FAA's existing authorization and funding was intended to allow for further debate on a more expansive and long-term reauthorization of the agency this year. With approval last November of a long-term surface transportation bill, transportation leaders are now free to turn their attention to aviation, and we could see an FAA reauthorization released this month. There is widespread support for a long-term reauthorization for the agency, but there is disagreement over proposals to privatize the air traffic control system, something that House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) supports. Committee Ranking Member Peter DeFazio (D-OR) has instead proposed that air traffic control be moved to a government corporation.

Drones

Last year, the FAA implemented a registration system for hobbyist drones, and reports that since that time the agency has registered more than 180,000 drones. The end-of-year registration rules were put in place with increasing indications that drones would be a popular holiday gift item. The agency is expected to finalize rules for non-hobbyist and commercial drones by this spring, although it has been issuing case-by-case authorizations for commercial drones for some time.

Regulation of Auto Loans

Prior to her election to the U.S. Senate, it was Senator Elizabeth Warren (D-MA) who, while a consumer advocate, initially conceived of and proposed the establishment of the U.S. Consumer Financial Protection Bureau. Since her election, the senator has continued to position herself as a champion for consumers, with her attention of late focused on auto dealers. The senator is calling for increased government oversight of auto dealer loans to consumers, seeking to bring such loans under the jurisdiction of the CFPB. As of yet, none of the senator's colleagues on the Banking Committee have agreed to join her in introducing legislation.

Coast Guard Reauthorization

Last December, the House approved, by voice vote, the Coast Guard Authorization Act, and the amended bill was subsequently approved by the Senate. The House will vote on the amended bill early this year.

Fuel Economy Standards Mid-Term Review

The automotive fuel economy standards set by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) back in 2012 to achieve 54.5 miles per gallon fleet average by 2025 included a mid-term review in 2016. The review is designed to allow for consideration of whether there was sufficient advancement in technologies for the automotive industry to reasonably achieve the targets for model years 2022 through 2025. This review is certain to bring about a heated debate between the automotive industry and environmental groups who will be arguing respectively for an easing of the targets or for the agencies to proceed.

Appendix – November Elections Overview

View the November Elections Overview here.



NOVEMBER ELECTIONS

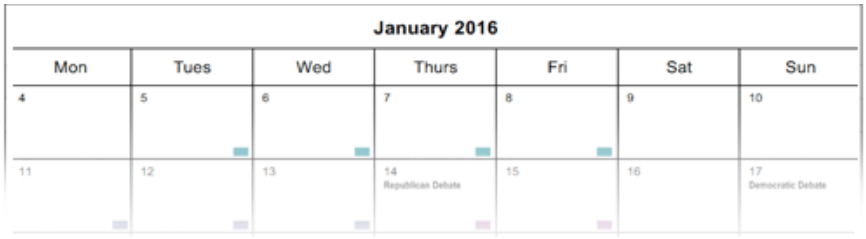
The new year starts the second session of the 114th Congress, but it also means we are much closer to the November elections, when we will elect a new President and vote on all 435 House seats and 34 Senate seats.

Presidential Primaries

Already many months into the presidential campaign season, we are now fast approaching the actual casting of ballots, with Iowa kicking things off with its caucuses

Appendix – Congressional and Election Calendars

View the Congressional and Election Calendars here.



January 2016

Mon	Tues	Wed	Thurs	Fri	Sat	Sun
4	5	6	7	8	9	10
11	12	13	14 Republican Debate	15	16	17 Democratic Debate

Authors