

THE MONTH IN WASHINGTON

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Foreign policy returned to prominence in Washington in February as the crisis in Ukraine upset U.S.-Russian relations. After Ukraine's pro-Russia leader was toppled by protestors who favor a more Europe-looking nation, Russian troops based in Crimea – which has a population that is about 60 percent Russian – moved to control that autonomous region of Ukraine. Although the situation in Crimea had not turned violent as of early March, President Obama and other world leaders decried the Russian intervention and insisted that Russian President Vladimir Putin direct his armed forces in the area to stand down. While sanctions against Russia seem likely if Putin does not change course, military action by the U.S. or its allies appears to be all but out of the question.

ISSUES AND EVENTS

Senate Panel Examines Retirement Savings Issues

The executive director of the National Institute on Retirement Security (NIRS) told a congressional panel in late February that, "With the disappearance of secure pensions and declining workplace retirement plan coverage, Americans face a retirement savings burden that is heavier than ever."

The Senate Finance Committee's Social Security, Pensions and Family Policy Subcommittee held a hearing on February 26 to examine issues related to retirement savings for low-income workers.

NIRS Executive Director Diane Oakley told subcommittee members that, as defined benefit pensions have become more rare, defined contribution accounts have become more important, but "a large majority of working-age households have little savings in relation to their income and fall a long way short of recommended benchmarks for their age."

A NIRS analysis of retirement account balances, she said, found that the average balance among households that have accounts is \$40,000, while the average among households with a head of household near retirement (aged 55-64) is \$100,000. When the 45 percent of households without retirement accounts are averaged in, the numbers plummet even more. The statistics are even worse in minority households, she said.

“Significant retirement security challenges face baby boomers and the upcoming generations of working families,” Oakley said. “A sustained increase in retirement savings is needed to put all Americans on a path toward financial security. No doubt households need to find ways to sharpen their budgets and save more of their pay for retirement each year. Many individuals, who can, will likely delay retirement or plan for earnings from work to be part of their income in retirement. The nation also needs its employers, especially small businesses, to become more engaged in assuring greater access to retirement plans in the workplace.”

Oakley supported “strengthening the Social Security safety net, expanding access to low-cost, high quality retirement plans such as the recently-announced ‘myRA’ proposal [from President Obama] and other proposals designed to expand workplace retirement coverage both at state and federal levels, and expanding incentives like the Saver’s Credit.”

Deputy Assistant Treasury Secretary for Retirement and Health Policy Mark Iwry reviewed the myRA, a no-fee savings vehicle that is to be launched by the Treasury Department this year. It will be a kind of cross between a savings bond and a Roth IRA with funds invested in a Treasury security and earning the same interest rate as the Government Securities Investment Fund in the federal government’s Thrift Savings Plan. That fund earned 1.5 percent in 2012 and averaged a 3.6 percent annual return between 2003 and 2012.

“The administration and the Department of the Treasury are committed to expanding and enhancing retirement security and retirement saving, particularly for lower and moderate-income American workers,” Iwry said. “We believe that the myRA initiative is one meaningful step in that direction. It is designed to help more lower and moderate-income households save for retirement, providing a simple, safe and affordable way to begin a lifelong habit of saving.”

Iwry also backed automatic enrollment in IRAs.

Judy Miller, Executive Director of the American Society of Pension Professionals and Actuaries, said that, “Expanding availability of workplace savings is the key to improving the system.”

“There is no need for dramatic changes, but measures should definitely be considered to make it easier for employers, particularly small businesses, to offer a workplace savings plan to their employees,” Miller said.

She supported a “starter” 401(k) proposal, automatic IRA enrollment, and certain simplifications of “the significant red tape, fines and penalties that can accompany even the most basic of these [retirement savings] arrangements.”

Stephen Utkus, principal and director of the Vanguard Center for Retirement Research, urged lawmakers not to take too broad an approach, but to, instead, “consider a three-part

model of retirement security, distinguishing among those who are likely to be 'on track,' 'at risk,' or 'partially ready,' and weighing policy prescriptions in terms of these distinct groups."

House Committee Chairman Unveils Tax Reform Proposal

House Ways and Means Committee Chairman Dave Camp, R-Mich., on February 26 unveiled a proposal to overhaul the U.S. tax code.

The main features of the plan include flattening the tax code into three brackets of 10, 25 and 35 percent; limiting the income tax exclusion for employer-provided health insurance to income up to the 25 percent bracket; capping the mortgage interest deduction at \$500,000; eliminating the tax deduction for state and local income taxes; increasing the standard deduction to \$11,000 for individuals and \$22,000 for married couples; imposing a 0.035 percent tax on assets of more than \$500 billion at "too big to fail" financial institutions; taxing long-term capital gains as regular income, but exempting 40 percent of the amount earnings; and eliminating the alternative minimum tax.

"This legislation does not reflect ideas solely advanced by Democrats or ideas solely advanced by Republicans, nor is it limited to the halls of Congress," Camp said. "Instead, this is a comprehensive plan that reflects input and ideas championed by Congress, the administration and, most importantly, the American people. In other words, it recognizes that everyone is a part of this effort and can benefit when we have a code that is simpler and fairer."

The proposal would make several changes to the tax treatment of pensions and retirement savings, such as:

- Allowing all defined benefit plans and state and local defined contribution plans to make in-service distributions beginning at age 59½
- Making all defined contribution plans, including 457s and 403(b)s, subject to the same annual contribution limits as 401(k) plans, with "no additional limits for different classes of employees at certain types of employers"
- Imposing a 10 percent additional tax on early distributions from governmental 457 plans
- Suspending until 2024 the inflation adjustments for the maximum benefit under a DB plan, the maximum combined contribution by an employer and employee to a DC plan, the maximum elective deferrals with respect to DC plans, and the catch-up contribution amounts in DC plans

The proposal would repeal the medical device tax that was included in the 2010 Patient Protection and Affordable Care Act, as well another provision of the law that prohibits the

use of funds from tax-free accounts to purchase over-the-counter medication without first obtaining a prescription, but it would make no major structural changes to the health care reform law.

The plan also would not impose any new Social Security participation requirements on public employers that are not now in the program.

Although Camp's proposal received some praise, even from some Democrats, for being a serious attempt to address the topic of tax reform, it is widely considered to be little more than a discussion starting point that has no chance of passage in an election year.

Employer Mandate to Be Delayed for Mid-Size Companies, Phased in for Large Ones

Employers with fewer than 100 employees will not have to comply with the health insurance mandate until at least 2016, under the terms of a regulation released by the Obama administration.

The 2010 Patient Protection and Affordable Care Act (PPACA) includes a requirement that employers with at least 50 employees offer their workers affordable health insurance or pay a penalty. The employer mandate originally was to have gone into effect at the start of this year, but the administration announced in July that it would delay enforcement until 2015.

The Treasury Department and the Internal Revenue Service on February 10 released the final rule that will implement the provision. The rule phases in the mandate for employers with at least 100 workers – which includes the employers of about 70 percent of the American workforce – requiring them to cover at least 70 percent of their workers in 2015 and 95 percent in 2016 and beyond.

Employers with between 50 and 99 employees – which account for about 7 percent of the workforce – must report coverage statistics to the federal government in 2015, but they will not face any penalties. Starting in 2016, though, they must provide coverage for 95 percent of employees.

Employers with fewer than 50 employees do not have any coverage or reporting requirements.

The coverage offered by employers must have premiums that are no more than 9.5 percent of an employee's income, and the employer must pay for at least 60 percent of the actuarial value of the coverage. Employers that are not in compliance may be fined \$2,000 per uninsured employee after the first 30 employees, with the penalty increasing to \$3,000 for each employee who buys subsidized coverage in one of the state-level insurance exchanges.

"Today's final regulations phase in the standards to ensure that larger employers either offer quality, affordable coverage or make an employer responsibility payment starting in 2015 to help offset the cost to taxpayers of coverage or subsidies to their employees," Assistant Secretary for Tax Policy Mark Mazur said.

For Republicans, though, the phase-in/delay became the latest reason to criticize the health care reform law and the administration's implementation of it.

"If unilateral delays were an Olympic sport, the White House would sweep the gold, silver and bronze," House Energy and Commerce Committee Chairman Fred Upton, R-Mich., said. "Despite the president's many promises, rate shock, cancellations and lost access to trusted doctors have become a harsh reality for countless Americans. The White House is in full panic mode, and rather than putting politics ahead of the public, it is time for fairness for all."

Upton and other GOP leaders of the Energy and Commerce Committee wrote to Treasury Secretary Jacob Lew on February 12 to request that he provide information and documents related to the delay of the employer mandate and to chide his agency for failing to adequately respond to similar requests made in 2013.

"It is time for Treasury to provide the legal and factual information underpinning its decisions to delay key provisions of the PPACA," they wrote.

SGR Reform Bill Would Cost \$138 Billion in 1st Decade: CBO

The leading proposal to replace Medicare's sustainable growth rate (SGR) formula would cost \$138 billion over the first 10 years, according to the Congressional Budget Office (CBO).

The SGR, which was intended by Congress to automatically set Medicare's physician payment rates, annually threatens to slash the federal government's payments to doctors for services provided to Medicare patients. Congress has overridden the SGR calculations every year since 2003 in order to avoid payment cuts that, it has been feared, would drive doctors out of the Medicare program. Frustration has grown with the annual nature of the "doc fix," though, and momentum for enacting a permanent solution grew in 2013. Before leaving Washington for its winter recess in December, Congress approved a three-month SGR fix that blocked a 25 percent rate cut that was scheduled to go into effect the first of the year, giving lawmakers until March 31 to complete work on a permanent measure.

On February 6, bipartisan leaders of the House Energy and Commerce Committee, the House Ways and Means Committee and the Senate Finance Committee jointly announced their support for the "SGR Repeal and Medicare Provider Payment Modernization Act" (H.R. 4015, S. 2000). The legislation would:

- Increase payments by 0.5 percent in each of the first five years
- Consolidate three Medicare quality programs into one value-based performance program
- Provide incentives to encourage doctors to move to alternative payment models that promote coordination of care and preventive medicine
- Offer both patients and doctors enhanced access to information about treatments and health outcomes

If enacted, the measure would cost \$5.3 billion in fiscal year 2014, then grow to \$17.4 billion in 2023, before dipping to \$16.1 billion the following year, according to the CBO.

The agency produced separate, but matching, reports for the identical House and Senate bills.

The legislation does not include a plan to pay for the SGR replacement.

Cut Proposed in Medicare Advantage Spending

The Centers for Medicare and Medicaid Services (CMS) on February 21 proposed cutting spending in the Medicare Advantage program.

Medicare Advantage (MA) offers managed care plans through private companies, which receive a fixed amount of money from the federal government per beneficiary each month. As of 2013, 14.4 million people were in Medicare Advantage plans, about 28 percent of all Medicare beneficiaries.

The 2015 Rate Announcement and Call Letter from CMS proposed a spending reduction of 1.9 percent in Medicare Advantage for the fiscal year that begins October 1. When combined with other factors, such local conditions and a plan's quality rating, payments to insurers could be reduced by an even larger amount. Overall spending increased 3.3 percent in the current fiscal year, but payments to insurers declined by about 6 percent.

"The new proposed Medicare Advantage cuts would cause seniors in the program to lose benefits and choices on which they depend," America's Health Insurance Plans (AHIP) President and CEO Karen Ignani said.

A study released on February 6 by the Actuarial Practice of Oliver Wyman, which was commissioned by AHIP, concluded that another 6 percent reduction in Medicare Advantage payments in 2015 "may result in benefit reductions and premium increases of \$35 to \$75 per member per month and/or plan exits from local markets. Many beneficiaries could lose access to MA plans and their approach to care, which has reduced

the incidence of preventable hospitalizations and improved access to primary care, according to recent studies.”

Many members of Congress, especially Republicans, are likely to advocate strongly against the proposed spending cut. Forty senators, representing both parties, wrote to CMS Administrator Marilyn Tavenner on February 14 to ask that the agency “prioritize beneficiaries’ experience and minimize disruption in maintaining payment levels for 2015.”

Comments on the proposal will be accepted through March 7. The final payment rates are scheduled to be announced on April 7.

Exchange Enrollments Top 4 Million

The Centers for Medicare and Medicaid Service announced on February 25 that enrollments in the health care exchanges have surpassed 4 million.

The 2010 Patient Protection and Affordable Care Act (ACA) established state-level exchanges to provide marketplaces in which people who cannot get affordable group coverage can buy insurance. The federal government operates exchanges through www.healthcare.gov in 36 states that chose not to establish them, and 14 states and the District of Columbia run their own exchanges. After a dismal beginning in which technical problems with [healthcare.gov](http://www.healthcare.gov) limited enrollment numbers to fewer than 365,000 through the first two months after the October 1 launch, website repairs have led to dramatically increased sign-ups.

A blog post by CMS Administrator Marilyn Tavenner noted the latest enrollment milestone.

“As we head into the last five weeks of this historic open enrollment period, millions of Americans are taking advantage of the new choices they now have to access affordable, quality health care thanks to the Affordable Care Act,” Tavenner wrote. “The most recent data indicate that approximately 4 million people have now signed up for a private health insurance plan through the Federal and State-based Marketplaces since October 1.”

The Department of Health and Human Services (HHS) on February 12 released a report that pegged the number of enrollments through February 1 at 3.3 million. The total was 2.2 million through December 28.

New demographic information about the enrollees will not be available until the next HHS report is released in mid-March. The most recent report indicated that 25 percent of the people signing up were between the ages of 18 and 34. The target for young adult enrollment in the exchanges, in order to avoid adverse selection problems, is generally regarded to be 40 percent.

The Congressional Budget Office recently projected that 6 million people will sign up for insurance through the exchanges by the time open enrollment ends on March 31. This projection marked a decrease of 1 million people from a previous estimate, a reduction largely attributed to the website's early problems.

Kaiser Studies Effects of Health Care Reform Law in California

The Kaiser Family Foundation on February 19 released a report detailing the challenges of enrolling uninsured low and moderate-income California residents in health coverage.

With the full implementation of the 2010 Patient Protection and ACA, California now has a health care exchange (Covered California) and an expanded Medicaid program (Medi-Cal). The state has about 7 million of the 47 million people who lack insurance coverage in the United States.

"Uninsured adults in California are generally in low-income, working families and have lacked insurance coverage for quite some time," the report found. "Many have substantial health care needs but have only loose ties to the health system. Uninsured adults in California are also disproportionately Hispanic, and many may be ineligible for ACA assistance due to their immigration status."

Kaiser concluded, among other things, that:

- Outreach and enrollment will be an ongoing process - "The survey findings reveal that millions of Californians lose and gain coverage throughout the year because of job changes, income fluctuations, or problems at renewal. Thus, implementing the ACA will require ongoing efforts to enroll and keep people in coverage, and efforts to promote coverage stability are important."
- Even once Californians have insurance, they may face issues with their plans covering the range and scope of services they need - "While people gaining coverage under Medi-Cal and Covered California will receive coverage for essential health benefits, it will be important to assess whether the scope of coverage Californians have under the law meets their needs and work to educate people about both what is and what is not included in their coverage."
- While the ACA could ameliorate the financial burden of health care for many, affordability of health services may remain a challenge - "Low-income insured adults in California reported challenges in paying premiums, copayments, out-of-pocket costs for uncovered services, and other health care expenses. ... Early evaluation of premiums for plans in Covered California indicates that, for a 40-year old at 250 percent [of the federal poverty level], subsidized premiums in California for the second-lowest cost silver plan (\$193/month) and the lowest-cost bronze plan (\$125/month) are at the median of plans analyzed across states."

- Based on demonstrated need and barriers to care among the uninsured in California prior to the ACA, health care providers may see increases in California adults seeking care - "Some uninsured California adults have ongoing health conditions yet still are not receiving regular care, and others have postponed preventive or other services, primarily due to cost. These findings indicate that there is likely to be some pent-up demand for health care services among California's newly-covered."
- Changes in insurance coverage may lead people to use new or different providers, but clinics and health centers will continue to serve many of California's vulnerable populations - "As people gain Medi-Cal or Covered California coverage, they may shift their service locations to more closely resemble that of people who had Medi-Cal or private coverage prior to the ACA, respectively. Clinics and health centers are likely to continue to see a substantial share of the low-income population, and these providers also may continue to see high levels of the uninsured."

The report's findings are based on 2,558 telephone interviews of California residents from July to September 2013.

Yellen Sworn in as Fed Chairman

Janet Yellen was sworn in on February 3 as the first female chairman of the Federal Reserve Board of Governors.

Yellen, who had been the Fed's vice chairman, was confirmed for the post in a 56-26 vote by the Senate on January 6. She succeeds Ben Bernanke, whose term ended on January 31.

Yellen told members of the Senate Banking, Housing and Urban Affairs Committee during a nomination hearing on November 14 that she supports the Fed's aggressive actions to stimulate the economy and that she credits "the wise and skillful leadership" of Bernanke for helping to "stabilize the financial system, arrest the steep fall in the economy and restart growth."

Yellen is regarded as a supporter of "loose" monetary policies aimed at lowering unemployment, and she has broad support among liberals. Many conservatives, though, fear that a Yellen-led Federal Reserve will drive up inflation.

California Congresswoman Maxine Waters, Ranking Member of the House Financial Services Committee, and 37 Democratic colleagues, all of them women, including 14 from California, wrote to Obama in July to ask him to consider Yellen, a professor emeritus at the University of California at Berkeley, as Bernanke's replacement.

Yellen's term as chairman will end on February 3, 2018. Her term as a member of the Board of Governors will end on January 31, 2024.

RELATED NATIONAL AND INDUSTRY NEWS

PBS Station Returns Funding for Pension Series

A public television station has returned \$3.5 million to a donor organization that had underwritten a series that analyzed financial issues faced by public pensions.

New York City's WNET had received the money from the Laura and John Arnold Foundation, a group that, according to its website, focuses on producing "reforms that will maximize opportunities and minimize injustice in our society." The site also notes that the foundation works "actively in the area of public employee benefits reform."

"State and local budgets across the nation continue to face considerable financial strain, and the structure of public employee benefits in most states and communities is unsustainable," the website states. "The economic and social costs of governments failing to pay for their promises are not only harmful to future generations of workers and taxpayers, but also potentially crippling to the nation. We seek to remedy this untenable situation by promoting transparency and concrete structural solutions that address the problem in a manner that is comprehensive, lasting, and fair to all parties."

This position led critics to question the objectivity of WNET's "Pension Peril" series, which launched in September 2013 and was to be a two-year project. (Though the series is now on hiatus, WNET has indicated that it will return.) Pension Peril clips appeared on PBS NewsHour Weekend and other public broadcasting outlets.

On February 14, WNET and PBS released a joint statement in which they said that, while they stand by the reporting in the series, they would return the money "in order to eliminate any perception ... that the Foundation's interests influenced the editorial integrity of the reporting for this program."

"We made a mistake, pure and simple," Stephen Segaller, vice president of programming at WNET, said. "The PBS NewsHour Weekend is a news production, and while we thought we were following the guidelines and the correct vetting processes, we were incorrect. WNET sought the Arnold Foundation funding because of our belief that public pensions is an important issue. The Arnold Foundation did not direct or prescribe our reporting, never attempted to do so, and is not responsible for our mistake."

An Arnold Foundation spokesman said that the group "never sought, nor did we receive, any editorial control or access to the programming."

Brookings Report Backs Collective DC Plans for Public Employees

The Brookings Institution on February 26 released a report that supports a new model for public pensions known as a "collective defined contribution plan."

Noting that public pension systems have a long-term funding shortfall of \$2.7 trillion and that moving state and local employees into 401(k)-type plans “is unlikely to provide workers with adequate retirement security,” the Brookings report proposes “a superior alternative that combines many of the benefits of both defined-benefit and defined-contribution plans.”

In a collective DC plan, workers would have individual, portable accounts that would contain employer and employee contributions, as well as investment income. Unlike traditional DC plans, however, the accounts would be managed collectively and professionally, “meaning that the pension provider chooses how money is invested, and how and when investment returns are divvied among plan members. A collective defined-contribution plan capitalizes on risk pooling to lessen the risk borne by individuals without increasing the risk borne by employers.”

“In a collective defined-contribution plan, all pension contributions are invested across a broad portfolio of stocks and bonds in order to pool market risk,” the report states. “If one investment decreases in value, no one individual will feel the full brunt of that loss; instead, the loss in value will be dispersed across all accounts. This is different from market risk mitigation in defined-benefit pensions where an investment loss would need to be made up with higher contributions from taxpayers; or a defined-contribution plan where any employee with that failed investment would find that their assets drop proportionally.”

The report also notes that market risk would be “pooled across time,” with some portion of strong investment returns being held back and credited to accounts during leaner times.

A collective DC plan, the report asserts, would accomplish three goals: provide adequate retirement security; ensure fiscal sustainability; and maintain or improve public sector workforce productivity.

The report uses the Secure, Accessible, Flexible and Efficient (SAFE) Retirement Plan proposed by the Center for American Progress last year as an example of a collective DC plan. The Center for American Progress has noted the similarity between its SAFE Plan and a proposal from Senate Health, Education, Labor and Pensions Committee Chairman Tom Harkin, D-Iowa, that has been put into legislative form as the “USA Retirement Funds Act” (S. 1979). Harkin’s bill would create portable accounts that would be professionally managed with pooled investments. Participants would receive a defined monthly benefit during retirement that would be based on the total amount of contributions made by them or on their behalf and investment performance.

‘Bad News’ Coming on Public Pensions, Buffett Warns

Famed investor Warren Buffett has included a warning about public pensions in his annual report to Berkshire Hathaway shareholders.

“Local and state financial problems are accelerating, in large part because public entities promised pensions they couldn’t afford,” Buffet wrote. “Citizens and public officials typically under-appreciated the gigantic financial tapeworm that was born when promises were made that conflicted with a willingness to fund them. Unfortunately, pension mathematics today remain a mystery to most Americans. ... During the next decade, you will read a lot of news – bad news – about public pension plans.”

Referencing a 1975 memo that was included in the report that he originally sent to Katharine Graham, then chairman of the Washington Post Company, “about the pitfalls of pension promises and the importance of investment policy,” he added, “I hope my memo is helpful to you in understanding the necessity for prompt remedial action where problems exist.”

He wrote in the memo 39 years ago, “There probably is more managerial ignorance on pension costs than any other cost item of remotely similar magnitude. And, as will become so expensively clear to citizens in future decades, there has been even greater electorate ignorance of governmental pension costs.”

Buffett has raised concerns about public pensions in his Berkshire Hathaway report before. In the 2007 report, for example, he wrote, “Whatever pension-cost surprises are in store for shareholders down the road, these jolts will be surpassed many times over by those experienced by taxpayers. Public pension promises are huge and, in many cases, funding is woefully inadequate. Because the fuse on this time bomb is long, politicians flinch from inflicting tax pain, given that problems will only become apparent long after these officials have departed.”