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Capitol Policy Weekly: Feb. 3-7—Tariffs, Government Funding, Reconciliation and Nominations

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Both chambers of Congress are in session this week, but tariffs are likely to dominate the news flow. Meanwhile:

1. Congressional leaders are trying to reach an agreement on FY25 spending levels.
2. The House Budget Committees is supposed to begin markup of a budget resolution, which will start the reconciliation process.
3. The Senate will continue considering Trump's cabinet nominees, with the Senate Finance Committee scheduled to vote out the nomination of RFK Jr.

Tariffs

With President Trump talking to Canada's Prime Minister Justin Trudeau on Monday and his tariffs scheduled to go into effect Tuesday, we believe an agreement can be hammered out in the next few days or weeks, though there is an outside chance one can be reached as early as tomorrow.

We also see these tariffs as an opening salvo to an eventual renegotiation of the USMCA. While that agreement can be reopened in July 2026, we see a renegotiation occurring sooner but likely after tariffs have been imposed / threatened on the EU.

Finally, Trump is also reported eliminating the de minimis rule, which allows China and other non-market economies to import goods in the U.S. up to \$800 without paying duties, taxes or fees. Importantly, even if Trump agrees to reinstate the de minimis rule during his negotiations with China, we see Congress eliminating the de minimis rule as part of the reconciliation bill. Cancelling this rule would likely be negative for **FedEx** (FDX), **UPS** (UPS), which deliver these packages, and **Amazon** (AMZN), Temu's **PDD Holdings** (PDD) and **Shein** (private).

FY25 Spending

We see last week's Trump federal freeze memo making it more difficult for Congress to reach a spending agreement by the March 14 deadline. Congressional leaders had hoped to arrive at a compromise on top-line spending levels for defense and non-defense discretionary spending last week, but to no avail. We are skeptical about success occurring this week since the two sides are reportedly far apart.

Keep in mind that leaders will likely need a month to write a massive omnibus bill after a top-line agreement is reached. However, Trump’s spending freeze memo will almost certainly complicate a deal with congressional Democrats—and make no mistake about it, Democrats will be needed in large numbers to pass a spending bill.

In issuing the memo, the Trump administration is essentially arguing that the appropriations levels, previously agreed to in law, are ceilings and the administration has the authority to spend less than what Congress authorized. Why would Democrats consent to spending levels if they don’t get assurances from the administration of adherence to those appropriated amounts?

In addition, any agreement will be difficult for Speaker Mike Johnson (R-LA) to sell not only to his caucus but also to the public. We could easily see Elon Musk and other conservatives—and maybe even Trump again—dissing a deal lacking in cuts while including spending increases.

Altogether, these potential obstacles mean we could easily see another continuing resolution (CR) or even a **government shutdown** in March. Stay tuned.

Budget Resolution / Reconciliation

In accordance with Speaker Johnson’s timeline, the House Budget Committee is supposed to mark up the FY25 or FY26 budget resolution. Recall that passage of a budget resolution with reconciliation instructions for the respective committees is required to start off the reconciliation process. However, we’d note no hearing is scheduled on the House Budget Committee website, and given how little progress / discussion appears to have been made on a resolution, we’d be surprised to see a markup this week.

In our view, the more House Republicans miss self-imposed deadlines, the more Trump is likely to agitate for a two-step reconciliation approach vs. one bill. It’s close, but we think a two-bill strategy is most likely now. The Senate is already preparing for two reconciliation bills.

If a two-bill approach is undertaken, we’d expect the second reconciliation bill, which will include the massive tax bill, to be passed in Q4, probably just before Christmas.

The first reconciliation bill is likely to include:

1. An additional ~\$40 billion or so for **defense accounts** on top of the \$895 billion allocated for defense in the National Defense Authorization Act.
2. Opening federal lands to **oil and gas drilling**. However, we do not think Republicans will be successful in incorporating permitting reform into a reconciliation bill, since it likely violates the Byrd rule, which prohibits primary policy matters from being included in the measure.
3. An additional ~\$100 billion for immigration. Not only would that finance the border wall and hiring / training of additional agents, but it also would provide additional funds for up to 80,000 to 100,000 detention beds up from 41,500 now. That should benefit **GEO Group** (GEO) and **CoreCivic** (CXW).

Finally, a two-bill approach may mean that the government is funded by a CR for the rest of the current fiscal year (FY25) as Republicans will add ample dollars to defense. If so, such a CR would provide a political win for the GOP as non-defense spending increases will be non-existent or minimal.

Nominations

The Senate Finance Committee is expected to vote out the nomination of RFK Jr. Despite his less than stellar performance, we still believe he will get confirmed even if he loses a couple of GOP votes.

RFK’s Moment of Truth: The Senate Finance Committee will be [voting](#) on Robert F. Kennedy, Jr.’s nomination as HHS Secretary on Tuesday at 10 am, which we suspect will result in his advancement to the full Senate floor. Investors should pay

particular attention to any commentary from Sen. Bill Cassidy (R-LA), however, who expressed significant misgivings with RFK's qualifications across two days of testimony last week. Cassidy alone could derail the nomination in committee but would likely require the cooperation of Sens. Susan Collins (R-ME), Lisa Murkowski (R-AK), and Mitch McConnell (R-KY) to defeat RFK on the floor, given the GOP's 53-47 majority. Despite public reservations from each of these lawmakers, we suspect that – at that point – at least one can be persuaded to break for the President's nominee.

The Senate is also expected this week to confirm Pam Bondi to be Attorney General, Russell Vought to head of OMB, Christopher Wright to be Energy Secretary and Eric Turner to be Secretary of Housing and Urban Development.

Some of these nomination could slip into next week.

Medicare Advantage Star Ratings Legal Noise. With a deadline this Friday, we await the federal government's will legal response to **HUM's** motion for summary judgment asking the federal district court to force CMS to rescind and revise the 2026 Star ratings that hurt a number of HUM's Medicare Advantage contracts and left about 25% of its MA members in plans rated at least 4 Stars, instead of 94% from the prior year. To date, we have only seen HUM's side of the case, which alleges that CMS: 1) did not follow its own rules, 2) created new restrictions that were not spelled out in the guidelines to plans, and 3) inappropriately relied on a private third party's recommendations. While we note the fact-specific nature of this case will matter as well as what matters of law the government will argue, at this point we are inclined to side with HUM. There will be additional briefing after the Feb. 7 deadline such that the earliest the district court could rule would be in March-April, assuming no hearing.

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