

Legislative Forecast for the 114th Congress

Updated August 3, 2015

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Congress Faces Fights over Ex-Im, Highway Trust Fund in Coming Months

Prospective Items on Legislative Agenda in 114th Congress

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov
<p>Keystone XL: The House and Senate passed a bill approving the Keystone XL pipeline, but failed to override a veto</p>		<p>Immigration: Congress attempted to tie funding for DHS to repeal of President Obama's actions on immigration, but a filibuster in the Senate led to a clean funding bill</p>	<p>Medicare: Congress passed a surprising bipartisan long-term fix for Medicare payment rates and CHIP funding</p>		<p>International Trade: Congress voted to grant the president Trade Promotion Authority to facilitate negotiations of TPP and TTIP trade agreements</p> <p>Export-Import Bank: The bank's charter expired and Congress will make a decision this fall</p> <p>PATRIOT Act: The three key provisions expired, the USA FREEDOM Act is likely to replace it</p>	<p>Highway Trust Fund: Expired and a 3-month patch was enacted as Congress works towards a longer term deal</p>		<p>Tax Reform: Movement on comprehensive tax reform remains unlikely in a Republican Congress, but corporate tax reform is possible</p> <p>Appropriations: A budget for FY2016 was passed in May, and the FY2015 appropriations period ends on Sept 30th.</p> <p>Iranian Nuclear Deal: The 60 day deadline for Congress to vote on the president's deal ends on September 17th</p>		<p>Debt Ceiling: A stronger-than-expected tax season means extraordinary measures to stay under the debt ceiling will likely hold until November</p>

Action Possible, Timing Unknown

Affordable Care Act: Barring more extreme action in the wake of a Supreme Court decision eliminating federal exchange subsidies in *King v. Burwell*, medical device tax repeal and smaller regulatory changes to coverage requirements are possible; reconciliation authority has been given to repeal the act, but any bill to do that is guaranteed a veto

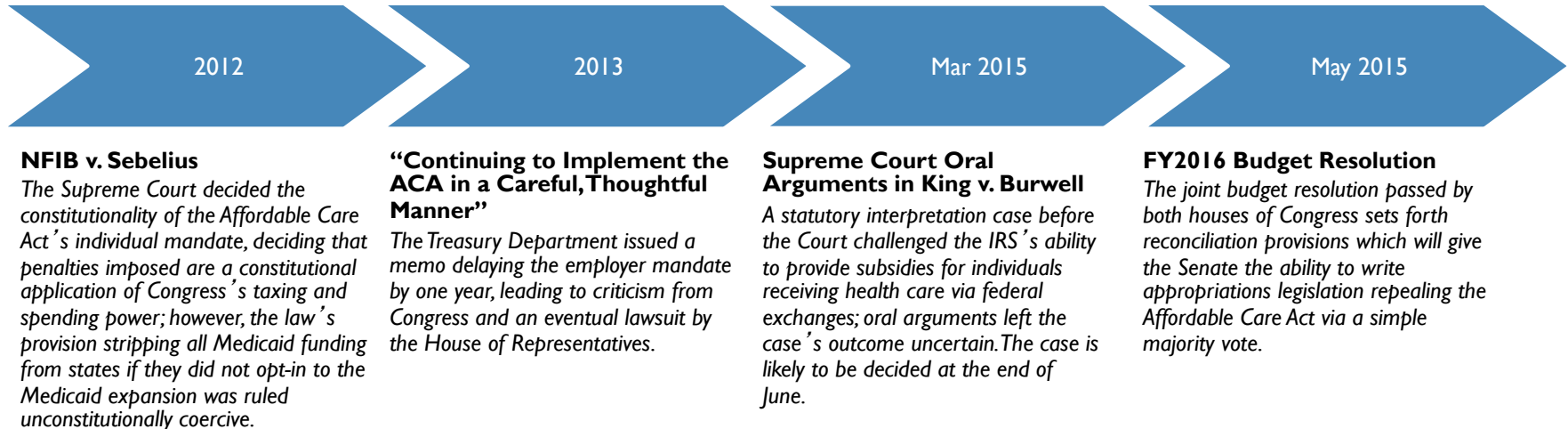
No Child Left Behind: GOP Senators want to push for less federal involvement in school performance evaluation and move more responsibility to states

Online Sales Tax: Not a high priority, but lobbying efforts from states and small businesses are pushing the GOP to allow for collection of sales taxes for online purchases; multiple bills have been introduced with differing mechanisms to address the issue



Affordable Care Act

Timeline of Key Recent Federal Actions on the Affordable Care Act



Potential Actions in 114th Congress

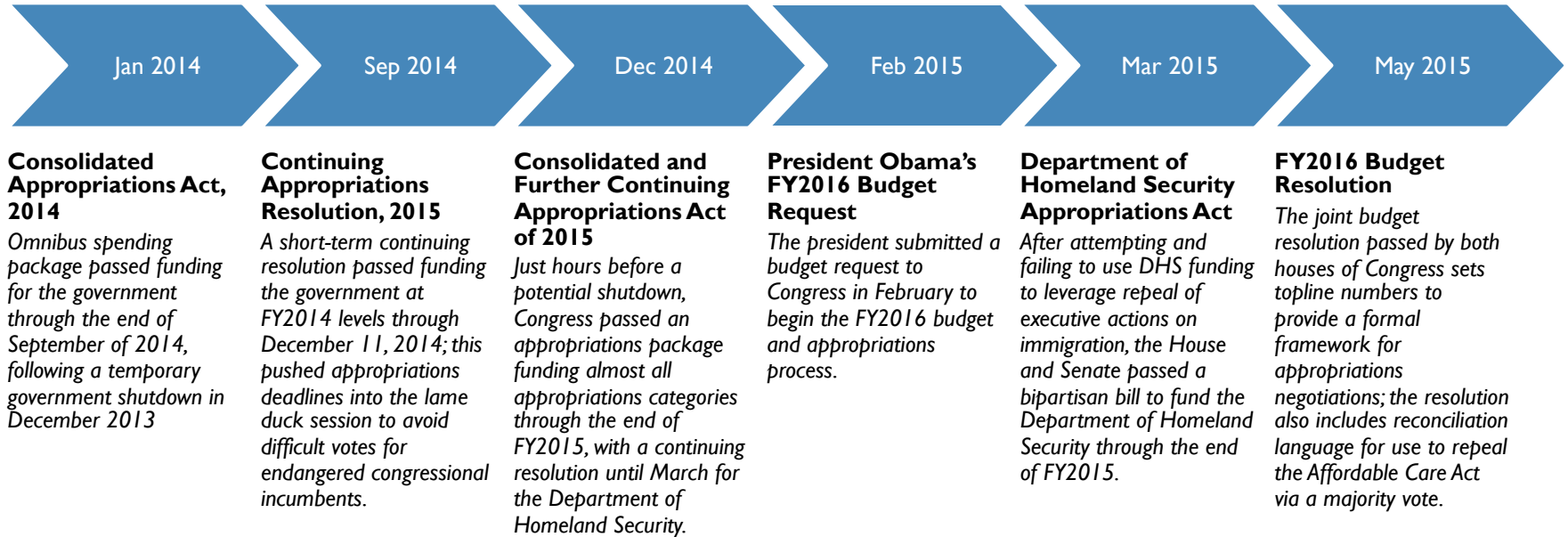
- The joint budget resolution includes language allowing for the repeal of the Affordable Care Act via reconciliation (only needing 51 votes for passage without possibility of filibuster); it is possible that both houses will send a key appropriations bill to President Obama with a rider attached repealing (and potentially replacing) the bill.
- It is almost impossible that the president would sign a bill repealing his signature legislative achievement; however, smaller reforms, such as changing the definition of a full-time worker or repealing the medical device tax have bipartisan support
- *King v. Burwell* is expected to be decided at the end of June; if subsidies are not upheld, Republicans will likely use restoration of subsidies on federal exchanges as a bargaining chip for more significant reforms to the law



Appropriations

Updated July 31, 2015

Timeline of Key Recent Federal Actions on Appropriations



Potential Actions in 114th Congress

- Although 6 out of 12 appropriations bills have passed the House, Senate Democrats have blocked all spending bills from entering the Senate floor until caps on domestic spending are raised.
- The stalled bills make it likely that the House and Senate will pass an omnibus appropriations package in 2015, though with a Congressional recess in August, a continuing resolution will likely pass in September to allow for more time to negotiate
- If the appropriations package includes repeal of the Affordable Care Act (which can be passed through reconciliation via a simple majority vote in the Senate after the passage of the joint budget resolution), President Obama may veto the package, forcing Congress to renegotiate close to a shutdown deadline



Debt Ceiling

Timeline of Key Recent Federal Actions on the Debt Ceiling

2011

Budget Control Act of 2011

The BCA was designed to avoid a potential shutdown due to a failure to raise the debt limit in 2011; the act delegated authority to a 'supercommittee' to find an agreement on deficit reduction; however, no agreement was met, and so automatic penalty 'sequestration cuts' were put into effect.

Feb 2013

No Budget, No Pay Act of 2013

A bill which temporarily suspended the debt limit until May 28, 2013 and put Congressional pay on hold until a budget resolution could be passed.

Oct. 16, 2013

Continuing Appropriations Act, 2014

A continuing resolution passed in fiscal year 2014, which funded the government and suspended the debt limit until February 2015 to give lawmakers more time to negotiate a compromise proposal.

Feb 2015

Temporary Debt Limit Extension Act

Both houses of Congress passed a debt ceiling extension, suspending the ceiling until March 15, 2015.

Mar 2015

Debt Limit Reinstated

The suspension of the debt ceiling was lifted in March; the Treasury is currently taking extraordinary measures to keep the government funded.

Potential Actions in 114th Congress

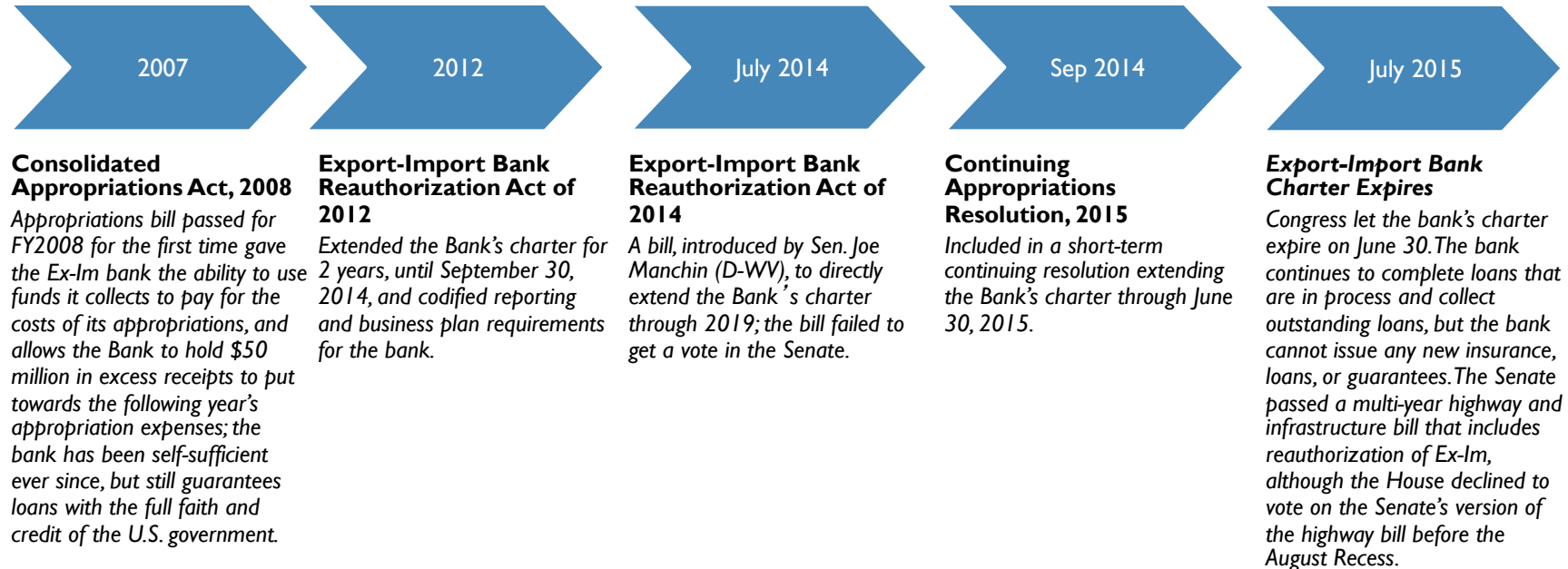
- The Treasury Department will likely exhaust extraordinary measures around November; with Republican control of Congress, the attachment of riders for key Republican legislative priorities may go along with any debt limit hike, including lifting of defense sequestration cuts and ACA reform



Export-Import (Ex-Im) Bank

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on the Export-Import Bank



Potential Actions in 114th Congress

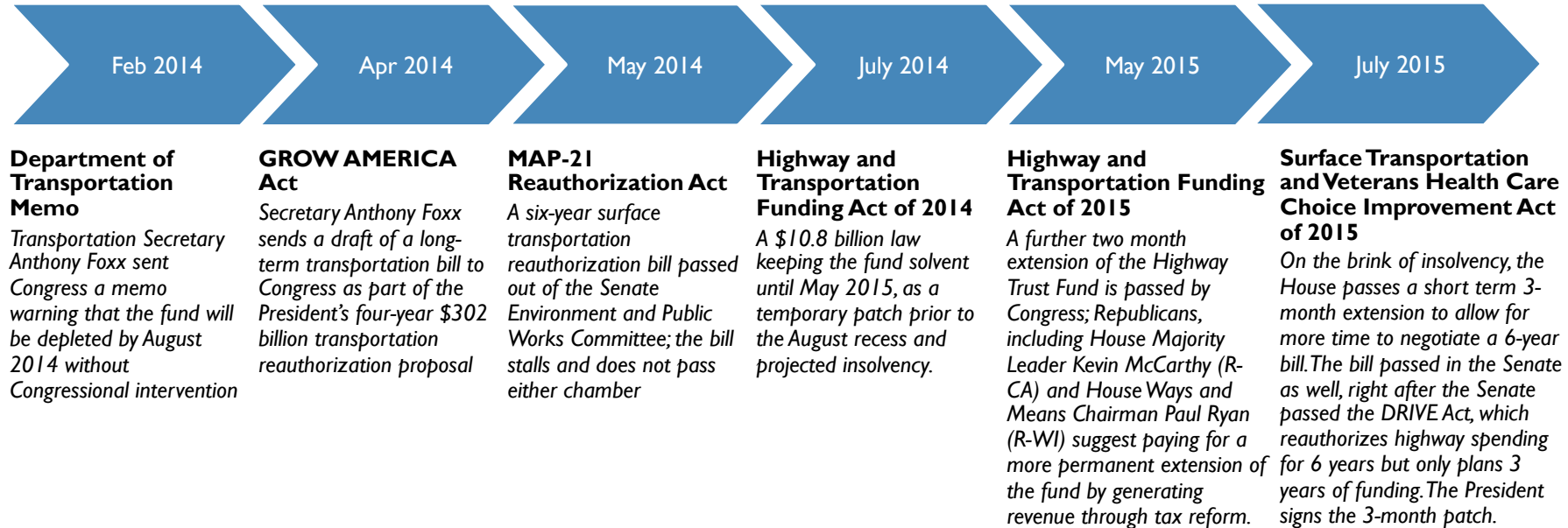
- The House's five-week August recess means that the Ex-Im Bank will not be able to make or guarantee new loans until at least September or October when Congress will have another chance to renew it
- Congress's next chance to renew the Ex-Im Bank coincides with the beginning of FY2016, when Congress will be deliberating a number of issues, including multiple annual spending bills, a long-term transportation infrastructure bill, as well as the extent of the nation's spending and borrowing authorities. Reauthorization of the Ex-Im Bank will likely be closely linked to one of these critical issues.



Highway Trust Fund

Updated August 3, 2015

Timeline of Key Recent Federal Actions on the Highway Trust Fund



Potential Actions in 114th Congress

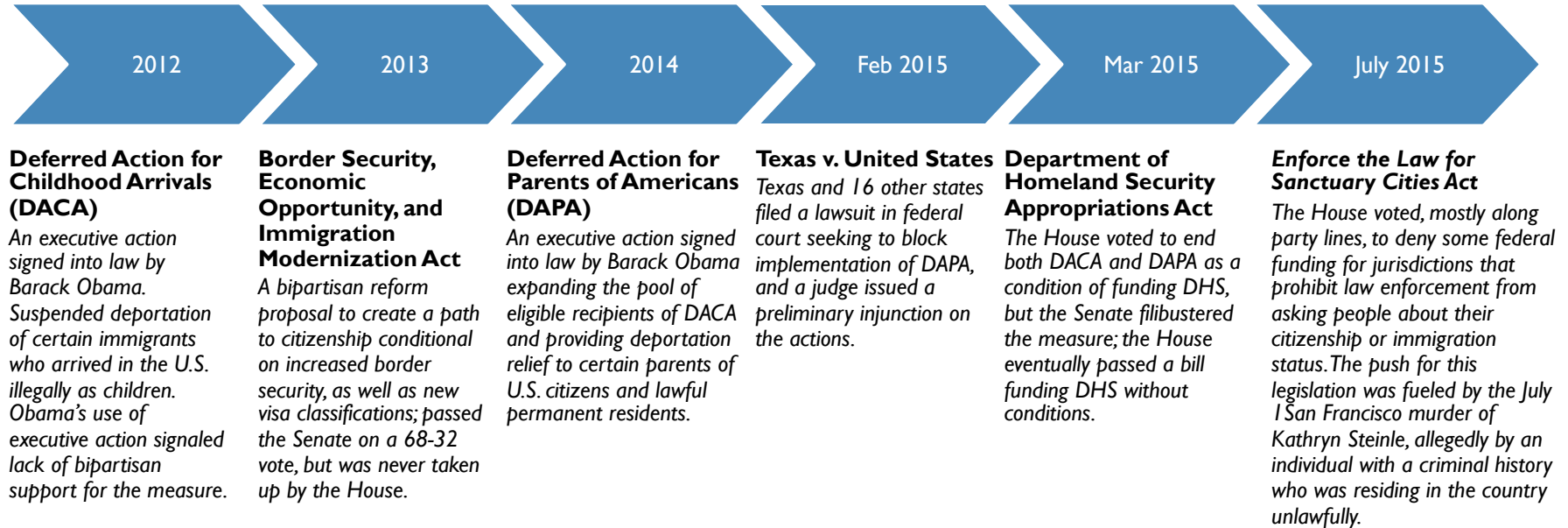
- **Next steps:** The House will draft and pass a long-term bill post-recess; a conference committee will then negotiate a compromise bill
- GOP leadership wants to provide more permanent revenue for the Highway Trust Fund by attaching tax reform proposals to the bill
- It is possible that tax reform proposals, such as a tax repatriation holiday, could help fund a more permanent extension
- Provisions for long-term or short-term funding may also be attached to an omnibus budget package that would be effective October 1st



Immigration

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on Immigration



Potential Actions in 114th Congress

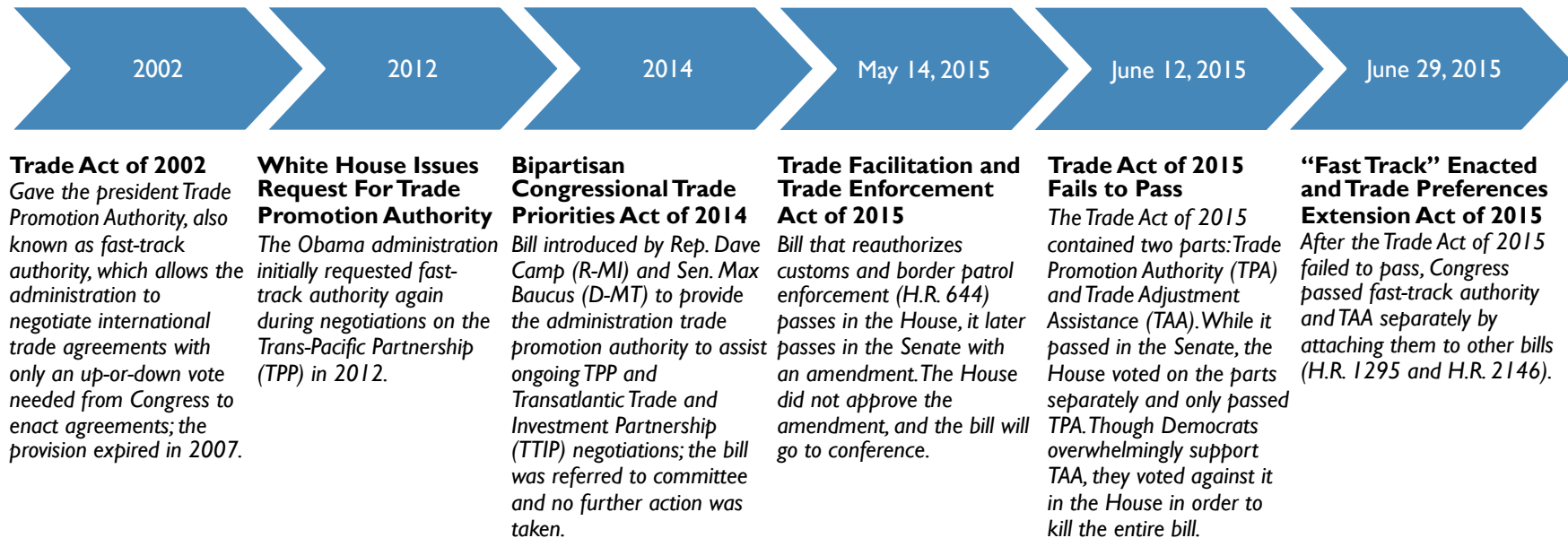
- While the Republicans muted criticism after a federal court put a stay on the immigration action in February, if the actions are ultimately upheld, immigration hawks will likely again attach a provision or rider to appropriations items to block the actions from being enacted
- It is unclear what action the Senate will take in response to the issue of sanctuary cities, although Sen. Charles E. Grassley (R-IA) introduced Kate's Law, which would impose a mandatory five-year prison sentence on undocumented immigrants who are deported and then return to the United States
- The White House threatened to veto such legislation and prefers Congress act on a comprehensive immigration reform package



International Trade

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Timeline of Key Recent Federal Actions on International Trade



Potential Actions in 114th Congress

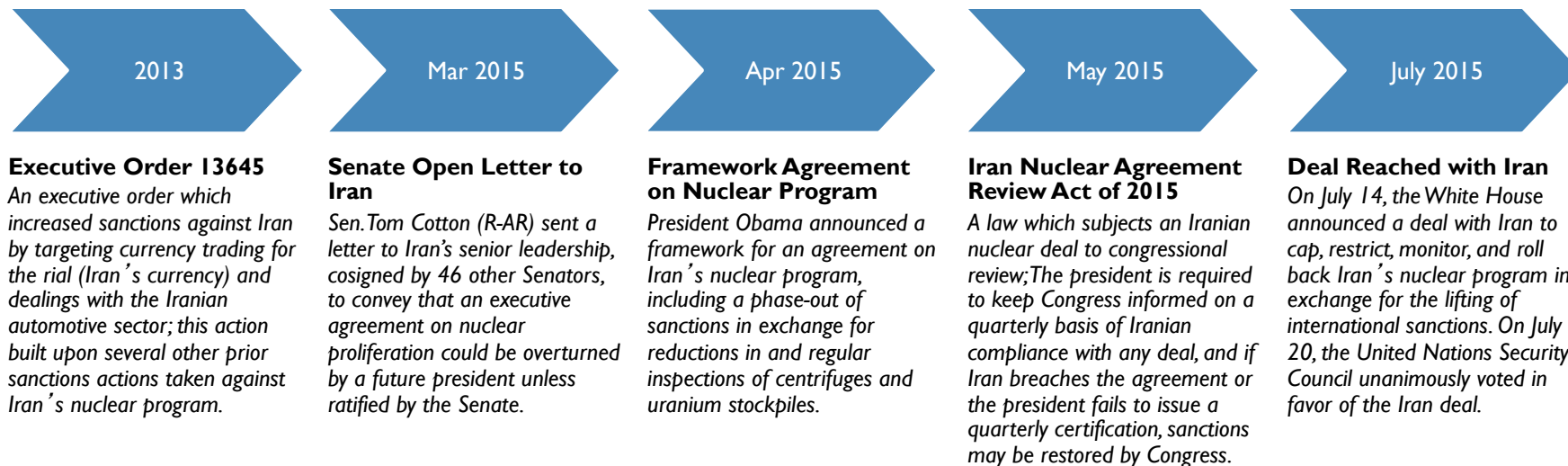
- Now that President Obama has Trade Promotion Authority, the Trans-Pacific Partnership will likely be supported by a majority vote in both chambers; however, trade ministers' failure to reach a final agreement during July negotiations in Hawaii means that the next round of negotiations will be pushed into 2016. This means that TPP may become a Presidential campaign issue and could bleed into Senate debates, since five Senators are also Presidential candidates
- The Senate has appointed conferees for the customs reauthorization, including Sens. Hatch (R-UT) and Wyden (D-OR). The House has not voted on a motion to conference yet, and with the August recess, the conference on the Trade Facilitation and Trade Enforcement Act of 2015 will likely be delayed until the fall



Iranian Nuclear Negotiations

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on Iranian Nuclear Negotiations



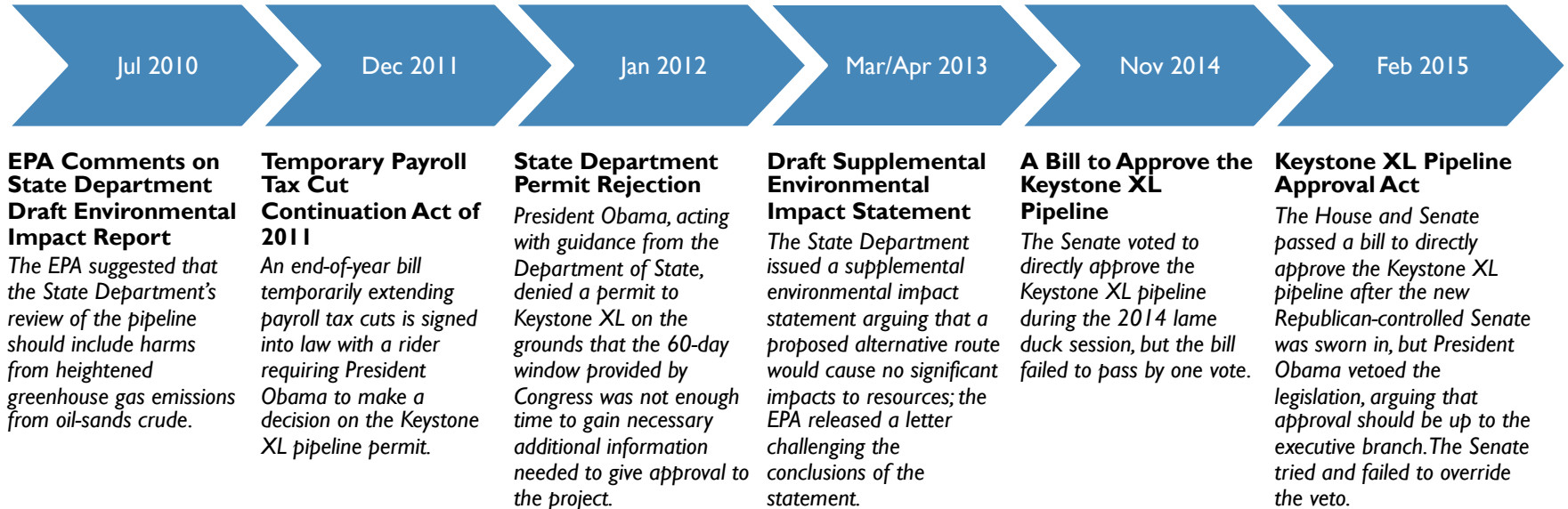
Potential Actions in 114th Congress

- The deal was formally introduced to Congress on July 20, 2015. As of this date, Congress has 60 days to review the agreement and approve or disapprove of the deal
- The President has stated that he intends to veto any resolution of disapproval
- Congress has the ability to override his veto, although it is unlikely that lawmakers will have the two-thirds supermajority required to implement this decision
- Sen. Chuck Schumer (D-NY), who is the likely Democratic leader for 2017 and one of the Senate's strongest supporters of Israel, is positioned to have an influential opinion on the Iran Deal



Keystone XL

Timeline of Key Recent Federal Actions on the Keystone XL Pipeline



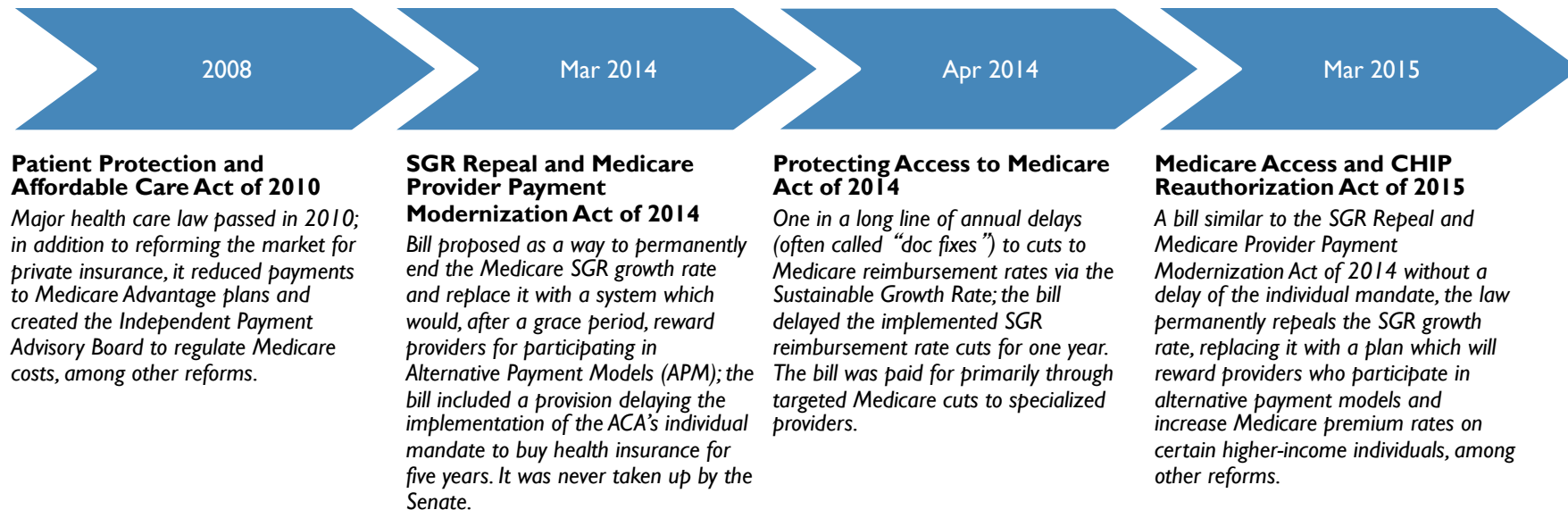
Potential Actions in 114th Congress

- The veto (and failed override) of the Keystone XL Pipeline Approval Act likely means no further action will be taken to pass legislation with a focal point of approving the pipeline by Congress in 2015; approval or denial of the project may come through administrative review
- Republicans have threatened, post-veto, to attach approval of the pipeline as a rider to must-pass appropriations legislation in order to force the president's hand on approving the pipeline project

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Medicare

Timeline of Key Recent Federal Actions on Medicare



Potential Actions in 114th Congress

- Further changes to Medicare are unlikely after unexpected passage of the Medicare Access and CHIP Reauthorization Act, which reformed Medicare and ended the SGR; however, the joint budget resolution passed in May calls for the cost of that law to be fully offset, increasing the likelihood of further reforms
- Rep. Sam Graves (R-MO) introduced the Medicaid Audit Improvement Act of 2015 in late April, which would replace Recovery Audit Contractor contingency payments, put more oversight on auditors whose audits are frequently overturned on appeal, and eliminate the one-year filing limit on Medicare Part B claims; the legislation has bipartisan co-sponsors, but appears to have stagnated in the House



No Child Left Behind

Updated July 31, 2015

Timeline of Key Recent Federal Actions on No Child Left Behind

2007

No Child Left Behind Act 'Expires'

No Child Left Behind was nominally set to expire on September 30, 2007, with a goal of rewriting and reauthorizing the bill. The law remained in-effect due to a provision that the law would continue in its original form if Congress didn't act after the 'expiration date.' The original expiration date made the initial bill appear cheaper in CBO scoring.

2011

Obama Administration Begins Waiver Program

Without a clear path towards replacement or revision of the law, and with the law's original 2014 deadline for proficiency in reading and math looming, the Obama Administration offered to waive the proficiency deadline and other requirements for states which overhaul low-performing schools and enact more stringent teacher evaluation systems.

July 8, 2015

Student Success Act

The House passed a NCLB replacement bill which would eliminate federal mandates for educational standards and poor performing schools, allow schools and parents to opt out of standardized testing, and change the funding formula to have money follow individual low-income students rather than stay at schools with the most low-income students. The bill passed with no Democratic support.

July 16, 2015

Every Child Achieves Act of 2015

The Senate passed a bipartisan bill put together by Sens. Lamar Alexander (R-TN) and Patty Murray (D-WA), which would maintain annual standardized tests and funding for low-income schools while reducing the Education Department's oversight and regulatory authority over state programs designed to improve educational outcomes for low-income and minority students.

Potential Actions in 114th Congress

- Now that the House and Senate have passed different versions of a NCLB rewrite, a conference committee chaired by Rep. John Kline (R-MN) will begin negotiating a compromise bill in September
- Obama has threatened to veto the House bill due to the changes it would make to distribution of funding
- Democrats and the Obama administration want an accountability measure that both bills currently lack, in order to ensure that states will be able to define and help struggling schools and students



Online Sales Tax

Timeline of Key Recent Federal Actions on an Online Sales Tax

2011

Marketplace Fairness Act of 2011

A bill introduced by Sen. Mike Enzi (R-WY) which would have allowed states operating under the Streamlined Sales Tax and Use Agreement to require businesses which collect more than \$500,000 in gross remote sales receipts to collect sales taxes on goods sold to residents of their states, even if the business is located in another state. The bill stalled in the Senate.

2013

Marketplace Fairness Act of 2013

A bill which passed the Senate in 2013 which would have allowed states operating under the Streamlined Sales Tax and Use Agreement to require businesses which collect more than \$1,000,000 in gross remote sales receipts to collect sales taxes on goods sold to residents of their states, even if the business is located in another state. The bill was never taken up by the House.

Jan 2015

Online Sales Simplification Act of 2015

A draft bill released in the House by Reps. Bob Goodlatte (R-VA) and Anna Eshoo (D-CA); in contrast to the Marketplace Fairness Act, the bill would enable states to have out-of-state buyers pay sales tax to the state in which the seller is located, rather than the seller remitting collected sales tax to the purchaser's state.

Mar 2015

Marketplace Fairness Act of 2015

A bill which has been introduced by Sen. Mike Enzi (R-WY) in the Senate in 2015; it is exactly the same as the 2013 version of the bill that passed the Senate. The bill has been referred to the Senate Finance Committee.

Potential Actions in 114th Congress

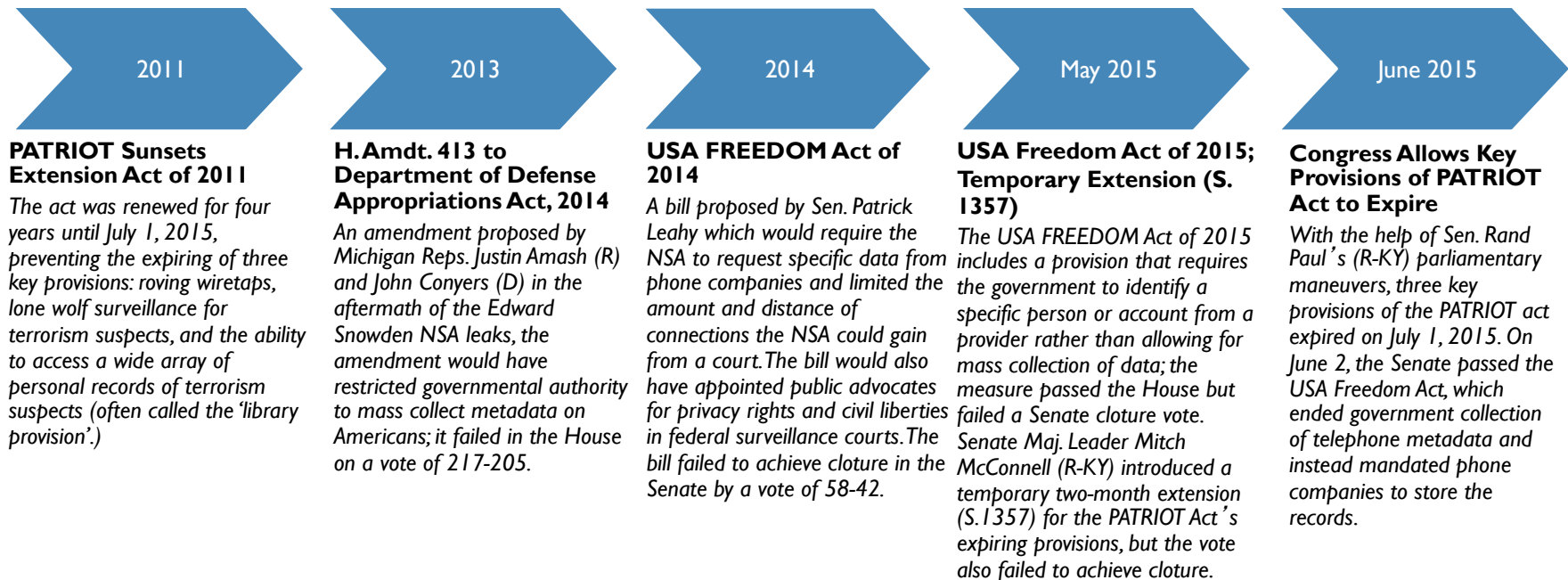
- House and Senate are divided on how to approach the issue; the Marketplace Fairness Act, which has been the model for online sales tax legislation for the past several sessions, has not been taken up by the House, in part due to concerns over allowing states to tax businesses located elsewhere
- An alternative plan put forward by Reps Bob Goodlatte (R-VA) and Anna Eshoo (D-CA) may help to alleviate those concerns, but there is no clear coalition backing one plan or the other
- Given the pressing nature of several issues with clear deadlines, and no clear consensus on the right policy mechanism, an online sales tax is a low-priority item in 2015



PATRIOT Act

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on the PATRIOT Act



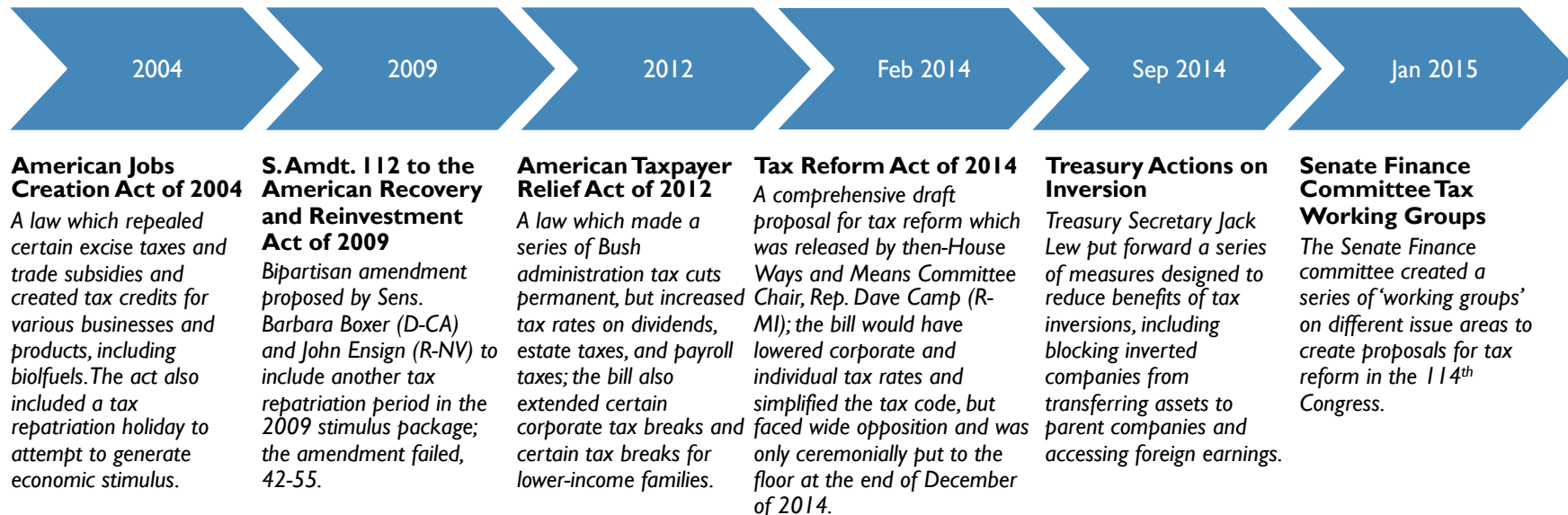
Potential Actions in 114th Congress

- On June 29, 2015, The Foreign Intelligence Surveillance Court approved a government request to renew the National Security Agency's bulk collection of Americans' phone records for six months, or until November 29, 2015, even though the program lapsed with the expiration of the PATRIOT ACT.
- While the USA Freedom Act calls for the eventual end to the NSA's bulk collection of Americans' information, the legislation contains language that calls for a six-month transition period, giving the NSA time to implement a more limited and targeted surveillance regime.



Tax Reform

Timeline of Key Recent Federal Actions on Tax Reform



Potential Actions in 114th Congress

- Though there were originally proposals to use FY2016 budgetary reconciliation authority to address comprehensive tax reform, the joint budget resolution tied reconciliation language to repeal of the Affordable Care Act
- Plans for more modest tax reform are likely to be tied to renewal of the Highway Trust Fund as a way to fund the program, which is set to expire in September; the Senate Finance Committee's working groups are attempting to quickly develop bipartisan proposals to attach to the Trust Fund's renewal
- Comprehensive tax reform is unlikely in a short window; the most likely scenario for reform is likely to be another repatriation holiday or other international tax reforms