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Budget 'markup' puzzles Republicans - W.H. wants spending targets honored, or else - Michael Cannon dons figurative superhero garb - From SCOTUS to single payer - It's raining budgets

By BRETT NORMAN | 04/19/12 9:29 AM EDT

With help from Lester Feder, David Nather and Joanne Kenen

BUDGET 'MARKUP' PUZZLES REPUBLICANS – The Senate Budget Committee met for a three-hour “markup” on Wednesday, but Republicans spent most of the time wondering aloud why the group was meeting at all. Committee Chairman Kent Conrad (D-N.D.) said he wanted to start a conversation — with hopes of reaching a bipartisan compromise after the election — based on the Simpson-Bowles fiscal plan. But there were no votes on the plan itself, or even on any amendments. Republicans on the panel said the best way for Democrats to prove they’re serious about addressing the nation’s fiscal problems is to hold a vote. The POLITICO Pro story: <http://politico.pro/HUDku5>

WHITE HOUSE: HONOR SPENDING TARGETS OR ELSE – In a major escalation of the budget wars going into November’s elections, the White House warned Congress on Wednesday that President Barack Obama will not sign any new appropriations bills until the House Republican leadership moves back to the spending targets agreed to in last summer’s debt deal. POLITICO’s David Rogers has the story: <http://politi.co/HSIGa5>

Good Thursday morning and welcome to PULSE, where we pause for a moment of song in memory of the country’s “oldest teenager.”

“The singer’s croonin’. He ain’t the greatest but gee. My baby’s swoonin’, in front of all of TV. So if you tune in, you’ll see my baby and me, on the PULSE.”

TODAY ON POLITICO PRO:

...HEALTH POLICY PARATROOPERS DESCENDING ON STATES – Michael Cannon, the Cato Institute health policy expert, has been swooping into states to help local conservatives push back on Republican lawmakers who think they'd rather have a state-based exchange than a federal one. The story: <http://politi.co/HJgpyj>

...FROM SCOTUS TO SINGLE-PAYER – If the Supreme Court sends the Affordable Care Act down in flames, single-payer advocates believe their approach will be the phoenix rising from its ashes. But longtime observers of health policymaking counter that single-payer's chances in a health reform weary Washington are about as good as a flock of phoenixes landing on the Capitol dome. The POLITICO Pro story: <http://politico.pro/14v6yo>

...STUDY: INSURANCE GAPS FOR A QUARTER OF ADULTS — Twenty-six percent of American adults were uninsured for a period of time in 2011, a new study by the Commonwealth Fund shows — and for the most part, people went without health insurance because they lost or switched jobs. The POLITICO Pro story: <http://politico.pro/JLSj52>. The study: <http://politico.pro/J19wNJ>

IT'S RAINING BUDGETS! Unimpressed by Conrad's "markup" gesture Wednesday, Sen. Pat Toomey (R-Penn.) introduced a budget of his own. On the health care front, it would block cuts from the sustainable growth rate formula, block grant Medicaid, adopt Rep. Paul Ryan's premium support Medicare proposal, means test in Medicare and reform the tax exclusion for health insurance. "I introduced this budget because the president's budget only continues down the path of ever greater spending, and the majority party in control of the Senate has refused to produce and mark up a budget at all," Toomey said in a release. "This is a complete abdication of leadership." More here: <http://bit.ly/J5BenE>

ANOTHER MARKUP ON HOLD – After voting down 11 Democratic amendments, the House Judiciary Committee on Wednesday evening recessed its markup of the HEALTH Act, legislation to overhaul medical malpractice laws, which it has already passed twice. The committee hasn't determined when the markup will resume.

AND NOW FOR LEGISLATION THAT MAY ACTUALLY BECOME LAW — Congress is plowing ahead with must-pass FDA user fee legislation. Both the House Energy and Commerce Health Subcommittee and the Senate Health Education Labor and Pensions Committee announced Wednesday that they would mark up bills next week — HELP on Wednesday at 10 a.m. and the Health Subcommittee TBD. The two committees also published drafts of the user fee bills they will consider. The Health Subcommittee's: <http://bit.ly/IF1mUt>. HELP's: <http://politico.pro/IzwV48>.

... In addition to the FDA-industry negotiated user fee agreements for drugs and medical devices, both chambers are considering a litany of possible amendments. The HELP announcement said the committee would consider user fee additions addressing drug

supply chain integrity, medical device policy, prescription drug shortages, incentivizing new antibiotic development, and drug approval and patient access — all issues before the E&C Health Subcommittee, as well. But it was clear in the subcommittee hearing Wednesday that the deal is far from sealed. The POLITICO Pro story, ICYMI: <http://politico.pro/J3nZ9N>

... **A NEW 'PATIENTS FDA' BILL ENTERS THE FRAY** – GOP Sens. Richard Burr (N.C.) and Tom Coburn (Okla.) introduced an FDA reform bill under a name that's pithy as an acronym but a bit of a mouthful spelled out. The Promoting Accountability, Transparency, Innovation, Efficiency and Timeliness at FDA (PATIENTS' FDA) Act contains about 20 provisions the senators say are designed to “complement the proposed agreements negotiated between the FDA and the drug and device industries by ensuring appropriate transparency and accountability in the FDA's review and decision processes,” according to the press release. It's a late comer, though, and not included in the draft that HELP posted Wednesday. For your edification, the bill text is here: <http://bit.ly/HQYFQX>.

HAPPENING TODAY: The Senate Appropriations Agriculture, Rural Development, Food and Drug Administration and Related Agencies Subcommittee holds a hearing to discuss the FDA's 2013 budget request at 2 p.m. FDA Commissioner Margaret Hamburg will testify.

NEW BILL WOULD HOLD GENERICS ACCOUNTABLE FOR 'FAILURE TO WARN' – Seven Senate Democrats introduced legislation Wednesday that would allow generic drug companies to be held liable under state tort law for failing to update warning labels with known dangers. The Supreme Court ruled in a case last year (*Pliva v. Mensing*) that generic drugmakers could not be liable, because they are required to use the same label as their brand-name counterparts. The legislation is meant to address the consequences of that decision, a release from Sen. Patrick Leahy (D-Vt.), the lead sponsor, states. The legislation is co-sponsored by Sens. Al Franken (D-Minn.), Jeff Bingaman (D-N.M.), Sheldon Whitehouse (D-R.I.), Sherrod Brown (D-Ohio), Christopher Coons (D-Del.) and Richard Blumenthal (D-Conn.). A companion bill, the Patient Safety and Drug Labeling Act, has been introduced in the House by Reps. Bruce Braley (D-Iowa) and Chris Van Hollen (D-Md.). The announcement: <http://politico.pro/ISsdlg>.

... The American Association for Justice, a trial lawyers group, praised the bill, which would allow generic manufacturers to initiate changes to their labels to reflect the latest safety information just like branded manufacturers and allow both to be accountable, the group said in a release. The AAJ pointed to an essay in The Harvard Crimson last week by a student who says he was prevented by the Supreme Court decision from having the facts of his case heard in courts. That story, involving a generic version of Accutane and a young man who lost his large intestine, is here: <http://bit.ly/HCNWOx>

\$1.5 BILLION BACKLOG IN HIV FUNDS — The Obama administration is justifying an 11 percent reduction in global HIV funding requested for FY 2013 by pointing to the

\$1.5 billion that has been tied up in the spending pipeline for 18 months or more. In an interview with GlobalPost, global AIDS coordinator Ambassador Eric Goosby said that bureaucratic delays, a major drop in the cost of AIDS treatment and challenges with the countries receiving support all contributed to the spending delay. "What we're doing is defining what money is available, and what's left are our resources that we will put back into AIDS-free generation type activities — things that will not require continued year funding, could be a one-time funding effort," Goosby said. The GlobalPost story: <http://bit.ly/HTIU00>

BOUSTANY TO HOLD HEARING ON OTC DRUGS AND TAX ADVANTAGED ACCOUNTS – Rep. Charles Boustany (R-La.), chairman of the Subcommittee on Oversight of the Committee on Ways and Means, announced Wednesday that the Subcommittee will hold a hearing on limitations on the purchase of over-the-counter medication with health savings and flex spending accounts. That hearing is slated for next Wednesday at 2:30 p.m. The announcement: <http://1.usa.gov/ISuixu>.

POLL OF BATTLEGROUNDS DISTRICTS FINDS DEMOCRATS GAINING AMONG WOMEN: A recent Democracy Corps/Women's Voices, Women Vote Action Fund survey in Congressional battleground districts finds Democrats making significant gains among women in districts held by Republican incumbents. In certain key Republican-held districts, Democrats picked up a net 10 points among women since December and now lead by 4 points. Among unmarried women, Democrats lead by 20 points in those districts. The survey: <http://scr.bi/ISamLt>

... GOP TRIES TO MEND THE GENDER GAP — The fight over contraception — along with a handful of anti-abortion proposals at the state level — have led Democrats to accuse the GOP of waging a “war against women.” And now conservative opposition to a Democratic bill to reauthorize the 1994 Violence Against Women Act — over objections to provisions involving same-sex couples, illegal immigrants and Native Americans — threatens to create another uncomfortable election-year debate for Republicans. So GOP leadership is trying to put forward their short list of women legislators to burnish their image where they can. And they are planning a major messaging push to spotlight the White House's decision not to nominate Kristine Svinicki to serve on the Nuclear Regulatory Commission, POLITICO's Manu Raju reports: <http://politi.co/HJgn9M>

GROUPS WANT FOLIC ACID IN TORTILLAS – The March of Dimes and other groups combating spina bifida and other birth defects of the brain and spine petitioned the FDA on Wednesday to require fortification of corn masa — used to make corn tortillas and tamales — with folic acid. Hispanic women are about 20 percent more likely to have a baby with a neural tube defect than a non-Hispanic white woman, possibly because they aren't consuming as much folic-acid fortified pasta and bread, the groups said in a release: <http://politico.pro/HZohfK>. Pros can see the list of other food additive petitions the FDA is reviewing here: <http://1.usa.gov/2N13Wt>

DOES ALLEN WEST KNOW WHAT COMMUNISM IS? The tea party favorite from Florida doubled down Wednesday on his accusation last week that as many as 81 of his fellow legislators were communists. He had since said he was referring to the Congressional Progressive Caucus, and on Wednesday told reporters that there was a “very thin line” between progressives and communists, ABC News reports. He said the health care law and its mandating of contraception coverage, among other things, were examples of trying to “expand the welfare state” in a communist way. And Karl Marx rolled over in his grave. The ABC report: <http://abcn.ws/Jhpn8d>

What we're reading, by Lester Feder

The Vatican has appointed a bishop to rein in the largest group of American Catholic nuns, in part because a group of its members backed the health reform law despite the bishops' opposition to it, reports The New York Times. <http://nyti.ms/I41LEn>

Forbes profiles an HIT entrepreneur — and how Obama administration policies helped make him rich. <http://onforb.es/I43xoM>

Texas presents a plan to CMS on how to manage its family planning program without the federal dollars it lost by shutting out Planned Parenthood, explains KVUE. <http://bit.ly/I4179S>

A record-low teenage birth rate is due to expanded access to contraception, argues The New York Times' editorial board, a lesson it says "is lost on Mitt Romney and his Congressional allies." <http://nyti.ms/I41zoG>

NPR's Shots Blog explains how Warren Buffett finds himself in the center of another controversy — whether to treat prostate cancer in older men. <http://n.pr/I44pty>