

January 12, 2018

Washington Update

This Week in Congress

- **House** – The House passed the “**Screening and Vetting Passenger Act**” (H.R. 4581); the “**DHS Overseas Personnel Enhancement Act of 2017**” (H.R. 4567); the “**Rapid DNA Act of 2017**” (S.139); and the “**Counter Terrorist Network Act**” (H.R. 4578).
- **Senate** – The Senate passed “**RAISE Family Caregivers Act**” (H.R. 3759); confirmed **William L. Campbell, Jr.**, to be US District judge for the Middle District of Tennessee; and **Thomas Lee Robinson Parker** to be US District Judge for the Western District of Tennessee.

Next Week in Congress

- **House** – The House is expected to consider the “**Home Mortgage Disclosure Adjustment Act**” (H.R. 2954); the “**World Bank Accountability Act of 2017**” (H.R. 3326); and the “**Born-Alive Abortion Survivors Protection Act**” (H.R. 4712).
- **Senate** – The Senate is expected to consider the “**Rapid DNA Act**” (S.139).

TAX

IRS Issues New Tax Withholding Tables

Key Points:

- *IRS issued new tax withholding tables that are ready for use in upcoming tax season.*
- *New W-4 forms hope to be ready for next tax-filing year.*

On Thursday, the Internal Revenue Service (IRS) released new tax withholding tables that offer employers guidance on how to align paychecks with the new tax law. The goal for the government is to have the new tables implemented by February 15th, allowing workers to file accordingly for the upcoming tax season. In a White House Press Conference, Treasury Secretary Steven Mnuchin also stated that the IRS will have a withholding calculator to give taxpayers the opportunity to see how recent changes will affect them. The agency also indicated that a

new W-4 form will be ready for the next tax-filing season.

House and Senate Tax Committees Add New Members; New House Ways and Means Subcommittee Chairs

Key Points:

- *Senator Sheldon Whitehouse (D-RI) added to Senate Finance Committee; Representative Darin LaHood (R-IL) added to House Ways and Means.*

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- Following Rep. Pat Tiberi's (R-OH) departure, Rep. Buchanan (R-FL) will be chairman of the Ways and Means' Tax Policy Subcommittee; Rep. Roskam (R-IL) will be chairman of the Health Subcommittee; and Rep. Jenkins (R-KS) will be head of the Oversight Subcommittee.

This week Senate Democratic Leader Schumer (D-NY) announced that Sen. Sheldon Whitehouse (D-RI) would be added to the Senate Finance Committee. That change reflects the addition of Senator Doug Jones (D-AL) to the Senate and the resulting 51-49 Republican majority. The Senate Finance Committee will have a ratio of 14 Republicans to 13 Democrats (from 14-12 in 2017).

In the House, the [Republican Steering Committee endorsed Rep. Darin LaHood \(R-IL\) to take a seat on the House Ways and Means Committee](#), filling a vacancy that will be created shortly by Rep. Pat Tiberi (R-OH), who is retiring from Congress in the coming days. The full Republican House Conference is expected to formally accept the recommendation of Rep. LaHood.

The retirement of Rep. Tiberi, the current Ways and Means Health Subcommittee chair, also set in motion a reshuffling of subcommittee chairs and assignments. The subcommittee reassignments were announced Wednesday by Chairman Kevin Brady (R-Texas) and will be in effect for the remainder of the 115th Congress.

Here are the major changes:

- Rep. Roskam (R-IL) will move to chair the Health Subcommittee (vacated by Rep. Tiberi) from chairing Tax Policy;
- Rep. Buchanan (R-FL) will move to chair the Tax Policy Subcommittee (vacated by Rep. Roskam) from chairing Oversight; and

Upcoming Dates

- **January 19, 2018:** Flood Insurance and EB-5 regional visas authorizations lapse; Title VII of FISA; government funding CR expires.
- **March 5, 2018:** DACA deadline.
- **March 31, 2018:** FAA Reauthorization expires

- Rep. Jenkins (R-KS) will chair the Oversight Subcommittee (vacated by Rep. Buchanan).

There are some other roster changes as people moved around to vacancies created, including:

- Rep. Kelly (R-PA) to Health,
- Rep. Reed (R-NY) to Oversight,
- Reps. Jason Smith (R-MO) and Tom Rice (R-SC) to Tax Policy,
- Rep. Marchant (R-TX) to Trade, and
- Rep. LaHood (R-IL) was assigned to the Oversight and Human Resources Subcommittees (assuming the Conference accepts his recommended appointment to the Committee).

The full Subcommittee roster for the House Ways and Means Republicans can be found [here](#).

For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Nick Karellas, Henry Homans, and Ryan Schnepf contributed to this section.

FINANCIAL SERVICES

Senate Banking Committee Holds Hearing on Money Laundering and the Bank Secrecy Act

Key Point:

- Ranking Member Sherrod Brown (D-OH) and Senators Jack Reed (D-RI), Elizabeth

Warren (D-MA), and Mark Warner (D-VA) expressed support for passing legislation to require the disclosure of beneficial ownership.

On January 9, the Senate Banking Committee held a [hearing](#) entitled “Combating Money Laundering and Other Forms of Illicit Finance: Opportunities to Reform and Strengthen BSA Enforcement.” Chairman Mike Crapo (R-ID) [said](#) the hearing was the first of two this month dealing with modernizing the Bank Secrecy Act (BSA) and the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regime. He said the BSA has been expanded to cover a wider range of threats. He stressed the need to cut off the flow of illicit financing to terrorists. He stated that the sophistication and number of threats have increased since the BSA was enacted, and the Committee must ensure that the resources put into BSA compliance produce a high degree of usefulness. He expressed interest in ways to make the BSA/AML process more efficient and focused.

Ranking Member Sherrod Brown (D-OH), in a [statement](#), said some of the world’s largest banks have run afoul of the BSA and AML laws, noting that some banks willfully and persistently violated the BSA. He said GAO concluded that from 2009-2015, \$12 billion in fines was collected from financial institutions for violations of the BSA, the Foreign Corrupt Practices Act (FCPA), and sanctions. He said banks violated AML laws by knowingly facilitating financial transactions from rogue nations like Burma, Iran, Syria and Sudan, as well as terrorist organizations and drug cartels. He stated that money laundering on behalf of drug cartels has a direct connection to the opioid crisis. He expressed opposition to loosening laws in this area, but suggested that there could be ways to responsibly update the law. He said expanded information sharing may make sense, but there are concerns about

privacy. He stated that Suspicious Activity Reports (SARs) could be enhanced by providing additional guidance, rather than by raising currency reporting thresholds.

Ranking Member Sherrod Brown (D-OH) and Senators Jack Reed (D-RI), Elizabeth Warren (D-MA), and Mark Warner (D-VA) expressed support for passing legislation to require the disclosure of beneficial ownership.

House Foreign Affairs Committee Discusses Sanctions and Financial Pressure

Key Points:

- *Chairman Ed Royce (R-CA) stated that the President is facing several deadlines to implement key elements of the Countering America’s Adversaries Through Sanctions Act (CAATSA) and he expects them to be met.*
- *Ranking Member Eliot Engel (D-NY) agreed that sanctions are an important tool for dealing with problematic global actors but he stressed the need to ensure international coordination in enforcing sanctions.*

On January 10, the House Foreign Affairs Committee held a [hearing](#) entitled “Sanctions and Financial Pressure: Major National Security Tools.” The hearing focused on the current sanctions in place against nations like Iran, Cuba, Russia and North Korea, the need for additional resources for the Treasury Department and the State Department to implement sanctions, and whether stronger sanctions are needed for Russia and North Korea. Chairman Ed Royce (R-CA) said the Committee has played a leading role in applying sanctions and related elements of financial pressure to address major U.S. national security threats, including stopping terrorists, counter Iran and North Korea’s nuclear programs, and respond to Russian aggression and the degradation of democracy in Venezuela. He

noted that last summer, in response to the ongoing threats from Iran, Russia, and North Korea, Congress enacted the Countering America's Adversaries through Sanctions Act. He said the administration faces a deadline to implement key elements of this Act by the end of January, and the Committee expects that this deadline to be met. Royce explained that the President also face a decision on the Iran nuclear deal. He said the sunset issue and other flaws in the deal must be fixed, stressing the need to ensure that international inspectors have access to possible nuclear sites, particularly those on military bases. Representative Eliot Engel (D-NY) said sanctions are an important tool for dealing with problematic global actors. He asserted that U.S. sanctions are only one piece of the puzzle, suggesting that China must also strictly enforce sanctions on North Korea. He said sanctions alone would not push Kim Jong Un to give up his nuclear weapons, expressing concern that President Trump's comments on Twitter have been inflammatory.

House Panel Holds Hearing on Federal Reserve Reform Proposals

Key Point:

- *The Subcommittee discussed seven draft bills to reform the operations of the Federal Reserve Board.*

On January 10, the House Financial Services Committee's Subcommittee on Monetary Policy and Trade held a [hearing](#) on seven draft Federal Reserve reform proposals." The hearing covered the following legislation:

- [Draft legislation](#), to amend the Federal Reserve Act to establish requirements for salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System.
- [Draft legislation](#), to amend the Federal Reserve Act to establish a blackout

period for public communications by the Federal Open Market Committee.

- [Draft legislation](#), to amend the Federal Reserve Act to bring the non-monetary policy related functions of the Board of Governors of the Federal Reserve System into the appropriations process.
- [Draft legislation](#), to amend the Federal Reserve Act to modify the appointment process for presidents of Federal Reserve Banks.
- [Draft legislation](#), to amend the Federal Reserve Act to revise the membership of Federal Open Market Committee.
- [Draft legislation](#), to amend the Federal Reserve Act to require the Federal Open Market Committee to establish interest rates on balances maintained at a Federal Reserve Bank by depository institutions.
- [Draft legislation](#), to amend the Federal Reserve Act to require the Vice Chairman for Supervision of the Board of Governors of the Federal Reserve System to provide a written report.

Chairman Andy Barr (R-KY) expressed support for a more reliable monetary policy and he stated the legislation being discussed would improve the Federal Reserve. He said monetary policy needs to return to doing only what it can: consistently producing an efficient exchange medium so goods and services can freely engage in their most promising opportunities.

Ranking Member Gwen Moore (D-WI) said the proposed legislation represents a solution in search of a problem. She expressed concern about legislation that would allow bankers more power to appoint members of the Federal Reserve. She stressed she does not want to open the door for more obstruction of sound financial regulation.

House Panel Holds Hearing on CFIUS

Key Point:

- *Members of both parties stressed the need to reform CFIUS in order to enhance national security while maintaining American competitiveness.*

On January 9, the House Financial Services Committee's Monetary Policy Subcommittee held a [hearing](#) entitled: "Evaluating CFIUS [Committee on Foreign Investment in the United States]: Challenges Posed by a Changing Global Economy". Chairman Andy Barr (R-KY) stated that Chinese businesses represent a national security threat as well as an economic competitor. He said it is important to precisely define the technologies, ideas, or techniques that America needs to protect, and to find ways to protect them without discouraging further investment. He asserted that he believes Congress can reform CFIUS in such a way that will ensure security while encouraging further investment and trade.

Ranking Member Gwen Moore (D-WI) stated that reforming CFIUS is a bipartisan issue and Congress wants to work toward reforms to protect against attempts by foreign countries to harm U.S. companies or steal technology while at the same time encouraging further investment and international partnerships.

Full Committee Vice Chairman Dan Kildee (D-MI) stated that CFIUS plays an important role in national security and Congress must balance an open investment climate with a requirement to protect U.S. national security. He noted that his primary concern is China's aggressive industrial policies and their efforts to invest in cutting edge technologies with military applications. He asserted that the second biggest threat to U.S. national security is that CFIUS is underfunded and understaffed.

SEC Holds First Meeting of the Fixed Income Market Structure Advisory Committee; Swears in New Commissioners

Key Points:

- *The FIMSAC meeting included multiple panels focused on bond market liquidity.*
- *Robert Jackson Jr. and Hester Peirce were sworn in as SEC Commissioners.*

On January 11, the Securities and Exchange Commission (SEC) convened the initial meeting of the Fixed Income Market Structure Advisory Committee (FIMSAC, or the Advisory Committee). The meeting included remarks by the Commissioners and discussions focused on bond market liquidity. Michael Heaney (Chairman of FIMSAC; Investment Management America) said potential broad sub-topics moving forward may include modernization, fixed income ETFs, and transparency. He said the subcommittees of the Advisory Committee would be built around those topics. Heaney suggested that the idea is for the FIMSAC to return in April after work has been done to discuss subcommittee findings.

Chairman Jay Clayton, in a [statement](#), explained the insights and recommendations that the Committee will provide will help inform the Commission's policy decisions over the coming months and years. He noted that the Equity Market Structure Advisory Committee (EMSAC) provided the Commission with thoughtful perspectives and recommendations, some of which the SEC is actively considering. He expressed hope that FIMSAC will be similarly valuable. Clayton explained that EMSAC's charter expired this week, and rather than extending EMSAC, the plan is to organize targeted roundtables on discrete equity market structure issues, which will feature experts on each topic representative of a broad diversity of viewpoints.

Clayton noted that corporate and municipal debt markets are particularly significant to retail investors, both directly and indirectly through pension funds and other pooled vehicles. He expressed his intention to continue to focus on retail investor initiatives in the corporate and municipal debt markets. He urged all of the Committee members to keep the long term interests of retail investors in mind as they approach their work with the Committee. He also noted corporate and municipal debt markets are also critical to American companies and the national infrastructure.

He stated that he looks forward to working with FIMSAC and his fellow Commissioners to ensure that the regulatory approach to these markets is sound and continues to meet the needs of retail investors, as well as American companies and state and local governments.

Additionally, on January 11, Robert Jackson Jr. and Hester Peirce were sworn in as SEC Commissioners. Their nominations were confirmed by the Senate on December 21. Jackson's term expires on June 5, 2019, while Peirce's term expires on June 5, 2020.

UPCOMING EVENTS

January 17

Federal Reserve Nominations: The Senate Banking Committee will hold an executive session to vote on the nominations of Jerome Powell to be Chairman and Randal Quarles to be a member of the Federal Reserve Board of Governors.

Money Laundering/Illicit Finance: The Senate Banking Committee will hold a hearing entitled "Combating Money Laundering and Other Forms of Illicit Finance: Opportunities to Reform and Strengthen BSA (Bank Secrecy Act) Enforcement."

Financial Services Legislation: The House Financial Services Committee will hold a [markup](#) of seventeen financial services bills dealing with regulatory reform, money market funds, reform on the Financial Stability Oversight Council (FSOC), mortgage lending, stress testing, the Volcker Rule, access to capital, and other issues.

January 18

CFIUS: The Senate Banking Committee will hold a hearing entitled "CFIUS Reform: Examining the Essential Elements." Witnesses will include: The Honorable Christopher Padilla, Vice President, IBM Corporation; Scott Kupor, Managing Partner, Andreessen Horowitz, and Chairman of the Board of the National Venture Capital Association; Gary Clyde Hufbauer, Senior Fellow, Peterson Institute for International Economics; and James Mulvenon, General Manager, SOS International. The Committee is expected to hold another CFIUS reform hearing on January 25.

January 19

Securities Market: The SEC's Division of Economic and Risk Analysis (DERA) and New York University's Salomon Center will hold half-day dialogue on shareholder engagement.

January 23

Technology Advisory Committee: The Committee Futures Trading Commission (CFTC) will hold a meeting of its Technology Advisory Committee (TAC). The agenda for the meeting includes: (1) the scope, plan, and approach for the Committee's efforts in 2018; (2) exploring timely topics and issues involving financial technology in CFTC regulated markets, potentially including blockchain/DLT, data standardization and analytics, algorithmic trading, virtual currencies, cybersecurity, and RegTech; and (3) identifying work streams and/or subcommittee groups

that can help generate actionable recommendations to the Commission on select issues.

January 30

FSOC: The Senate Banking Committee plans to hold a hearing on “The Financial Stability Oversight Council Annual Report to Congress.” U.S. Department of the Treasury Secretary Steven T. Mnuchin will testify.

January 31

Market Risk Advisory Committee: The Committee Futures Trading Commission (CFTC) will hold a meeting of its Market Risk Advisory Committee (MRAC). The Committee will consider the process of self-certification of new products and operational rules by Designated Contract Markets (DCMs) under the Commodity Exchange Act (CEA) and CFTC regulations.

February 6

Virtual Currencies: The Senate Banking Committee plans to hold a hearing on “Virtual Currencies: The Oversight Role of the SEC and CFTC”, with Securities and Exchange Commission Chairman Jay Clayton and Commodity Futures Trading Commission Chairman J. Christopher Giancarlo testifying.

February 20

Covered Agreement: The National Association of Insurance Commissioners (NAIC) will hold a public hearing to address the reinsurance collateral provisions of Article 3 of the Covered Agreement.

For more information about financial services issues you may [email](#) or call Joel Oswald at 202-659-8201. Alex Barcham and Rebecca Konst contributed to the articles.

ENERGY AND ENVIRONMENT

FERC Responds to Department of Energy Proposal on “Grid Resiliency”

Key Points:

- *On January 8, the Federal Energy Regulatory Commission issued an order in response to the “Grid Resiliency Pricing Rule” proposed last fall by Secretary of Energy Rick Perry.*
- *The Commission’s Order rejected the proposed rule and instead tasked the regional organizations that oversee the operation and reliability of the electric grid to respond within two months regarding how they “assess threats to resilience” and respond to those threats.*

On Monday, the Federal Energy Regulatory Commission (FERC) issued an [“Order Terminating Rulemaking Proceeding, Initiating New Proceeding, and Establishing Additional Procedures”](#). FERC’s action responds to Secretary of Energy Rick Perry’s proposed “Grid Resiliency Pricing Rule”, which he submitted to the Commission on September 28, 2017. As described in Perry’s [transmittal letter](#), the Notice of Proposed Rulemaking (NOPR) would have required “Commission-approved organized [electricity] markets to develop and implement market rules that accurately price generation resources necessary to maintain the reliability and resiliency of our Nation’s electric grid...” The NOPR would have allowed “the full recovery of costs of certain eligible [generating] units physically located within the Commission-approved organized markets...[that are] able to provide essential energy and ancillary reliability services and have a 90-day fuel supply on site in the event of supply disruptions caused by emergencies, extreme weather, or natural or man-made disasters.”

In its Order, FERC directed each Regional Transmission Organization (RTO) and each

Independent System Operator (ISO) to respond within 60 days “regarding the resilience of its respective region.” Specifically, FERC required the RTOs and ISOs to provide information on how they: “assess threats to resilience”, including “any unique resilience challenges that exist in their respective regions”; and “evaluate options to mitigate any risks to grid resilience.” FERC posed a series of specific questions to the RTOs and ISOs on these issues.

Referring to the scope of the original NOPR submitted by Secretary Perry, the Order declared that “proper evaluation of grid resilience should not be limited to [availability of on-site fuel], and should instead encompass a broader consideration of resilience issues, including wholesale electric market rules, planning and coordination, and [North American Electric Reliability Corporation (NERC)] standards.”

In addition, the Commission emphasized the need to “achieve a common understanding of what resilience is in the context of the bulk power system”, noting that there is no current “uniform definition of resilience.” To address this issue, FERC asked the RTOs and ISOs to comment on the following definition of “resilience”: “The ability to withstand and reduce the magnitude and/or duration of disruptive events, which includes the capability to anticipate, absorb, adapt to, and/or rapidly recover from such an event.”

The Order also invites reply comments from interested parties within 30 days of the submission of the initial comments by the RTOs and ISOs.

Three commissioners issued concurrences to the Order:

- Commissioner Cheryl LaFleur criticized the original NOPR submitted by

Secretary Perry. She argued that “the record” did not demonstrate “the need for the Proposed Rule to support resilience.”

- Commissioner Neil Chatterjee said he concurred “with the expectation that [the Order] is only the first step in a more systematic effort by the Commission, over both the near and long term, to ensure the resilience of the nation’s bulk power system.”
- Commissioner Richard Glick argued that the NOPR submitted by Secretary Perry “had little, if anything, to do with resilience, and was instead aimed at subsidizing certain uncompetitive electric generation technologies.” He also contended that the NOPR would have provided a “multi-billion dollar bailout targeted at coal and nuclear generating facilities.”

Energy Subcommittee Hearing on the Department of Energy

Key Points:

- *In a hearing this week, the House Energy Subcommittee heard from Department of Energy Officials and outside experts on how to improve and modernize the Department’s operations and programs.*
- *Issues discussed included: the Strategic Petroleum Reserve; international energy policy and trade; the Department’s National Labs; and energy efficiency standards.*

On Wednesday, the House Energy and Commerce Committee’s Energy Subcommittee held a [hearing](#) titled, “DOE Modernization: Advancing DOE’s Mission for National, Economic, and Energy Security of the United States.” As described in the Committee’s [background memo](#), the hearing was intended to “provide Members with information to help assess what is necessary to ensure effective

execution of the core [Department of Energy] missions—national security, energy and economic security, environmental cleanup, and the scientific and technological innovation to support those missions.”

In his [opening statement](#), Subcommittee Chairman Fred Upton (R-MI) discussed recent actions by Congress to update “certain agency programs and authorities to shift DOE’s mission focus more fully away from the energy scarcity mindset of its founding in the 1970s.” He said that these policy initiatives have included actions to: “position the agency more appropriately towards the tremendous energy resources now available to our nation— and the economic and geopolitical benefits of those resources”; “modernize the department’s Strategic Petroleum Reserve and its response capabilities”; and “upgrade[] DOE’s emergency preparedness for energy supply disruptions and its authorities to protect critical infrastructure from physical and cyber threats.”

In his opening statement, Subcommittee Ranking Member Bobby Rush (D-IL) stressed the DOE must be representative of all citizens. He noted the importance of access to national labs through contracting and vending opportunities. He said his office worked to establish the Minorities in Energy Initiative, designed to foster increased minority participation in the energy industry. He argued the initiative was successful in increasing minority representation but Secretary of Energy Perry has not supported it.

Deputy Secretary of Energy Dan Brouillette, in his testimony, described Secretary Perry’s priorities: (1) promote energy security by favoring innovation over regulation; (2) enhance national security through nuclear security; (3) address the obligation of legacy management and nuclear waste; and (4) modernize the DOE. He said the National

Labs are leading a technology and energy revolution that is advancing national and energy security. He said the U.S. is closing in on complete energy independence. He argued regulations have reduced energy production and innovation. He stated the energy grid is strong and reliable because it is powered by a diverse range of sources.

Brouillette recalled that Secretary Perry proposed that the Federal Energy Regulatory Commission (FERC) consider establishing new pricing rules that factor in the important contributions of baseload generation to ensure grid reliability. He said that FERC responded with a unanimous decision to direct regional transmission organizations and independent system operators to proactively evaluate the resilience of the bulk power system, and added that the Department is encouraged by this action.

Upcoming Hearings and Events

January 16

Domestic and Global Energy Outlook: The Senate Energy and Natural Resources Committee will hold a [hearing](#) on “The Domestic and Global Energy Outlook”.

Grid Reliability Rule: The Bipartisan Policy Center will hold an [event](#) titled “Conversation with FERC Commissioners Chatterjee and LaFleur: The Grid Resiliency Pricing Rule”.

January 17

Bureau of Reclamation Title Transfer Process: The Senate Energy and Natural Resources Committee’s Subcommittee on Water and Power will hold a hearing on “The Bureau of Reclamation’s Title Transfer Process and Potential Benefits to Federal and Non-Federal Stakeholders”.

Water Infrastructure Needs/Challenges:

The Senate Environment and Public Works Committee will hold a [hearing](#) titled “America’s Water Infrastructure Needs and Challenges: Federal Panel”.

Pending Legislation: The House Natural Resources Committee will hold a [markup](#) of pending legislation.

January 18

Eliminating Onshore Energy Burdens: The House Natural Resources Committee will hold a [hearing](#) titled “Examining the Department of the Interior’s Actions to Eliminate Onshore Energy Burdens”.

January 19

Superfund Cleanup Program Modernization: The House Energy and Commerce Committee’s Environment Subcommittee will hold a [hearing](#) titled “Modernizing the Superfund Cleanup Program”.

Energy Department Small Business Resources:

The House Small Business Committee’s Subcommittee on Agriculture, Energy and Trade will hold a hearing titled “Engaging Energy: Small Business Resources at the Department of Energy”.

Nominations: The Senate Energy and Natural Resources Committee will hold a hearing on the nominations of: Melissa Burnison to be Assistant Energy Secretary for Congressional and Intergovernmental Affairs; and Anne Marie White to be Assistant Energy Secretary for Environmental Management.

Water Resources Infrastructure: The House Transportation and Infrastructure Committee’s Subcommittee on Water Resources and Environment will hold a hearing titled

“America’s Water Resources Infrastructure: Approaches to Enhanced Project Delivery.”

For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Updates on energy and environment issues are also available on [twitter](#).

HEALTH**Senate Finance Holds HHS Secretary Nomination Hearing****Key Points:**

- The Senate Finance Committee held a nomination hearing for Alex Azar to be Secretary of the Department of Health and Human Services. Topics discussed included prescription drug prices, Medicaid, and the opioid epidemic.
- The Committee will still need to vote on the nomination before he can be confirmed by the full Senate.

On January 9, the Senate Finance Committee held a “Hearing to Consider the Anticipated Nomination of The Honorable Alex Michael Azar II, of Indiana, to be Secretary of Health and Human Services.” Topics discussed in the hearing included, but were not limited to: (1) Children’s Health Insurance Program; (2) minority health; (3) women’s health and contraception; (4) prescription drug costs; (5) opioid epidemic; (6) Medicaid Drug Rebate Program; (7) state innovation and waivers; (8) value and outcomes-based pricing; (9) Indian Health Service; (10) Medicaid; (11) Medicare; (12) Center for Medicare and Medicaid Innovation; (13) access to health care and insurance; (14) Social Security; and (15) Affordable Care Act.

Chairman Orrin Hatch (R-UT) highlighted Azar’s experience in both the federal government and the pharmaceutical industry.

He predicted Azar's private sector knowledge will provide valuable insight into the impact of policies enacted by the Department of Health and Human Services (HHS). Ranking Member Ron Wyden (D-OR) expressed concern the prices rose for several products during Azar's leadership at the pharmaceutical company.

In his testimony, Azar highlighted four critical areas he would prioritize: prescription drug prices; health care affordability; Medicaid; and the opioid epidemic. He stressed the importance of innovation at HHS.

Democrats' questions focused on how Azar would address prescription drug prices with several asking whether the government should be involved in negotiating prices. Senators also focused on how HHS should address the opioid epidemic. Democrats raised concerns that changes to Medicaid could limit access to substance use disorder treatment.

The Senate Finance Committee will need to vote on the nomination before it can be reported to the full Senate for a final confirmation vote.

CMS Issues Guidance for Medicaid Work Requirements

Key Points:

- *The Centers for Medicare and Medicaid Services (CMS) released new guidance for states to design demonstration projects that would impose work requirements for Medicaid.*
- *CMS has received demonstration project proposal from 10 states that include employment and community engagement initiatives.*

On January 11, the Centers for Medicare and Medicaid Services issued a new policy guidance for states who which to test community engagement among able-bodied adults enrolled

in Medicaid. The guidance is in response to several state requests to test program through Medicaid Section 1115 demonstration projects.

Demonstration projects must promote the objectives of the Medicaid program. States have sought to test work or participation in other community engagement activities including skills training, education, volunteering, or caregiving as a condition for Medicaid eligibility for able-bodied, working-age adults. The disabled, elderly, children, and pregnant women would be excluded from these requirements.

CMS Administrator Seema Verma said "Medicaid needs to be more flexible so that states can best address the needs of this population. Our fundamental goal is to make a positive and lasting difference in the health and wellness of our beneficiaries, and today's announcement is a step in that direction."

The letter to state Medicaid directors can be read [here](#).

Upcoming Hearings and Meetings

January 17

Rural Health: The Bipartisan Policy Center will hold a briefing on "Reinventing Rural Health Care: A Case Study of Seven Upper Midwest States."

Opioids: The Senate Homeland Security and Governmental Affairs Committee will hold a hearing on the "Unintended Consequences: Medicaid and the Opioid Epidemic."

Opioids: The House Ways and Means Committee will hold a hearing on "The Opioid Crisis: The Current Landscape and CMS Actions to Prevent Opioid Misuse."

Emergency Preparedness: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Facing 21st Century Public Health Threats: Our Nation's Preparedness and Response Capabilities, Part I.”

For more information about healthcare issues you may [email](#) or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201.

TRANSPORTATION AND INFRASTRUCTURE

Administration's Infrastructure Principles Pushed Again

Key Points:

- *Trump Administration delays once again the release of its infrastructure package*
- *Details remain in question*

This week, the public and private comments of transportation stakeholders in the Trump Administration and Congress suggest that the White House's planned turn to an infrastructure package will be again delayed. Moreover, disagreement inside the Administration on the details of package could further delay the release of the principles of a package repeatedly touted by the Administration. A series of meetings this week between Administration officials and Members of Congress were inconclusive as to the timing and final details of the Administration's reported proposal to leverage \$200 billion over the next ten years into \$1 trillion of infrastructure development. Questions remain about where the \$200 billion is coming from and how the Administration proposes to attract state, municipal and private investment to generate an additional \$800 billion in funding. It appears the soonest the Administration's principles might be released would be the January 30 State of the Union Address.

DOT Asks For Comment On Federal Automated Vehicle Policy

Key Point:

- *The DOT continues its revamp of Obama era automated vehicle policy in releasing requests for comments*

This week, the Department of Transportation (DOT) released for comment “several automated vehicle notices,” “seeking public input from across the transportation industry to identify barriers to innovation and shape initiatives” according to the [press release](#). These notices are part of “advancing the release of Federal Automated Vehicle Policy (FAVP) 3.0, also known as A Vision for Safety 3.0.” The DOT claimed that “FAVP 3.0 will emphasize a unified, intermodal approach to automated driving systems (ADSs) policy...[that] will enable the safe integration of surface automated transportation systems, including cars, trucks, light rail, infrastructure, and port operations.”

The published notices include:

- **Federal Highway Administration (FHWA):**
 - [Request for Information \(RFI\) on Integration of ADS into the Highway Transportation System:](#) To better understand what is needed to accommodate ADS technologies, and maximize their potential benefits, the Federal Highway Administration (FHWA) seeks the public's input through a formal RFI to supplement strategy development. Advancing the next generation of America's transportation network can only happen with input from

an array of informed sources, including stakeholders, industry experts and the public at large.

▪ **Federal Transit Administration (FTA):**

- [*Request for Comments \(RFC\) on Automated Transit Buses Research Program*](#): This RFC will obtain transit industry comment regarding the current and near-future statuses of automated transit buses and related technologies. Comments received will assist FTA in developing future Notices of Funding Opportunities (NOFO) for transit bus automation demonstrations with respect to the industry's ability and interest. Concepts for the NOFOs on demonstrations and evaluations of transit bus automation usage will be defined in FTA's Strategic Transit Automation Research (STAR) plan. A premise of the STAR plan is to leverage and apply commercially available technology and products to the public transit industry to hasten early demonstrable outcomes.
- [*RFC on Removing Barriers to Transit Bus Automation*](#): This RFC will obtain transit industry comment regarding current or potential institutional, regulatory, or other policy barriers to the development, demonstration, deployment, and evaluation of automated transit buses and related technologies. Some

Federal policy issues are addressed in the U.S. Department of Transportation's (US DOT's) Automated Driving Systems (ADS): A Vision for Safety 2.0. Information from the second RFC will help inform FTA's approach to the planned update of this document, which may include additional multi-modal considerations. Information from the RFC will also provide critical feedback on potential modifications of FTA rules, regulations, and agency guidance.

▪ **National Highway Traffic Safety Administration (NHTSA):**

- [*RFC on Removing Regulatory Barriers for Automated Vehicles*](#): The National Highway Traffic-Safety Administration (NHTSA) seeks comments to identify any unnecessary regulatory barriers to Automated Safety Technologies, and for the testing and compliance certification of motor vehicles with unconventional automated vehicles designs, particularly those that are not equipped with controls for a human driver. Further, NHTSA seeks comments on the research that would be required to remove such regulatory barriers.

Upcoming Hearings and Events

January 17

Water Infrastructure: The Senate Environment & Public Works Committee will hold a [hearing](#) titled “America’s Water Infrastructure Needs and Challenges: Federal Panel.”

U.S. Maritime Industry: The House Transportation & Infrastructure Committee’s Coast Guard and Maritime Transportation Subcommittee will hold a [hearing](#) titled “The State of the U.S. Flag Maritime Industry.”

January 18

Water Infrastructure: The House Transportation & Infrastructure Committee’s Water Resources and Environment Subcommittee will hold a [hearing](#) titled “America’s Water Resources Infrastructure: Approaches to Enhanced Project Delivery.”

For more information on transportation issues you may [email](#) or call Michael Kans at 202-659-8201.

TECHNOLOGY

House Passes FISA Reauthorization; Senate Begins Consideration

Key Point:

- *The House easily passed a six-year reauthorization that the Senate will likely pass next week*

This week, the House considered and passed a reauthorization of authorities for the Intelligence Community to surveil non-U.S. persons outside the U.S. Title VII of the Foreign Intelligence Surveillance Act (FISA) was set to expire on December 31, 2017, but an extension was included in the current continuing resolution ([P.L. 115-96](#)) that will expire along with federal funding on January 19. Critics of the six-year reauthorization claim the bill includes few meaningful reforms of a

process they argue is rife with loopholes that result in the surveillance of Americans. Proponents characterized the bill as a needed continuation of vital authority for the safeguarding of national security.

The House took up the “FISA Amendments Reauthorization Act of 2017” ([S. 139](#)) on January 11, and under the rule of consideration an amendment in the nature of a substitute was adopted that represented the final language agreed to by the House Intelligence and Judiciary Committees. One amendment was made in order, “The Uniting and Strengthening America by Reforming and Improving the Government’s High-Tech Surveillance (USA RIGHTS) Act” ([H.R. 4124/S. 1997](#)), which the House did not agree to by a 183-233 vote. The House then passed S. 139 by a 256-164 vote.

Later the same day, the Senate took up S. 139. Senate Majority Leader Mitch McConnell (R-KY) filed a motion to proceed the Senate agreed to by a 68-27 vote. McConnell then filled the amendment tree, denying other Senators any opportunities to offer amendments. The Senate will vote on motion to invoke cloture on S. 139 on January 16 at 5:30 pm.

In its [summary](#), the House Intelligence Committee explained the salient provisions of S. 139:

- Section 702 of the Foreign Intelligence Surveillance Act (FISA) is a critical foreign intelligence collection tool that sunsets on January 19, 2018. This amendment will reauthorize the authority for six years.
- This amendment preserves Section 702’s operational flexibility while making key privacy enhancements such as:
 - Requiring specific query procedures—separate from

- existing minimization procedures—which must be annually approved by the Foreign Intelligence Surveillance Court (FISC);
- Adding a probable cause-based order requirement for the FBI to view Section 702 content that was responsive to a criminal investigative query on a U.S. person not related to national security;
 - Requiring the Inspector General of the Department of Justice to review the FBI's Section 702 query practices, including the implementation and interpretation of the FBI's query procedures;
 - Restricting the use of Section 702 information against U.S. people in criminal cases to cases related to national security or severe crimes such as murder and kidnapping;
 - Temporarily ending the NSA's Section 702 “abouts” collection until the government develops new procedures, gains FISC approval for them, and briefs the congressional intelligence and judiciary committees;
 - Enhancing the Privacy and Civil Liberties Oversight Board; and
 - Adding several new transparency requirements related to various FISA provisions.

Upcoming Hearings and Events

January 17

Social Media and Terrorism: The Senate Commerce, Science & Transportation Committee will hold a [hearing](#) titled

“Terrorism and Social Media: #IsBigTechDoingEnough?”

Federal Cybersecurity: The House Homeland Security Committee's Cybersecurity and Infrastructure Protection Subcommittee will hold a [hearing](#) titled “CDM, The Future of Federal Cybersecurity?”

January 18

IoT: The House Energy & Commerce Committee's Digital Commerce and Consumer Protection Subcommittee will hold a [hearing](#) titled “Disrupter Series: The Internet of Things, Manufacturing and Innovation.”

For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201.

TRADE

Commerce Formally Submits Section 232 Steel Report to the President

Key Point:

- The steel report was delivered after numerous delays, the president has 90 days to make his decision

On Thursday, Commerce Secretary Wilbur Ross announced in a statement that the department had formally submitted the Section 232 report on the national security effects of steel imports. Under the statute, the president is required to make a decision within 90 days only if “the secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.” Commerce has been investigating the impact on national security of steel imports since April. The department said Thursday it would make its steel report public once Trump's

decision is announced. A similar investigation by Commerce into aluminum imports is due later this month.

Trump Reportedly Reconsidering Negative Consequences of NAFTA Withdrawal

Key Point:

- Sources close to Trump believe he is less likely to withdraw from NAFTA because of the damage it would cause to the U.S. economy.

After numerous meetings with industry representatives and concerned lawmakers, it appears President Trump is reconsidering his threat of withdrawal from NAFTA. Senator Pat Roberts (R-KS) told reporters after Trump's speech to the American Farm Bureau Federation that, "We made progress... I think he's seeing the big picture a lot better and the possible detrimental situation of what would occur if in fact he would terminate NAFTA... There was a group of farmers that talked to him prior to his speech, so that was helpful." U.S. Chamber of Commerce Senior Vice President John Murphy suggested "in the White House, some eyes have been opened to the sensitivities of many sectors and interests across a wide variety of states, particularly in industrial states like Michigan and Wisconsin or heartland agricultural states like Iowa or Missouri."

In an interview with the Wall Street Journal, Trump said: "I think the American market would go up if I terminated NAFTA and renegotiated a new deal... If we don't make the right deal, I will terminate NAFTA... Now, do I want to? No, I'd rather leave it... I'm leaving it a little flexible because [Mexico has] an election coming up. So I understand a lot of things are hard to negotiate prior to an election... there's no rush, but I will say that if

we don't make a fair deal for this country, a Trump deal... I will terminate."

Despite the recent optimism amongst U.S. government sources, two Canadian government sources said their government is "increasingly sure" that Trump will announce a NAFTA withdrawal. The sixth round of negotiations will be held in Montreal, Canada, from January 23-28.

For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Riyad Carey and Ryan Schnepf contributed to this section.

This Week in Congress was written by Ryan Schnepf.