

February 2, 2018

Washington Update

This Week in Congress

- **House** – The House passed the “**Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act**” (S.534); the “**Child Protection Improvements Act of 2017**” (H.R. 695); and the “**Financial Institution Living Will Improvement Act**” (H.R. 4292).
- **Senate** – The Senate passed the “**DHS Blue Campaign**” (H.R. 4708); the “**Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act**” (S.534); confirmed **Gregory E. Maggs**, to be a Judge of the U.S. Court of Appeals for the Armed Forces; **David Ryan Stras** to be United States Circuit Judge for the Eighth Circuit and **Matthew Bassett** to be an Assistant Secretary of Health and Human Services.

Next Week in Congress

- **House** – The House is expected to consider the “**Mortgage Choice Act of 2017**” (H.R. 1153); the “**Common Sense Nutrition Disclosure Act of 2017**” (H.R. 772); and a “**Continuing Resolution**” to fund the government.
- **Senate** – The Senate is expected to consider the nomination of **Andrei Iancu** to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office and a “**Continuing Resolution**” to fund the government.

TAX

Continuing Resolution Expires Next Week; CBO Advances Debt Limit Date

Key Point:

- *The current Continuing Resolution is expected to be extended with another CR after it expires next Thursday.*

The current Continuing Resolution (CR) is set to expire next Thursday, February 8 after it was last extended for three weeks. Congress has been forced to fund the government through short-term CRs as they continue to negotiate a longer term budget deal that would increase the spending caps. With no budget agreement in

sight, another short-term CR is likely. According to recent reports, the House may vote on Tuesday on a stopgap bill that would fund the government through March 22.

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According to a recent Congressional Budget Office [analysis](#), the Treasury Department is likely to exhaust its ability to use extraordinary measures to avoid hitting the debt limit by mid-March. The CBO moved its estimated date forward after including the anticipated results from the new tax bill. Previously, CBO said Treasury would have until late March or early April before it would hit the debt limit. Secretary Steven Mnuchin recently wrote a letter to Congress urging them to raise the debt limit “as soon as possible.” “I’m not going to give a specific date,” Mnuchin told reporters after his testimony to the Senate Banking Committee. “We have extended the period through the end of February, and I’m not going to give more guidance on that.” Congress suspended the debt limit as part of the Dec. 8 continuing resolution.

Some in the Senate are hopeful that any forthcoming deal on a continuing resolution and debt limit can be a potential legislative vehicle to move some already expired tax provisions known as tax extenders. Roughly 30 tax extenders are currently being reviewed after expiring after the 2016 tax year. Senate Finance Committee Chairman Orrin Hatch (R-UT) recently introduced a bill, S. 2256, which would extend nearly 35 provisions.

House Ways and Means Committee Holds First Hearing on IRS Reform

Key Point:

- *House Ways and Means Committee’s Oversight Subcommittee holds a member day hearing on IRS reform legislation*

On Tuesday, the House Ways and Means Subcommittee on Oversight held a Member Day hearing focused on legislation to improve tax administration at the Internal Revenue Service (IRS). The panel heard ideas from thirteen members including seven witnesses

Upcoming Dates

- **February 8, 2018:** Flood Insurance and EB-5 regional visas authorizations lapse; government funding CR expires.
- **March 5, 2018:** DACA deadline.
- **March 31, 2018:** FAA Reauthorization expires

who are not on the Oversight Subcommittee, on legislation they have introduced to address various issues ranging from ways to improve customer service to reducing identity theft fraud. Subcommittee Chairman Lynn Jenkins (R-KS) stated that the hearing was a step forward towards addressing “these concerns and others as we craft a bill to reform the IRS.” Subcommittee ranking member John Lewis (D-GA) discussed his legislation calling for the elimination of the private debt collection program, which allows the IRS to use private companies to collect unpaid taxes. According to Lewis, “the private debt collection program that costs three times more than it collects and abuses thousands of low-income taxpayers by enrolling them in installment agreements that they cannot afford.”

Speaking with reporters on the same day, Ways and Means committee chairman Kevin Brady (R-TX) said, “At the heart of [tax administration reform] will really be a redesign of the dispute resolution system so that it is fair and clear, precise, and independent. So there is more taxpayer confidence in getting a fairer hearing, they know what the rules are in advance, and they have their best opportunity to make their case.”

Ways and Means Republicans have said they want to introduce IRS legislation early this year.

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

CFPB Single Director Structure Ruled Constitutional by Appeals Court

Key Point:

- *The D.C. Circuit Court of Appeals ruled that the CFPB's structure as a single directorship is not unconstitutional.*

On January 31, the D.C. Circuit Court of Appeals ruled 7-3 in favor of deeming the structure of the Consumer Financial Protection Bureau (CFPB) to be constitutional. The court rejected arguments that the provisions of the Dodd-Frank Act limiting the president's ability to remove the CFPB Director during their five year term violated the president's ability to appoint and remove executive branch officers.

Republican and Democratic lawmakers reacted to the ruling differently. House Financial Services Committee Chairman Jeb Hensarling (R-TX) issued a [press release](#) criticizing the ruling, in which he stated:

I am deeply disappointed with the court's decision and hope the Supreme Court will review the ruling in short order. In the meantime, I take great solace in the fact that Mick Mulvaney can use his unchecked, unilateral powers to continue the agency's transformation into one that will, as he said, "exercise [its] statutory authority to enforce the laws of this nation....execute the statutory mandate of the bureau to protect consumers' and go no further.

Even though I have total confidence in Acting Director Mulvaney's vision, the fact remains that no one person in America – especially someone who is unelected – should have the authority to unilaterally

control whether working Americans can get a mortgage or a checking account. The Bureau's consumer protection mission is important, but no government agency – no matter how well-intentioned – should be able to evade common sense checks and balances that are necessary for accountability.

House Financial Services Ranking Member Maxine Waters (D-CA) commended the ruling in a [press release](#), stating:

Today, the full U.S. Court of Appeals for the District of Columbia Circuit confirmed what we have always known: the Consumer Bureau is constitutional and is here to stay. This is an important ruling for America's consumers and should send a clear warning to predatory actors that despite the unlawful actions of the Trump Administration toward the Consumer Bureau, the courts can clearly and correctly interpret congressional intent. I am pleased that the Court followed established precedent and preserved the structure of the agency that Congress envisioned.

When Congress drafted and passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, we intentionally created a strong, independent Consumer Bureau to better protect consumers after millions were ripped off by predatory lenders in the lead up to the 2008 financial crisis. The independence of the Consumer Bureau is essential to ensure that the agency can operate as a tough regulator that stands up for consumers.

House Financial Services Panel Holds Hearing on Fintech

Key Point:

- *The Subcommittee held a hearing to discuss the impact of financial innovations, such as cryptocurrency, and the potential need for new regulation.*

On January 30, the House Financial Services Committee's Financial Institutions and Consumer Credit Subcommittee held a [hearing](#) entitled: "Examining Opportunities and Challenges in the Financial Technology ("Fintech") Marketplace." Chairman Blaine Luetkemeyer (R-MO) stated that the financial needs of Americans have changed, as the rise of online banking and mobile payments technologies have revolutionized the way Americans interact with institutions and make financial decisions. He said it is important for Congress to spend some time understanding the regulatory regime surrounding Fintech. He noted that questions have recently been raised as to whether or not federal laws that apply to similar products and companies should apply to Fintech.

Ranking Member Lacy Clay (D-MO) stated that Congress should implement the Obama Administration's ten priorities for Fintech modernization. He said under the Trump administration the Treasury Department has indicated plans of releasing a paper on non-bank financial institutions, financial technology, and financial innovation as part of their comprehensive regulatory financial review pursuant to Executive Order 13772. He noted that it is unclear when the Treasury's Fintech paper will be released, so hearings on the subject of Fintech are important.

Vice Chairman Keith Rothfus (R-PA) stated that the growth of Fintech represents a tremendous opportunity to make more and better financial products available to an even greater number of consumers. He said Fintech can help bring capital back to places that brick-and-mortar institutions abandoned a long time ago. He noted that he is a proponent of Fintech because Pennsylvania has become a Fintech hub. He asserted that the Committee should promote continued innovation,

sufficient Congressional supervision, and enhanced consumer protection in Fintech.

House Financial Services Panel Holds Hearing on Trafficking and the Financial Markets

Key Point:

- *Members of both parties raised concerns with the use of cryptocurrencies and pre-paid cards to facilitate human trafficking.*

On January 30, the House Financial Services Committee's Subcommittee on Oversight and Investigations held a [hearing](#) entitled "Following the Money: How Human Traffickers Exploit U.S. Financial Markets." Chairman Ann Wagner (R-MO) stated one of the biggest problems facing the government is combatting human trafficking. She stated this is a massive problem. She noted a 2017 report from the International Labor Organization that shows that 40.3 million people were victims of trafficking in 2016 alone. Wagner explained human trafficking is a profitable crime with profits estimated at \$150 billion a year. She noted human trafficking requires very little investment. She stated the "life blood" of human trafficking is the ability to transfer funds. She noted if that ability is ended then their schemes fail. Wagner asked how to ensure these traffickers do not utilize the financial markets. She noted this hearing is not about prescribing solutions but is about gathering information to ensure the stakeholders have all the information needed. She stated the growing use of pre-paid cards and cryptocurrencies creates new challenges. She stated law enforcement has admitted that they need to gather more information about these new trends and admit they might lack authority to do so. Wagner stated she has worked tirelessly to end online sex trafficking and has introduced legislation, the Put Trafficking Victims First Act of 2017 ([H.R.2473](#)), to accomplish this goal.

Ranking Member Al Green (D-TX) stated this is a bipartisan effort. He stated there is “very little daylight” between the two parties on the issue of sex trafficking. He indicated that sex trafficking is a polite term that does not embrace all that happens. He explained that it is kidnapping children and taking them across international boundaries. Green stated it is a term that includes sexual assault, rape, and lives lost. He noted the timeliness of this hearing because it is time to do what is right. He explained to victims that they are not alone as Congress is working on this issue. Green stated sex trafficking is metamorphosing because the traditional means of making payments, credit cards to cash, is moving to the cyber area. He noted the increased use of cryptocurrencies and the difficulty of tracking those payments. He explained the strategies of law enforcement need to change.

CFTC Market Risk Advisory Committee Discusses Self-Certification of New Products

Key Points:

- *CFTC Chairman Giancarlo stated he has directed staff to take a closer look at DCO governance around the clearing of new virtual currency products and formulate possible further action.*
- *CFTC Commissioner Rostin Behnam suggested the launch of the Bitcoin futures contracts highlights the need for the CFTC to engage with industry, provide legal certainty to the market, educate the public, and challenge the status quo.*

On January 31, the Commodity Futures Trading Commission (CFTC) held a [meeting](#) of its Market Risk Advisory Committee (MRAC or the Advisory Committee). The Advisory Committee discussed: (1) self-certification of products; (2) new products from a risk

perspective; (3) futures exchanges and new products; and (4) the policy and regulatory approach for new products. CFTC Chairman J. Christopher Giancarlo [discussed](#) the appropriateness of the requirements under CFTC regulations for the review of derivatives on virtual currencies. He noted that Designated Contract Markets (DCMs) must comply with core principles and ensure that contracts are not “readily susceptible to manipulation.” He noted the self-certification process for virtual currency products and explained he is “neither an apologist nor an opponent of the current process of self-certification.” Giancarlo suggested that Congress deliberately framed the self-certification process so the development of derivatives products would not be hampered by cautious regulators wary of the political risks of approving new products. He noted that it is the DCMs and Designated Clearing Organizations (DCOs) that must solicit and address stakeholder concerns over new products. He stated he has asked staff to take a close look at DCO governance around the clearing of new virtual currency products and formulate recommendations for possible further action.

Commissioner Brian D. Quintenz, in a [statement](#), reiterated his belief in the ability of regulation to foster innovation, adding that self-certification can play an important role in that process. He stated self-certification ensures that the launch of new products is not held up by bureaucrats. He stated the CFTC conducts vigorous oversight, as do the exchanges.

Commissioner Rostin Behnam (MRAC Sponsor) noted in a [statement](#) the ongoing efforts of the CFTC to remain vigilant to acknowledge the risks of nascent technologies. He stated the launch of the Bitcoin futures contracts highlights the need for the CFTC to engage with the industry, educate the public and challenge the status quo. Behnam

suggested the CFTC needs to review its current approach for new and novel products.

Senate Banking Committee Hears Testimony from Treasury Secretary on the FSOC Annual Report

Key Points:

- *Chairman Mike Crapo (R-ID) stated housing finance reform is a key priority for the Committee.*
- *Department of the Treasury Secretary Mnuchin stated he would be “open” to additional transparency for the SIFI designation process.*
- *Secretary Mnuchin stated that he does not see cryptocurrencies as a current financial stability threat but Treasury is monitoring the situation.*

On January 17, the Senate Banking Committee held a [hearing](#) on “The Financial Stability Oversight Council Annual Report to Congress.” The hearing included testimony from Treasury Secretary Steven Mnuchin on the [2017 FSOC Annual Report](#) and included discussion of other issue areas such as: housing finance reform; the SIFI designation process; Russia sanctions; economic growth; and cryptocurrencies. Chairman Mike Crapo (R-ID), in a [statement](#), noted that the FSOC 2017 annual report provided numerous recommendations, insights into the Council’s key activities, and identified potential emerging threats to financial stability. He stated one of the recommendations urged Congress to reform the housing finance system and boost the role of private capital in mortgage finance. Crapo explained the status quo is not a viable option and reforming the housing finance system is one of his key priorities. Crapo noted another focus of the report was cybersecurity, and the Council made recommendations to specifically address cybersecurity risks, including greater collaboration between the

public and private sectors. He stated many on the Committee have long been critical of the lack of transparency and analytic rigor of FSOC’s process for designating non-bank systemically important financial institutions (SIFIs). Crapo stated when making determinations, the FSOC’s process must be transparent, objective and measurable, with clearly outlined criteria when such designations are appropriate. He added it must also provide clarity on how companies can shed such designations. Ranking Member Sherrod Brown (D-OH), in a [statement](#), noted that the economy has grown the past eight years, suggesting it is in large part due to the progress of the Obama Administration. He stated three million Americans lost their health insurance last year, the largest jump since Gallup started tracking coverage a decade ago. Brown stated while the economy’s growth last year was the same as it had averaged over the prior three years, the share that goes to wages continues to be very weak. He suggested the policies of this Administration, and this Congress, are only making these problems worse.

Several Senators raised the need for housing finance reform. In response to questions about the 30-year mortgage and whether it can exist without a government guarantee, Secretary Mnuchin stated that the 30-year fixed mortgage is important and should be maintained. He explained that to protect taxpayers, private capital needs to “stand before any government guarantee.” He added that Fannie Mae and Freddie Mac cannot exist without an implicit or explicit guarantee and if the guarantee is to be implicit then the taxpayers should be paid for that.

Ranking Member Sherrod Brown raised concerns over the proposal to raise the bank SIFI designation threshold from \$50 billion to \$250 billion. Secretary Mnuchin suggested that regulators agree that the threshold should be

\$250 billion. When asked whether banks and insurance companies should be treated similarly for designation purposes, Mnuchin acknowledged that they are two different models and should be treated as such. He agreed that there needs to be more transparency about what results in designation and what would need to be done for an entity to be de-designated.

Ranking Member Brown, along with Senators Robert Menendez (D-NJ) and Brian Schatz (D-HI) raised concern with the Administration's failure to levy additional sanctions on Russia. Mnuchin noted that the Treasury issued its report on Russia and will be utilizing the intelligence gathered in that report to determine what additional sanctions are needed. Responding to concerns raised about the growing use of cryptocurrencies, Mnuchin stated he does not see this as a current threat to financial stability but the Treasury is monitoring the situation.

UPCOMING EVENTS

February 6

FSOC Annual Report: The House Financial Services Committee will hold a hearing to discuss the Annual Report of the Financial Stability Oversight Council (FSOC). Treasury Secretary Steven Mnuchin will testify at the hearing.

Virtual Currencies: The Senate Banking Committee will hold a hearing entitled, "Virtual Currencies: The Oversight Role of the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission." SEC Chairman Jay Clayton and CFTC Chairman J. Christopher Giancarlo will testify at the hearing.

Beneficial Ownership: The Senate Judiciary Committee will hold a hearing entitled

"Beneficial Ownership: Fighting Illicit International Financial Networks Through Transparency."

Data Security: The Senate Commerce Committee's Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security will hold a hearing entitled, "Data Security and Bug Bounty Programs: Lessons Learned from the Uber Breach and Security Researchers." Witnesses will include: John Flynn, Chief Information Officer, Uber Technologies; Marten Mickos, CEO of HackerOne; Katie Moussouris, CEO of Luta Security.

Higher Education Affordability: The Senate Health, Education, Labor and Pensions Committee will hold a hearing entitled, "Reauthorizing the Higher Education Act: Improving College Affordability."

Retirement Savings: The Senate Health, Education, Labor and Pensions Committee's Subcommittee on Primary Health and Retirement Security will hold a hearing entitled, "Exploring the 'Gig Economy' and the Future of Retirement Savings."

February 14

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.

February 15

CFTC Oversight: The Senate Agriculture Committee will hold a hearing entitled “State of the CFTC: Examining Pending Rules, Cryptocurrency Regulation, and Cross-Border Agreements.” CFTC Chairman J. Christopher Giancarlo will testify at the hearing.

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 & ENVIRONMENT

EPA Administrator Pruitt Testifies Before the Senate Environment and Public Works Committee

Key Points:

- *On Tuesday, the Senate Environment and Public Works Committee held an oversight hearing on the EPA, with Administrator Scott Pruitt testifying.*
- *Much of the discussion focused on the EPA’s regulatory and deregulatory agendas, with Republicans praising Pruitt for the agency’s direction under the Trump Administration, and Democrats criticizing him.*

On January 30, Environmental Protection Agency (EPA) Administrator Scott Pruitt testified before the Senate Environment and Public Works Committee. During the [hearing](#), he faced hostile questions from the panel’s Democrats who argued that the agency is rolling back needed environmental regulations.

Republicans expressed support for Pruitt and the EPA’s work over the past year.

In his [opening statement](#), Chairman John Barrasso (R-WY) praised Pruitt, declaring that he “has balanced the need to prioritize environmental protection with the desires of Americans to have thriving and economically sustainable communities.” Barrasso also criticized the Obama Administration’s environmental policies: “During the last administration, EPA administrators created broad and legally questionable new regulations that undermined the American people’s faith in the agency. These regulations have done great damage to the livelihoods of our nation’s hardest working citizens.”

Ranking Member Tom Carper (D-DE) remarked in his [opening statement](#) that the EPA has moved to “repeal, reconsider, or delay at least 25 environmental and public health protections in the last year alone.” He also stated that the “EPA has moved to repeal the Clean Power Plan, but with no real replacement plan to fulfill the agency’s legal obligations to protect Americans from carbon dioxide pollution, all while rolling back additional clean air protections.”

In his [testimony](#), Pruitt stated that his agenda at the EPA has been “to refocus the agency back to its core mission, restore power to the states through cooperative federalism, and lead the EPA through improved process and adhere strictly to the rule of law.” He emphasized the concept of “cooperative federalism”, stating that “[c]ooperation and shared responsibility between states, tribes, and federal government is a bedrock in the environmental laws that Congress enacted.” Pruitt described his priorities for the agency including: addressing lead contamination of drinking water; abandoned mines; and Superfund cleanups of toxic waste sites.

Upcoming Hearings and Events

February 6

DOE and Nuclear Power: The House Energy and Commerce Committee’s Energy Subcommittee will hold a [hearing](#) entitled “DOE Modernization: Advancing the Economic and National Security Benefits of America’s Nuclear Infrastructure”.

National Monuments Legislation: The House Natural Resources Committee’s Federal Lands Subcommittee will hold a [hearing](#) on the following legislation: A bill “[t]o update the map of, and modify the maximum acreage available for inclusion in, the Florissant Fossil Beds National Monument” ([H.R. 835](#)); A bill “[t]o provide for conservation and enhanced recreation activities in the California Desert Conservation Area...” ([H.R. 857](#)); and the “Medgar Evers National Monument Act” ([H.R. 4895](#)).

Tribal Lands Legislation: The House Natural Resources Committee’s Indian, Insular and Alaska Native Affairs Subcommittee will hold a hearing on the following legislation: the “Canyon Village Land Conveyance Act” ([H.R. 231](#)); and the “Gila River Indian Community Federal Rights-of-Way, Easements and Boundary Clarification Act” ([H.R. 4032](#)).

Pending Legislation: The Senate Energy and Natural Resources Committee will hold a [hearing](#) on pending legislation.

February 7

Pending Legislation: The Senate Energy and Natural Resources Committee’s Subcommittee on Public Lands, Forests, and Mining will hold a [hearing](#) on pending legislation.

Impact of Regulations on Farming: The Senate Environment and Public Works

Committee will hold a [hearing](#) entitled “The Impact of Federal Environmental Regulations and Policies on American Farming and Ranching Communities.”

February 8

Energy Infrastructure: The Senate Energy and Natural Resources Committee will hold a [hearing](#) “to examine the evolution of energy infrastructure in the United States and how lessons learned from the past can inform future opportunities.”

February 14

Water and Power Infrastructure: The House Natural Resources Committee’s Water, Power and Oceans Subcommittee will hold a [hearing](#) entitled “The State of the Nation’s Water and Power Infrastructure”.

February 28

Pipeline Safety Information-Sharing: The Pipeline and Hazardous Materials Safety Administration’s (PHMSA) Voluntary Information-Sharing Working Group will hold a [meeting](#) “to discuss and identify recommendations to establish a voluntary information-sharing system.” The “agenda will include briefings on topics such as mandate requirements, integrity management, data types and tools, in-line inspection repair and other direct assessment methods, subcommittee considerations, geographic information system implementation, lessons learned, examples of existing information-sharing systems, safety management systems, and more.”

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](#).

DEFENSE

Trump Discusses Defense Priorities In SOTU

Key Points:

- *The President reiterates his Administration's policies, including increased defense spending and an expansion of nuclear forces*
- *Trump signs an EO rolling back an order from the previous Administration to close Guantánamo Bay*

In President Donald Trump's first [State of the Union Address](#) (SOTU), he continues to advocate for reoriented foreign and military policies that would entail greater defense spending. Trump alluded to a Nuclear Posture Review that will increase and modernize the U.S. nuclear arsenal. In concert with the SOTU, the White House released an [Executive Order](#) revoking former President Barack Obama's Executive Order 13492 to close the detainee facilities at Guantánamo Bay and provides for further detention of "certain persons captured in connection with an armed conflict for the duration of the conflict."

Trump said that "[a]round the world, we face rogue regimes, terrorist groups, and rivals like China and Russia that challenge our interests, our economy, and our values." He stated that "[i]n confronting these horrible dangers, we know that weakness is the surest path to conflict, and unmatched power is the surest means to our true and great defense." Trump said that "[f]or this reason, I am asking Congress to end the dangerous defense sequester and fully fund our great military."

Trump claimed that "[a]s part of our defense, we must modernize and rebuild our nuclear arsenal, hopefully never having to use it, but making it so strong and so powerful that it will deter any acts of aggression by any other nation

or anyone else." He added that "[p]erhaps someday in the future, there will be a magical moment when the countries of the world will get together to eliminate their nuclear weapons...[but] [u]nfortunately, we are not there yet, sadly."

Trump said that "[l]ast year, I also pledged that we would work with our allies to extinguish Islamic State of Iraq and Syria (ISIS) from the face of the Earth." He stated that "[o]ne year later, I am proud to report that the coalition to defeat ISIS has liberated very close to 100 percent of the territory just recently held by these killers in Iraq and in Syria and in other locations, as well...[b]ut there is much more work to be done." Trump declared that "[w]e will continue our fight until ISIS is defeated."

Trump asserted that "[t]errorists are not merely criminals...[t]hey are unlawful enemy combatants...[a]nd when captured overseas, they should be treated like the terrorists they are." He said that "[i]n the past, we have foolishly released hundreds and hundreds of dangerous terrorists, only to meet them again on the battlefield — including the ISIS leader, al-Baghdadi, who we captured, who we had, who we released." Trump said "[s]o today, I'm keeping another promise." He stated that "I just signed, prior to walking in, an order directing Secretary Mattis...to reexamine our military detention policy and to keep open the detention facilities in Guantánamo Bay."

Trump added that "I am asking Congress to ensure that, in the fight against ISIS and al Qaeda, we continue to have all necessary power to detain terrorists, wherever we chase them down, wherever we find them. And in many cases, for them, it will now be Guantánamo Bay." He contended that "[a]t the same time, as of a few months ago, our warriors in Afghanistan have new rules of engagement...[and] [a]long with their heroic

Afghan partners, our military is no longer undermined by artificial timelines, and we no longer tell our enemies our plans.”

House Passes FY 2018 DOD Appropriations Act For Third Time

Key Points:

- *The House sends a tweaked package of FY 2018 DOD funding to Senate*
- *Talks are going on how much to raise the caps for FY 2018 and 2019*
- *The Administration will reportedly ask for \$716 billion for FY 2019*

This week, the House took up and passed for the third time a FY 2018 Department of Defense Appropriations Act by a [250-166 vote](#). The “Department of Defense Appropriations Act, 2018” ([H.R.695](#)) “is virtually the same as the FY 2018 Defense Appropriations bill that passed the House in July 27, 2017, (H.R. 3219), and the bill that passed again on September 14, 2017, (H.R. 3354) as part of a larger funding packages” according to a House Appropriations Committee [press release](#). The Committee stated that “[t]he bill contains \$659.2 billion in full-year, FY 2018 funding for the DOD...[which] includes \$584 billion for base funding and \$75.1 billion for Overseas Contingency Operations (OCO) funding.” The House Rules Committee posted a [document](#) detailing the changes, notably an additional \$1.184 billion for operations in Afghanistan and barring the Office of Management and Budget (OMB) from issuing a sequestration order for defense spending for FY 2018, the latter of which would clear the path for higher defense funding for the current fiscal year.

Passage of the bill comes amidst ongoing negotiations between Republicans and Democrats regarding legislation to raise the FY 2018 and 2019 caps on discretionary spending in advance of the February 8 expiration of the

current continuing resolution ([P.L. 115-120](#)). Nonetheless, the bill is unlikely to be taken up by the Senate until agreement is reached on how to address the caps on discretionary appropriations for FY 2018 and 2019. The cap on defense funding for FY 2018 is \$549 billion cap with OCO funds being exempt. The cap on non-defense discretionary spending for FY 2018 is set at \$516 billion. The caps for both defense and non-defense spending are set to rise next year to \$562 billion and \$529 billion, respectively.

Democrats have insisted on parity for increases on the defense and non-defense caps, and talks are ongoing. The latest reported Republican offer would increase the caps by a total of \$143 billion in both FY 2018 and 2019 with \$80 billion going for defense programs and \$63 billion for non-defense programs. Yet, on January 31, House Minority Leader Nancy Pelosi’s (D-CA) comments to reporters suggest Democrats may not be inclined to accept this proposal. She remarked “[w]e still have a problem on the caps.”

Moreover, the negotiations continue as the Trump Administration is said to be preparing to submit a \$716 billion request for defense programs, including a reported \$597 billion base budget and more than \$90 billion in OCO funds. Media reports indicate Secretary of Defense James Mattis has been advocating for a shift within the DOD’s request from readiness programs to modernization programs ahead of the Administration’s imminent release of its Nuclear Posture Review that will reportedly call for a major influx of funds to modernize and expand the U.S. nuclear arsenal.

SIGAR Quarterly Report Released

Key Point:

- *The special IG claims he was denied data on the provinces controlled by the Afghan*

government, which is a metric for how the war is going even though the data are unclassified

This week, the Special Inspector General for Afghanistan Reconstruction (SIGAR) released its 38th [quarterly report](#) on U.S. reconstruction efforts in Afghanistan. SIGAR John Sopko noted in his cover letter “the Department of Defense (DOD) instructed SIGAR not to release to the public data on the number of districts, and the population living in them, controlled or influenced by the Afghan government or by the insurgents, or contested by both...[even though] SIGAR has been reporting district-control data since January 2016, and later added estimates of population and land-area control reported by DOD.” SIGAR noted “DOD has determined that although the most recent numbers are unclassified, they are not releasable to the public.”

SIGAR asserted that “the number of districts controlled or influenced by the Afghan government had been one of the last remaining publicly available indicators for members of Congress—many of whose staff do not have access to the classified annexes to SIGAR reports—and for the American public of how the 16-year-long U.S. effort to secure Afghanistan is faring.” SIGAR claimed that “[h]istorically, the number of districts controlled or influenced by the government has been falling since SIGAR began reporting on it, while the number controlled or influenced by the insurgents has been rising—a fact that should cause even more concern about its disappearance from public disclosure and discussion.” SIGAR added that “[t]his worrisome development comes as DOD this quarter, for the first time since 2009, also classified the exact strength figures for most Afghan National Defense and Security Forces (ANDSF), another vital measure of ANDSF reconstruction.”

Upcoming Hearings and Events

February 6

National Defense Strategy and Nuclear Posture Review: The House Armed Services Committee will hold a [hearing](#) titled “The National Defense Strategy and the Nuclear Posture Review.”

Pilot Physiological Episodes: The House Armed Services Committee’s Tactical Air and Land Forces Subcommittee will hold a hearing titled “Addressing Physiological Episodes in Fighter, Attack, and Training Aircraft.”

Modernizing U.S. Nuclear Infrastructure: The House Energy and Commerce Committee’s Energy Subcommittee will hold a [hearing](#) titled “DOE Modernization: Advancing the Economic and National Security Benefits of America’s Nuclear Infrastructure.”

Alerts and Warnings: The House Homeland Security Committee’s Emergency Preparedness, Response and Communications Subcommittee will hold a [hearing](#) titled “Ensuring Effective and Reliable Alerts and Warnings.”

Syria: The House Foreign Affairs Committee’s Middle East and North Africa Subcommittee will hold a [hearing](#) titled “Syria: Which Way Forward?”

Pakistan: The House Foreign Affairs Committee’s Asia and the Pacific Subcommittee will hold a [hearing](#) titled “U.S.-Pakistan Relations: Reassessing Priorities Amid Continued Challenges.”

Afghanistan: The Senate Foreign Relations Committee will hold a [hearing](#) titled “The Administration’s South Asia Strategy on Afghanistan.”

National Defense Strategy: The Senate Armed Services Committee will hold a closed briefing on the National Defense Strategy.

February 7

Senior Leader Misconduct: The House Armed Services Committee’s Personnel Subcommittee will hold a hearing titled “Senior Leader Misconduct: Prevention and Accountability.”

Army Modernization: The Senate Armed Services Committee’s Airland Subcommittee will hold a [hearing](#) titled “Army Modernization.”

WMDs: The Senate Armed Services Committee’s Emerging Threats and Capabilities Subcommittee will hold a [hearing](#) titled “Defending the Homeland: Department of Defense’s Role in Countering Weapons of Mass Destruction.”

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

HEALTH

President Trump Outlines Health Priorities in State of the Union

Key Points:

- *The President Trump highlighted passage of Right to Try legislation, addressing prescription drug prices, and tackling the opioid epidemic.*
- *The President did not mention repealing the Affordable Care Act or entitlement reform.*

On January 30, President Donald Trump delivered his first State of the Union address. During the speech, Trump mentioned several health care priorities he would like to see pursued.

President Trump emphasized the need to pass “Right to Try” legislation. He said “patients with terminal conditions should have access to experimental treatments that could potentially save lives.” He called on “Congress to give these wonderful Americans the right to try.” Last August, the Senate passed right to try legislation by unanimous consent. In October, the House Energy and Commerce Committee held a hearing on right to try legislation. A statement from Chairman Greg Walden (R-OR) said the Committee “looks forward to working with the Administration to get these reforms over the finish line.” Ranking Member Frank Pallone (D-NJ) advised caution and expressed concern the legislation “could expose seriously ill patients to greater harm instead of the greater access they are looking for.”

President Trump also reiterated his past statements on prescription drug prices saying “one of my greatest priorities is to reduce the price of prescription drugs.” He noted that prices are often less expensive in other countries. Representative Elijah Cummings (D-MD), who met with the President last year pointed out the President made similar promises last year, expressed doubt suggesting “these aren’t just empty promises, they are obvious falsehoods. I must keep hope that the President will finally change course.”

The State of the Union speech also touched on the opioid epidemic. The President’s remarks largely focused on addressing the criminal side of the epidemic with him calling for tougher actions against drug dealers. He did note the Administration “is committed to fighting the drug epidemic and helping get treatment for those in need.”

Absent from the speech was a call to repeal the Affordable Care Act (ACA). Though the President emphasized the repeal of the individual mandate in tax reform, he made no

other mention of repealing any additional elements of the ACA. Senate Republicans have suggested ACA repeal would be unlikely this year. Senator John Thune (R-SD) pointed out the Republicans “sort of tested the limits of what we can do in the Senate last year. And we’re one vote down from where we were then.”

House Speaker Paul Ryan (R-WI) has expressed his desire to do entitlement reform this year. President Trump made no mention of reform during his speech. Senator Majority Leader Mitchel McConnell (R-KY) had also expressed disinterest in pursuing entitlement reform.

Upcoming Hearings and Meetings

February 5

Opioids: The Bipartisan Heroin Task Force and the Addiction Policy Forum will hold a briefing on addiction and its impact on individuals.

February 6

Opioids: The House Ways and Means Committee will hold a hearing on “The Opioid Crisis: Removing Barriers to Prevent and Treat Opioid Abuse and Dependence in Medicare.”

February 7

FDA Policy: The Cato Institute will hold a forum on “Overturning the FDA's Gag Rule,” focusing on free speech restriction on drugs and medical devices.

February 8

Opioids: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on

“The Opioid Crisis: Impact on Children and Families.”

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

TRANSPORTATION

Trumps Touts Infrastructure In SOTU

Key Points:

- *The President claims his proposal would stimulate \$1.5 trillion in infrastructure funding and calls on Congress to send him legislation*
- *However, the timing on submission to Congress remains unclear and there are questions about funding*

In his first [State of the Union Address](#), President Donald Trump called “on Congress to produce a bill that generates at least \$1.5 trillion for the new infrastructure investment that our country so desperately needs.” Trump added that “[e]very federal dollar should be leveraged by partnering with state and local governments and, where appropriate, tapping into private sector investment to permanently fix the infrastructure deficit.”

In a [fact sheet](#), the White House claimed “Trump’s plan will renew our country’s once-great infrastructure and help build a more prosperous future for all Americans:

- President Trump’s proposal will generate at least \$1.5 trillion in infrastructure investment over the next decade.
 - This investment in American infrastructure will raise wages and improve quality of life for the American people.
- President Trump is putting forward a long-term solution that builds off of

strong partnerships between Federal, state, tribal, and local authorities.

- Half of the new infrastructure funds would go towards incentivizing new state and local investments in infrastructure.
- President Trump’s plan will empower state and local authorities to prioritize infrastructure projects based on their community’s needs.
- This plan will eliminate unnecessary redundancies and inefficiencies in the regulatory and permitting process that are holding back American infrastructure development.
- The President’s plan will address the infrastructure needs of rural America.
 - A quarter of the Federal funds will be dedicated to addressing rural infrastructure needs prioritized by state and local leaders.
 - These funds will go towards rebuilding roads, providing clean water to rural families and businesses, expanding broadband access, and supplying affordable, reliable power.
- President Trump’s proposal will encourage the development of new, transformative infrastructure projects.

However, an unnamed White House official was quoted as saying during a background briefing “[c]ertain realities of the legislative calendar — such as the “Schumer Shutdown” — have caused a slight delay in the public roll out of his plan, but he looks forward to sharing it with the American people in the coming weeks as he said in his remarks to mayors at the White House earlier this month.” The White House had been looking to release the plan a week or two after the SOTU.

Nonetheless, the dearth of details on financing Trump’s proposed package have clouded the outlook and timing on Congressional consideration. Senate Majority Whip John Cornyn (R-TX) said “[y]ou tell me how we pay for it and I’ll tell you what we can do... [l]everaging private dollars is a good start, but we got a lot of work to do.” Last week, the White House leaked a [draft list of funding and programmatic principles](#) that would form its infrastructure package, without identifying offsets or funding sources. It is unclear whether these lists will be changed further when they are submitted to Congress.

House Hearing on Surface Transportation Security

Key Point:

- *Two subcommittees look at DHS and TSA’s roles in how new technology could help better secure surface transportation*

On January 30, the House Homeland Security Committee held a joint [hearing](#) of the Transportation and Protective Security and Emergency Preparedness, Response, & Communication Subcommittees. The hearing focused on “Securing Our Surface Transportation Systems: Examining the Department of Homeland Security’s Role in Surface Transportation Technologies.” Topics discussed in the hearing included: (1) TSA’s Five-Year Investment Plan and Prioritization; (2) TSA’s Visible Intermodal Prevention and Response Program; (3) Security Grants; (4) Surface Transportation Explosive Threat Detection Program (STETD); (5) Stakeholder Cooperation for Chemical Threats; (6) Cyberattacks; (7) Global Cooperation; and (8) Recent Developmental Plans.

Transportation and Protective Security Subcommittee Chairman John Katko (R-NY),

in a [statement](#), said the hearing would to examine the degree to which the Department of Homeland Security (DHS) leverages its research and development expertise to improve the security architecture of the nation's surface transportation systems, particularly how the Transportation Security Administration (TSA) and the Science and Technology Directorate (S&T) collaborate to improve security capabilities and address identified needs. He noted that TSA's approaches to aviation security and surface transportation security are markedly different. Katko explained that whereas TSA is directly involved in security operations at airports, the agency provides oversight and assistance to surface transportation modes through partnerships with operators, as well as state and local authorities. He said DHS provides support through security threat assessments, explosives detection canines, and security grants. He stated that the current threat environment facing surface transportation is persistent. He stated that the hearing would examine how the U.S. can expand upon DHS and TSA's efforts to ensure that stakeholders have the tools they need to properly secure surface transportation modes. Specifically, he questioned how TSA and the Science and Technology Directorate can better coordinate with each other and with surface transportation stakeholders to streamline the development and deployment of critical security technologies in surface transportation systems.

Transportation and Protective Security Subcommittee Ranking Member Bonnie Watson Coleman (D-NJ) said TSA has established test beds to test promising technologies in the field. She stated that these technologies are important but do not receive the same attention as aviation technologies. She said the TSA's recent five-year strategic investment plan reset made no mention of surface transportation. Coleman said it falls to

local authorities to purchase these technologies and many cannot afford to do so without federal support. She expressed concern that the President's budget would cut the Transit Security Grant Program (TSGP) from \$88 million to \$48 million, while also cutting the Visible Intermodal Prevention and Response (VIPR) program from 31 teams to 8. She described these proposed cuts as reckless. She noted that she has introduced the "Surface Transportation Public Area Security Act" ([H.R. 4474](#)), which would restore and resource those programs. She said the bill would authorize \$400 million for the TSGP, which would provide a significant step in addressing the gap in transit security needs. She said the bill would direct the TSA's Innovation Task Force to look at surface transportation technology in addition to aviation technology. She said it would also direct DHS to report to Congress on emerging technologies in the surface transportation mode.

Emergency Preparedness, Response, & Communication Subcommittee Chairman Dan Donovan (R-NY), in a [statement](#), said the open systems, multiple hubs, and lack of screening has made surface transportation systems a target for terrorist organizations and their sympathizers for years, pointing to the attacks in Brussels, London, and New York City. He stated that surface transportation system operators are continuously looking for innovative technology to help create a multi-layer approach to security, but this search for technological solutions has been bogged down by numerous obstacles. He stated that both Subcommittees have been extensively looking at how technology can help make our surface transportation systems more secure, without impeding their operations. Donovan said last November, the Subcommittees held a roundtable with surface transportation system operators and heard some of the challenges

they face when trying to integrate new technology into their systems.

Emergency Preparedness, Response, & Communication Ranking Member Donald Payne Jr. (D-NJ) expressed interest in efforts to develop and identify novel transportation security solutions. He noted that the Subcommittee held a field hearing in his district on what can be done to prevent attacks like the one in Brussels. He stated that he represents one of the busiest surface transportation regions in the country. He said the field hearing resulted in two major takeaways: (1) the vast majority of TSA's resources go to aviation security, so the responsibility for surface transportation security falls to owners and operators; and (2) operators rely on the DHS Transit Security Grant Program to fund the adoption of new technologies. Payne stated that he has fought to fund the TSGP, criticizing the President's budget for cutting TSGP by 52 percent.

TSA Office of Security Policy and Industry Engagement's Surface Division Director Sonya Proctor said over 11 million passengers daily travel on the New York Metropolitan Transportation Authority (NY MTA) system alone. She explained that every year more than 10 billion trips are taken on 6,800 U.S. mass transit systems, which range from very small bus-only systems in rural areas to very large multi-modal systems, like the NY MTA, in major cities. She noted that more than 500 individual freight railroads carrying essential goods operate on nearly 140,000 miles of track, and 2.5 million miles of pipelines, owned and operated by approximately 3,000 private companies, transport natural gas, refined petroleum products, and other commercial products. She emphasized that when assessing risk in any particular transportation mode, TSA considers the threat, the vulnerability, and the consequence, should an incident occur. Proctor

stated that unlike aviation, where TSA has been heavily involved in day-to-day security operations since the agency was created in 2001, they have primarily approached surface transportation security as a partnership with the owners and operators of the system. She said the interconnected, varied and expansive scope of the surface transportation system creates unique security challenges that are best addressed by system owners and operators and federally supported through stakeholder communication, coordination, and collaboration. She asserted that to best assist surface transportation owners and operators with their security needs, TSA focuses its efforts on system assessments, voluntary operator compliance with industry standards, collaborative law enforcement and security operations, accurate and timely exchange of intelligence information, regulatory oversight, and technology expertise.

TSA Office of Requirements and Capabilities Analysis's Intermodal Division Director Robert Pryor said the Intermodal Division has stimulated the market and assessed new technologies. He said the inherently open and expansive scope of surface passenger transportation and evolving threats require TSA to continue researching and developing innovative processes and technologies to increase security without creating undesired financial or operational burdens. He stated that TSA invests its resources to help surface owner and operators identify vulnerabilities and risks in their operations, and then works with them to develop and implement risk-mitigating solutions to address them. Pryor stated that TSA incorporates the needs and capability gaps of surface transportation owners and operators into its work to influence and stimulate the development of new security technologies in the marketplace. He explained that the Intermodal Division works closely with surface transportation owners and operators to

introduce new technology and approaches to securing surface transportation. He said they establish collaborative operational test beds for different modes of and critical infrastructure protection security technology projects to address the increasing threat demonstrated from attacks world-wide. Pryor noted that TSA has formal agreements with several freight railroads for technology to protect key rail infrastructure such as bridges, high risk rail lines in urban areas, and rail yards, as well as with the nation's largest hazardous materials pipeline operator. He closed by stated that as a result of TSA's security technology support efforts, surface owners and operators can make informed decisions about funding and acquiring security technologies to meet their operational needs.

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

TECHNOLOGY

Foreign Cyber Threats Hearing

Key Point:

- *A committee looked at the threats posed by cyber-attacks to small businesses and how the government can help mitigate attacks*

On January 30, the House Small Business Committee held a [hearing](#) entitled, "Small Business Information Sharing: Combatting Foreign Cyber Threats." Members discussed the "Small Business Advanced Cybersecurity Enhancements Act of 2017" (H.R.4668) and examined how federal agencies are facilitating greater information sharing with small businesses that are vulnerable to foreign backed cyber-attacks. Topics discussed in the hearing included: (1) Software Protection; (2) Information Sharing; (3) Federal Government Involvement; (4) National Cybersecurity

Communications Integrations Center; (5) H.R.4668; and (6) Ransomware.

Chairman Steve Chabot (R-OH) stated that cybersecurity has become a major issue for small businesses. He stated that small businesses are increasingly turning to foreign technology to remain competitive in the global market and this allows for infiltration by cyber criminals. He claimed that a recent survey found 81 percent of small businesses have are concerned about a cyber-attack, and only 63 percent have the most basic cybersecurity counter measures in place. Chabot asserted that the federal government is stepping up its efforts to both prevent and mitigate cyber-attacks by coordinating and distributing cyber security resources to small businesses. He said that small businesses are still afraid to engage with the federal government due to concerns about privacy protections and other factors. Chabot insisted that federal information sharing is critical to make sure small businesses may be adequately protected. He proclaimed that this is the reason he introduced the "Small Business Advanced Cyber Security Enhancement Act of 2017" (H.R. 4668), in order to increase defensive measures available for small businesses and provide for more information sharing between the private sector and the federal government. Chabot emphasized that the bill establishes small business development centers as the prime liaison for information sharing. He noted that the bill ensures that any policies or rule making adopted by any federal agency as a result of information sharing does not unfairly burden small businesses. Chabot stressed that many small businesses are unaware of the fact that their technology may be vulnerable.

Ranking Member Nydia Velazquez (D-NY) stated that in recent years cyber criminals have increasingly targeted small businesses. She claimed that 40 percent of all cyber-attacks are

focused on companies with less than 500 employees. Velazquez expressed that only 14 percent of small businesses reported having in place a plan for keeping their company cyber secure. She said that the Federal Bureau of Investigation (FBI) has worked with the Small Business Administration (SBA) to develop Infragard, a collaborative effort to conduct regional workshops to counsel small firms on cybersecurity. Velazquez stressed her proud support of H.R. 4668. She proclaimed that the act will create a regional small business cybersecurity assisting unit within each small business development center.

FBI Cyber Division Deputy Assistant Director said that the FBI considers engagement with the private sector as essential for their pursuit with regards to defeating cybercrime within the United States. Marshall emphasized that the FBI continues to see an increase in the scale and scope of reporting on malicious cyber activity that can be measured by the amount of corporate data stolen or deleted, personally identifiable information compromised, or remediation costs incurred by victims. He stressed that common cyber threats to businesses are email compromise, ransomware, criminal targeting of data, and a growing list posed by vulnerabilities from the Internet of Things (IoT). Marshall stated that the FBI has made private sector engagement a key component of their strategy for combatting cyber threats. He professed that private industry has begun sharing their information more openly in order to provide insight as to why their business may be a target for malicious activity. Marshall emphasized that the FBI aids in providing recipients with actionable intelligence to aide in victim notifications, threat neutralization, and other investigative efforts. He recalled that it is critical to retain strong relationships with the private sector. Marshall discussed the National Cyber Forensic Training Alliance with respect to their

membership nationwide and their information sharing capabilities. Marshall proclaimed that the FBI and Secret Service host various workshops and meetings in order to brief participants on cyber threats. He insisted that the workshops have been successful in communicating an effective message.

Deputy Assistant Secretary of Homeland Security Richard Driggers claimed that the Department of Homeland Security (DHS) serves a critical role in safeguarding and securing cyberspace which is a core security mission. He proclaimed that DHS assists with protecting civilian federal government networks, sharing information related to cybersecurity risks and incidents, and providing technical assistance to federal agencies as well as State and local governments. Driggers mentioned that DHS sees advanced persistent threat actors target small businesses to leverage their infrastructure and their relationships with larger businesses in order to gain access to networks of major and high value assets that operate components of the nation's critical infrastructure. He contended that critical infrastructure assets can be small businesses themselves or may be dependent on small businesses to provide essential services or materials. Driggers asserted that it is essential for small businesses to implement common cybersecurity standards and practices to protect themselves and their customers. He said that DHS offers a wide range of services to meet the needs of small businesses with regards to their cybersecurity needs. Driggers recalled that the "Cybersecurity Act of 2015" (P.L. 114-113) established DHS as the federal government's central hub for the automated sharing of cyber threat indicators and defensive measures. He proclaimed that automated indicator sharing is part of the department's efforts to create an ecosystem where as soon as a company or federal agency observes malicious activity, the indicator associated with that activity can be

shared in real time at machine speed with all partners that are leveraging the DHS's service. Driggers concluded that a collective defense is the most effective defense against cyberattacks.

American Innovation Implementation Hearing

Key Point:

- *An oversight hearing on legislation to increase U.S. research and development*

On January 30, the Senate Commerce, Science, & Transportation Committee held a [hearing](#) entitled: "One Year Later: The American Innovation and Competitiveness Act." Topics discussed included, but were not limited to: (1) NSF/NIST Funding, (2) NSF/NIST Policy, (3) Technological Education, and (4) Cybersecurity.

Senator Cory Gardner (R-CO) said Colorado has some of the most foremost thinkers in the National Institute of Standards and Technology (NIST). He observed that it has been approximately one year since President Barack Obama signed the "American Innovation and Competitiveness Act" (P.L. 114-329) (AICA) into law. He said the Committee is dedicated to improving science, technology, engineering, and mathematics (STEM) education. He stated that the Committee was successful in passing the first National Science Foundation (NSF) reauthorization in six years. He added that the Committee was thanked for "making science bipartisan again." He said there is still much work to be done, even though the U.S. is responsible for 26 percent in research and development. He warned that China is catching up, and may surpass the U.S. as the world's greatest innovator.

Ranking Member Bill Nelson (D-FL) said science is a major contributor to the public's quality of life. He stated that the U.S. has led

the world in innovative technologies and advances in science. He said the advancement of science depends on investment by the federal government. He noted that China is now the second largest investor in research and development and may eclipse the U.S. as the leader in technological development. He argued that the next Administration budget request will cut the NSF budget by 11 percent. He said AICA recommended a 4 percent increase for the NSF. He said vacancies in the Administration have created a situation where there is "no science voice in the room." He recommended that science should be free from political interference. He stated that the head of the Environmental Protection Agency (EPA) is reviewing grants in a political manner. He discouraged continued use of this practice.

National Science Foundation (NSF) Director Dr. France Cordova said AICA represents the mandate and mission of the NSF. She mentioned that all eight Nobel Prize candidates from the U.S. were all supported by the NSF in 2017. She added that 231 Nobel Prize winners have been supported by the NSF since 1935. She asserted that Congress has been instrumental in supporting these researchers. She said AICA codifies how NSF supports education. She stated that AICA supports increased transparency and clearly defined research goals. She argued that the public needs to understand what the NSF is operating on. She mentioned the importance of the Laser Interferometer Gravitational-wave Observatory (LIGO) and how it confirmed several theories of Albert Einstein. She said AICA supports both large-scale and mid-scale projects. She said the NSF has submitted requests for projects requiring between \$20 and \$100 million. She added that there have been approximately 200 responses. She stated that Title 2 of AICA has created positive impacts in STEM education. She said the NSF is working with other agencies to create a STEM

education advisory council. She added that since the Innovation Corps (I-Corps) system was established, NSF has created over 450 companies and have drawn more than \$250 million in seed capital. She expressed appreciation for the creation of I-Corps.

Undersecretary of Commerce for Standards and Technology and NIST Director Dr. Walter Copan expressed support for the implementation of AICA. He said NIST has a positive impact on quality of life and national security for all U.S. citizens. He stated that AICA has supported the retention of world class personnel at NIST. He said the benefits of AICA are clear and apparent. He noted that AICA has improved voting security while supporting academia in research. He said NIST has strengthened its site security while improving cultural awareness. He said NIST must continue to build its foundation on technical expertise and stakeholder engagement. He added that NIST is currently focused on cybersecurity and quantum technologies. He stated that in order to be the bedrock of U.S. innovation, NIST must grow new capabilities. He said NIST is proud of the positive impacts brought forth from AICA. He stated that NIST will always promote science, innovation, and industrial competitiveness.

App Metadata May Have Revealed Locations of Military Facilities

Key Point:

- *IoT may have resulted in the disclosure of long secret U.S. military bases*

This week, Strava, a mobile fitness-tracking app company, made public a [heatmap](#) of its subscribers' activity, including members of the U.S. military that reportedly allows a person to identify U.S. military bases around the base, including some that have long been off limits even for the media. In response, the top Democrats on the House Energy and

Commerce Committee sent a letter to Strava requesting “a briefing on the company’s data and security practices in light of [reports](#) that the company has publicly shared personal information that put its users at risk.” In their [press release](#), the Democrats “[s]ecurity analysts have raised the possibility that Strava’s information sharing may have exposed the identities and locations of personnel at military sites and other sensitive areas...[and] Committee Democrats want to know how Strava decided to publish the heat map, whether it notified consumers that their information would be included, and if Strava is making any changes to its privacy or data security practices in response to the incident.”

Upcoming Hearings and Events

February 6

U.S. Cyber Diplomacy: The House Foreign Affairs Committee will hold a [hearing](#) titled “U.S. Cyber Diplomacy in an Era of Growing Threats.”

Bug Bounty Programs: The Commerce, Science, and Transportation Committee’s Consumer Protection, Product Safety, Insurance, and Data Security Subcommittee will hold a [hearing](#) titled “Data Security and Bug Bounty Programs: Lessons Learned from the Uber Breach and Security Researchers.”

DHS Reauthorization: The Senate Homeland Security and Governmental Affairs Committee will hold a [hearing](#) titled “Reauthorizing DHS: Positioning DHS to Address New and Emerging Threats to the Homeland.”

For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201. Daniel Gelbinovich and Jackson McLendon contributed to this section.

TRADE

Round Six of NAFTA Ends With No Deals on Contentious Issues

Key Points:

- Negotiators completed the anti-corruption chapter, while chapters on customs, state-owned enterprises, sanitary and phytosanitary measures, technical barriers to trade and digital trade remain close to completion.
- USTR Robert Lighthizer dismissed Canada's auto rules of origin proposal.
- A group of Republican senators sent a letter to President Trump urging him not to withdraw from the deal.

The sixth round of NAFTA negotiations in Montreal, which were held from January 21-29, concluded with the closure of a chapter on corruption. During the latest round, U.S. Trade Representative (USTR) Robert Lighthizer dismissed Canadian proposals and questioned Canada's challenges of U.S. trade remedies in the World Trade Organization. At the joint press conference marking the conclusion of the round, he suggested that Canada's rules of origin proposal for automobiles may, "when analyzed, may actually lead to less regional content than we have now, fewer jobs in the United States, Canada, and likely Mexico. So this is the opposite of what we are trying to do." Government procurement was also identified as a significant sticking point between the three countries.

Lighthizer also addressed Canada's recent decision to challenge U.S. trade remedy laws at the World Trade Organization, according to Lighthizer, "24 years ago the United States effectively gave away its entire trade regime in the Uruguay Round. Of course we view this case as frivolous, but it does make one wonder if all parties are truly committed to mutually

beneficial trade." He pointed to the case as a reason binding dispute mechanisms should not be included in a modernized NAFTA, saying: "[the case] underscores why so many of us are concerned about binding dispute arbitration. One sovereign nation would trust to arbitrators or to the flip of a coin their entire defense against unfair trade." There was no trilateral statement released at the end of the round, but lead trade negotiators touted some progress made.

Before President Trump's State of the Union speech, a group of 36 Republican senators (including Majority Leader Mitch McConnell (R-KY) urged him to remain in NAFTA. Senator Patrick Toomey (R-PA), one of the signers of the letter, said in an interview that he was "not aware of a single Republican senator who wishes for the United States to withdraw from NAFTA." The seventh round is scheduled to begin February 26, 2018 in Mexico City, Mexico.

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

This Week in Congress was written by Ryan Schnepf.