

March 9, 2018

Washington Update

This Week in Congress

- **House** – The House passed the “Comprehensive Regulatory Review Act” (H.R. 4607); the “Blocking Regulatory Interference from Closing Kilns Act” (H.R. 1917); and the “Satisfying Energy needs and Saving the Environment (SENSE) Act” (H.R. 1119).
- **Senate** – The Senate passed the “Nuclear Energy Innovation Capabilities Act of 2017” (S. 97); confirmed **Jeffrey Gerrish** to be a Deputy United States Trade Representative (Asia, Europe, the Middle East, and Industrial Competiveness); and **Karen Gren Scholer, Tilman Eugene Self III, and Terry A. Doughty** to be United States District Judges.

Next Week in Congress

- **House** – The House may consider the “TAILOR Act of 2017” (H.R. 1116); the “Financial Examination Fairness and Reform Act” (H.R. 4545); the “Regulation At Improvement Act of 2017” (H.R. 4263); the “Stress Test Improvement Act of 2017” (H.R. 4293); and the “Financial Stability Oversight Council Improvement Act of 2017” (H.R. 4061).
- **Senate** – The Senate will resume consideration of the “Economic Growth, Regulatory Relief, And Consumer Protection Act” (S.2155).

TAX

Treasury Secretary Mnuchin Makes Case for More IRS Funding; CBO Updates Numbers to Reflect New Withholding Tables

Key Points:

- *Treasury Secretary Steven Mnuchin advocates for increased IRS budget during Congressional hearing.*
- *CBO releases numbers explaining the immediate drop in individual income and payroll taxes withheld due to the TCJA.*

On Tuesday, Treasury Secretary Steven Mnuchin testified before the House

Appropriations Financial Services and General Government Subcommittee in support of the Trump Administration budget request of \$11.5 billion for the Internal Revenue Service (IRS). Treasury is also asking Congress for an

Table of Contents

Taxes	1
Financial Services	3
Energy & Environment	8
Defense	12
Health	15
Transportation & Infrastructure	16
Technology	20
Trade	23

additional \$397 million over two years to implement the Tax Cuts and Jobs Act. Mnuchin told the Committee that “It is one of my top priorities, implementing the tax plan, which impacts literally everything at the IRS, from customer service to forms to technology.” He said that the additional funding will go towards taxpayer service and upgrading technology.

On Wednesday, the Congressional Budget Office (CBO) reported that since the new Internal Revenue Service (IRS) withholding tables were set in place, the changes have resulted in a \$3 billion drop in the amount of individual income and payroll taxes withheld. The CBO said wages and salaries rose in February, but not enough to offset the decline in tax withholding. CBO reported that the federal government posted a \$216 billion deficit for the month - \$24 billion more than last February's. CBO also reported that corporate income tax receipts have been down 17 percent for the fiscal year to date.

Congress Nears Fix for “Grain Glitch”

Key Points:

- *Senate Republicans close to a deal to fix the “grain glitch” that currently gives a larger tax benefit to farmers who sell to cooperative grain suppliers.*
- *House Ways and Means Committee accepting petitions for offering testimony during a March 14 hearing on Tax Extenders. There will be 11 total witnesses in the hearing.*

Congress is nearing a fix that will address the unfair tax treatment of grain sales to agricultural cooperatives and other suppliers. The “grain glitch” fix could be added to the upcoming fiscal year spending bill which must be passed before March 23. According to

Upcoming Dates

- **March 23, 2018:** Government funding expires
- **March 31, 2018:** FAA Reauthorization expires

Senator John Hoeven (R-ND), Senate Republicans are “trying to get to something where they all agree, where the passthrough groups have the 20 percent discount, where the C corps have the rate reduction, and we have 199 for the co-ops.” He added that his office would release more information in coming days and that the agreement will most likely come in form of the fiscal 2018 omnibus spending bill or attached to a measure to reauthorize the Federal Aviation Administration.

On March 14th, the House Ways and Means Tax Policy Subcommittee will hold a hearing entitled “Post Tax Reform Evaluation of Recently Expired Tax Provisions.” According to the hearing announcement, “This is an opportunity to change our approach on extenders, and this hearing is an important step in delivering the certainty and simplicity that Americans need in our nation’s new tax code.” The subcommittee is taking petitions from industry stakeholders to participate in the hearing. Subcommittee Chairman Vern Buchanan (R-FL) explained that there will be 11 witnesses in the hearing and that March 8 was the last day to notify the committee about testifying.

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 Continues Consideration of Financial Regulatory Relief Bill

Key Points:

- *Majority Leader McConnell filed a cloture motion on the bill, which sets up a vote on Monday to limit debate.*
- *The bill would raise the bank SIFI designation threshold, exempt small banks from the Volcker Rule, and reduce regulatory burdens for community banks, among other issues.*

This week, the Senate began consideration of the Economic Growth, Regulatory Relief, and Consumer Protection Act ([S. 2155](#)). On March 8, Majority Leader Mitch McConnell (R-KY) filed a cloture motion to end debate on the bill, which will “ripen” at 5:30 PM on Monday. An agreement has not yet been reached on what amendments may be voted on.

Senator Mike Crapo (R-ID) filed a substitute amendment ([SA 2151](#)), which is expected to be adopted and includes several securities, banking, student lending and other provisions, including several that had previously passed the House. It also clarifies that the bill would not affect the Federal Reserve’s authority to impose stricter standards on foreign banks with at least \$100 billion in total consolidated assets. House Financial Services Committee Chairman Jeb Hensarling (R-TX) stated that the substitute amendment does not go far enough, and he released a list of 29 bipartisan bills that passed the House and/or the House Financial Services Committee on a bipartisan basis.

Several of the provisions of S.2155 include raising the threshold for labeling banks as systemically important financial institutions (SIFI) from \$50 billion to \$250 billion, exempting banks with less than \$10 billion in

assets from the Volcker Rule, expanding consumer access to mortgages, reducing compliance burdens for community banks, altering capital levels for custodial banks, and requiring the banking regulators to classify certain municipal securities as level 2B high quality liquid assets (HQLA) under the Liquidity Coverage Ratio rule. A section-by-section summary of the bill as reported by the Committee is available [here](#).

House Panel Discusses the State Insurance Regulation Preservation Act

Key Point:

- *The Subcommittee examined legislation, H.R. 5059, that would limit the Federal Reserve’s oversight of insurance savings and loan holding companies (ISLHCs).*

On March 7, the House Financial Services Committee’s Subcommittee on Housing and Insurance held a [hearing](#) entitled “Legislative Review of [H.R. 5059](#), the State Insurance Regulation Preservation Act.” H.R. 5059, introduced by Representative Keith Rothfus (R-PA) and Representative Joyce Beatty (D-OH), will “amend the Home Owners’ Loan Act to create a definition of an Insurance Savings and Loan Holding Companies (ISLHC) and creates a regulatory framework that would limit the Federal Reserve’s oversight of ISLHCs.” Chairman Sean Duffy (R-WI) explained under Title I of the Dodd-Frank Act (DFA) the Federal Reserve was given supervisory rulemaking authority over Savings and Loan Holding Companies (SLHC) in addition to new authority to create enhanced minimum capital and risk based capital requirements for insurers under that structure. He noted that an insurance company that operates in multiple states is likely organized as an insurance holding company (IHC) and that IHC and its subsidiaries are regulated by the

state insurance commissioners. Duffy noted if the IHC owns a thrift or a bank they need to register as an SLHC. He added that the thrift or bank also has its own regulator, the OCC. He stated this system has resulted in SLHCs being regulated by three entities. Ranking Member Emanuel Cleaver (D-MO) stated H.R. 5059 would allow certain ISLHC's to be exempted from group supervision by the Federal Reserve and would preserve state based insurance regulation; however, he expressed concern that the bill could go too far and create a loophole. Representative Keith Rothfus (R-PA) stated the bill tailors the regulation for savings and loan holding companies. He stated these insurance companies that happen to own thrift subsidiaries are now covered by both the state system and the Federal Reserve. Representative Joyce Beatty (D-OH) stated this bill simply seeks to right size the excessive regulatory burdens placed on ISLHCs compared to the risk they pose to the financial stability of the economy.

When asked whether this legislation will reduce duplicative regulation or result in loopholes, COUNTRY Financial Chief Executive Officer, Kurt Bock, explained that the insurance entity will continue to be supervised by the state insurance commissioners, the banks or thrifts will continue to be supervised by the OCC, and the Federal Reserve will continue to oversee the holding company and retain the ability to reinsert themselves if there are holes in supervision. Nationwide Mutual Insurance Company, Chief Strategist and Risk Officer, Michael Mahaffey, explained that Nationwide spends up to 25 percent of their compliance costs on Federal Reserve examinations. Bock noted that COUNTRY decided to deregister their banking entity because the costs of maintaining it were too high. Several Members reiterated their support for state-based regulation of insurance. Bock stated that the

state insurance regulators understand the insurance entities and how their businesses operate.

SEC Holds Investor Advisory Committee Meeting

Key Point:

- *Chairman Jay Clayton expressed the following priorities for the SEC: (1) standards of conduct for investment professionals, (2) an examination of equity and fixed income market structure, (3) the regulation of investment products, including ETFs, (4) the impact of distributed ledger technology (including cryptocurrencies and ICOs), (5) FinTech developments, (6) the elimination of burdensome regulations that do not enhance investor protection or market integrity with an eye toward facilitating capital formation, and, (7) congressionally-mandated rulemaking*

On March 8, the Securities and Exchange Commission (SEC) convened a [meeting](#) of the Investor Advisory Committee (Advisory Committee or IAC) to discuss: regulatory approaches to combat retail investor fraud; financial support for law school clinics that support investors; dual-class share structures; and efforts to combat the financial exploitation of vulnerable adults.

SEC Chairman Clayton reiterated his view is that the Commission should allocate its limited rulemaking and other related resources to a portfolio of matters that present currently pressing and significant issues for investors and the markets, are central to the SEC's mission, are ripe for consideration, and/or are addressable through a reasonable share of Commission and staff time. He explained that such matters currently include, among others: (1) standards of conduct for investment professionals; (2) an examination of equity and

fixed income market structure; (3) the regulation of investment products, including ETFs; (4) the impact of distributed ledger technology (including cryptocurrencies and ICOs); (5) FinTech developments; (6) the elimination of burdensome regulations that do not enhance investor protection or market integrity with an eye toward facilitating capital formation; and (7) congressionally-mandated rulemaking, as well as inevitable issues that they have not yet identified but will emerge as pressing.

The first panel discussed ways to better combat investor fraud. R. Cromwell Coulson (OTC Markets) gave several recommendations including fixing the information asymmetries that exist, instituting short-sale reforms, and allowing SEC reporting companies to use Regulation A+ to sell shares online. The Investor as Owner Subcommittee made [recommendations](#) related to dual class and other entrenching governance structures in public companies. The Subcommittee recommended the SEC Division of Corporate Finance continue to scrutinize disclosure documents filed by companies with such structures, commenting on such documents to enhance the detail of disclosures of risks related to such structures, and develop guidance to address a range of issues. They suggested the SEC commence a pilot program to monitor shareholder disputes arising out of such structures and determine if enhanced disclosure requirements are necessary. Seven additional recommendations are related to additional disclosures, monitoring disputes, and clarifying definitions. In addition, the Subcommittee of the Whole [recommended](#) that the SEC explore ways to improve external funding sources for law school investor advocacy clinics. In the short term, the Committee recommended the SEC work with FINRA to provide continued funding of existing clinics and over the long

term request legislation from Congress to consider permanently funding law school investor advocate clinics.

House Passes Four Financial Services Bills

Key Point:

- *The House passed legislation related to regulatory reviews, portfolio lending, community bank regulatory relief, and combatting illicit financing.*

On March 6, the House passed four financial services bills related to reducing regulatory burdens and combatting illicit finance:

- The Comprehensive Regulatory Review Act ([H.R. 4607](#)), introduced by Representative Barry Loudermilk (R-GA), which would amend the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) to include the Consumer Financial Protection Bureau (CFPB) and the National Credit Union Administration (NCUA). Under the bill, reviews would be conducted every seven years, rather than every ten years as required by current law. The bill passed the House by a vote of 264-143.
- The Portfolio Lending and Mortgage Access Act ([H.R. 2226](#)), introduced by Representative Andy Barr (R-KY), which would amend the Truth in Lending Act (TILA) to allow certain mortgage loans that are originated and retained in portfolio by an insured depository institution or an insured credit union with less than \$10 billion in total consolidated assets be considered as qualified mortgages. The bill passed the House by voice vote.
- The Community Bank Reporting Relief Act ([H.R. 4725](#)), introduced by Representative Randy Hultgren (R-IL),

which would amend the Federal Deposit Insurance Act to direct federal banking agencies to issue regulations that allow a reduced reporting requirement for depository institutions with \$5 billion in consolidated assets or less, and that meet certain other criteria when making the first and third report of condition for a year. The House passed the bill by voice vote.

- The Strategy for Combating the Financing of Transnational Criminal Organizations Act ([H.R. 4768](#)), introduced by Representative David Kustoff (R-TN), which would require the President, through the Secretary of the Treasury, to develop a national strategy to combat the financial networks of transnational criminal organizations (TCOs). The House passed the bill by voice vote.

Senate Special Committee on Aging Holds Hearing on Senior Scams

Key Points:

- *The Committee examined scams and frauds being perpetrated against seniors.*
- *Chairman Susan Collins (R-ME) noted that the banking bill being considered by the Senate includes the Senior Safe Act to address senior fraud issues.*

On March 7, the Senate Aging Committee held a [hearing](#) entitled “Stopping Senior Scams.” Chairman Susan Collins (R-ME) noted the Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) that the Senate is considering, includes the Senior Safe Act ([S. 223](#)), which allows an employee to question suspicious activity without the fear of being sued.

Chairman Collins, in a [statement](#), noted the Department of Justice (DOJ) announced a sweep of elder fraud cases involving more than 250 defendants who victimized more than one million Americans. She stated the cases stemming from the sweep are related to a variety of fraud schemes including mass mailings, telemarketing, and identity fraud. She stated that according to the Government Accountability Office (GAO), America’s seniors lose \$2.9 billion a year to financial exploitation schemes and scams. She noted in Maine, 33,000 seniors are the victims of some sort of abuse. She announced the Committee released its updated fraud book for FY 2018. Collins declared for the past three years, the Internal Revenue Service (IRS) impersonation scam has been the most reported. She explained criminals spoof the telephone number so that the caller ID reads the “Department of Treasury,” which ensures the recipient will answer the call. She asserted the criminals often demand payment in the form of gift card and threaten victims in the form of arrest if they do not pay. Collins noted other scams include robocalls, lottery scams, computer tech support scams, and romance scams. She asserted the AARP, consumer protection groups, law enforcement, and financial institutions play vital roles in combatting scammers. She declared she is dedicated to making older adults more informed.

Ranking Member Robert Casey (D-PA) stated many experts have struggled to estimate the total financial impact of scams and abuses because it is underreported. He noted the financial impact adds up to at least \$3 billion in lost savings. He stressed once funds are stolen, many seniors never receive adequate reimbursement for the lost money. Casey argued it is Congress’s responsibility to take aggressive action so no more seniors lose money. He asserted the responsibility to

protect someone from a scammer does not sit with seniors. He declared the Federal Communications Commission (FCC) took action against robocalls. He stressed Congress should work with stakeholders to make sure money never leaves the hands of seniors.

House Appropriations Panel Holds Hearing on the CFTC Budget

Key Point:

- *The Committee discussed regulatory reform, cryptocurrencies, and the funding needs of the CFTC.*

On March 7, the House Committee on Appropriations' Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a [hearing](#) entitled "FY19 Budget Hearing: Commodity Futures Trading Commission," with Commodity Futures Trading Commission (CFTC) Chairman J. Christopher Giancarlo testifying.

Chairman Robert Aderholt (R-AL) stated the Subcommittee is establishing goals as Congress makes their way through the Fiscal Year (FY) 2019 appropriations process. He argued the CFTC continues to face challenges as markets adapt to evolutions in technology. He explained the President's budget requested \$281.5 million, which is in line with the Commission's own request. Aderholt expressed interest in policy issues such as including bitcoin, futures, and cryptocurrencies. He asserted there is a need to invest in technology, stating that it is the best way to leverage resources in terms of enforcement. He stated finding the balance between overregulation, and a safe and effective marketplace is essential.

Ranking Member Sanford Bishop (D-GA) stated the Subcommittee was holding a hearing on the FY 2019 budget when the 2018 appropriations debate has not been settled. He asserted the Dodd-Frank Act (DFA) has been the biggest defense against another "catastrophe." He commended Giancarlo for not unraveling the DFA and expressed interest in working with the CFTC.

Ranking Member Sanford Bishop (D-GA) noted that Giancarlo had previously expressed skepticism about user fees, but the budget includes \$31.5 million in funding from these fees. He asked if Giancarlo now supports these fees, and whether the budget would change if they were not included. Giancarlo replied there was a distinction between user fees as a whole and transaction fees. He expressed opposition to transaction fees as a tax on risk hedging markets, and placing a burden on farmers. Bishop stated the difference between user fees and a tax appears semantic. Giancarlo asserted that every Administration since Reagan had supported user fees, and they are included in this budget. He said CFTC will use any funding tools they get from appropriations.

UPCOMING EVENTS

March 14

Cryptocurrency: The House Financial Services Committee's Subcommittee on Capital Markets, Securities, and Investments will hold a hearing entitled "Examining the Cryptocurrencies and ICO Markets."

SEC Open Meeting: The Securities and Exchange Commission will hold an open meeting to consider two items: (1) whether to propose a rule under Regulation NMS to conduct a Transaction Fee Pilot in NMS stocks; and (2) whether to propose amendments to Form N-PORT and Form N-

1A related to disclosures of liquidity risk management for open end management investment companies.

March 15

CFIUS: The House Financial Services Committee’s Subcommittee on Monetary Policy and Trade will hold a hearing entitled “Evaluating CFIUS: Administration Perspectives.”

Data Breaches: The House Financial Services Committee’s Subcommittee on Terrorism and Illicit Finance will hold a hearing entitled “After the Breach: the Monetization and Illicit Use of Stolen Data.”

March 22

Community Bank Advisory Council: The Consumer Financial Protection Bureau (CFPB) will hold a meeting of its Community Bank Advisory Council.

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

House Passes Bills on Waste Coal Power Generation and Brick Kiln Regulations

Key Points:

- *This week the House passed two bills addressing issues with Clean Air Act regulation of coal-waste energy generation and brick manufacturing facilities.*
- *The House voted largely along party lines, and the outlook for both bills is uncertain in the closely-divided Senate.*

On Thursday, the House of Representatives approved the “Satisfying Energy Needs and Saving the Environment (SENSE) Act” ([H.R.](#)

[1119](#)) by a [215-189 vote](#). As described in the Energy and Commerce Committee report ([H.Rept. 115-514](#)), the “legislation seeks to ensure that innovative, environmentally beneficial facilities that use coal refuse as fuel can continue to operate and will not be forced to shut down, due to unachievable requirements included in the Environmental Protection Agency’s Mercury and Air Toxics Standards (MATS).”

During House floor debate, John Shimkus (R-IL), Chairman of the House Energy and Commerce Committee’s Environment Subcommittee explained that the bill focuses “on a relatively small number of very unconventional facilities that take environmentally damaging waste coal, burn it to produce electricity, and then use the resulting ash to remediate the land.” He explained that the bill provides these facilities with “an alternative compliance mechanism for the compounds regulated under the Mercury and Air Toxic Standards, which is commonly known as the MATS...[while requiring] stringent emission reductions at these waste coal-to-energy plants, but ones that are achievable at these facilities.”

Subcommittee Ranking Member Paul Tonko (D-NY) spoke in opposition to the legislation, arguing that “[p]olluters should be pushed to do better, especially when comparable facilities are meeting those given standards; but instead, these power plant owners would prefer to get special treatment and a pathway for meeting the weaker standards for many, many years to come.”

On Wednesday, the House passed the “Blocking Regulatory Interference from Closing Kilns Act” ([H.R. 1917](#)) by a [234-180 vote](#). As described in the committee report ([H.Rept. 115-509](#)), the bill would “ensure that

there is adequate time for meaningful judicial review before the owners and operators of brick manufacturing facilities are required to make significant and potentially irreversible decisions regarding capital investments, or to operate less or shut down, all before the legality of the 2015 Brick MACT is known.” The EPA published the [final rule](#), titled “NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing” on October 26, 2015. The rule would require that “major sources in these categories must meet maximum achievable control technology (MACT) standards for mercury (Hg), non-mercury (non-Hg) metal hazardous air pollutants (HAP) (or particulate matter (PM) surrogate) and dioxins/furans (Clay Ceramics only); health-based standards for acid gas HAP; and work practice standards, where applicable.”

Senate Energy and Natural Resources Committee Advances 24 Bills

Key Points:

- *The Senate Energy and Natural Resources Committee marked up 24 bills on March 8.*
- *The bills approved by the Committee include: a cybersecurity pilot program for critical energy infrastructure (S. 79); the “Small Scale LNG Access Act”; the “Advanced Nuclear Energy Technologies Act” (S. 1457); and the “Rare Earth Element Advanced Coal Technologies Act” (S. 1563).*

On Thursday, the Senate Energy and Natural Resources Committee approved 24 bills, reporting them to the full Senate:

- Legislation “to provide for the establishment of a pilot program to identify security vulnerabilities of certain entities in the energy sector” ([S. 79](#))([Joint staff amendment in the nature of a substitute](#));

- A “bill to amend the Federal Power Act to provide that any inaction by the Federal Energy Regulatory Commission that allows a rate change to go into effect shall be treated as an order by the Commission for purposes of rehearing and court review” ([S. 186](#))([Joint staff amendment](#));
- A “bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978 relating to the disposal site in Mesa County, Colorado” ([S. 1059](#));
- A “bill to include Livingston County, the city of Jonesboro in Union County, and the city of Freeport in Stephenson County, Illinois, to the Lincoln National Heritage Area...” ([S. 1160](#));
- A “bill to direct the Secretary of the Interior and Secretary of Agriculture to expedite access to certain Federal land under the administrative jurisdiction of each Secretary for good Samaritan search-and-recovery missions...” ([S. 1181](#))([Joint staff amendment in the nature of a substitute](#));
- A “bill to authorize the exchange of certain Federal land located in Gulf Islands National Seashore for certain non-Federal land in Jackson County, Mississippi...” ([S. 1260](#)/[H.R. 2615](#))([Joint staff amendment in the nature of a substitute](#));
- A “bill to establish the Ste. Genevieve National Historic Site in the State of Missouri...” ([S. 1335](#)/[H.R. 2888](#));
- A “bill to amend the Energy Policy Act of 2005 to reauthorize hydroelectric production incentives and hydroelectric efficiency improvement incentives...” ([S. 1336](#));
- The “Capitalizing on American Storage Potential Act” ([S. 1337](#))([Amendment by Senators Stabenow and Manchin](#));

- A “bill to reauthorize the Historically Black Colleges and Universities Historic Preservation program” ([S. 1446/H.R. 1135](#));
- The “Advanced Nuclear Energy Technologies Act” ([S. 1457](#))([Joint staff amendment](#));
- The “Rare Earth Element Advanced Coal Technologies Act” ([S. 1563](#));
- A “bill to authorize the Secretary of the Interior to conduct a study to assess the suitability and feasibility of designating certain land as the Finger Lakes National Heritage Area...” ([S. 1602](#));
- A “bill to authorize the National Emergency Medical Services Memorial Foundation to establish a commemorative work in the District of Columbia and its environs...” ([S. 1692](#));
- The “Energy Technology Maturation Act of 2017” ([S. 1799](#));
- A “bill to amend section 203 of the Federal Power Act” ([S. 1860/H.R. 1109](#))([Joint staff amendment in the nature of a substitute](#));
- The “Small Scale LNG Access Act of 2017” ([S. 1981](#));
- A “bill to authorize Pacific Historic Parks to establish a commemorative display to honor members of the United States Armed Forces who served in the Pacific Theater of World War II...” ([S. 2213/H.R. 4300](#));
- A “bill to incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands...” ([S. 2325](#))([Joint staff amendment in the nature of a substitute](#));
- An “Act to establish Department of Energy policy for science and energy research and development programs, and reform National Laboratory management and technology transfer programs...” ([H.R. 589/S. 2503](#))
- An “Act to authorize the Secretary of the Interior to amend the Definite Plan Report for the Seedskadee Project to enable the use of the active capacity of the Fontenelle Reservoir” ([H.R. 648](#));
- An “Act to authorize, direct, facilitate, and expedite the transfer of administrative jurisdiction of certain Federal land...” ([H.R. 1397](#));
- An “Act to provide for the conveyance of certain land inholdings owned by the United States to the Tucson Unified School District and to the Pascua Yaqui Tribe of Arizona” ([H.R. 1404](#)); and
- An “Act to redesignate the small triangular property located in Washington, DC, and designated by the National Park Service as reservation 302 as ‘Robert Emmet Park’...” ([H.R. 1500](#)).

The Committee approved all of the bills by voice vote, with the exception of the “Small Scale LNG Access Act”, which the Committee approved by a 13-10 roll call vote.

In opening the markup, Chairman Lisa Murkowski (R-AK) emphasized the goal of having Committee-passed bills approved by the full Senate and ultimately signed into law. She noted that 50 bills previously reported by the Committee are awaiting consideration by the Senate. Murkowski remarked that even non-controversial legislation, including hydropower license extensions and federal land transfers, are subject to “legislative hostage taking”.

Ranking Member Maria Cantwell (D-WA) said that she regrets “to see S. 1981 on the agenda.” She asserted that the “Small Scale LNG Access Act” would expedite liquefied natural gas (LNG) exports “in a way I do not support”.

Cantwell noted that in 1992, Congress approved legislation that deems LNG exports to free trade agreement (FTA) nations to be in the public interest. She also observed that proposed Senate energy legislation includes a 45-day deadline for the Department of Energy to decide on an application to export LNG to non-FTA nations. Cantwell said that the Department of Energy “has already approved the export of 1 trillion cubic feet of natural gas per year”. She asserted that “S. 1981 goes too far.”

Senator Bill Cassidy (R-LA) also discussed his bill, S. 1981. He emphasized that “regulatory certainty is essential to attracting long-term buyers” of U.S. LNG. Cassidy noted that the Energy Information Administration projects that the U.S. has 83-years worth of natural gas that could be developed using current technology. He said the bill would provide certainty and would allow approval of LNG export projects with a capacity of up to 51.1 billion cubic feet per year. Cassidy explained that Caribbean and Central American countries would be the likely destination for exports from small scale LNG facilities. He emphasized the environmental benefits of shifting power generation in those countries from fuel oil, including “Venezuelan oil”, and coal to natural gas.

Upcoming Hearings and Events

March 13

Interior Budget: The Senate Energy and Natural Resources Committee will hold a hearing on the proposed Fiscal Year 2019 budget for the Department of the Interior.

March 14

DOE Cybersecurity/Emergency Response Legislation: The House Energy and Commerce Committee’s Subcommittee on

Energy will hold a [hearing](#) titled “DOE Modernization: Legislation Addressing Cybersecurity and Emergency Response”. The hearing will include discussion of: H.R. 5174, the “Energy Emergency Leadership Act” ([H.R. 5174](#)); the “Pipeline and LNG Facility Cybersecurity Preparedness Act” ([H.R. 5175](#)); “[Discussion Draft Cyber Sense Act](#)”; and “[Discussion Draft Enhancing Grid Security through Public-Private Partnerships Act](#)”.

Markup of Pending Legislation: The House Natural Resources Committee will hold a markup of pending calendar business.

March 15

Department of Energy Budget: The House Appropriations Committee’s Energy and Water Development, and Related Agencies Subcommittee will hold hearing on the Fiscal Year 2019 Energy Department Budget. Secretary of Energy Rick Perry is scheduled to testify.

Interior Budget: The House Natural Resources Committee will hold a hearing on “Policy Priorities at the Department of the Interior and the Administration’s FY2019 Budget Proposal” Scheduled witnesses are: Ryan Zinke, Secretary of Interior; Deputy Assistant Interior Secretary for Budget, Finance, Performance and Acquisition Olivia Barton Ferriter; and Denise Flanagan, Director of the Interior Department’s Office of Budget.

Abandoned Hardrock Mine Reclamation: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a hearing on “Abandoned Hardrock Mines and the Role of Non-Governmental Entities”.

FERC Meeting: The Federal Energy Regulatory Commission (FERC) will hold its

monthly [open meeting](#). The [agenda](#) includes: “Inquiry Regarding the Effect of the Tax Cuts and Jobs Act on Commission-Jurisdictional Rates” (electric); “Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate”; and “Inquiry Regarding the Commission’s Policy for Recovery of Income Tax Costs” (natural gas).

March 26-28

PHMSA Regulation of Natural Gas Pipelines: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a [meeting](#) of its Gas Pipeline Advisory Committee (GPAC). The GPAC will consider “the proposed rule titled, ‘Safety of Gas Transmission and Gathering Pipelines,’ which was published in the Federal Register on April 8, 2016, (81 FR 20722) and on the associated regulatory analysis.”

April 5

Pipeline Safety Information-Sharing: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will convene a [meeting](#) of the Voluntary Information-Sharing System Working Group. The meeting “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. Alex Barcham contributed to the articles. Updates on energy and environment issues are also available on [twitter](#).

DEFENSE

Military Service Acquisition Reform

Key Point:

- *As a precursor for further reforms in the FY 2019 NDAA, the House Armed Services Committee questioned the services’ acquisition chiefs on current acquisition authorities*

On March 7, the House Armed Services Committee held a [hearing](#) entitled: “Assessing Military Service Acquisition Reform” focused on solutions for streamlined acquisitions processes in the military. Topics discussed in the hearing included, but were not limited to: (1) Intellectual Property; (2) Block Buys; (3) Acquisition Processes; (4) Contract Procedures; (5) System for Awards Management; (6) Mechanical Fixes; (7) Cyber Acquisition; (8) Fat Leonard Scandal; (9) Legal Fees; (10) Science & Technology Funding; and (11) Steel and Aluminum Tariffs.

Chairman Mac Thornberry (R-TX) said the Committee has augmented authority to support rapid transaction authority and engagement with non-traditional contractors in order to increase innovation. He explained that the changes have placed more authority for acquisition processes with the Armed Services. He said this year’s bill will include more steps to further streamline the acquisition process. He stated that the push for acquisition reform has been a non-partisan issue and he asserted that the cooperation will continue on.

Ranking Member Adam Smith (D-WA) agreed with Thornberry’s remarks and added that there has been great work done to improve the acquisition process. He said he is interested in hearing if there is more that can be done and also is excited to discussing the idea of coming up with measurable standards. He noted the

difficulty in getting a replacement part within the Department of Defense (DOD) in relation to getting the same part commercially. He added that changing the culture within the Pentagon is critically important and that the people within the Department need to adapt to new laws. He said the agency should be incentivized to streamline the acquisition process.

Assistant Secretary of the Navy, Research, Development, and Acquisition James Geurts said the Navy is taking a 3-D approach to improve the Department of the Navy's (DON) acquisition systems. He asserted that the most important asset is the people that work in the Navy and added that an experienced and trained workforce is the largest driver for achieving sustained success in acquisition. He said the Navy is currently developing agile policy and procedures aligned with commercial best practices to support its defense business systems and information technology infrastructure. He also mentioned that DON is actively encouraging small businesses and non-traditional companies to conduct business with the Navy. He said DON would welcome any reforms that include changes to the milestone decision authority to the services, additional expansion of funding for rapid prototyping and fielding initiatives that will increase the ability to operate within a budget cycle.

Assistant Secretary of the Army, Acquisition, Logistics, and Technology Dr. Bruce Jette said the Army is fully committed to leveraging the reforms that Congress has provided. He explained that readiness is essential to the current-world environment but noted that acquisition reform is equally as important. He added that the new laws have provided greater flexibility and accountability. He said better management of intellectual property has provided greater contractor security and

flexibility. He noted data transparency and said it enables data-based decision making. He said there are about 5,000 government contractors but over 23 million corporations in the U.S. He argued that the government must be an attractive source for business. He asserted that the 2-year career pattern places constraints on career development. He said the Army has benefited greatly from reform. He also noted six priorities that the Army has established to contend with threats: (1) Long Range Fires; (2) Next Generation Combat Vehicle; (3) Future Vertical Lift; (4) Army Network; (5) Air and Missile Defense Capabilities; and (6) Soldier Lethality.

Assistant Secretary of the Air Force for Acquisition Dr. William Roper said he is encouraged with the steps that the Air Force is taking to improve its acquisition systems. He added that further reform provides opportunities to remove barriers in order to ensure that the Air Force can have the best workforce it possibly can. He said the Air Force is aggressively implementing new acquisition reforms as well as invigorating prototyping in order to increase innovative technologies. He explained that Air Force is adopting commercial practices to overcome challenges with lower cost and speed. He noted that software technology has been a challenge along with logistics and sustainment. He said many commercial technologies have the potential to reduce cost as well as increasing Air Force capabilities. He also mentioned artificial intelligence and said the Air Force must dominate the new technology. He said reforming the acquisition process will improve innovation and will help build next-generation systems.

Upcoming Hearings and Events

March 13

CENTCOM/AFRICOM: The Senate Armed Services Committee will hold a [hearing](#) titled “United States Central Command and United States Africa Command.”

Cyber Posture: The Senate Armed Services Committee’s Cybersecurity Committee will hold a [hearing](#) titled “Cyber Posture of the Services.”

March 14

Atomic Energy Defense Programs: The Senate Armed Services Committee’s Strategic Forces Subcommittee will hold a [hearing](#) titled “Department of Energy Atomic Energy Defense Activities and Programs.”

FY 2019 Air Force Budget Request: The House Appropriations Committee’s Defense Subcommittee will hold a [hearing](#) titled “FY19 Budget Hearing - Air Force Budget.”

Space Warfighting: The House Armed Services Committee will hold a [hearing](#) titled “Space Warfighting Readiness: Policies, Authorities, and Capabilities.”

Seapower and Projection Forces: The House Armed Services Committee’s Seapower and Projection Forces Subcommittee will hold a [hearing](#) titled “Department of the Air Force FY 2019 Budget Request for Sea Power and Projection Forces.”

DOD S&T Programs: The House Armed Services Committee’s Emerging Threats and Capabilities Subcommittee will hold a [hearing](#) titled “A Review and Assessment of the Fiscal Year 2019 Budget Request for Department of Defense Science and Technology Programs.”

Modernizing Export Control: The House Foreign Affairs Committee will hold a [hearing](#) titled “Modernizing Export Controls: Protecting Cutting-Edge Technology and U.S. National Security.”

March 15

PACOM: The Senate Armed Services Committee will hold a [hearing](#) titled “United States Pacific Command.”

NSA Nominee: The Senate Intelligence Committee will hold a [hearing](#) on the nomination of Lieutenant General Paul M. Nakasone to be the Director of the National Security Agency.

FY 2019 Army Budget Request: The House Appropriations Committee’s Defense Subcommittee will hold a [hearing](#) titled “FY19 Budget Hearing - Army.”

Russia: The House Armed Services Committee will hold a [hearing](#) titled “Security Challenges in Europe and Posture for Interstate Competition with Russia.”

ISR Programs: The House Armed Services Committee’s Tactical Air and Land Forces Subcommittee will hold a [hearing](#) titled “Fiscal Year 2019 Budget Request on Air Force Airborne Intelligence, Surveillance, and Reconnaissance (ISR) Programs.”

Space Programs: The House Armed Services Committee’s Strategic Forces Subcommittee will hold a [hearing](#) titled “Fiscal Year 2019 Budget Request for National Security Space Programs.”

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

Homans and Daniel Gelbinovich contributed to this section.

HEALTH

CMS Rejects Idaho’s Plan to Allow Non-ACA Compliant Health Plans

Key Points:

- *The Centers for Medicare and Medicaid Services sent a letter to Idaho informing the state it’s intention allow insurers to submit plans that do not comply with the Affordable Care Act is illegal.*
- *The letter did applaud Idaho’s attempt to lower health costs for its citizens and suggested with some modifications, the state-based plans could be legally offered under the exception for short-term, limited duration plans.*

On March 8, Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma sent a letter to Idaho Governor Butch Otter and Department of Insurance Director Dean Cameron informing the state its plan to allow plans that do not comply with the Affordable Care Act (ACA) would be illegal. On January 5, Otter [signed](#) an Executive Order directing the Department of Insurance to seek option to approve options that follow all state-based requirements, even if all ACA requirements are not met and to seek any necessary waivers from the U.S. Department of Health and Human Services.

The Order cited the rising cost of health care in Idaho as a reason to pursue these alternatives. It criticized the effect the ACA has had on the risk pool, noting a sustainable risk pool requires a mix of young and old and healthy and sick individuals. In the letter, Verma praised the Governor’s desire to lower costs for Idahoans who have experience large premium increases since 2014.

However, the letter also stresses the ACA continues to remain the law and CMS has a duty to enforce and uphold that law though emphasizes that is not CMS’ preference. The letter explains if a state fails to enforce the insurance market requirements, CMS must enforce the market requirements. The letter serves as CMS’ notice to the State of Idaho that it is not enforcing these requirements. The state has 30 days to respond. If the state cannot demonstrate it is substantially enforcing the law, CMS will make a preliminary determination and provide the state a reasonable opportunity to correct. Should the state fail to do so, CMS will issue a final determination which identifies which requirements CMS will assume enforcement authority over.

The letter does suggest Idaho could make some modifications to the state-based plans so they may legally be offered under the exception for short-term, limited-duration plans. It welcomes dialogue between the state and CMS regarding potential options. In February, HHS along with the Departments of Treasury and Labor published a proposed rule expanding the availability of these short-term, limited-duration health plans. HHS Secretary Alex Azar has indicated the agency is also exploring how these plans could become renewable beyond the 12 months permitted in the proposed rule.

Read the letter [here](#).

Upcoming Hearings and Meetings

March 13

Medicare Advantage: The Alliance for Community Health Plans will hold a briefing on “The Value of Medicare Advantage.”

Opioids: The American Enterprise Institute will hold a discussion on a new report by the Congressional Joint Economic Committee’s Social Capital Project on “The Numbers Behind the Opioid Crisis.”

March 14

ADUFA: The House Energy and Commerce Committee will hold a hearing entitled “Reauthorization of Animal Drug User Fees: ADUFA (Animal Drug User Fee Act) and AGDUFA (Animal Generic Drug User Fee Act).”

Opioids: The Senate Indian Affairs Committee will hold a hearing on “Opioids in Indian Country: Beyond the Crisis to Healing the Community.”

March 15

340B: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on the 340B Drug Discount Program.

HHS Budget: The House Appropriations Committee will hold a hearing with Secretary Alex Azar on the FY 2019 Department of Health and Human Services Budget.

March 16

Alternative Payments: The National Coalition on Health Care will hold a briefing on “Alternative Payment Models: Achieving the Next Level of Performance.”

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

TRANSPORTATION AND INFRASTRUCTURE

Trump Administration’s Infrastructure Proposal Hearing

Key Point:

- *The Secretary of Transportation faced detailed questions on how the Administration plans to pay for and select projects under its infrastructure proposal*

On March 6, the House Transportation and Infrastructure Committee held a [hearing](#) on “Examining the Administration’s Infrastructure Proposal.” Topics discussed in the hearing included: (1) Rural vs Urban Funding; (2) Additional Financing Options; (3) Permitting Process; (4) TIGER and INFRA Grants; (5) Highway Trust Fund; (6) Aviation; (7) Capital Investment Grants and FFGA’s; (8) Gateway Tunnel Project; (9) Public-Private Partnerships; (10) TIFIA and RIFF; (11) ELDA Rule and Livestock Five Year Exemption; (12) Buy American; (13) Schools; (14) Workforce Development; (15) Safety; (16) 2028 Olympics; (17) National Advisory Committee on Travel and Tourism Infrastructure; and (18) Infrastructure Funding for U.S. Territories.

On March 5, the Department of Transportation (DOT) released this [“booklet”](#) that explains the DOT’s portions of the larger infrastructure package. However, it bears note that the document does not provide more detail than the Administration’s [“legislative outline”](#) on its infrastructure proposal released with its FY 2019 budget request.

Chairman Bill Shuster (R-PA) stated that he was encouraged by President Donald Trump’s focus on infrastructure and noted he was first to mention infrastructure in an Inaugural Address. He asserted the federal government

has integral role in national transportation. He said the current infrastructure proposal has good elements, and commended Department of Transportation's (DOT) work on improving timelines for projects. He noted the "Moving Ahead for Progress in the 21st Century (MAP-21) Act" (P.L. 112-141) and the "Fixing America's Surface Transportation Act" (FAST Act) (P.L. 114-91) as positive steps towards speeding up permitting but said more needs to be done. He stated the previous two reauthorizations have these reforms, but it still takes 14 years for major road projects. He asserted that cutting the timeline in half would save 12-15 percent merely on inflation. He stressed any infrastructure plan must be a bipartisan. He stated the solution must be realistic about needs and address the issues in a fiscally responsible manner. He said the Highway Trust Fund (HTF) must be part of the solution and should be the starting point for any negotiations. He noted the HTF is set to run out by 2021, and many states are already dealing with revenue shortfalls. He stated the American people understand infrastructure needs and will support a bipartisan plan.

Vice Ranking Member Elizabeth Esty (D-CT) asserted that Trump did not fulfill his promise to invest \$1 billion in infrastructure within his first 100 days. She expressed concern that the Administration's "Legislative Outline for Rebuilding Infrastructure in America" plan was not based on sustainable investment. She argued that a successful plan cannot shift responsibility between partners. She stressed the need for sound, long term investment from the federal level. She outlined four necessities for a good infrastructure plan. 1) She stated an investment package must have real federal funding. She asserted that an investment of \$1 trillion would create and sustain 16 million well paid jobs. She noted the current plan has \$168 billion in cuts over the same ten year period of

\$200 billion in investment. She stated most funding in the plan will come from state and local levels, which will require local tax increases or borrowing. She said the tax reform bill should have included an infrastructure component. 2) She argued that selling off public assets is not a solution. She asserted that public-private partnerships (P3s) will not solve the infrastructure crisis, specifically for surface projects. 3) She argued that streamlining cannot replace federal investment. She said environmental streamlining will not save hundreds of billions. She noted 90 percent of projects are exempt from full environmental reviews (CE), only 4 percent require environmental impact studies, and surface level projects that do undergo studies have timelines of under four years. She stated that Congress has taken steps to improve project timelines but said artificial deadlines and punitive measures are not the answer. 4) She stressed the need for working within existing federal programs. She noted that 80 percent of infrastructure funds in the plan are going to grants selected by the federal government and are coupled with cuts to programs directed by state and local governments. She asserted that Congress can direct funds to states and localities through existing programs. She said this strategy would ensure the projects use American iron and steel with Buy American Act (BAA) protections, preserve worker protections, and support small businesses. She noted a FAST Act provision which proportionately increases funding in existing programs when Congress increases the HTF.

Secretary of Transportation Elaine Chao testified that U.S. infrastructure is the most productive and flexible in the world and is key to economic growth. She noted that traffic congestion and delays costs are \$168 billion annually, one-quarter of bridges are structurally deficient, and 20 percent of roads are in poor

condition. She stressed the transportation needs of rural America and said they cause a disproportionate number of highway deaths. She stated 12 agencies have worked together and support the comprehensive infrastructure bill. She noted that transportation is one component on the plan, but it also includes energy, water, broadband and veterans' hospitals. She stated the goal is to stimulate \$1.5 trillion in investment with a minimum of \$200 billion in direct federal funding. She outlined four key components to the plan: 1) to use federal dollars as seed money to kick off other investment; 2) to provide for the needs of rural America; 3) to streamline permitting; and 4) to reduce unnecessary and burdensome regulations. She said the key is to empower decision making at state and local levels. She noted that half of new funds will be incentives for state, local and private investments. She stated that one-fourth of federal funds are for rural needs. She said DOT is helping with regulatory reform, and department costs associated with new regulations decreased \$312 million in 2017 and will decrease by \$500 million in 2018. She stated some estimates indicate \$4 trillion in infrastructure needs, and the plan encourages private investment to help with funding. She asserted that endowments and pension funds are interested in infrastructure investments because they have collateral which will not walk away. She stated the private sector also helps to allocate risk by ensuring the cost of failure falls on them and not taxpayers. She reiterated that localities can better identify needs, and the private sector can produce effective partners.

Long-Term Highway Funding Hearing

Key Point:

- *The day after the Secretary of Transportation testified on the Administration's proposal infrastructure plan, the Committee held a*

hearing on how to address pending highway and transit funding shortfalls

On March 7, the Highways and Transit Subcommittee of the House Transportation and Infrastructure Committee held a [hearing](#) entitled "Building a 21st Century Infrastructure for America: Long-Term Funding for Highways and Transit Programs." Topics discussed in the hearing included: (1) Interstate Highways and Freight; (2) Gas Tax, Vehicle Miles Traveled Tax, and Other Financing Options; (3) Registration Fees; (4) Workforce Issues; (5) Holding Congress Accountable; (6) State and Local Funding; and (7) Tolling.

Chairman Sam Graves (R-MO) said the movement of freight is expected to increase by 40 percent over the next 30 years and vehicle miles travelled (VMT) is projected to increase by nearly 20 percent. He stated driverless vehicles and other technologies are going to change how passengers move through the transportation system. He asserted the current method of funding is not sustainable. He noted beginning as early as spring of 2020; states may have to halt construction of surface transportation projects because the Highway Trust Fund (HTF) will not be able to meet its obligations. He said current motor fuel taxes and other user fees bring in less money because fuel efficiency standards have increased and not everyone pays into the HTF. He argued continuing to rely on bailouts from the General Fund is not the answer. He advocated for working together to reform the HTF to ensure users that benefit from the system, pay into the system. He stressed the importance of a long-term, sustainable solution that gives states the certainty they need to plan and build surface transportation projects. He said the government needs a solution so it can build a modern and efficient transportation system that will move people and goods at less cost, grow

American jobs, and ensure the U.S. remains competitive in the global marketplace.

Ranking Member Eleanor Holmes Norton (D-DC) argued Secretary of Transportation Elaine Chao's testimony did not provide any real plan for investments in infrastructure. She expressed support for President Donald Trump's apparent openness to increasing the gas tax. She recalled she and Graves wrote a letter, supported by 250 lawmakers, which advocated for a long-term dedicated user base revenue stream that can support transportation and infrastructure investment. She stated most lawmakers believe that there needs to be a long-term funding source to improve infrastructure but said the disagreements arise in how to pay for this source. She argued finding cheaper ways to borrow will not produce real revenue that will make a difference in the infrastructure backlog. She expressed support for the Committee's Panel on Public-Private Partnerships (P3 Panel) but argued P3s are a "rather expensive scheme to borrow private money." She said far too many projects have no attached revenue stream to pay for a public-private partnership. She stated transit P3s rely on dedicating decades of future tax revenue to pay investors and slashing labor benefits to protect profits. She noted only 22 percent of Americans favor putting tolls on interstate highways for infrastructure maintenance. She argued the only real solution is raising the gas tax but noted the politics of the issue have "paralyzed" Congress for a long time. She said some states have raised their gas taxes, including some red states. She noted the Chamber of Commerce and the trucking industry support a higher gas tax. She stated the "Fixing America's Surface Transportation Act" (FAST Act) ([P.L. 114-91](#)) funded an alternative funding demonstration program for states to experiment. She stressed the new autonomous

vehicle (AV) technologies should not take precedent over the infrastructure backlog.

Tennessee Department of Transportation Commissioner John Schroer, on behalf of the American Association of State Highway and Transportation Officials (AASHTO), thanked the Committee for passing the FAST Act. He noted Trump's infrastructure plan calls for \$200 billion in federal infrastructure spending in the next 10 years, which is supposed to leverage \$1.2 trillion in private sector and state and local government spending. He argued there is only so much that can be done by state and local governments, as they currently provide 80 percent of the \$217 billion spent on highway and bridge projects. He noted 31 states have successfully passed transportation funding bills. He advocated for sustainable, formula-based funding. He said the HTF has provided stable funding since its inception in 1956. He stated the solvency of the HTF is in jeopardy, as it has received \$140 billion in General Fund transfers since 2008. He said annual HTF spending is expected to exceed receipts by \$23 billion by FY 2027. He explained ASHTO estimates that states may see a 40 percent drop in federal infrastructure funds from FY 2020 to the following year. He argued the congressional infrastructure bill must focus on direct funding distributed to states and transit agencies through formula programs rather than through grants or federal financing support.

Economic Policy Institute (EPI) President Thea Lee recalled EPI has long called for increased infrastructure investment. She argued the first step is stopping infrastructure from further deteriorating and said allowing the HTF to further deteriorate would do great damage. She asserted the federal gas tax should be raised or a new dedicated revenue stream should be found. She noted adequately funding the HTF

will allow for increased funding of aviation and rail infrastructure projects. She explained that actually improving rather than simply maintaining infrastructure will require a federal commitment of resources beyond funding of HTF. She argued the heavy reliance on state and local governments for infrastructure funding is what led to the crumbling infrastructure system. She stated Americans will be responsible for paying for infrastructure projects either through higher taxes or a higher user fee. She argued public-private partnerships cannot make up for a lack of government funding for infrastructure. She noted financing through the federal government is preferable to private or state and local government financing because the federal government pays a lower interest rate on its debt. She argued that because state and local governments do not have to account for externalities, they may underinvest in key infrastructure projects. She explained that not only Maryland drivers use Maryland roads and the state government may ignore the potential benefits accrued by out-of-state users, leading them to underinvest. She argued infrastructure projects must provide good wages and benefits to the workers. She stated Buy America provisions are essential for maximizing the benefits of infrastructure investment.

Upcoming Hearings and Events

March 13

State and Local Transportation: The Commerce, Science, and Transportation Committee's Surface Transportation and Merchant Marine Infrastructure, Safety and Security Subcommittee will hold a hearing on the transportation needs of states and local areas.

March 15

FY 2019 DOT Budget Request: The House Appropriations Committee's Transportation and Housing and Urban Development Subcommittee will hold a [hearing](#) titled "FY19 Budget Hearing - The Department of Transportation."

Water Resources Projects: The House Transportation and Infrastructure Committee's Water Resources and Environment Subcommittee will hold a [hearing](#) titled "Building a 21st Century Infrastructure for America: Water Resources Projects and Policy."

Federal Permitting: The House Oversight and Government Reform Committee's Interior, Energy, and Environment Subcommittee will hold a [hearing](#) titled "An Examination of Federal Permitting Processes."

For more information on transportation issues you may [email](#) or call Michael Kans at 202-659-8201. Thomas McGrath, Cullen Neely, Riyad Carey, and Alex Barham contributed to this section.

TECHNOLOGY

Data Security Legislative Hearing

Key Point:

- *A Financial Services subcommittee discussed two legislative proposals to address the data security of consumer reporting agencies and other sectors more broadly*

On March 7, the House Financial Services Committee's Financial Institutions and Consumer Credit Subcommittee held a [hearing](#) entitled: "Legislative Proposals to Reform the Current Data Security and Breach Notification Regulatory Regime." The hearing covered the following legislative items:

- [H.R. 4028](#), the "Promoting Responsible Oversight of Transactions and Examinations of Credit Technology Act of 2017"
- [H.R. _____](#), the "Data Acquisition and Technology Accountability and Security Act"

Topics discussed in the hearing included but were not limited to: (1) General Comments on Proposed Legislation; (2) Notification Standards; (3) State Laws; (4) European Regulations; (5) Regulation Flexibility; (6) Social Security Numbers; (7) Law Enforcement; and (8) Insurance Regulators.

Chairman Blaine Luetkemeyer (R-MO) said current regulations cause compliance nightmares and confusion in relation to data security and breach notification. He argued that the problem requires immediate federal attention. He noted his piece of legislation that would create a national standard for companies that handle or store information. He added that a responsible federal standard would allow companies to secure personal information of their customers rather than spending unnecessary funds on compliance fees. He said the draft legislation requires companies to immediately notify law enforcement should a breach occur. He also mentioned the "PROTECT Act" which would introduce a new regulatory regime for credit agencies. He explained that both legislative items prioritize the consumer and that the time to act is now. He asserted that the industry must look at the larger picture.

Ranking Member Wm. Lacy Clay (D-MO) said breaches are a growing problem and noted that Equifax recently reported one of the largest breaches ever. He then explained the timeline of the breach. He argued that consumers in the U.S. face a data-protection crisis. He noted that

there is no federal law that requires credit agencies to offer credit freezes.

Massachusetts Assistant Attorney General Sara Cable said she is encouraged that the subcommittee has realized the importance of data breach legislation. She added that it is clear that more must be done to protect consumers and to add confidence to the marketplace. She asserted that existing protections under state law should first be enhanced. She added that while federal standardization is important, Congress should not risk the protection of consumers by undermining strict state laws. She said the draft bill would leave consumers in a worse position than the status quo. She stated that quickly notifying consumers that their data has been compromised needs to be the first priority. She added that the consumer notice section of the bill requires notice only after the consumer has been harmed. She argued that notifying consumers after they have already been harmed does little benefit. She added that the bill does not clearly illustrate how to remedy the situation should a breach occur. She also explained that the bill would make it more difficult for state law enforcement to do their jobs. She said under Massachusetts law, the State Attorney General get direct notice of breaches that affect their residents. She stated that the threshold for federal notice, 5000, is too high and would ignore the majority of data breaches.

Financial Services Roundtable Vice President Jason Kratovil said data is increasingly becoming the engine of modern commerce. He argued that the financial industry has consistently called on Congress to enact data security legislation. He said the proliferation of sensitive data across the economy has only increased the pressure for Congress to act. He argued that both proposed legislative items are important and timely. He said the discussion

draft presents the best opportunity for a bill to pass through the House. He specifically said the bill sets a high bar for data security. He stated that notification to consumers must be tied to an assessment of risk. He added that notice must be used by consumers as a call to action and that over notification will make consumers over-sensitized. He argued that new legislation should recognize that sectors in the financial industry already have regulations and should not have duplicative authorities. He said it is clear that finding consensus is critical for enacting data security legislation. He explained that more stakeholders are ready to offer their voices than ever before.

DHS Reauthorization Markup Concludes

Key Points:

- *A markup to reauthorize parts of the DHS ends after a week of negotiations of amendments, many of which were adopted en banc to the managers' substitute*
- *The reauthorization contains language creating a cybersecurity agency inside DHS*

On March 7, the Senate Homeland Security and Governmental Affairs Committee held a markup and approved the “Department of Homeland Security Authorization Act” ([H.R. 2825](#)), as amended, by a vote of 10-1, with Senator Rand Paul (R-KY) voting nay. Four additional Senators voted aye by proxy, but their votes were counted “for the record only.”

Chairman Ron Johnson (R-WI) noted that the Committee would be marking up the Johnson/McCaskill [substitute amendment](#). He stressed the need to focus on areas agreement in working to reauthorize the Department of Homeland Security (DHS). He expressed optimism that they will get the bill passed. He commended the House Homeland Security Committee for passing their version of the bill.

He said he hopes to pass the bill out of Committee, pass it in the Senate, go to conference, and get the bill signed into law as soon as possible.

Ranking Member Claire McCaskill (D-MO) said the Committee has worked to find consensus and avoid “gotcha” amendments. She stated that they have reached a point where the bill is largely non-controversial. She stated that the Department of Defense has benefitted from being authorized every single year, suggesting that there would be similar benefits at DHS. She stressed the need to address the jurisdictional issues around DHS, suggesting that it is “dumb” that the Committee cannot fully authorize DHS because other Committees also have jurisdiction. She stated that they will only be able to get a clean bill passed through the Senate.

Johnson offered a package of [26 amendments](#) which he suggested have broad support. He noted that 46 amendments were offered in total. Senator Steve Daines (R-MT) noted that the package included provisions on improving DHS’s acquisition management. He noted the package included his bill, the “Support for Rapid Innovation Act” ([S. 278](#)), which would expedite the implementation of new technologies and leverage private sector partnerships. He said the package also includes his bill, the “Moving Americans Privacy Protection Act” ([S. 998](#)), which would protect Americans personally identifiable information when they move internationally. He stated that the Committee was unable to reach a consensus on his bill the “Cyber Safety Act” ([S. 2392](#)), stating that he hopes to take it up at a future date. He noted the Committee was also unable to reach an agreement on his amendment to protect U.S. citizens travelling abroad from unreasonable search and seizure of their electronic devices at the border. The

package of amendments was adopted by voice vote.

The Johnson/McCaskill substitute amendment contains language creating a “Cybersecurity and Infrastructure Protection Agency” that tracks very closely with [H.R. 3359](#), the House-passed bill to do the same. This language would elevate the National Protection and Programs Directorate to a component agency within DHS with a Senate confirmed head.

Upcoming Hearings and Events

March 13

NextGen Broadband: The Commerce, Science, and Transportation Committee’s Communications, Technology, Innovation, and the Internet Subcommittee will hold a hearing on next generation broadband.

March 14

Federal IT: The House Oversight and Government Reform Committee’s Information Technology and Government Operations Subcommittees will hold a [hearing](#) titled “State of Play: Federal IT in 2018.”

Utility Cybersecurity: The House Energy & Commerce Committee’s Energy Subcommittee will hold a [hearing](#) titled “DOE Modernization: Legislation Addressing Cybersecurity and Emergency Response.”

March 15

Use of Stolen Data: The House Financial Services Committee’s Terrorism and Illicit Finance Subcommittees will hold a [hearing](#) titled “After the Breach: the Monetization and Illicit Use of Stolen Data.”

For more information on technology issues you may [email](#) or call Michael Kans at 202-659-8201. Alex Barcham, Henry F. Homans, and Riyad Carey contributed to this section.

TRADE

President Trump Imposes Tariffs on Steel and Aluminum Imports

Key Points:

- *Tariffs will take effect on March 23, the tariff on steel will be 25 percent and the tariff on aluminum will be 10 percent.*
- *Canada and Mexico are temporarily excluded from the tariffs and Administration officials have said they are open to negotiating exemptions for other countries.*

This week President Donald Trump followed through on his pledge to impose stiff tariffs on imported steel and aluminum. The president signed a proclamation authorizing the tariffs at a meeting Thursday afternoon with workers from the steel and aluminum industries. The U.S. will levy a 25 percent duty on steel and 10 percent on aluminum, the same level Trump promised when he revealed the plan March 1. The tariffs will take effect in 15 days. The president warned there would be more tariffs coming, saying he planned to proceed with what he has called “reciprocal taxes” on imports from countries that charge higher duties on U.S. goods than the U.S. now charges on their products. “We’re going to be doing a lot of that,” he said.

Despite earlier indications from the president and trade adviser Peter Navarro that the tariffs would not have any exemptions, Canada and Mexico are temporarily exempt from the tariffs because of ongoing NAFTA negotiations. A White House official told reporters that if

Canada and Mexico are permanently exempted, “we would perhaps maybe have to raise the tariffs on everybody else to ensure... that our steel and aluminum industries are defended.” The Administration official also confirmed that “all countries will be welcome to discuss with the U.S. alternate ways to address the threatened impairment of national security caused by imports,” indicating that other countries will be able to negotiate for exemptions. U.S. Trade Representative Robert Lighthizer is scheduled to meet with the EU Trade Commissioner and Japanese Minister of Economy, Trade and Industry on Saturday to discuss steel overcapacity and planned U.S. trade remedies against China.

Senators Rob Portman (R-OH), Sherrod Brown (D-OH), and Bob Casey (D-PA) sent a [letter](#) to the Administration that argued the tariffs are “incomplete” because electrical steel products are not included. The letter states that because the remedy “does not include electrical cores and core parts, the remedy will not be effective for the domestic electrical steel market,” noting that imports of grain-oriented electrical steel have increased 101 percent in the last year while prices dropped more than 30 percent. They requested that the president add the HTS codes for Laminations, Cores, and Core assemblies to the remedies.

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.