

March 17, 2017

Washington Update

This Week in Congress

- **House** – The House passed the “VA Accountability First Act of 2017” (H.R. 1259); the “Veterans 2nd Amendment Protection Act” (H.R. 1881); and H.R. 1367, to improve the authority of the VA Secretary to hire and retain physicians and other employees.
- **Senate** – The Senate confirmed Seema Verma to be Administrator of the Centers for Medicare and Medicaid Services; Dan Coats to be Director of National Intelligence; and National Security Advisor H.R. McMaster to be Lieutenant General.

Next Week in Congress

- **House** – The House is expected to consider the “American Health Care Act of 2017” (H.R. ___); the “Small Business Health Fairness Act of 2017” (H.R. 1101); and the “Competitive Health Insurance Reform Act of 2017” (H.R. 372).
- **Senate** – The Senate will be in session.

TAX

Treasury Department Nominees and Senior Staff Announced

Key Points:

- *Department’s top staff starting to be filled out*

The Trump Administration announced James Donovan as its nominee to serve as the Deputy Secretary of the Treasury. Donovan is a managing director at Goldman Sachs and adjunct professor at the University of Virginia Law School. The Administration also announced the nominations of former Bear Stearns Chief Economist David Malpass as the Undersecretary of the Treasury for International Affairs; economist Adam Lerrick as Deputy Undersecretary of the Treasury for International Finance; Sigal Mandelker as Undersecretary of the Treasury For Terrorism And Financial Intelligence; Drew Maloney as the Assistant Secretary of the Treasury For Legislative Affairs; and Brent McIntosh, who

worked for the George W. Bush Administration, as General Counsel.

Senior staff for the Department was also announced, with the following people serving as Counselors to Secretary of the Treasury Steven Mnuchin: Dan Kowalski, who will focus on federal budget, the debt limit, and infrastructure finance; Shannon McGahn, who will advise on legislative and public affairs; Justin Muzinich, who will focus on “major” policy initiatives and tax reform; and Craig Phillips who will focus on domestic finance, housing finance policy and regulatory reform.

JCT Issues Annual Report Overview of the

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2017 Federal Tax System

Key Points:

- *Annual report provides a broad overview of the four main elements of the tax code*

The Joint Committee on Taxation (JCT) released the annual “[Overview of the Federal Tax System as in Effect for 2017](#)” report. The report is a high-level overview of the current tax code’s four main elements: (1) an income tax on individuals and corporations; (2) payroll taxes; (3) estate, gift, and generation-skipping taxes, and (4) excise taxes on selected goods and services.

Administration Releases FY 2018 Budget Outline

Key Points:

- *Budget submission does not include revenue proposals*

This week the Trump Administration released its [FY 2018 budget request](#), which proposed \$54 billion in funding cuts for domestic programs. The proposal did not include tax revenue, mandatory spending, or economic growth forecasts that are typically part of presidential budget requests. Office of Management and Budget Director Mick Mulvaney said that information will be included in the May submission.

For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201. Nicholas Karellas and Laura Simmons contributed to this section.

TRADE

Senate Finance Holds Hearing on USTR Nominee Robert Lighthizer

Key Points:

- *Lighthizer’s nomination requires a 60 vote waiver because he represented foreign countries in the 1990s*
- *The nomination is currently stalled over an unrelated issue of coal miner pensions*

The Senate Finance Committee held a hearing to consider the nomination of Robert Lighthizer to serve as the U.S. Trade Representative. During the hearing, Lighthizer expressed support for President Donald Trump’s “America first” policy, stating that the U.S. “should have an America first trade policy and that we can do better in negotiating our trade agreements and be stronger in enforcing our trade laws.” He told the Committee that the Trump Administration has not decided whether to North American Free Trade Agreement (NAFTA) renegotiations will result in a trilateral agreement or if it will become two bilateral agreements. Regarding who will lead trade policy for Administration, Lighthizer stated he “fully expects to work in a collaborative way” with Secretary of Commerce Wilbur Ross and the White House, including National Trade Council Director Peter Navarro and National Economic Council Director Gary Cohn.

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

Upcoming Dates

March 15, 2017: Debt limit suspension ends

April 28: FY 2017 CR expires

September 30, 2017: FY 2017 ends and FAA extension expires

FINANCIAL SERVICES

House Panel Holds Hearing on Sound Monetary Policy

Key Points:

- *Several Committee Republicans raised concerns with the Federal Reserve's unprecedented monetary policy and with the level of transparency.*

On March 16, the House Financial Services Committee's Monetary Policy and Trade Subcommittee held a [hearing](#) entitled "Sound Monetary Policy." Chairman Andy Barr (R-KY) stated that Federal Reserve Chair Janet Yellen has explained that slow productivity is a "head wind" and that the Federal Reserve has few tools to address this. Barr stated the data is clear that productivity growth is slow and he suggested the Federal Reserve monetary policy has impacted productivity growth. He suggested the longer there are no clear price signals, the longer productivity will continue to fall shorter than possible. He stated the current monetary policy continues to remain opaque and creates uncertainty rather than clarity. Barr urged the Committee to not ignore the signal that unprecedented monetary policy has impacted the economy. He suggested "bad news" delayed normalization but "good news" did nothing to impact monetary policy as well. Barr stated the Federal Reserve continues to "hide" behind the data and fails to raise rates. He expressed support for transparency and discipline to monetary policy at the Federal Reserve. Barr noted that those opposing a rules-based policy assert that it would prevent the Federal Reserve from being able to respond to a crisis. Stanford University Professor of Economics Dr. John Taylor stated that the "Fed Oversight Reform and Modernization (FORM) Act" introduced in the last Congress would allow the Federal Reserve to deviate

from their monetary policy strategy as long as they informed Congress about the reason, suggesting this is not a strict formula.

Ranking Member Gwen Moore (D-WI) stated the Federal Reserve was forced to take unconventional actions to deal with the financial crisis. She stated it seems clear that in the macro-sense the policies implemented by the Federal Reserve have been successful. She explained that Republicans suddenly seem pleased with these job reports and for the first time the Federal Reserve has begun to raise short-term interest rates. Moore acknowledged that the job gains have been uneven and contended this is due to austerity measures. She stated retirement savers need to be protected and also urged that the Department of Labor's fiduciary rule should not be delayed.

Senate Banking Committee Holds Hearing on Russia Sanctions

Key Points:

- *Ranking Member Sherrod Brown (D-OH) criticized President Trump for sending mixed signals on easing sanctions on Russia. Brown suggested that the sanctions should be strengthened, given Russia's interference in the 2016 presidential election.*

On March 15, the Senate Banking Committee held a [hearing](#) on "Assessing U.S. Sanctions on Russia: Next Steps." The hearing focused on the current sanctions against Russia, whether sanctions should be lifted, whether additional sanctions are needed, and if so, what those sanctions should look like.

Chairman Mike Crapo (R-ID) noted that three years ago Russia illegally annexed Crimea. He said in response the U.S., the EU and other allies imposed sanctions against Russia. He noted that the Obama Administration also

imposed sanctions two years ago related to Russia's cyber warfare activities. Crapo said the existing sanctions pertaining to the Ukraine were meant to change Putin's behavior. He stated that the sanctions include restrictions on financial transactions. He noted that the U.S. restricts exports of oil-related goods, services and technologies for deep water exploration in the maritime areas claimed by Russia. He said the Treasury has designated more than 520 individuals for their sanctionable activities. He said Russia has been "stung" both by sanctions and low energy prices, as well as its own ill-conceived retaliatory measures. He said Russia is suffering from an economic contraction, budgetary pressures, and inflation. Crapo said Russia remains a hostile, recalcitrant power and is intent on driving a wedge between the U.S. and its allies. He questioned where the pressure points are in the Russian economy. He said there may be unintended consequences if sanctions are deployed unilaterally or too rapidly. He said any reductions in sanctions without a corresponding change in Russia's behavior will be viewed as a change in policy on Russia's involvement in the Ukraine, which would run counter to international laws. He stressed the need to hold Russia accountable for its actions, suggesting that Russian sanctions must be set appropriately.

Ranking Member Sherrod Brown (D-OH) said Congress worked together to craft the current sanctions regime. He raised concerns with Russia's actions in the Ukraine and Syria, as well as its interference in U.S. elections. He said Russian President Vladimir Putin ordered an influence campaign against Hillary Clinton and had a clear preference for Donald Trump. He suggested that the intelligence community believes Russia will take similar actions in other nations. Brown said the U.S. has yet to respond to Russia's influence in the election process, contending that sanctions on Russia should be

strengthened and not weakened. He said the situation in Crimea remains unstable and there has been a surge of violence since the U.S. elections. He stated that the President has sent mixed signals; including suggesting that sanctions could be softened.

White House Announces Treasury, CFTC Nominations

Key Points:

- *The White House announced nominations for six positions within the Department of the Treasury, as well as the nomination of CFTC Acting Chairman Christopher Giancarlo to be the Chairman.*
- *Acting Chairman Giancarlo outlined a three-part agenda of reducing regulatory burdens, fixing some swaps rules, and focusing on the CFTC's core mission.*

On March 14, the White House issued a [press release](#) announcing the following nominations at the Department of the Treasury:

- James Donovan to serve as Deputy Secretary of the Treasury;
- Adam Lerrick to serve Deputy Under Secretary of the Treasury for International Finance;
- Andrew Maloney to serve as Deputy Under Secretary of the Treasury for Legislative Affairs;
- David Malpass to serve as Under Secretary of the Treasury for International Affairs;
- Sigal Mandelker to serve as Under Secretary of the Treasury for Terrorism and Financial Intelligence; and
- Brent James McIntosh to serve as General Counsel for the Department of the Treasury.

The White House also announced it would nominate current Commodity Future Trading Commission (CFTC) Acting Chairman J. Christopher Giancarlo to be the Chairman of the Commission. In a March 15 [speech](#) Giancarlo emphasized the need to reduce regulatory burdens in order to promote economic growth. He went on to state:

In that spirit, the CFTC must interpret its regulatory mission by pursuing a three-part agenda: first, contributing to American economic growth by reducing regulatory burdens, improving market intelligence and embracing FinTech innovation; second, enhancing US financial markets by addressing trading liquidity risk, fixing the CFTC's flawed swaps rules and engaging effectively with overseas regulators; and third, rationalizing our regulatory footprint by getting back to regular order, focusing on our core mission and running a tighter ship.

House and Senate Hold Hearing on Flood Insurance Reauthorization

Key Points:

- *Republicans emphasized the need to expand private sector participation in the flood insurance market, while some Democrats raised concerns that private insurers will "cherry pick" low risk properties.*
- *Several Democrats expressed opposition to the provisions in the President's FY2018 Budget Proposal to eliminate the funding for FEMA's mapping program.*

This week, committees in both the House and Senate held hearing on the reauthorization of the National Flood Insurance Program (NFIP), which is scheduled to expire on September 30, 2017. At the March 14, the Senate Banking Committee [hearing](#) entitled "Reauthorization of the National Flood Insurance Program, Part

I," Chairman Mike Crapo (R-ID) stressed the need to reauthorize the NFIP in a timely manner and avoid a lapse in the program. He said NFIP has amassed \$24 billion in debt and is in need of structural reform. At the March 16, the House Financial Services Committee's Subcommittee on Housing and Insurance [hearing](#) entitled "Flood Insurance Reform: A Community Perspective," Chairman Sean Duffy (R-WI) raised concerns with fraud and additional payments which occurred following Hurricane Sandy. He also emphasized the importance of floodplain management and mitigation, and expanding the role of the private sector in the flood insurance market.

In his testimony in the Senate Banking Committee Federal Emergency Management Agency (FEMA) Federal Insurance and Mitigation Administration Deputy Associate Administrator Roy Wright described four core principles for flood insurance reauthorization: (1) there must be an on-time, multi-year reauthorization of the program; (2) there must be an increase in flood insurance coverage across the nation through both the expansion of private flood insurance markets and the NFIP; (3) barriers to meeting customers' needs must be addressed; and (4) additional transparency is needed for the financial framework of the NFIP. He said FEMA supports increased private sector participation in the flood insurance market, but stated that if private insurers took on only the lower risk policies then NFIP would be left with only the higher risk policies, which could lower revenues while increasing claims payouts. He suggested that this would increase their financial risk and lead to increased taxpayer exposures. Wright said Congress could identify a future point in time by which all flood policies for new construction would be provided by the private sector. He said NFIP must price risks appropriately, whether it is

through increasing premiums, reducing risks through mitigation grants, or by discounts directed by Congress.

Duffy and Representatives Dennis Ross (R-FL), Blaine Luetkemeyer (R-MO), Dave Trott (R-MI), Keith Rothfus (R-PA) and Randy Hultgren (R-IL) stressed the need to expand private sector participation in the flood insurance market. Senator Tom Cotton (R-AR) said NFIP was founded with good intentions, but is now \$25 billion in debt. He said the program “takes money from working class Americans to subsidize beach homes for the rich.” He noted that in one wealthy Massachusetts community, 150 homes have received \$60 million in payouts, with a single \$1 million home being rebuilt ten times. He suggested that these wealthy homeowners should be obtaining private flood insurance. He stated that the NFIP is impeding private participation in the market. Senators Jon Tester (D-MT), Heidi Heitkamp (D-ND) and Elizabeth Warren (D-MA) expressed concern that private insurance companies will “cherry pick” low risk policies and leave the NFIP with only higher risk policies.

Representative Ed Royce (R-CA) said private insurers will not cover severe repetitive loss properties, as they are not a good risk. He noted that he had introduced the “Repeatedly Flooded Communities Preparation Act” (H.R. 1558), which would proactively reduce flood risk rather than repeatedly rebuild these properties. He said Tulsa, Oklahoma and Charlotte, North Carolina have reduced their risks by engaging in flood water management, offering buyouts and steering building development away from high risk areas. He said H.R. 1558 would require communities with high numbers of repetitive loss properties to put forward plans to reduce flood risk.

Senate Banking Committee Ranking Member Sherrod Brown (D-OH), Warren, Senator Catherine Cortez Masto (D-NV), and Representatives Emanuel Cleaver (D-MO), Brad Sherman (D-CA) and Joyce Beatty (D-OH) raised concerns with the proposed cuts to FEMA in the President’s FY 2018 budget proposal. They noted that the proposal would zero out the budget for the FEMA’s flood mapping program, which Cleaver suggested would be “disastrous.” Warren expressed criticism for the President considering a surcharge on NFIP policyholders to pay for a wall along the border with Mexico.

Upcoming Hearings and Events

March 21

FDIC Board Meeting: The Federal Deposit Insurance Corporation (FDIC) will hold an open meeting to consider an “Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.”

De Novo Financial Institutions: The House Financial Services Committee’s Subcommittee on Financial Institutions and Consumer Credit will hold a hearing entitled “Ending the De Novo Drought: Examining the Application Process for De Novo Financial Institutions.”

Consumer Financial Protection Bureau: The House Financial Services Committee’s Subcommittee on Oversight and Investigations will hold a hearing entitled “The Bureau of Consumer Financial Protection’s Unconstitutional Design.”

March 22

Department of Labor Secretary Nomination: The Senate Health, Education, Labor and Pensions Committee will hold a

hearing to consider the nomination of Alexander Acosta to be Secretary of Labor.

JOBS Act: The House Financial Services Committee's Subcommittee on Capital Markets, Securities, and Investment will hold a hearing entitled "The JOBS Act at Five: Examining Its Impact and Ensuring the Competitiveness of the U.S. Capital Markets."

World Bank: The House Financial Services Committee's Subcommittee on Monetary Policy and Trade will hold a hearing entitled "Examining Results and Accountability at the World Bank."

SEC Open Meeting: The Securities and Exchange Commission (SEC) will hold an open meeting to consider "whether to adopt an amendment to Rule 15c6-1 under the Securities Exchange Act of 1934 to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date to two business days after the trade date."

March 23

SEC Nomination: The Senate Banking Committee will hold a hearing on the nomination of Jay Clayton to be a Member of the Securities and Exchange Commission (SEC).

Financial Institutions Bankruptcy: The House Judiciary Committee's Subcommittee on Regulatory Reform, Commercial and Antitrust Law will hold a hearing on the "Financial Institution Bankruptcy Act of 2017."

March 28

Financial Institutions: The Senate Banking Committee may hold a hearing entitled "Fostering Economic Growth: The Role of Financial Companies."

April 5

Equity Market Structure Advisory Committee: The SEC will hold a meeting of its Equity Market Structure Advisory Committee (EMSAC). The meeting will focus on potential recommendations and updates from the four subcommittees.

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

Senate Energy Committee Examines Infrastructure Issues

Key Point:

- *The Senate Energy and Natural Resources Committee held a hearing on Tuesday focusing on energy infrastructure issues, including: the regulatory permitting processes; cyber security threats; U.S. energy security and energy exports; renewable energy; the electrical grid and transmission lines; and the Trump Administration's proposed "Buy-America" policy for pipelines.*

On March 14, the Senate Energy and Natural Resources Committee held a [hearing](#) on "opportunities to improve American energy infrastructure."

In her [opening statement](#), Chairman Lisa Murkowski (R-AK) explained the U.S. has some of the most robust and reliable energy infrastructure in the world and without it, society would not function. She declared that now is the best time to rebuild or build infrastructure and explained that most U.S. infrastructure is privately owned. Murkowski said millions of dollars of investment in projects are currently being delayed due to

extensive permitting processes which include multiple agencies and duplicative requirements. She stressed the need for increased state, local, and federal coordination. Murkowski emphasized her interest in working with the Trump Administration to develop an infrastructure package and commended the President for restoring the Keystone XL pipeline project. She discussed the bipartisan energy package that stalled in the last Congress ([S. 2012](#)) and the provisions in the legislation including streamlining the liquefied natural gas (LNG) export process, enhancing electricity delivery, and improving the regulatory process for hydropower licensing. Murkowski announced her intent to enact similar legislation in the 115th Congress.

Ranking Member Maria Cantwell (D-WA) declared in her [opening statement](#) that there are several challenges threatening to disrupt access to reliable energy. Cantwell explained that hydroelectric dams, power plants, transmission lines, and pipelines are aging. She remarked that aging infrastructure is responsible for 25 percent of all power outages and is susceptible to natural disasters. Cantwell argued that the electrical grid is being used for operations for which it was not originally designed and there is not enough transmission capacity to access the demand for electricity. Cantwell also outlined her concerns regarding security, emphasizing the need to protect the electric grid.

In questioning the witnesses, Senator Angus King (I-ME) asserted that the electric grid is still being thought of in the same way as it was 100 years ago. He asked Pacific Northwest National Laboratory Electricity Market Sector Manager Carl Imhoff if the grid should be thought of in the same way in terms of distributed energy at the home level. Imhoff said there is a transition to distributed activity

at the distribution system level which will challenge the ability to communicate and coordinate at different levels. King explained the technology, including smart meters, is available but is not being utilized. Imhoff said technology, including smart meters, have been more beneficial than originally thought.

Senator Tammy Duckworth (D-IL) said any infrastructure package should include energy. She stressed that Congress should support green energy with strong “Buy America” standards. Duckworth asked Laborers’ International Union of North America General President Terry O’Sullivan to elaborate on the Trump Administration’s decision not to require the use of U.S. steel in construction of the Keystone XL Pipeline. O’Sullivan explained that he anticipated the Keystone XL Pipeline was going to be an issue because the pipe was acquired prior to the Administration’s announced policy, but said the Union is encouraged by the Administration’s interest in establishing Buy America requirements.

Commerce Department Notice: “Construction of Pipelines Using Domestic Steel and Iron”

Key Points:

- *The Department of Commerce has initiated the process for developing a plan to establish “Buy America” requirements for U.S. pipelines.*
- *The Department is soliciting public comments on issues related to acquisition and use of domestically-produced pipelines for oil, gas, and other projects.*
- *Comments are due by April 7 and the Department intends to issue its plan by July 23.*

On March 16, the Department of Commerce published a [notice and request for comments](#)

on “Construction of Pipelines Using Domestic Steel and Iron”. The Department is working to comply with President Donald Trump’s January 24, 2017 [memorandum](#) directing it to, within 180 days, “develop a plan under which all new pipelines, as well as retrofitted, repaired, or expanded pipelines, inside the borders of the United States, including portions of pipelines, use materials and equipment produced in the United States, to the maximum extent possible and to the extent permitted by law...”

The notice asks for “all input considered relevant to the development of a plan for the domestic sourcing of materials for the construction, retrofitting, repair, and expansion of pipelines.” Comments are due by April 7, 2017. The Department intends to produce the plan for domestic sourcing of pipeline materials by the July 23, 2017 deadline set forth in the presidential memorandum.

The notice states that “the Department...is conducting industry outreach to better understand: current pipeline construction technology and requirements; potential advances in pipeline technology; domestic and foreign supply chain for pipeline materials; and all other information...pertinent to the development of the domestic sourcing plan.”

Upcoming Hearings and Events

March 21

Federal Lands Infrastructure: The Senate Energy and Natural Resources Committee will hold a [hearing](#) “on opportunities to improve and expand infrastructure important to Federal lands, recreation, water, and resources”.

Domestic Raw Materials for Infrastructure Projects: The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a [hearing](#) on “The

Importance of Domestically Sourced Raw Materials for Infrastructure Projects”.

Bureau of Safety and Environmental Enforcement: The House Oversight and Government Reform Committee’s Interior, Energy and Environment Subcommittee will hold a [hearing](#) titled “Examining GAO Findings on Deficiencies at the Bureau of Safety and Environmental Enforcement”.

March 22

Ozone Standards Implementation: The House Energy and Commerce Committee’s Environment Subcommittee will hold a [hearing](#) on the “Ozone Standards Implementation Act of 2017” ([H.R. 806](#)).

Puerto Rico Electric Power Authority Restructuring: The House Natural Resources Committee’s Indian, Insular and Alaska Native Affairs Subcommittee will hold a [hearing](#) on “The Status of the Puerto Rico Electric Power Authority (PREPA) Restructuring Support Agreement.”

June 26-27

EIA Energy Conference: The Energy Information Administration (EIA) will hold its annual [Energy Conference](#). Conference topics include: “U.S. exports of crude oil and petroleum products”; “Renewable finance and project costs”; “The energy-water nexus and induced seismicity”; “The future of nuclear power”; “Gasoline fuel quality and octane supply”; “Big data and energy information”; “Natural gas infrastructure to serve growing markets”; “Coal and natural gas competition”; and “Human behavior and energy use in buildings”.

For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Michaela F. Boudreaux contributed to this

report. Updates on energy and environment issues are also available on [twitter](#).

DEFENSE

Administration Releases FY 2018 “Skinny” Request and FY 2017 Supplemental

Key Points:

- *The White House and DOD asked for \$54 billion more than cap for FY 2018 and \$25 billion more than the cap for FY 2017*
- *Defense funding would be offset by historic cuts to non-defense funding*

On March 16, the Trump Administration released its abbreviated FY 2018 budget request (aka its “skinny” budget), “[America First: A Budget Blueprint to Make America Great Again](#),” and a [FY 2017 supplemental budget request](#). Together, these two requests would, if enacted, effect major changes to federal funding and programs, the magnitude of which not been seen since the end of World War II. However, the Administration and the Office of Management and Budget (OMB) did not release its economic assumptions nor figures for mandatory funding (e.g. Medicare and Social Security), so the documents released this morning provide an incomplete picture of the Trump Administration’s first budget request. The Administration stated that “[t]he 2018 Budget is being unveiled sequentially in that this Blueprint provides details only on our discretionary funding proposals...[and] [t]he full Budget that will be released later this spring will include our specific mandatory and tax proposals, as well as a full fiscal path.” Nonetheless, the Administration is proposing major discretionary funding and programmatic cuts to many domestic agencies and the outright elimination of others.

In all, the Trump Administration is requesting 1.1512 trillion in discretionary budget authority (which includes emergency and Overseas Contingency Operations (OCO) funding), including a proposed increase in the defense discretionary budget cap of \$54 billion (from \$549 billion to \$603 billion) offset by a reduction in the non-defense spending cap of \$54 billion (from \$516 billion to \$462 billion). Given that the “Budget Control Act of 2011” (P.L. 112-25) sets up a firewall between defense and non-defense funding, the Administration would need legislation in order to conduct such a shift. The Administration is requesting \$77 billion in OCO funding for FY 2018 that would be split among departments thusly: \$64.6 billion for the Department of Defense and \$12 billion for the Department of State.

The Administration’s summary of FY 2018 DOD funding includes the following highlights:

- The President’s 2018 Budget requests \$639 billion for DOD, a \$52 billion increase from the 2017 annualized CR level. The total includes \$574 billion for the base budget, a 10 percent increase from the 2017 annualized CR level, and \$65 billion for Overseas Contingency Operations.
- Repeals the defense sequestration by restoring \$52 billion to DOD, as well as \$2 billion to other national defense programs outside DOD, for a \$54 billion total increase for national defense discretionary budget authority above the sequestration level budget cap. When the Budget Control Act (BCA) of 2011 was enacted, the defense sequestration was not meant to occur, yet it has never been fully repealed. This has resulted in nearly \$200 billion of national defense cuts since 2013 and over \$200 billion of further projected

cuts through 2021, relative to the original BCA caps alone. Reversing this indiscriminate neglect of the last administration is not only a fulfillment of the President's promise, but it is also a requirement if this Nation's security is to be maintained. The military's depletion under President Obama is our foremost challenge. The President's 2018 Budget ends the arbitrary depletion of our strength and security, and begins to rebuild the U.S. Armed Forces.

- Increases DOD's budget authority by \$52 billion above the current 2017 level of \$587 billion. This increase alone exceeds the entire defense budget of most countries, and would be one of the largest one-year DOD increases in American history. It is exceeded only by the peak increases of the Reagan Administration and a few of the largest defense increases during the World Wars and the conflicts in Korea, Vietnam, Iraq, and Afghanistan (in constant dollars, based on GDP chained price index). Unlike spending increases for war, which mostly consume resources in combat, the increases in the President's Budget primarily invest in a stronger military.
- Provides the resources needed to accelerate the defeat of ISIS. The Budget ensures that DOD has the tools to stop ISIS from posing a threat to the United States by funding the Department's critical efforts to strike ISIS targets, support our partners fighting on the ground, disrupt ISIS' external operations, and cut off its financing.
- Addresses urgent war fighting readiness needs. Fifteen years of conflict, accompanied in recent years by budget cuts, have stressed the Armed Forces. The President's Budget would ensure we remain the best led, best equipped, and most ready force in the world.
- Begins to rebuild the U.S. Armed Forces by addressing pressing shortfalls, such as insufficient stocks of critical munitions, personnel gaps, deferred maintenance and modernization, cyber vulnerabilities, and degraded facilities. The military must reset war losses, address recapitalization and maintenance requirements, and recover from years of deferred investment forced by budget cuts. The President's Budget would ensure the Armed Forces have the training, equipment, and infrastructure they need.
- Lays the groundwork for a larger, more capable, and more lethal joint force, driven by a new National Defense Strategy that recognizes the need for American superiority not only on land, at sea, in the air, and in space, but also in cyberspace. As the world has become more dangerous—through the rise of advanced potential adversaries, the spread of destructive technology, and the expansion of terrorism—our military has gotten smaller and its technological edge has eroded. The President's Budget begins to put an end to this trend, reversing force reductions and restoring critical investments.
- Initiates an ambitious reform agenda to build a military that is as effective and efficient as possible, and underscores the President's commitment to reduce the costs of military programs wherever feasible.
- Strengthens the U.S. Army by rebuilding readiness, reversing end strength reductions, and preparing for

future challenges. This Budget is an initial step toward restoring an Army that has been stressed by high operational demand and constrained funding levels in recent years.

- Rebuilds the U.S. Navy to better address current and future threats by increasing the total number of ships. This Budget reflects a down payment on the President’s commitment to expanding the fleet.
- Ensures a ready and fully equipped Marine Corps. The Budget lays the foundation for a force that meets the challenges of the 21st Century.
- Accelerates Air Force efforts to improve tactical air fleet readiness, ensure technical superiority, and repair aging infrastructure. Key investments in maintenance capacity, training systems, and additional F-35 Joint Strike Fighters would enable the Air Force, which is now the smallest it has been in history, to counter the growing number of complex threats from sophisticated state actors and transnational terrorist groups.

The FY 2017 supplemental budget request “includes an additional \$30 billion for the Department of Defense (DOD) to rebuild the U.S. Armed Forces and accelerate the campaign to defeat the Islamic State of Iraq and Syria (ISIS), and an additional \$3 billion for the Department of Homeland Security (DHS) for urgent border protection activities,” including \$1.4 billion to begin construction of the wall with Mexico. \$18 billion of the costs of the request would be offset by corresponding reductions in non-defense accounts for FY 2017. However, these reductions are not identified in this request. Moreover, the Administration is proposing \$25 billion in additional funding for the DOD’s base budget

above the current FY 2017 \$551 billion spending cap for defense discretionary programs, which would require a change in current law in order to be appropriated and not sequestered.

The Administration highlighted the following in the base FY 2017 supplemental request:

- \$977 million for military personnel costs, which supports the pay and allowances associated with higher military end-strength levels and the increase to a 2.1 percent military pay raise in 2017, funding for denied healthcare reforms, and adjustments based on execution.
- \$7.2 billion for operations and maintenance to address urgent readiness shortfalls across the joint force, including by funding additional training and facility investment and supporting critical weapons systems. These funds will also improve cyber and intelligence capabilities.
- \$13.5 billion for procurement and modernization, including additional Army Apache and Blackhawk helicopters, F-35 and F/A-18 fighter aircraft, tactical missiles, unmanned aircraft systems, and Terminal High Altitude Area Defense interceptors, and the DDG-51 destroyer that the Congress partially funded in FY 2016.
- \$2.1 billion to accelerate priority research and development efforts, including ballistic missile and air defense, missile defeat, unmanned aircraft systems, next generation fighter aircraft, electronic warfare, anti-ship and land attack missiles, cyber operations technology, and targeting and strike support for special operations forces. \$962 million for the

costs of increased supply stocks and critical facility repair and a technical correction to transfer funds from the Operation and Maintenance, Navy account to the Navy's revolving funds account to support national defense sealift vessels and the National Defense Reserve Fleet.

- \$236 million for military construction to complete previously authorized but unfinished projects, such as a weapons storage facility, and for planning and design for critical future projects.

The Administration explained the FY 2017 OCO DOD request thusly:

- \$1.4 billion to support urgent operational needs associated with the acceleration of Operation Inherent Resolve, DOD's campaign to defeat ISIS. The request includes funding for force protection, precision-guided munitions, intelligence collection, targeting and surveillance, defensive weapons systems, and countermeasures against ISIS's lethal drone program.
- \$2 billion for a flexible fund that would enable DOD to allocate resources in support of the new counter-ISIS strategy to maximize the impact of U.S. counterterrorism activities and operations. \$626 million for a new Counter-ISIS Train and Equip Fund, which consolidates DOD's counter-ISIS-related train and equip efforts. The request increases funding for assistance to partners in Iraq and Syria, while also providing the authority for DOD to work with forces fighting ISIS in areas outside Iraq and Syria. The enclosures accompanying this memorandum include proposed legislative language for this fund.

- \$1.1 billion for ongoing U.S. operations in Afghanistan and support to global counterterrorism activities, including resources and equipment to better enable and protect our service members in their fight against terrorist groups such as the Taliban, al Qaeda, its affiliates, and the Islamic State of Iraq and Syria - Khorasan. The request also includes planning and design of construction projects in support of Detention Operations at Guantanamo Bay, Cuba.

White House Names Senior DOD Nominees

Key Points:

- *The Administration rounds out the top leadership of the DOD after the Secretary's preferred candidate withdraws*

On March 16, President Donald Trump announced his nominees for top Department of Defense (DOD) positions, many of which have previous executive and legislative branch experience. The nominees were submitted to Congress a few days after leaked reports indicate that Senate opposition succeeded in blocking Secretary of Defense James Mattis' preferred choice for the number three position at the DOD.

In a [press release](#), Trump named the following nominees:

- Patrick M. Shanahan to be Deputy Secretary of Defense
- David L. Norquist to be Under Secretary of Defense, Comptroller
- Kenneth P. Rapuano to be Assistant Secretary of Defense, Homeland Defense and Global Security.

- Robert Daigle to be Director of Cost Assessment and Program Evaluation (CAPE), Department of Defense.
- Elaine McCusker to be Principal Deputy Under Secretary of Defense, Comptroller.
- David Joel Trachtenberg to be Principal Deputy Under Secretary of Defense, Policy.

According to media accounts, Mattis has been pressing the White House to nominate former Assistant Secretary of State for Near East Affairs and former Ambassador to Egypt, Pakistan, Colombia and El Salvador Anne Patterson as Undersecretary of Defense for Policy. However, Senators Tom Cotton (R-AR) and Ted Cruz (R-TX) opposed Patterson based on her service as U.S. Ambassador to Cairo between 2011 and 2013. Patterson is not the first Mattis choice not to be nominated. He had initially pushed former Undersecretary of Defense for Policy Michèle Flournoy to be his Deputy Secretary, but she withdrew from consideration after meeting with White House staff.

SASC Hearing On 21st Century Warfare

Key Points:

- *A subcommittee looks at the types of technologies and weapons the U.S. military will need to remain superior to adversaries and others*

On March 15, the Senate Armed Services Committee's Airland Subcommittee held a [hearing](#) titled "All Arms Warfare in the 21st Century."

Chairman Tom Cotton (R-AK) said that "the purpose of the hearing is to understand what all arms warfare might look like in the 21st Century." He said that "[w]hile we've been

busy fighting insurgents and terrorists, I'm concerned that we haven't been doing enough to maintain our overwhelming superiority on the battlefield in potential conflicts with countries like these...[a]nd if we're going to have any hope of victory against major powers, all of our military forces will have to work together seamlessly." Cotton stated that "as our rivals get their hands on the latest military technology, it's clear that when it comes to advanced weaponry we are not the only game in town anymore." He said that "[w]e have to modernize the air-land joint force for the new reality we face." Cotton stated that "[w]e have to rethink how we project power, including even seemingly mundane but indispensable things as logistics...[b]ut if we invest in new technologies now, our military can make gradual but real gains over the next five years."

Ranking Member Angus King (I-ME) stated that "[t]he full spectrum of conflict that our armed forces must be prepared to face in the coming decades requires new war-fighting concepts and potentially reorganizing the military to make it more adaptable and lethal in a future fight." He said that "[a]s we consider these issues, it seems to me we need to keep four points in mind:

- First, the Trump Administration is in the nascent stages of developing a national security strategy that will detail the Administration's vision and priorities for U.S. global engagement, including how our military will support those efforts.
- Second, our committee has a solemn responsibility to ensure that the men and women who serve in uniform have the equipment and training necessary to safely complete their mission.
- Third, we must be sure that we are preparing for the next war. Cyber, area denial, hybrid conflict tactics and

political sabotage are all part of the 21st century arsenal. And stubborn adherence to outmoded or irrelevant strategies, weapons or structures could be dangerous or worse.

- Fourth, we must be mindful of the budget, as resources are never unlimited.

Mitchell Institute of Aerospace Power Studies Dean and Lieutenant General David Deptula said that “the U.S. military still has challenges shedding anachronistic war-fighting concepts and embracing new ones.” He said that “I would suggest we need to move beyond service interoperability, one of the goals of Goldwater-Nichols, to service interdependency which means that service components rely on capabilities brought to the fight by other service components.” Deptula stated that “to best meet the challenges of future peer and near-peer adversaries, we must continue to exploit modern intelligence surveillance and reconnaissance (ISR), routine precision strike, improvements in survivability and maneuver by focusing on two key essential actions:

- First, unshackle the service-based organizational paradigms of the past and embrace more functional joint organizational constructs that can be achieved by greater integration of these elements. You’ll hear more on that subject from my colleague, Colonel Macgregor.
- Second, rapidly capitalize on the capabilities of the information age to actualize the ubiquitous and seamless sharing of information across systems in every domain as a vision of the Department of Defense. We’re just not there yet and we got a long way to go.

Burke-Macgregor Group Executive Vice President and Colonel Douglas Macgregor

stated that “we have to be prepared to accept the fact that the organizations, the structures of the recent past and the lessons of the recent past may not do very much to prepare us for what lies ahead.” He said that “the joint operational concept all arms/all effects warfare and its supporting operational framework which I hope we will discuss today in some detail, the ISR strike maneuver sustainment complex is, ladies and gentlemen, the military equivalent of “Moneyball.” Macgregor said that “[w]e have something called the Reconnaissance Strike Group, a 6,000-man prototype formation that is in the current National Defense Authorization Bill...[which is] effectively ‘Moneyball.’” He said that “[i]t’s an attempt to cast aside a lot of the conventional wisdom and assumptions about warfare in the past and to look at warfare through a very different lens, through this ISR, strike, maneuver sustainment lens, through the lens across domain operations and warfare, through the lens of integrated operations and then finally to look at integrated command structures, because we know from experience that when war comes along, the biggest mistake you can make is to march into it with single service headquarters that then have to be painfully lashed up to create some measure of effectiveness for a new enemy.”

The Center For A New American Security’s The 20YY Warfare Initiative Director and Senior Fellow Paul Scharre stated that “[t]he United States has fallen behind in adapting to challenges from other nations...[and] Russia and China have developed anti-access, aerial denial (A2/AD) capabilities that threaten traditional forms of U.S. power projection.” Scharre stated that “[i]f the United States is to remain relevant as a global power, we must adapt to these challenges.” He said that “U.S. forces cannot be considered ready if they are prepared for the wrong threats...[and] U.S.

forces must adapt their capabilities and concepts of operation to meet the threats posed by adversaries.” Scharre stated that “[g]reater capacity alone cannot meet these challenges.” He stated that the “DOD should pursue a disciplined modernization strategy that focuses investments on high-payoff capabilities that can deliver the most value in countering A2/AD challenges...[and] [t]his approach should leverage existing programs where possible in order to maximize the efficient use of scarce resources.”

Upcoming Hearings and Events

March 21

Europe: The Senate Armed Services Committee will hold a [hearing](#) titled “U.S. Policy and Strategy in Europe.”

U.S. Foreign and Military Policy: The House Armed Services Committee will hold a [hearing](#) titled “America’s Role in the World.”

DOD and Social Media: The House Armed Services Committee’s Personnel Subcommittee will hold a hearing titled “Social Media Policies of the Military Services.”

DOD Efficiency: The House Oversight and Government Reform Committee will hold a [hearing](#) titled “\$125 Billion in Savings Ignored: Review of DOD’s Efficiency Study.”

North Korea: The House Foreign Affairs Committee’s Asia and the Pacific Subcommittee will hold a [hearing](#) titled “Pressuring North Korea: Evaluating Options.”

March 22

DOD Budget and Readiness: The Senate Appropriations Committee’s Defense Subcommittee will hold a [hearing](#) titled “A

Review of the Budget & Readiness of the Department of Defense” with testimony from Secretary of Defense James Mattis and the Chairman of the Joint Chiefs of Staff General James Dunford Jr.

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

Hybrid Warfare: The House Armed Services Committee will hold a [hearing](#) titled “The Evolution of Hybrid Warfare and Key Challenges.”

Air Force Readiness: The House Armed Services Committee’s Readiness Subcommittee will hold a [hearing](#) titled “The Current State of the U.S. Air Force.”

March 23

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

DOD Civilian Personnel: The Senate Armed Services Committee’s Personnel Subcommittee will hold a [hearing](#) titled “Department of Defense Civilian Personnel Reform.”

Weapons of Mass Destruction: The House Armed Services Committee’s Emerging Threats and Capabilities Subcommittee will hold a [hearing](#) titled “High Consequences and Uncertain Threats: Reviewing Department of Defense Strategy, Policy, and Programs for Countering Weapons of Mass Destruction for Fiscal Year 2018.”

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

HEALTH

House Budget Committee Advances the American Health Care Act

Key Points:

- *The House Budget Committee favorably reported the American Health Care Act by roll call vote 19-17.*
- *The legislation now heads to the House Rules Committee before being considered on the House floor.*

On March 16, the House Budget Committee favorably reported the “American Health Care Act”, the legislation to repeal and replace the Affordable Care Act. The bill was approved by roll call vote 19-17 with three Republicans voting against the bill: Representatives Dave Brat (R-VA), Mark Sanford (R-SC), and Gary Palmer (R-AL).

Chairman Diane Black (R-TN) explained the House Budget Committee’s “role in this process is to combine the work of the authorizing committees and report the full bill to the House.” She said this was “yet another step toward our goal of bringing out patient-centered, free-market reforms to the American people.”

The Committee also approved four non-binding recommendations from Republicans that will be sent to the Rule Committee including one requiring able-bodied adults enrolled in Medicaid to meet a work requirement; one recommending states have the option to accept Medicaid funding through block grants; and another to ensure the refundable tax credits are geared toward low-income people.

The bill now goes to the Rules Committee where amendments may be possible. Speaker

Paul Ryan (R-WI) said “we are very pleased with where we are because we are on track and on schedule with where we’ve intended to be this whole time.”

The White House said it is working with leadership on a manager’s amendment to the bill. Members of the Freedom Caucus have expressed concern providing refundable tax credits creates a new entitlement program. Members also want the Medicaid changes in the bill to take effect sooner. The Republican Study Committee also supports a quicker Medicaid freeze and would like the bill to include work requirements for Medicaid recipients.

If the bill clears the House, it will likely face some challenges in the Senate. Senator Rand Paul (R-KY) has expressed support for replacing the “American Health Care Act” with legislation that would equalize the treatment of insurance between individual and employer-purchased plans. Senator Tom Cotton (R-AR) told House Republicans to “not walk the plank for a bill that cannot pass the Senate.” Senator Susan Collins (R-ME) stated she cannot support the bill in its current form because it fails to adequately address the needs of low-income seniors.

Four Republican Governors have also come out against the bill. Governors John Kasich (OH), Rick Snyder (MI), Brian Sandoval (NV), and Asa Hutchinson (AR) sent a letter to Senator Majority Leader Mitch McConnell (R-KY) and Ryan expressing concern the bill in its current form fails to provide any new flexibility to states and shifts significant new costs to states. They expressed support for fundamental Medicaid reforms and included a proposal with the letter to address issues of equity for expansion and non-expansion states. They

recommended Congress first focus on stabilizing the private insurance market.

Senate Confirms CMS Administrator; Trump Announces Nominee for FDA Commissioner

Key Points:

- *The Senate confirmed the nomination of Seema Verma to be the Administrator of the Centers for Medicare and Medicaid Services 55-43.*
- *President Trump nominated Scott Gottlieb to serve as Commissioner of the Food and Drug Administration.*

On March 13, the Senate voted 55-43 to confirm the Seema Verma to serve as the Administrator for the Centers for Medicare and Medicaid Services (CMS). Senate Finance Committee Chairman Orrin Hatch (R-UT) has called her “the ideal candidate to oversee the reform of the Medicaid program.”

On March 10, President Donald Trump nominated Scott Gottlieb to serve as Commissioner of the Food and Drug Administration (FDA). Gottlieb previously served as FDA’s deputy commissioner for medical and scientific affairs from 2005 to 2007, and chief policy advisor to the CMS administrator during implementation of Medicare Part D. He has also served as a senior adviser and director of medical policy development at FDA.

Senate Health, Education, Labor, and Pensions Committee Chairman Lamar Alexander (R-TN) praised Gottlieb’s “impressive qualifications helping American patients as both a physician and in his previous roles at the FDA.”

Upcoming Hearings and Events

March 20

Medicaid: The National Academy of Social Insurance will hold a webinar on “Medicaid’s Role in Prevention, Population Health, and Building a Culture of Health at the State Level.”

March 21

User Fees: The Senate Health, Education, Labor, and Pensions Committee will hold a hearing on “FDA User Fee Agreements: Improving Medical Product Regulation and Innovation for Patients Part 1.”

NIH: The House Appropriations Committee will hold a “Budget Hearing – National Institutes of Health.”

ACA Repeal: The Georgetown University O’Neill Institute for National and Global Health will hold a discussion on “The AHCA: Understanding the Current Health Care Proposal.”

Opioid Crisis: The House Energy and Commerce Committee will hold a hearing on “Fentanyl: The Next Wave of the Opioid Crisis.”

March 22

User Fees: The House Energy and Commerce Committee will hold a hearing on “Examining FDA’s Prescription Drug User Fee Program.”

Pharmaceuticals: The House Oversight and Government Reform Committee will hold a hearing on “Examining the Impact of Voluntary Restricted Distribution Systems in the Pharmaceutical Supply Chain.”

March 23

ACA: The Cato Institute will hold a discussion on “What Voters Hate about Obamacare: Public Polling and the Affordable Care Act’s Impact on Healthcare Quality.”

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

TRANSPORTATION AND INFRASTRUCTURE

FY 2018 Budget Request Proposes Significant Transportation Cuts

Key Points:

- *The Administration's \$54 billion in proposed cuts in non-defense funding would affect transportation programs*
- *The White House proposed eliminating TIGER grants, cutting severely New Starts and Amtrak, and privatizing the FAA's air traffic control operations*

On March 16, the Trump Administration released its abbreviated FY 2018 budget request (aka its “skinny” budget), “[America First: A Budget Blueprint to Make America Great Again](#),” and a [FY 2017 supplemental budget request](#). Together, these two requests would, if enacted, effect major changes to federal funding and programs, the magnitude of which not been seen since the end of World War II. However, the Administration and the Office of Management and Budget (OMB) did not release neither its economic assumptions nor figures for mandatory funding (e.g. Medicare and Social Security), so the documents released this morning provide an incomplete picture of the Trump Administration's first budget request. The Administration stated that “[t]he 2018 Budget is being unveiled sequentially in that this Blueprint provides details only on our discretionary funding proposals...[and] [t]he full Budget that will be released later this spring will include our specific mandatory and tax proposals, as well as a full fiscal path.”

Nonetheless, the Administration is proposing major discretionary funding and programmatic cuts to many domestic agencies and the outright elimination of others.

In all, the Trump Administration is requesting 1.1512 trillion in discretionary budget authority (which includes emergency and Overseas Contingency Operations (OCO) funding), including a proposed increase in the defense discretionary budget cap of \$54 billion (from \$549 billion to \$603 billion) offset by a reduction in the non-defense spending cap of \$54 billion (from \$516 billion to \$462 billion). Given that the “Budget Control Act of 2011” (P.L. 112-25) sets up a firewall between defense and non-defense funding, the Administration would need legislation in order to conduct such a shift.

The FY 2017 Supplemental Budget Request “includes an additional \$30 billion for the Department of Defense (DOD) to rebuild the U.S. Armed Forces and accelerate the campaign to defeat the Islamic State of Iraq and Syria (ISIS), and an additional \$3 billion for the Department of Homeland Security (DHS) for urgent border protection activities,” including \$1.4 billion to begin construction of the wall with Mexico. \$18 billion of the costs of the request would be offset by corresponding reductions in non-defense accounts for FY 2017. However, these reductions are not identified in this request.

The Administration's summary of the Department of Transportation funding includes the following highlights:

- The President's 2018 Budget requests \$16.2 billion for DOT's discretionary budget, a \$2.4 billion or 13 percent decrease from the 2017 annualized CR level.

- Initiates a multi-year reauthorization proposal to shift the air traffic control function of the Federal Aviation Administration to an independent, non-governmental organization, making the system more efficient and innovative while maintaining safety. This would benefit the flying public and taxpayers overall.
- Restructures and reduces Federal subsidies to Amtrak to focus resources on the parts of the passenger rail system that provide meaningful transportation options within regions. The Budget terminates Federal support for Amtrak's long distance train services, which have long been inefficient and incur the vast majority of Amtrak's operating losses. This would allow Amtrak to focus on better managing its State-supported and Northeast Corridor train services.
- Limits funding for the Federal Transit Administration's Capital Investment Program (New Starts) to projects with existing full funding grant agreements only. Future investments in new transit projects would be funded by the localities that use and benefit from these localized projects.
- Eliminates funding for the unauthorized TIGER discretionary grant program, which awards grants to projects that are generally eligible for funding under existing surface transportation formula programs, saving \$499 million from the 2017 annualized CR level. Further, DOT's Nationally Significant Freight and Highway Projects grant program, authorized by the FAST Act of 2015, supports larger highway and multimodal freight projects with demonstrable national or regional

benefits. This grant program is authorized at an annual average of \$900 million through 2020.

EPA and DOT Will Reexamine Car and Light Truck Fuel Standards

Key Points:

- *The Administration will revisit the Obama Administration's fuel standards for cars between 2022 and 2025*

On March 15, the Department of Transportation (DOT) and U.S. Environmental Protection Agency (EPA) announced that they "will revisit the previous administration's rule that finalized standards to increase fuel economy to the equivalent of 54.5 mpg for cars and light-duty trucks by Model Year 2025" in a [joint press release](#) from Secretary of Transportation Elaine Chao and EPA Administrator Scott Pruitt. The action announced by the agency's might lead to a reversal of former EPA Administrator Gina McCarthy's January 2017 [final determination](#) that the 2012 [fuel standards requirements for model year 2022-2025 vehicles](#) are "appropriate."

The agencies explained that "[t]he Midterm Evaluation process that is being revisited today, was established as a part of the 2012 final greenhouse gas emissions standards for model years 2017-2025." The agencies stated that "[t]his requires EPA to determine no later than April 1, 2018, whether the 2022-2025 standards established are appropriate." The agencies stated that "[t]he action the agency is taking today will ensure that deadline is met...[and] [i]f the agency believes that the final determination issued by the previous administration is not realistic, it would submit a new proposal for public comment."

The DOT and EPA also released [notice](#) of the Midterm Evaluation for publication in the *Federal Register* of the EPA’s “intention to reconsider the Final Determination of the MidTerm Evaluation of greenhouse gas (GHG) standards for model year (MY) 2022-2025 light-duty vehicles and to coordinate its reconsideration with the parallel process to be undertaken by the DOT’s National Highway Traffic Safety Administration (NHTSA) regarding Corporate Average Fuel Economy (CAFE) standards for cars and light trucks for the same model years.”

UAV Hearing

Key Points:

- *Members and witnesses focused on FAA regulation of drones and possible impediments to technological advances*

On March 15, the Senate Commerce, Science and Transportation Committee held a [hearing](#) entitled “UAVs: Innovation, Integration, Successes, and Challenges.” Topics discussed in the hearing included, but were not limited to: (1) Infrastructure Inspection; (2) “Micro” UAVs; (3) Mitigation Technologies and Airspace Concerns; (4) Privacy Concerns and Illicit Use; (5) Efforts by the FAA, Interagency Cooperation, and Regulatory Enforcement; (6) Beyond the Visible Line of Sight (BVLOS); (7) Regulatory Consistency and Concerns; (8) Emergency Response and Disaster Relief Applications; (9) Agricultural Applications; (10) Employee Safety Applications; (11) Workforce Training; (12) UAV Maintenance Hubs.

Chairman John Thune (R-SD) [stated](#) that unmanned aerial vehicles (UAVs) or “drones” have the capability to change the way companies do business. He noted that thousands of drones have been sold to recreational users across the country, driving

safety innovations that are advancing faster than the pace of legislation to keep pace.

Ranking Member Bill Nelson (D-FL) [stated](#) that the 2016 Federal Aviation Administration (FAA) reauthorization, the “FAA Extension, Safety, and Security Act of 2016” (P.L. 114-190), included a number of proactive provisions to address drone safety issues related to interference with inbound and outbound aircraft. He noted that drone monitoring technology is advancing, describing one Florida company that has recently produced bird radar nearly able to detect individual UAVs.

Federal Aviation Administration’s Office of Unmanned Aircraft Systems Director Earl Lawrence said the U.S. is the global leader in UAV technology and that the FAA is ensuring the U.S. maintains this role by working with UAV stakeholders. He noted that the FAA has instituted some of the world’s first UAV regulations by mandating the registration of small personal drones as well as small UAV operations. Lawrence said further research is needed to advance additional regulations, noting that robust academic study is currently being conducted in partnership with the FAA to evaluate UAV technology. He stated that the FAA and the National Aeronautics and Space Administration (NASA) have established research teams to address low-altitude UAV traffic management (UTM). He said the FAA has chartered a Drone Advisory Committee (DAC) to build consensus recommendations for the FAA. He noted that the agency is working with other federal partners to address industry concerns.

Precision Hawk USA Inc. Legal and Policy Affairs Vice President Diana Marina Cooper argued that Congress must take certain steps to realize the “immense economic potential of

this nascent industry.” She stated that Precision Hawk USA, Inc. partners with various industries to advance commercial goals, noting that individual farmers and large agribusinesses are leveraging UAVs to their benefit in a number of areas. She said she is pleased to collaborate with Kansas State University in the FAA’s Pathfinder program to test new UAV technology and collect data for the development of new UAV safety standards. Cooper added that Precision Hawk is participating in NASA’s UTM program, noting that some UTM components have already been fully commercialized, namely precision avoidance technology. She thanked the Committee for directing the FAA to initiate a two-year UTM pilot program. She stated that a nationwide UTM system should be implemented in the near future, arguing that UTM implementation will address safety, security and privacy concerns. She warned that without new regulations and a long-term vision for the integration of UAV technology, the American drone market will stall and other countries will take the lead.

Upcoming Hearings and Events

March 21

Railroad Technologies: The House Transportation and Infrastructure Committee’s Railroads, Pipelines, and Hazardous Materials Subcommittee will hold a [roundtable](#) titled “Emerging Railroad Technologies.”

March 22

Coast Guard: The Senate Commerce, Science & Transportation Committee’s Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee will hold a [hearing](#) titled “State of the Coast Guard: Ensuring Military, National Security, and Enforcement Capability and Readiness.”

March 23

FAA Reauthorization: The Senate Commerce, Science & Transportation Committee’s Aviation Operations, Safety, and Security Subcommittee will hold a [hearing](#) titled “FAA Reauthorization: Perspectives on Improving Airport Infrastructure and Aviation Manufacturing.”

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

TECHNOLOGY

Bossert Discusses Trump Administration Approach To Cybersecurity

Key Points:

- *The President’s top cybersecurity advisor suggests the pending cybersecurity EO will resemble the second leaked draft*
- *Bossert discussed the challenges to modernizing federal systems and IT*

On March 15, Assistant to the President for Homeland Security and Counterterrorism Thomas Bossert made remarks at a Center for Strategic and International Studies (CSIS) [event](#) on cybersecurity and discussed components of a cybersecurity executive order (EO) at a high level and how the FY 2018 budget request will emphasize cybersecurity. However, Bossert did not discuss the timing of a possible EO.

In his remarks, Bossert touched on a number of facets, including

- sketching out the parameters of a cybersecurity EO that seemed to match the details of the second leaked draft EO, including:
 - Requiring use by federal agencies of the Framework for

- Improving Critical Infrastructure Cybersecurity
- Tasking federal agencies with assessing and communicating their current cybersecurity risks and risk management activities to the White House
 - An efforts to combat botnets
 - Requiring agencies and departments to determine current authority and means to assist the owners and operators of critical cyber infrastructure
- stressing that the FY 2018 budget request would boost funding for cybersecurity, but he acknowledged that increasing funding for modernization of older systems would be difficult:
 - “Cybersecurity will be funded through the Department of Defense (DOD) and the Department of Homeland Security (DHS). Homeland Security will be funded. Defense will be funded. This is not just simply an exercise in defense readiness. This is an exercise in protecting America.”
 - “[W]e do need to address unmet needs in a budgetary matter in a regular ongoing basis as we assess risk and determine insufficiencies on behalf of the entire federal network as opposed to some individual agency process where we hold them accountable but then don’t necessarily give them the money and resources to carry out all of their missions in addition to their cybersecurity responsibilities. So that’s not a call for more money. It’s a call for efficiency. It’s tied hand in hand with modernization. Modernization is going to have a big price tag. But in the interim, we’re going to need a way to meet unmet needs with unrealized threats and unmitigated risks...”
 - explaining how the Trump Administration will approach cybersecurity across the federal government:
 - “[W]e will hold the entire federal network as an enterprise and view it as something that needs to be defended as such. We can no longer dream away the notion that we will have cybersecurity expertise in terms of capital investment and human investment resident at 190 or 220 federal agencies. It would be very difficult to achieve and sustain that, and it would be unwise for us to attempt to do it on behalf of the taxpayer. So shared services will be a fundamental requirement.”
 - touching on the Administration’s plans to develop a deterrence strategy to help defend and secure U.S. systems

Annual FISMA Report Released

Key Points:

- *In its annual report to Congress, the Administration identifies only 16 major incidents in the last fiscal year among more than 30,000*
- *The Administration enumerates ongoing challenges and initiatives to combat them*

Late last week, the Trump Administration has released the FY 2016 “[Federal Information Security Modernization Act of 2014 Annual Report to Congress](#),” which details the number of cybersecurity incidents at Federal civilian agencies during the last fiscal year. The document also provides a high-level review of actions taken by the Obama Administration to address cybersecurity (e.g. the Cybersecurity National Action Plan and revision of the Office of Management and Budget’s Circular A-130.)

In FY 2016, the Federal civilian agencies reported 30,899 incidents to the Department of Homeland Security’s (DHS) U.S. Computer Emergency Readiness Team (US-CERT), 16 of which were deemed “major;” however, because of revised reporting criteria for agencies those incidents “that did not have an impact on an agency” were not reported. Furthermore, the incidents are categorized differently in the report as now the Administration is using “attack vector[s]” to sort incidents (e.g. phishing being differentiated from spoofing attacks); hence, it is not possible to compare this report to others to determine trend lines.”

Otherwise, the FISMA report “highlights agencies’ performance improvements across several key cybersecurity areas, including agency implementation of:

- Information Security Continuous Monitoring capabilities that provide situational awareness of the computers, servers, applications, and other hardware and software operating on agency networks.
- Multi-factor authentication credentials that reduce the risk of unauthorized access to data by limiting users’ access to the resources and information required for their job functions.
- Anti-Phishing and Malware Defense capabilities that reduce the risk of

compromise through email and malicious or compromised web sites.

The report also provides a breakdown of each Federal civilian agency’s cybersecurity according to CIO Assessment, IG Assessment, Cross-Agency Priority (CAP) Goal Metrics, and US-CERT Incidents.

DOJ Indicts Yahoo Hackers

Key Points:

- *Three Russian and one Canadian-Kazakh hackers are indicted by a grand jury for hacking into more than 500 million Yahoo accounts in 2014*
- *Two of the hackers are Russian Federal Security Service officers*

On March 15, the Department of Justice (DOJ) announced that a grand jury indicted four hackers for “steal[ing] information from about at least 500 million Yahoo accounts and then us[ing] some of that stolen information to obtain unauthorized access to the contents of accounts at Yahoo, Google and other webmail providers, including accounts of Russian journalists, U.S. and Russian government officials and private-sector employees of financial, transportation and other companies” according to a [press release](#). The four hackers include “two officers of the Russian Federal Security Service (FSB),” a Russian national, and a Canadian-Kazakh dual national. The DOJ added that “[a]s alleged in the [Indictment](#), the conspiracy began at least as early as 2014 and, even though the conspirators lost their access to Yahoo’s networks in September 2016, they continued to utilize information stolen from the intrusion up to and including at least December 2016.”

The DOJ stated that “According to the allegations of the Indictment:

- The FSB officer defendants, Dmitry Dokuchaev and Igor Sushchin, protected, directed, facilitated and paid criminal hackers to collect information through computer intrusions in the U.S. and elsewhere. In the present case, they worked with co-defendants Alexsey Belan and Karim Baratov to obtain access to the email accounts of thousands of individuals.
- Belan had been publicly indicted in September 2012 and June 2013 and was named one of FBI's Cyber Most Wanted criminals in November 2013. An Interpol Red Notice seeking his immediate detention has been lodged (including with Russia) since July 26, 2013. Belan was arrested in a European country on a request from the U.S. in June 2013, but he was able to escape to Russia before he could be extradited.
- Instead of acting on the U.S. government's Red Notice and detaining Belan after his return, Dokuchaev and Sushchin subsequently used him to gain unauthorized access to Yahoo's network. In or around November and December 2014, Belan stole a copy of at least a portion of Yahoo's User Database (UDB), a Yahoo trade secret that contained, among other data, subscriber information including users' names, recovery email accounts, phone numbers and certain information required to manually create, or "mint," account authentication web browser "cookies" for more than 500 million Yahoo accounts.
- Belan also obtained unauthorized access on behalf of the FSB conspirators to Yahoo's Account Management Tool (AMT), which was a proprietary means by which Yahoo made and logged changes to user accounts. Belan, Dokuchaev and Sushchin then used the stolen UDB copy and AMT access to locate Yahoo email accounts of interest and to mint cookies for those accounts, enabling the co-conspirators to access at least 6,500 such accounts without authorization.
- Some victim accounts were of predictable interest to the FSB, a foreign intelligence and law enforcement service, such as personal accounts belonging to Russian journalists; Russian and U.S. government officials; employees of a prominent Russian cybersecurity company; and numerous employees of other providers whose networks the conspirators sought to exploit. However, other personal accounts belonged to employees of commercial entities, such as a Russian investment banking firm, a French transportation company, U.S. financial services and private equity firms, a Swiss bitcoin wallet and banking firm and a U.S. airline.
- During the conspiracy, the FSB officers facilitated Belan's other criminal activities, by providing him with sensitive FSB law enforcement and intelligence information that would have helped him avoid detection by U.S. and other law enforcement agencies outside Russia, including information regarding FSB investigations of computer hacking and FSB techniques for identifying criminal hackers. Additionally, while working with his FSB conspirators to compromise Yahoo's network and its users, Belan used his access to steal financial information such as gift card and credit card numbers from webmail

accounts; to gain access to more than 30 million accounts whose contacts were then stolen to facilitate a spam campaign; and to earn commissions from fraudulently redirecting a subset of Yahoo's search engine traffic.

- When Dokuchaev and Sushchin learned that a target of interest had accounts at webmail providers other than Yahoo, including through information obtained as part of the Yahoo intrusion, they tasked their co-conspirator, Baratov, a resident of Canada, with obtaining unauthorized access to more than 80 accounts in exchange for commissions. On March 7, the Department of Justice submitted a provisional arrest warrant to Canadian law enforcement authorities, requesting Baratov's arrest. On March 14, Baratov was arrested in Canada and the matter is now pending with the Canadian authorities.

Facial Recognition Technology: The House Oversight and Government Reform Committee will hold a [hearing](#) titled "Law Enforcement's Use of Facial Recognition Technology."

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

This Week in Congress was written by Laura Simmons.

Upcoming Hearings and Events

March 21

Broadband Deployment: The House Energy & Commerce Committee's Communications and Technology Subcommittee will hold a [hearing](#) titled "Broadband: Deploying America's 21st Century Infrastructure."

March 22

Cybersecurity Technology: The Senate Commerce, Science & Transportation Committee will hold a [hearing](#) titled "The Promises and Perils of Emerging Technologies for Cybersecurity."

Cyber Threats: The House Homeland Security Committee will hold a [hearing](#) titled "A Borderless Battle: Defending Against Cyber Threats."