This Week in Congress

- **House** – The House passed **H.R. 5682**, to approve the Keystone XL Pipeline by a vote of 252 – 161.
- House Republicans elected John Boehner (R-OH) as Speaker of the House, Kevin McCarthy (R-CA) as Majority Leader, Steve Scalise (R-LA) as Majority Whip, Cathy McMorris Rodgers (R-WA) as Conference Chair, Luke Messer (R-IN) as Policy Committee Chairman, Lynn Jenkins (R-KS) as Conference Vice-Chair, and Greg Walden as Chairman of the National Republican Campaign Committee.

- **Senate** – The Senate filed cloture on the motion to proceed to the “USA Freedom Act” (S.2609) and reached an agreement to vote on **S.2280**, a bill to approve the Keystone XL Pipeline. The Senate invoked cloture on the motion to concur in the House amendment to the “Child Care and Development Block Grant Act of 2014” (S. 1086) by a vote of 96-1.

- Both parties held their Leadership elections, with Republicans electing Mitch McConnell (R-KY) as Majority Leader, John Cornyn (R-TX) as Majority Whip, John Thune (R-SD) as Senate Republican Conference Chairman, John Barrasso (R-WY) as Senate Republican Policy Chairman, Roy Blunt (R-MO) as Senate Republican Conference Vice Chairman, and Roger Wicker (R-MS) as Chairman of the Republican Senatorial Campaign Committee. Democrats elected Harry Reid (D-NV) as Minority Leader, Dick Durbin (D-IL) as Minority Whip, Charles Schumer (D-NY) as Vice Chair of Democratic Caucus & Chairman of Democratic Policy and Communications (DPCC), Debbie Stabenow (D-MI) as Vice Chair of DPCC, Elizabeth Warren (D-MA) was elected to DPCC in a newly created leadership position, and John Tester (D-MT) was elected Chairman of the Democratic Senatorial Campaign Committee.

Next Week in Congress

- **House** – The House is expected to consider the “EPA Science Advisory Board Reform Act of 2013” (H.R. 1422); the “Secret Science Reform Act of 2014” (H.R. 4012); and the “Promoting New Manufacturing Act” (H.R. 4795) pursuant to a rule.

- **Senate** – The Senate will resume consideration of the “Child Care and Development Block Grant Act of 2014” (S.1086) on November 17 and will vote on a bill to approve the Keystone XL Pipeline on November 18.

TAXES

Lame Duck Deal on Tax Extenders Remains Fluid as Negotiations Continue

Key Points:
- The potential for a lame duck deal on tax extenders remains fluid as parties continue to negotiate whether certain provisions will be...
made permanent, or to the contrary, be allowed to permanently expire

The potential for a lame duck deal on tax extenders remains very fluid. On one side of the debate, conservative Republicans have pushed for waiting until 2015 and reconsidering some of the extenders like the wind production tax credit. On that note, Senator John Thune (R-SD), a supporter of the wind production tax credit suggested perhaps a five year phase-out as a middle ground. A potential fallback to that position is a one-year extension for just 2014, which would mean that 2015 would begin with tax extenders again being expired. The Senate position, on a relatively bipartisan basis, remains a two-year extension (2014 and 2015) of almost all tax extenders (the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act (S. 2260)), though Senate Finance Committee Ranking Member Orrin Hatch (R-UT) suggested this week he is considering either a one or two year extension.

Furthermore, this week Senate Finance Committee Chairman Ron Wyden (D-OR) said he is willing to consider the House Republican position to make some tax extenders permanent and further suggested an agreement is likely in coming weeks. Also this week, White House officials and Senate Democratic leaders began discussing a list of priorities to push through in the lame duck session, including tax extenders. As a result, the range of options remains somewhere between no action and a two-year bill with some permanent measures, but resolution is not likely until December.

Congressional Republicans Close the Door on Action in Lame Duck on Internet Sales Tax Measure

Key Points:

- Reid abandons efforts to address a measure that combines the Marketplace Fairness Act with the Internet Tax Freedom Forever Act after Republican objections

This week, Senate Majority Leader Harry Reid (D-NV) began the process of advancing the “Marketplace and Internet Tax Fairness Act,” (S. 2609) which consists of the “Marketplace Fairness Act” (S. 743,) which would allow states to collect sales taxes from certain out-of-state sellers where there is no direct nexus or physical presence, and the “Internet Tax Freedom Forever Act” (S. 1431) which bans states from taxing Internet access and placing multiple or discriminatory taxes on e-commerce. In response, Republican supporters of S. 743 asked Reid not to move the bill forward reasoning it is more important to focus on advancing an extension of S. 1431. The bill was dropped thereafter.

Moreover, Speaker of the House John Boehner (R-OH) said that the “Marketplace Fairness Act” would not move forward in the House this year. The Senate passed the “Marketplace Fairness Act” last year as a stand-alone measure, which then stalled in the House after leadership, specifically Boehner, expressed

Upcoming Dates

December 11: Current CR expires as does authority to train and arm Syrian rebels
March 15, 2015: Debt limit suspension expires
March 31, 2015: SGR patch expires (aka Doc Fix)
May 2015: Highway Trust Fund patch and MAP-21 extension expires
June 30, 2015: Export-Import Bank reauthorization expires
significant concerns about the bill. Those concerns clearly remain for Boehner. The less controversial “Internet Tax Freedom Forever Act” was included in the “Continuing Appropriations Resolution, 2015” (H.J.Res.124) that passed in September and runs through December 11. Legislators will have to act to extend the “Internet Tax Freedom Forever Act” during the lame duck session.

Upcoming Hearings and Events

November 18

Disasters and Tax Relief: The Senate Finance Committee’s Taxation and Oversight Subcommittee will hold a hearing titled “Tax Relief After a Disaster: How Individuals, Small Businesses and Communities Recover.” Scheduled witnesses include: Karl F. Dean, Mayor, Metropolitan Government of Nashville and Davidson County; Robert G. Loughery, Chairman, Bucks County Board of Commissioners; Sean T. Cronin, Executive Director, St. Vrain and Left Hand Water Conservancy District; Steve Ellis, Vice President, Taxpayer for Common Sense; Troy K. Lewis, Chairman, AICPA Tax Executive Committee

For more information about tax issues you may email or call Christopher Hatcher at 202-659-8201. Tess Illos contributed to this report.

APPROPRIATIONS

Legislators Aim to Address Appropriations Bill in Advance of December 11 Lapse

Key Points:
- House and Senate leadership are hopeful they will reach an agreement on an omnibus package to fund the government for the remainder of FY 2015 but ultimate success will depend on the course of negotiations over the next few weeks

House and Senate leaders said this week they would like to reach an agreement to close out FY 2015 appropriations and take it off the table for 2015. Both Senate Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) said that appropriations remain a top priority in the lame duck session, and House Republican leadership has expressed similar views.

Though there is some agreement at the leadership level, until Members decide how they would like to proceed, it is not clear if Congress will pursue an omnibus spending measure for the remainder of FY 2015 or a continuing resolution (CR) for some shorter term. Furthermore, if the President continues in his pursuit to issue an executive order on immigration reform, Congressional Republicans will be increasingly likely to come to an agreement on an omnibus package, making a CR more likely.

FINANCIAL SERVICES

House Financial Services Committee Examines Terrorist Financing

Key Points:
- Several Committee Republican Members raise concerns with Treasury’s efforts to cut off ISIS’s access to the financial system.

On November 13, the House Financial Services held a hearing entitled: “Terrorist Financing and the Islamic State.” The hearing focused on the Treasury Department’s role in helping combat terrorism and the Islamic State, Administration policy to combat terrorism, and whether more tools are needed to properly “cut off” funding streams for terrorists.
House Financial Services Chairman Jeb Hensarling (R-TX) said the Committee will hold an additional hearing on this issue in the future, including a classified hearing early in the 114th Congress. He suggested that the “Islamic State of Iraq and the Levant” (ISIL), also known as “Islamic State of Iraq and Syria” (ISIS) is internally financed and has assets of nearly $2 billion. He stressed the need to prevent ISIL and other terrorist groups from using the financial system to finance their operations. He suggested that the “tools we have used in the past may not be suitable for the future.”

Ranking Member Maxine Waters (D-CA) stressed the need to cut off ISIL’s ability to fund itself through oil sales, extortion and kidnapping. She stated that changes may be needed to anti-money laundering laws. She noted that she introduced the “Holding Individuals Accountable and Deterring Money Laundering Act” (H.R. 3317) to close loopholes, encourage the flow of information, and strengthen civil powers to hold bank executives accountable.

Under Secretary of Treasury for Terrorism and Financial Intelligence David Cohen outlined the Treasury’s efforts in combatting ISIL. He noted that Treasury’s strategy consists of three main elements: (1) disrupting ISIL’s revenue streams; (2) limiting what ISIL can do with the funds it collects by restricting its access to the international financial system; and (3) imposing sanctions on ISIL’s senior leadership and financial facilitators to disrupt their ability to operate.

Financial Stability Oversight Council Holds Meetings with Stakeholders on the Non-Bank Designation Process

Key Points
- Financial Stability Oversight Council (FSOC) held a series of meetings with stakeholders regarding the systemically important financial institution (SIFI) designation process.

On November 12, Financial Stability Oversight Council (FSOC) member staff and member agencies’ staff held a series of meetings with industry organizations and other stakeholders regarding the systemically important financial institution (SIFI) process for non-bank financial institutions.

A Treasury press release indicated that discussions have focused on three main issues: “engagement with companies under review during Stages 2 and 3 of the process; the annual reevaluations of previously designated companies; and the balance between informing the public of the Council’s work and protecting confidential, market-sensitive information relating to individual companies under consideration.”

Secretary of the Treasury and FSOC Chairman Jacob Lew previously indicated that the Council was reviewing suggestions for improving the designation process.

Consumer Financial Protection Bureau Releases Proposal on Prepaid Products

Key Points:
- CFPB releases proposal on prepaid products, study on prepaid accounts, and convenes hearing on prepaid products.

In conjunction with a November 13 field hearing the Consumer Financial Protection Bureau (CFPB) released a proposed rule on prepaid accounts. CFPB Director Richard Cordray explained in his remarks that the
proposed rule covers prepaid cards in addition to mobile and electronic prepaid accounts, as well as prepaid cards that are used to distribute payroll wages, certain government payments, child support payments, and government benefits that are not needs-tested. Cordray added that under the proposed rule, consumers would have new protections if their prepaid card is lost or stolen, with new disclosures to provide consumers with clear information about the costs and risks involved in opening a prepaid account. He explained that if a consumer chose to connect a credit product to their prepaid account, they would receive the same protections that credit card consumers have. Cordray further explained that the proposal includes a model form with easy-to-understand disclosures designed to help consumers by highlighting common costs like monthly fees, fee for purchase, ATM withdrawal cost, and the fee to reload cash on to the card.

In addition, the CFPB released a study on “Prepaid Account Agreements” on “current industry practices” regarding the potential benefits and costs of extending various regulatory protections to prepaid accounts. In the study, CFPB staff “examined certain key provisions in the account agreements of prepaid cards and other similar prepaid programs currently available to consumers.”

**Upcoming Hearings and Events**

**November 18**

**International Regulation of Insurance:** The House Financial Services Committee’s Housing and Insurance Subcommittee will hold a hearing entitled: “The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers, Part II”. Witnesses to testify include: Michael McRaith, Director, Federal Insurance Office, Department of the Treasury; Neil Breslin, Senator, State of New York; Michael Consedine, Commissioner, Pennsylvania State Insurance Department; and Thomas Sullivan, Senior Advisor, Board of Governors of the Federal Reserve System.

**November 19**

**FHFA Oversight:** The Senate Banking Committee will hold a hearing on the “The Federal Housing Finance Agency: Balancing Stability, Growth, and Affordability in the Mortgage Market.” Federal Housing Finance Agency Director Melvin Watt is to testify.

**Flood Insurance:** The House Financial Services Committee’s Subcommittee on Housing and Insurance will hold a hearing entitled: “Opportunities for a Private and Competitive Sustainable Flood Insurance Market”.

**SEC Meeting on Reg SCI:** The Securities and Exchange Commission (SEC) will hold an open meeting to consider “whether to adopt Regulation Systems Compliance and Integrity (Regulation SCI) under the Securities Exchange Act of 1934 (‘Exchange Act’) and conforming amendments to Regulation ATS under the Exchange Act.”

**November 20**

**Financial Institutions Involvement With Physical Commodities:** The Senate Homeland Security & Governmental Affairs Committee’s Permanent Subcommittee on Investigations will hold a two-day hearing entitled: “Wall Street Bank Involvement With Physical Commodities”. The hearing is to examine “the extent to which banks and their holding companies own physical commodities like oil, natural gas, aluminum and other industrial metals, as well as own or control...
businesses like power plants, oil and gas pipelines, and commodity warehouses.”

**FDIC Advisory Meeting on Banking:** The Federal Deposit Insurance Corporation’s (FDIC) Advisory Committee on Community Banking will hold a meeting on policy issues that impact small community banks, with a focus on rural areas.

**SEC Government-Business Forum on Small Business Capital Formation:** The Securities and Exchange Commission (SEC) will hold its annual “SEC Government-Business Forum on Small Business Capital Formation.” The Forum is to provide a “platform to highlight perceived unnecessary impediments to small business capital formation and address whether they can be eliminated or reduced.”

**November 21**

**Financial Institutions Involvement With Physical Commodities:** The Senate Homeland Security & Governmental Affairs Committee’s Permanent Subcommittee on Investigations will hold the second of a two-day hearing entitled: “Wall Street Bank Involvement With Physical Commodities”. The hearing is to examine “the extent to which banks and their holding companies own physical commodities like oil, natural gas, aluminum and other industrial metals, as well as own or control businesses like power plants, oil and gas pipelines, and commodity warehouses.”

**Federal Reserve Bank of New York and Bank Regulation:** The Senate Banking Committee’s Financial Institutions and Consumer Protection Subcommittee may hold a hearing on regulatory capture and recent media reports of the Federal Reserve Bank of New York.

For more information about financial services issues you may email or call Joel Oswald at 202-659-8201. Eric Robins, Rebecca Konst, and Alex Barcham contributed to the articles.

**ENERGY AND ENVIRONMENT**

**Keystone XL Legislation Emerges as First Major Lame-Duck Issue**

Key Points:
- Both the House and Senate turned to legislation to approve the Keystone XL Pipeline this week.
- The legislation would approve construction of the pipeline across the U.S.-Canada border. TransCanada applied for a cross-border permit with the State Department in 2008.
- The White House has not formally announced whether the President would veto the legislation if it reached his desk. However, President Obama criticized the pipeline in remarks at a press conference in Myanmar.

Today, the House of Representatives passed a bill to approve the Keystone XL Pipeline (H.R. 5862) by a 252-161 vote. The bill would provide federal authorization to TransCanada to construct the Keystone XL pipeline across the U.S.-Canada border.

Before taking final action on the bill, the House voted to reject a motion to recommit the bill offered by Representative Lois Capps (D-CA). The motion to recommit would have amended the bill to require TransCanada to “certify to the President that diluted bitumen and other materials …that are transported through the Keystone XL pipeline will be treated as crude oil for the purposes of determining contributions that fund the Oil Spill Liability Trust Fund.”
During House floor debate, Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) contended that “[t]here is simply no further reason to delay this important project, especially given the numerous benefits it will provide our Nation.” Representative Peter DeFazio (D-OR) argued that the bill would help “a foreign entity that won’t pay taxes that other oil companies and others who ship by pipelines will be required to pay, a foreign entity that will be given the right to take the private property of U.S. taxpayers and residents”.

The Senate agreed to vote on the legislation on Tuesday, November 18, however it is unclear whether Senate Energy and Natural Resources Committee Chair Mary Landrieu (D-LA) and other proponents have the 60 votes necessary to advance the bill to final passage.

As of late this morning, the White House had not yet issued a Statement of Administration Policy on the legislation, which would indicate whether or not the President would veto it if it reached his desk. However, while at a press conference in Myanmar, President Barack Obama spoke critically about the Keystone XL project. The President declared “[u]nderstand what this project is: it is providing the ability of Canada to pump their oil, send it through our land, down to the Gulf… where it will be sold everywhere else…[i]t doesn’t have an impact on U.S. gas prices”.

U.S.-China Climate Announcement Draws GOP Criticism and Praise from Democrats

Key Point:
- The U.S. and China issued a joint announcement of planned reductions in greenhouse gas emissions over the next 10-15 years.

On Tuesday, The United States and China issued a “Joint Announcement on Climate Change.” The announcement specifies:

- “The United States intends to achieve an economy-wide target of reducing its emissions by 26%-28% below its 2005 level in 2025 and to make best efforts to reduce its emissions by 28%.”
- “China intends to achieve the peaking of CO2 emissions around 2030 and to make best efforts to peak early and intends to increase the share of non-fossil fuels in primary energy consumption to around 20% by 2030.”

A White House “Fact Sheet” on the announcement elaborates: “The new U.S. goal will double the pace of carbon pollution reduction from 1.2 percent per year on average during the 2005-2020 period to 2.3-2.8 percent per year on average between 2020 and 2025. This ambitious target is grounded in intensive analysis of cost-effective carbon pollution reductions achievable under existing law and will keep the United States on the right trajectory to achieve deep economy-wide reductions on the order of 80 percent by 2050.”

House Energy and Commerce Committee Chairman Fred Upton (R-MI) and Energy and Power Subcommittee Chairman Ed Whitfield (R-KY) issued a statement responding to the announcement. They asserted: “The Chinese are promising to double their emissions while the administration is going around Congress to impose drastic new regulations inhibiting our own growth and competitiveness.” Outgoing Energy and Commerce Committee Ranking Member Henry Waxman (D-CA) however praised the announcement in his own statement, saying that “is game-changing leadership by the world’s two biggest emitters,”
and claiming that “[h]istory may look back and say this was the turning point on climate.”

Upcoming Hearings and Events:

**November 19**

**Volcano Hazards:** The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a hearing titled “Volcano Hazards: Exploring the National Preparation and Response Strategy”.

**Cyanotoxins:** The House Energy and Commerce Committee’s Energy and Power Subcommittee will hold a hearing titled “Cyanotoxins in Drinking Water”.

**November 20**

**Midway Atoll:** The House Natural Resources Committee’s Fisheries, Wildlife, Oceans, and Insular Affairs Subcommittee will hold a hearing titled “Is the Midway Atoll National Wildlife Refuge Being Properly Managed?”

For more information about energy and environment issues you may email or call Frank V’lossak at 202-659-8201. Updates on energy and environment issues are available during the week on twitter.

**DEFENSE**

HASC ISIL Hearing

**Key Points:**

- Hagel and Dempsey update the Committee on the Administration’s ISIL operations and strategy
- Hagel reiterated that the campaign against ISIL will take place over a longer period of time than months and Dempsey stressed the collaborative part of the Administration’s strategy

At a November 13 hearing, the House Armed Services Committee heard testimony from Secretary of Defense Chuck Hagel and the Chairman of the Joint Chiefs of Staff General Martin Dempsey regarding the Obama Administration’s strategy to combat the Islamic State of Iraq and the Levant (ISIL).

Chairman Buck McKeon (R-CA) noted that “[t]he Overseas Contingency Operations (OCO) budget amendment that we received Monday afternoon pays for the air campaign and adds more advisers…[b]ut it does not appear to reflect any changes in strategy.” He stated that “[h]owever, we know that targeting and air strikes are getting harder as ISIL changes tactics…[a]nd limiting our advisers to headquarters buildings will not help newly-trained Iraqi and Syrian opposition -- their forces to hold terrain, much less defeat ISIL in the field.” McKeon asserted that “[y]et the President has doubled down on policy of no boots on the ground despite any advice you have given him.” He claimed that “[s]o my fundamental question is how can you successfully execute the mission you've been given to degrade and ultimately destroy ISIL when some of your best options are taken off the table.”

Representative Loretta Sanchez (D-CA) (reading Ranking Member Adam Smith’s (D-WA) opening statement) stated that “we have many decisions to make about combating the threat of ISIL.” She noted that “[t]he President, for example, has requested that Congress authorize the use of military force against the group, rather than relying on the 2001 AUMF to combat al Qaeda…[a]nd] I agree that Congress should debate and pass an Authorization for Use of Military Force (AUMF), but I am skeptical that we can assemble a majority to do so.” Sanchez stated that “[t]he President has also requested $1.6
billion to train the Iraqi Security Forces and we in Congress need to reauthorize the Syria Train and Equip authority.” She said that “[w]hile I support each of these requests, the totality has left many of my colleagues, and many of the American people, concerned that we are signing up for the War in Iraq all over again.”

Hagel said that the Obama Administration and “I have been very clear that our campaign against ISIL will be long and will be difficult…[and] [w]e are three months into a multiyear effort.” He claimed that “[s]ince I testified before this Committee two months ago, our campaign against ISIL has made progress…[and] ISIL’s advance in parts of Iraq has stalled and in some cases been reversed by Iraqi, Kurdish and tribal forces supported by U.S. and coalition airstrikes.” Hagel contended that “[a]s a coalition and as a nation, we must prepare for a long and difficult struggle…[and] [t]here will be setbacks, but we are seeing steady and sustainable progress.”

Dempsey stated that “[b]roadly, our strategy is to reinforce a credible partner in the Iraqi government and assist regional stakeholders to address the 20 million disenfranchised Sunnis who live between Damascus and Baghdad…[and] [t]hey have to reject the ISIL ideology from within.” He claimed that “[w]e are implementing an Iraq-first strategy enabled by the coalition, but as I’ve said before, it’s not Iraq-only strategy; it will evolve with the coalition and with multiple lines of effort and overtime.” Dempsey asserted that “[w]e need to squeeze ISIL from multiple directions. We need to deny them safe haven and disrupt their activities in Syria…[and] [w]e need to build up a Syrian opposition to confront them.” He contended that “we need to take a long view…[and] [a]chieving the outcome we desire requires that the multiple lines of effort all have to move apace of each other.”

### FY 2015 OCO ISIL Request

**Key Points:**
- The DOD submits a $5.6 billion OCO request to fund operations against ISIL.
- In total, the Obama Administration has requested $63.6 billion for OCO accounts for FY 2015.

This week, the Obama Administration requested $5.6 billion in Overseas Contingency Operations (OCO) funding for operations against the Islamic State of Iraq and the Levant (ISIL). Congress could add the Administration’s request to the final funding OCO figures for FY 2015, but it remains to be seen whether Congress will pass a full appropriations bill for the Department of Defense (DOD), perhaps as part of an omnibus, or as a continuing resolution (CR).

Thus far, the DOD has used OCO funds at a rate of an estimated per-day rate $7.6-$10.5 million in operations by ISIL, but to put those figures into broader context, the DOD recently reported spending $4.5 billion per month in Afghanistan in FY 2014 (or $150 million a day.) Moreover, the current CR, the “Continuing Appropriations Resolution, 2015” (H.J.Res.124), provides OCO funds at an annualized level equal to the FY 2014 appropriations of $85.026 billion, which is higher than the FY 2015 OCO request.

On November 10, the Administration transmitted FY 2015 “amendments for the Department of Defense (DOD) and the Department of State and Other International Programs (State/OIP) to fund OCO…[to] provide $5.6 billion for OCO activities to degrade and ultimately defeat ISIL -- including military operations as part of Operation Inherent Resolve” (OIR) according to the cover letter from President Barack Obama. He
said that “this request would provide $5.0 billion for DOD OCO activities in addition to the $58.6 billion DOD OCO request I submitted to the Congress in June 2014, and would result in a total DOD OCO request for FY 2015 of $63.6 billion...$15.8 billion less than the $79.4 billion placeholder for DOD OCO in the FY 2015 Budget.” Obama said that “[t]he request would also provide $520 million for State/OIP OCO activities, which is in addition to the $7.3 billion I requested for State/OIP OCO activities in the FY 2015 Budget and the June budget amendment.”

As part of the submission, Office of Management and Budget Director Shaun Donovan included a letter in which he asserted that “[i]n support of OIR, these amendments request funding for DOD to conduct a range of military operations against ISIL in the Middle East region, including for items such as:

- sustaining personnel forward deployed to the Middle East to provide training, advice, and assistance to partner security forces engaged in the fight against ISIL;
- providing forces with enablers to support operations, especially the intelligence, surveillance, and reconnaissance (ISR) platforms and support that are essential to conduct comprehensive counterterrorism operations;
- replenishing or replacing munitions expended while conducting airstrikes against ISIL, including from Air Force and Navy platforms; and
- financing operations and maintenance costs for air, ground, and naval operations, including: flying hours; ship steaming days; and fuel, supplies, and repair parts.

Donovan added that “[t]he request includes $1.6 billion to establish the Iraq Train and Equip Fund (ITEF).” However, in an interview, DOD Comptroller Michael McCord explained that this portion of the OCO request is “the most time-sensitive” and the DOD “can’t get started in any meaningful way on these train-and-equip programs without new funding and authority.”

Late on November 7, White House Press Secretary Josh Earnest released a statement explaining the Administration’s decision to deploy “up to 1500 additional U.S. military personnel in a non-combat role to train, advise, and assist Iraqi Security Forces, including Kurdish forces.” He added that “[t]he President also authorized U.S. personnel to conduct these integral missions at Iraqi military facilities located outside Baghdad and Erbil.” Earnest stressed that “U.S. troops will not be in combat, but they will be better positioned to support Iraqi Security Forces as they take the fight to ISIL.” He stated that “[t]he President took these decisions at the request of the Iraqi Government and upon the recommendation of Secretary [of Defense Chuck] Hagel and his military commanders based upon the assessed needs of the Iraqi Security Forces.” Earnest claimed that “[t]his mission will be undertaken in coordination with multiple coalition partners and will be funded through the request for an Iraq Train and Equip fund that the Administration will submit to Congress.”

**Upcoming Hearings and Events**

**November 18**
**ISIL in Iraq and Syria:** The Senate Foreign Relations Committee will hold a hearing to discuss countering ISIL in Iraq and Syria.

**Iran Nuclear Talks:** The House Foreign Affairs Committee’s Terrorism,
Nonproliferation, and Trade Subcommittee will hold a hearing to discuss nuclear talks with Iran.

November 19

Syria & Iraq: The House Foreign Affairs Committee’s Middle East and North Africa Subcommittee will hold a hearing to discuss next steps for foreign policy on Syria and Iraq.

November 20
Iran and Global Security: The House Foreign Affairs Committee’s Middle East and North Africa Subcommittee will hold a hearing to discuss what a nuclear Iran deal means for global security.

For more information on defense issues you may email or call Michael Kans at 202-659-8201.

HEALTH

House; Senate Hold Additional Hearings on Ebola Response

Key Points
- President Obama sent a $6.18 billion Emergency Funding Request to Congress to end the Ebola outbreak.
- Members questioned the role of the Ebola coordinator and the international response to the Ebola virus.

On November 5, President Obama sent an emergency funding request to Congress for an additional $6.18 billion to implement strategies to end the Ebola outbreak. The request directs $4.64 billion to immediate needs such as resources for domestic hospitals; appropriate protective equipment; infection control; global health security; and the testing and development of new vaccines, therapeutics, and diagnostics. The remaining $1.54 billion will be placed in a contingency fund to ensure adequate resources are available to respond to the evolving epidemic.

On November 12, the Senate Appropriations Committee held a hearing entitled “U.S. Government Response: Fighting Ebola and Protecting America.” Committee members questioned government representatives from the U.S. Agency for International Development (USAID), the Department of Defense (DOD), the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), and the Department of State on the government's current response to Ebola. Topics discussed in the hearing included: (1) preparedness of the U.S. health care system; (2) U.S. military in West Africa; (3) role of the Ebola Coordinator; (4) quarantine policies; (5) addressing public concerns; (6) Ebola in West Africa; (7) Administration’s funding request; (8) research and development; and (9) private funding for Ebola.

Chairman Barbara Mikulski (D-MD) expressed support for containing Ebola at U.S. points of entry, either through travel bans or enhanced screening and doing everything possible to develop vaccines and treatments. She agreed with the Administration’s funding request, noting the Ebola crisis meets the criteria for emergency funding. Ranking Member Richard Shelby (R-AL) called on the Federal government to respond effectively to protect the American people. He expressed concern health care workers are not adequately protected and suggested implementing an efficient and effective response.
Witness testimony centered on the various tasks being undertaken by U.S. agencies to protect Americans from Ebola and support efforts in West Africa. All witnesses emphasized the importance of stopping the disease at its epicenter in order to ensure the safety of the American public. Some witnesses noted training programs in place for health care workers and first responders in U.S.

Several Members questioned how the funding would be used to ensure American health care workers are protected, particularly if adequate personal protective equipment and training are now being provided. Several also questioned how the funding will be used to support efforts in West Africa and if this level of funding would be adequate to stop the virus. Some Members disputed the necessity of Ebola Coordinator Ron Klain and expressed concern he has not been made available to testify before Congress.

On November 13, the House Foreign Affairs Committee held a hearing entitled “Combating Ebola in West Africa: The International Response.” This hearing examined ongoing international and U.S. efforts to contain this epidemic at its source in West Africa and the Administration’s emergency request for funding. Topics discussed in the hearing included: (1) the Emergency Funding Request; (2) the initial World Health Organization (WHO) response to the Ebola outbreak; (3) the Ebola Czar; (4) a travel ban; and (5) the status of the Ebola outbreak in West Africa.

Chairman Ed Royce (R-CA) criticized the WHO’s response to the Ebola crisis claiming it downplayed its severity and did not “sound the alarm” until it was out of control. He suggested U.S. embassies put additional containment procedures in place including a suspension of visas from infected areas. Ranking Member Eliot Engel (D-NY) emphasized that so long as a virus is rampant in Africa, there is always a chance of Ebola “reaching our shores.” He heralded the U.S. as a leader in the international efforts and expressed support for the Administration’s Emergency Funding Request.

Witness testimony centered on the current efforts by U.S. government agencies to support the fight against Ebola in West Africa. The witnesses noted advancements made in Sierra Leone, Guinea, and Liberia through improvements in training, international coordination, and health facility construction. Testimony described how the Emergency Funding Request would support further efforts in West Africa with emphasis on strengthening the overall health systems in these countries.

Members questioned the witnesses on how the emergency funding would be used in West Africa and priorities going forward. Several raised concerns over reports that the regional staff of WHO mismanaged the crisis in its early stages. Questions also centered on the logistics of the response in West Africa including equipment, hospital locations, international coordination, and health care workers.

**Upcoming Hearings and Meetings**

**November 18**

*Ebola Response Update:* The Oversight and Investigations Subcommittee of House Energy and Commerce Committee hearing titled "Update on the U.S. Public Health Response to the Ebola Outbreak."

*Ebola Outbreak Response:* The Alliance for Health Reform briefing titled "Curbing the Ebola Outbreak: Are We on the Right Track?"

**November 19**
Public Health Preparedness: The Senate Homeland Security and Governmental Affairs Committee hearing titled "Preparedness and Response to Public Health Threats: How Ready Are We?"


HealthCare.gov: The Oversight Subcommittee of House Science, Space and Technology Committee hearing titled "The Role of the White House Chief Technology Officer in the HealthCare.gov Website Debacle."

November 20
Generic Drug Prices: The Primary Health and Aging Subcommittee of Senate Health, Education, Labor and Pensions Committee hearing titled "Why Are Some Generic Drugs Skyrocketing In Price?"

For more information about healthcare issues you may email or call Matthew Hoekstra or George Olsen at 202-659-8201. Nicole Ruzinski contributed to this report.

TRANSPORTATION AND INFRASTRUCTURE

FTA Nomination Hearing

Key Points:
- The Senate Banking Committee may move the Administrator’s FTA head nominee to the Senate floor during the lame duck session and she may be confirmed.

On November 13, the Senate Banking, Housing, and Urban Affairs Committee held a hearing to consider the nomination of Therese McMillan to be Federal Transit Administrator at the Department of Transportation (DOT). McMillan has been serving as acting Administrator since former Federal Transit Administration (FTA) Peter Rogoff stepped down to become the Under Secretary of Transportation for Policy in July. It is possible that McMillan’s nomination could be confirmed by the full Senate during the lame duck as her nomination is reportedly acceptable to Senate Republicans.

In her opening statement, McMillan stressed that public transit is essential to relieving traffic congestion, moving goods that fuel the economy, providing mobility to lower income or disabled individuals, and “linking individuals to jobs, education, and healthcare.” She noted that the nation’s transportation system is facing an $86 billion deficit in critical reinvestments to improve existing rails, trains, buses and stations. She explained that while working at FTA, she has been able to streamline the audit process, greatly improve the processes for civil rights oversight, and work to improve the security and accountability of FTA’s grant making system. She emphasized that, if confirmed, she will “continue to partner with the transit industry and its customers through our federal programs.”

Chairman Tim Johnson (D-SD) asked McMillan’s top priorities if confirmed. McMillan stated that her first priority is to repair and fortify existing public transit to ensure they continue to run effectively and safely. She stressed the importance of advancing FTA’s new safety authority established by the “Moving Ahead for Progress in the 21st Century Act” (MAP-21) (P.L. 112-141). She expressed support for “strategic expansion” of public transportation in cities and areas that are committed to investing and
developing their transit systems. She commented that expanding workforce development would be essential to expanding access to public transportation.

Johnson asked how uncertainty regarding MAP-21 reauthorization and the impending shortfall in the Highway Trust Fund (HTF) impacts local authorities’ ability to manage and improve their transit systems. McMillan emphasized that insufficient funding for the HTF is the “most immediate and critical challenge” that DOT is facing. She said smaller transit agencies, which receive a major portion of their operating funding through federal programs, feel the greatest impact of uncertainty as they face challenges keeping their system functioning on a daily basis. She noted that the lack of stable funding prevents larger capital projects from moving forward as well.

Senate Democrats Press Administration on NHTSA

Key Points:
- Three Senate Commerce Committee Democrats call on the President to submit a nominee to head the NHTSA and to reform the agency to better manage recalls and safety issues

This week, three Democratic Members on the Senate Commerce, Science, and Transportation Committee sent a letter to President Barack Obama calling on him to nominate a new Administrator of the National Highway Traffic Safety Administration (NHTSA) as the agency continues to face scrutiny from Congress regarding its handling of the GM ignition and Takata airbag recalls. Former NHTSA Administrator David Strickland stepped down in January 2013 and Deputy Administrator David Friedman has served in an acting Administrator capacity since. Senators Edward Markey (D-MA), Richard Blumenthal (D-CT) and Bill Nelson (D-FL), the likely full Committee Ranking Member in the next Congress, urged Obama “to review and reform the NHTSA’s safety mission when nominating its new Administrator” according to the Senators’ press release.

In the letter, Markey, Blumenthal, and Nelson stated that “[r]eports indicate that you may soon nominate a new Administrator for the NHTSA, and that additionally you are engaged in a review of that agency to determine whether it has ‘the dial set correctly’ on safety.” They asserted that “[w]e believe this is an opportunity to improve NHTSA’s safety mission by providing the agency with strong leadership and reforming some of its practices…[a]s you move forward with your efforts, we urge you to direct and empower the new Administrator to take the following vital steps in order to improve public confidence in NHTSA and save lives” including:

1) Improve Transparency. Recent automobile safety crises have illustrated serious deficiencies in measures Congress intended to provide public awareness of potential safety defects. NHTSA must alter its practices to require automakers to publicly release more information about accidents that could be caused by safety defects, upgrade its own safety databases, and do a better job of enforcing compliance with transparency measures intended to provide early warnings about potentially dangerous defects to the public.

2) Curtail Regional Recalls. We are concerned that regional recalls may not sufficiently protect the public. Because of the potential for overlooking so many affected consumers, when it comes to serious safety defects that
could kill drivers or passengers, NHTSA should not allow regional recalls.

3) Take Dangerous Cars Off the Road. Despite the fact that the GM ignition switch defect has been linked to at least 32 deaths and more serious injuries, NHTSA allowed impacted cars to continue to be driven as long as drivers followed GM’s warnings not to make the key chains too heavy. When a safety defect that could cause fatalities is identified, NHTSA should ensure that the owners of all potentially impacted vehicles are warned, that automakers are required to provide safe and free rental vehicles until the repairs are made, and, when the safety defect could harm the driver, that drivers are warned not to drive the cars at all.

4) End Voluntary Service Campaigns for Safety Defects. Although the Takata airbag defects have been linked to at least four deaths and more injuries, many automakers have not been required to undertake mandatory safety recalls. Instead, they have undertaken voluntary service campaigns, which means that NHTSA cannot enforce compliance with issues related to whether dealers perform the required service free of charge, the manner in which consumers are made aware of the potential safety defect, and the speed at which the repairs are made.

5) Provide Sufficient Resources. While we believe that some of NHTSA’s recent failures stem from a lack of will to aggressively oversee compliance with and enforcement of its statutory authority, we also acknowledge the need for additional resources to be made available to the agency in furtherance of its vital safety mission. We encourage you to request all necessary resources in your FY 2016 budget request, and we stand ready to support such a request.

Garamendi Drops Bid For Ranking Member

Key Points

- Current House Natural Resources Committee Ranking Member has the inside track to be the top Democrat on the House Transportation and Infrastructure Committee in the next Congress

This week, House Transportation and Infrastructure Committee Member John Garamendi (D-CA) ended his challenge to succeed current full Committee Ranking Member Nick Rahall (D-WV) who lost his campaign for reelection to the 114th Congress. The Member second in seniority on the Committee, Representative Peter DeFazio (D-OR), announced his intention to seek the Ranking Member slot the day after the midterm elections. Some had expected that Delegate Eleanor Holmes Norton (D-DC), who is currently the Ranking Member on the Highways and Transit Subcommittee, might challenge DeFazio but no such bid ever materialized. With Garamendi ending his bid, DeFazio becomes the likely Ranking Member in the next Congress during which the Committee will be faced with an expiration of the “Moving Ahead for Progress in the 21st Century Act” (MAP-21) (P.L. 112-141) expires, the possibility of a full surface transportation reauthorization, a reauthorization of passenger rail and Amtrak programs, and work on a possible Federal Aviation Administration (FAA) reauthorization.

Upcoming Hearings and Events
November 18

**Commerce Nominations:** The Senate Commerce, Science & Transportation Committee will hold a confirmation hearing for commerce nominations.

**FAA Reauthorization:** The House Transportation & Infrastructure Committee will hold a hearing to discuss FAA reauthorization.

November 20

**NHTSA Recalls** The Senate Commerce, Science & Transportation Committee will hold a hearing to discuss airbag defects from Japan’s Takata Corporation.

For more information on transportation issues you may email or call Michael Kans at 202-659-8201.

TECHNOLOGY

**Obama Comes Out In Favor of Net Neutrality**

*Key Points:*

- The President throws his weight behind net neutrality and urges FCC to implement those policies
- The FCC Chairman stresses his hybrid approach
- House and Senate Republicans articulate their opposition to net neutrality

This week, the White House announced its position on the Federal Communications Commission’s (FCC) rulemaking on an “Open Internet” and expressed its preference for adherence to net neutrality principles. However, the FCC Chairman reiterated his desire for hybrid rules that would combine the FCC’s Title II and Section 706 authority. Nonetheless, all the Republicans on the House and Senate Committees with primary jurisdiction over the FCC sent the FCC Chairman a letter expressing their opposition to the reimplementation of net neutrality, which they note was struck down by a United States Court of Appeal earlier this year.

In a statement, President Barack Obama asserted that “net neutrality’ has been built into the fabric of the Internet since its creation — but it is also a principle that we cannot take for granted. We cannot allow Internet service providers (ISPs) to restrict the best access or to pick winners and losers in the online marketplace for services and ideas.” He said that “[t]hat is why today, I am asking the Federal Communications Commission (FCC) to answer the call of almost 4 million public comments, and implement the strongest possible rules to protect net neutrality.”

Obama acknowledged that “[t]he FCC is an independent agency, and ultimately this decision is theirs alone” but added that “I believe the FCC should create a new set of rules protecting net neutrality and ensuring that neither the cable company nor the phone company will be able to act as a gatekeeper, restricting what you can do or see online.” He stated that “[t]he rules I am asking for are simple, common-sense steps that reflect the Internet you and I use every day, and that some ISPs already observe…[and] [t]hese bright-line rules include:

- **No blocking.** If a consumer requests access to a website or service, and the content is legal, your ISP should not be permitted to block it. That way, every player — not just those commercially affiliated with an ISP — gets a fair shot at your business.
- **No throttling.** Nor should ISPs be able to intentionally slow down some
content or speed up others — through a process often called “throttling” — based on the type of service or your ISP’s preferences.

- **Increased transparency.** The connection between consumers and ISPs — the so-called “last mile” — is not the only place some sites might get special treatment. So, I am also asking the FCC to make full use of the transparency authorities the court recently upheld, and if necessary to apply net neutrality rules to points of interconnection between the ISP and the rest of the Internet.

- **No paid prioritization.** Simply put: No service should be stuck in a “slow lane” because it does not pay a fee. That kind of gatekeeping would undermine the level playing field essential to the Internet’s growth. So, as I have before, I am asking for an explicit ban on paid prioritization and any other restriction that has a similar effect.

Obama stated that “[i]f carefully designed, these rules should not create any undue burden for ISPs, and can have clear, monitored exceptions for reasonable network management and for specialized services such as dedicated, mission-critical networks serving a hospital…[b]ut combined, these rules mean everything for preserving the Internet’s openness.

However, Wheeler released a statement in which he agreed with Obama “that the Internet must remain an open platform for free expression, innovation, and economic growth.” He said that “[w]e both oppose Internet fast lanes…[a]nd [t]he Internet must not advantage some to the detriment of others.” Wheeler stated that “[w]e cannot allow broadband networks to cut special deals to prioritize Internet traffic and harm consumers, competition and innovation.” He stated that “[f]rom the beginning [of the Open Internet rulemaking] I have pledged to finally bring to an end the years-long quest for rules that are upheld in court…[a]nd [i]n May we sought comment on both Section 706 and Title II and I promised that in this process all options would be on the table in order to identify the best legal approach to keeping the Internet open.”

Wheeler noted that “[r]ecently, the Commission staff began exploring ‘hybrid’ approaches, proposed by some members of Congress and leading advocates of net neutrality, which would combine the use of both Title II and Section 706.” He explained that “[t]he more deeply we examined the issues around the various legal options, the more it has become plain that there is more work to do…[b]ecause [t]he reclassification and hybrid approaches before us raise substantive legal questions.” He asserted that “[w]e found we would need more time to examine these to ensure that whatever approach is taken, it can withstand any legal challenges it may face…[a]nd [f]or instance, whether in the context of a hybrid or reclassification approach, Title II brings with it policy issues that run the gamut from privacy to universal service to the ability of federal agencies to protect consumers, as well as legal issues ranging from the ability of Title II to cover mobile services to the concept of applying forbearance on services under Title II.”

In response to the White House’s announcement, every Republican on the House Energy & Commerce and Senate Commerce, Science, and Transportation Committees sent a letter to Wheeler, articulating their opposition to Obama’s call for net neutrality. They noted
that “[r]ecent proposals have suggested that the FCC can use its authority under Title II of the Communications Act to create legally enforceable rules to regulate Internet access.” They asserted that “[w]e believe this is beyond the scope of the FCC’s authority and would defy the plain reading of the statute.” They stated that “[t]he Commission has already tried - and failed, twice - to convert these principles into legally enforceable rules…[and] [c]all it ‘net neutrality’ or call it ‘the Open Internet,’ the result remains the same: two trips to court, two FCC losses, and nine years of uncertainty for the Internet.”

They asserted that “reclassify[ing] broadband under Title II of the Communications Act…isn’t sound policy and would almost certainly mean another trip for the FCC to the Court of Appeals.” They stated that “[p]ut simply, recategorization would require the Commission to find that Internet access is a telecommunications service, not an information service…[and] [t]hese are not matters of opinion but distinctions made in the text of the Communications Act, the plain language of which precludes regulation of the Internet under Title II.” They said that “[a]mong other harms, recategorization would threaten the jobs and investment made possible by the broadband industry, which the Communications Workers of America and the NAACP state accounted for more than $193 billion in capital investment and more than 270,000 jobs over the last three years.”

Reid Files Cloture Motion on USA FREEDOM Act

Key Points:
- The Senate could debate an NSA reform bill in the lame duck, but even if the Senate passes the bill, it is uncertain how the House would receive it.

On November 12, Senate Majority Leader Harry Reid (D-NV) began the procedural process necessary for the possible consideration of legislation to reform the National Security Agency’s (NSA) surveillance activities. However, it is not clear whether the Senate will be inclined to consider such significant legislation during a lame duck session when the Republicans will take control of the chamber in January and may want to craft their own package. Moreover, key Senators have expressed misgivings about proceeding with the bill, resulted from negotiations between Senate Judiciary Committee Chairman Patrick Leahy (D-VT), the Intelligence Community, and the White House.

Reid filed a motion to invoke cloture on the motion to proceed to S.2685, a vote subject to a 60 vote threshold under the Senate’s rules. The soonest the Senate could vote on Reid’s cloture motion is next week, but in a press release, Leahy stated his expectation that the Senate to take up the bill this month, suggesting that votes may not necessarily occur next week.

In terms of support, the bill has 18 cosponsors, including Senators Ted Cruz (R-TX), Mike Lee (R-UT), Bernie Sanders (I-VT), Chuck Schumer (D-NY), and Dick Durbin (D-IL), demonstrating the support at both ends of the Senate’s political spectrum. Additionally, many privacy and civil liberties advocacy organizations have announced their support of S. 2685 as evidenced by this September 4 letter. However, this week, Senate Minority Whip John Cornyn (R-TX) remarked that he is “uncomfortable trying to jam through” a bill like S. 2685 during a lame duck session, and Senate Intelligence Committee Chairman
Dianne Feinstein (D-CA) said the bill “still has some problems.”

In a summary, Leahy explained the most significant reforms in S. 2685:

- The USA FREEDOM Act of 2014 bans the bulk collection of Americans’ private records.
  - This bill enacts significant reforms to the surveillance authorities that the government has used to justify collecting Americans’ telephone records and Internet metadata in bulk.
  - It bans bulk collection by requiring the government to narrowly limit the scope of its collection, and makes clear that the government may not collect all information relating to a particular service provider or to a broad geographic region, such as a city, zip code or area code.
- The USA FREEDOM Act of 2014 provides the Intelligence Community with the authority it needs to collect phone records in a more targeted manner.
  - To replace bulk collection, the bill authorizes the use of Section 215 to obtain two hops of “call detail records” on a daily basis, if the government can demonstrate reasonable, articulable suspicion that its search term is associated with a foreign terrorist organization.

The House passed a compromise version of the “USA FREEDOM Act” (H.R. 3361) by a 303-121 vote in May. However, Leahy and other NSA critics thought that House Judiciary Committee’s Crime, Terrorism, and Homeland Security Subcommittee Chairman James Sensenbrenner (R-WI) and his allies had agreed to provisions that significantly watered down the impact of the bill. Hence, Leahy opened negotiations with stakeholders on a new bill that would be acceptable to most of the parties.

It is not immediately clear how receptive the House and House Republican leadership would be to S. 2685. So, even if the Senate pass the bill, it remains to be seen how the House would receive the package. Given the time available in the lame duck, there may be insufficient time for negotiations on a final bill to be taken up in both houses.

However, if Congress were to move quickly on NSA reform, it is possible that Congress could turn to an information sharing bill or one of the more modest cybersecurity bills the “National Cybersecurity and Critical Infrastructure Protection Act of 2014” (H.R. 3696) or the “National Cybersecurity and Communications Integration Center Act of 2014” (S. 2519.)

Upcoming Hearings and Events

**November 18**
**VA Information Security Issues:** The House Veterans’ Affairs Committee will hold a hearing to discuss the VA’s longstanding information security weaknesses and increasing patient wait times.

**November 19**
**Sports Blackouts:** The Senate Judiciary Committee will hold a hearing on sports blackouts and antitrust exemptions.

**Private Industry and Phone Scams:** The Senate Special Aging Committee will hold a hearing to discuss the private sector’s role in stemming telephone scams.
Health Care Website Issues: The House Science, Space & Technology Committee will hold a hearing to discuss the role of the White House Chief Technology Officer in fixing HealthCare.gov

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.