

Washington Update

September 16, 2022

This Week In Congress

Senate - The Senate passed the Strategic EV Management Act (S. 4057), the Guidance Clarity Act (S. 533), the Controlled Substances Act (S. 4235), the FY 22 Veterans Affairs Major Medical Facility Authorization Act (H.R. 7500), and adopted S.Res.764, National Spinal Cord Injury Awareness Month. The Senate also confirmed judicial nominations.

House - The House passed the Wildfire Recovery Act (H.R. 1066), the Drone Infrastructure Inspection Grant Act (H.R. 5315), the Improving Seniors' Timely Access to Care Act of 2021 (H.R. 3173), the BRIGHT Act (S. 442), the CREW Act of 2021 (S. 2293), the Expediting Disaster Recovery Act (H.R. 5774), the National Aviation Preparedness Plan Act of 2022 (H.R. 884), the Whistleblower Protection Improvement Act of 2021 (H.R. 2988), the Ensuring a Fair and Accurate Census Act (H.R. 8326), and the Preventing a Patronage System Act (H.R. 302).

Next Week In Congress

Senate - The Senate will consider judicial nominations and may take up a measure to fund the federal government beyond September 30.

House - The formal schedule has not been released, but the House is likely to take up the Joint Consolidation Loan Separation Act (S. 1098) and the Presidential Election Reform Act.

TAX

House Republicans to Offer Tax Policy Prescriptions Next Week

Key Points:

- *House Republicans will be offering a broad set of policies they support as a guide to where they might go if they obtain control of the House in 2023.*
- *Issues like TCJA extensions and what measures recently enacted that they would seek to repeal remain possible for the policy release.*

House Republicans next week plan to release a series of policies, several hundred, that they offer as guides to the issues and policies they might pursue in the majority. In the tax front, issues about how to deal with the expiration of the TCJA individual tax cuts and changes remain a key challenge. Individual rates, exemption levels, estate tax rules, SALT limits and other offsets all reverse back to prior law in 2026, so beginning to consider how to address that pending expiration is a key issue for Republicans who remain supportive of the bill. Also, House Republicans may offer ideas on which recently enacted tax provisions they might seek to reverse, like the stock buyback excise tax potentially. Finally, additional incentives for R&D are a possibility as they consider how to make the U.S. more competitive internationally and drive innovation.

Increasing IRS Backlog Results in Interest Payments, IRS Issues Remain Key Tax Topic in DC

Key Points:

- *The IRS is facing over \$42 million in interest payments due to a processing backlog.*
- *The IRS is required to process tentative refund applications within 90 days.*
- *Senator Thune (R-SD) introduced a bill to prevent the IRS from hiring enforcement agents until certain customer service and return-processing benchmarks are met.*

On September 7, 2022, the Treasury Inspector General for Tax Administration (TIGTA) published a [report](#) detailing the impact of the Internal Revenue Service's (IRS) inability to timely process refunds under [S.3548](#), the CARES Act. The legislation allows businesses to claim quick refunds. The IRS is statutorily required to process tentative refund applications within 90 days before having to pay interest.

The IRS currently owes millions in interest payments due to delays in the agency's processing of tax refunds. The COVID-19 pandemic forced the agency to shut down its offices and transition to a remote working model, resulting in a processing backlog. The

number of cases not processed increased from 1,626 in Fiscal Year 2020 to 8,974 in Fiscal Year 2021. Due to the backlog, the IRS has accumulated approximately \$42 million in interest payments.

In a related development that demonstrates that the backlog and service level remain a potent political issue, Senate Finance Member Thune (R-SD) introduced a [bill](#) that would prevent the IRS from hiring enforcement agents until the IRS could maintain for six months certain customer service levels and reduces backlogs below one million cases. The issue of the additional IRS funding in the Inflation Reduction Act has become a political football, and this proposal combines that with the recognition of the IRS' challenge with existing backlogs and service levels.

Secretary Yellen Sets Out How the IRS Will Spend the \$80+ Billion from the Inflation Reduction Act

Key Points:

- *The IRS is investing in customer service.*
- *The IRS plans to hire 5,000 new customer service representatives.*
- *The IRS must modernize its system.*

The recent passage of the Inflation Reduction Act resulted in the IRS receiving an \$80+ billion cash infusion. The Administration said it intends to use this funding to address the IRS's aging systems and expand audits on wealthy individuals who earn over \$400,000 per year. In addition, upon completing a tour at the New Carrollton Federal Building, Secretary Yellen [announced](#) the IRS plans to hire 5,000 new customer service representatives. The announcement suggests the new staffing levels will allow the IRS to improve call answering from 15 percent to 85 percent, and hopefully reduce wait times from 30 minutes to less than 15 minutes.

Secretary Yellen said weaknesses in the IRS's systems have impeded the agency's customer service. She explained the IRS's investments in technology improvements such as online portals and scanning returns will help expedite processing and refunds. Secretary Yellen said the IRS will "begin gearing up for the next tax filing season, with a mandate – and finally, resources – to properly serve the American people the way they deserve."

Focus on Tax Expired Tax Provisions as Year End Looms

Key Points:

- *Limited legislative days remaining in the year combined with competing priorities make it likely that expired tax provisions will stay expired.*
- *Tax credits are a point of contention between Democrats and Republicans.*

There were dozens of tax provisions that expired at the end of 2021. Although many tax provisions were addressed in the Inflation Reduction Act, CHIPS and Science Act of 2022 ([P.L. 117-167](#)), and the [Infrastructure Investment and Jobs Act](#), there remain a number of expiring/expired measures that Congress could address at the end of the year.

Tax credits are currently a point of contention between Democrats and Republicans. Democrats are more focused on restoring the child tax credit, which may be too big of an ask as compared to Republicans seeking extenders as well as R&D amortization (also supported by Democrats) and avoiding further limits on the interest deduction (EBIT as a base instead of EBITDA, due to go into effect in 2023). It remains to be seen how Congress will address these issues, and somewhat depends on the election in November.

For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201.

FINANCIAL SERVICES

Senate Banking Committee Holds SEC Oversight Hearing

Key Point:

- *Members discussed the merits of climate change disclosures, digital market regulations, and new proposed rules to regulate Treasury and private fund markets.*

On September 15, the Senate Banking, Housing, and Urban Affairs Committee held a [hearing](#) titled "Oversight of the U.S. Securities and Exchange Commission." In his opening statement, Chairman Sherrod Brown (D-OH) emphasized the importance maintaining a strong economy for the working class, and praised the actions undertaken by the Biden Administration to reduce costs for American families. He expressed support for Securities and Exchange Commission (SEC) Chair Gensler's approach of improving climate disclosures, enhancing hedge fund accountability, and restricting private equity access to certain sectors of the U.S. economy. He called for stronger enforcement mechanisms, increased transparency, and strict insider trading laws for financial markets. Brown noted the Biden

Administration's progress on establishing digital asset policy but stressed the importance of drawing jurisdictional lines to prevent gaps and close loopholes that could be exploited or abused.

Ranking Member Pat Toomey (R-OH) raised concern over the SEC's ability to regulate decentralized digital asset markets, specifically citing the Commission's failure to provide consumer protections for those who utilized crypto-currency lending platforms Celsius and Voyager. He noted the market structure for digital assets differs from conventional securities and advocated for a tailored regulatory framework. Toomey also criticized new SEC financial disclosure rules involving climate change during his opening statement. He alleged the SEC does not have the authority to enact these rules, adding compliance will be burdensome and expensive for businesses.

Republican Senators Steve Daines (R-MT) and Mike Rounds (R-SD), among others, expressed concern for small businesses and farmers complying with the proposed climate change disclosure rules. Chair Gensler asserted these rules only apply to public companies. Democratic Senators Sherrod Brown (D-OH), Jon Tester (D-MT), Catherine Cortez Masto (D-NV), Elizabeth Warren (D-MA) and Tina Smith (D-MN) all praised the climate change rule disclosures for increasing transparency and access to information for climate conscious investors.

Senator Cynthia Lummis (R-WY) expressed concern over the lack of disclosures in the digital asset markets, advocating for her bill the Lummis-Gillibrand Responsible Financial Innovation Act ([S. 4356](#)) which would fill information gaps regarding digital assets, and increase the role of the initial seller of an asset in informing consumers.

Senator Thom Tillis (R-NC) stressed the importance of the Treasury markets to monetary policy, pension funds, and retirement savings. He expressed concern over new rules that would classify firms transacting over \$25 billion a month as dealers.

Senator Bill Hagerty (R-TN) criticized new private fund disclosures, alleging the rules will not enhance investor protections, and will harm the capital markets. He advocated for less burdensome oversight of private funds. Senator Tina Smith (D-MN) expressed support for the SEC to increase transparency in the private fund market. Senator Jack Reed (D-RI) noted his Private Markets Transparency and Accountability Act ([S. 4857](#)) would requires large private companies to register with the SEC to increase transparency.

Biden Administration Releases Digital Asset Reports

Key Points:

- *The Biden Administration released a policy framework for Digital Assets.*
- *Secretary Yellen issued a statement praising the framework for protecting the financial system and consumers from the potential risks involved with digital currencies.*

This week, the Biden Administration released the first [Comprehensive Framework for Responsible Development of Digital Assets](#). The framework was developed in response to President Biden's March 9th Executive Order "[Ensuring Responsible Development of Digital Assets](#)." The framework is comprised of nine reports issued by federal agencies in six priority areas identified by the executive order: consumer and investor protection; promoting financial stability; countering illicit finance; U.S. leadership in the global financial system and economic competitiveness; financial inclusion; and responsible innovation. The Department of the Treasury issued three reports pursuant to the executive order: [Section 4: The Future of Money and Payments](#); [Section 5: Implications for Consumers, Investors, and Businesses](#); and [Section 7: Action Plan to Address Illicit Financing Risks of Digital Assets](#).

On Friday morning, Secretary of the Treasury Janet L. Yellen issued a [press release](#) emphasizing the importance of the Department of the Treasury reports in shaping the future of digital asset policy.

"Innovation without appropriately addressing the impact of these developments can result in significant disruptions and harm to the financial system and individuals," said Secretary Yellen, "The reports clearly identify the real challenges and risks of digital assets used for financial services. At the same time, if these risks are mitigated, digital assets and other emerging technologies could offer significant opportunities. These reports and their recommendations provide a strong foundation for policymakers as we work to realize the potential benefits of digital assets and to mitigate and minimize the risks."

Senate Agriculture Committee holds hearing to review the Digital Commodities Consumer Protection Act

Key Points:

- *The Digital Commodities Consumer Protection Act received bipartisan praise from the members of the committee and the witnesses.*
- *Some witnesses observed the bill lacks provisions to clearly define digital assets as securities or commodities.*

- *CFTC Chair Behnam expressed confidence in the agency's ability to regulate digital markets.*

On September 15, the Senate Agriculture, Nutrition, and Forestry Committee held a legislative hearing to review The Digital Commodities Consumer Protection Act ([S.4760](#)). Chairwoman Debbie Stabenow (D-MI) expressed concern that Americans are investing in cryptocurrencies even though there is no federal oversight over the tokens that make up most of the cryptocurrency market. She asserted clear and consistent rules that allow good actors to innovate and grow while keeping customers safe are necessary. She advocated for the bill, which would establish Commodity Futures Trading Commission (CFTC) oversight over the spot markets for digital assets that act like commodities. She said the bill will require all digital commodity platforms to register with the CFTC and will set a uniform national standard that will allow the CFTC to catch fraud before it happens.

Ranking Member John Boozman (R-AR) advocated for the bill as it would bring much needed regulatory certainty to the growing digital commodity ecosystem. He said it is critical that the Committee establish a framework that allows the industry to innovate and grow while providing the CFTC with the resources necessary to write and enforce rules that protect consumers and provide retail participants with the ability to fully understand the functions of the commodities they are buying and selling.

CFTC Chairman Rostin Behnam said recently over \$1 trillion in market value has been lost in conjunction with the failure of several large high-profile firms operating in the shadows. He added the CFTC's expertise and experience make it the right regulator to provide consumer protections through its principles-based market oversight and disclosure regime aimed at ensuring transparency, integrity, and security of transactions. Behnam assured members the CFTC can adequately provide the enforcement and consumer protections included in the bill and but will continue to work with SEC and state regulators on these efforts.

The witnesses generally expressed support for the bill but noted ways the bill could be improved. Denelle Dixon, CEO of Stellar Development Foundation, expressed concern that the bill fails to address the fundamental question of whether a digital asset is considered a commodity or a security. Christine Parker VP and Deputy General Counsel for Coinbase, argued the Digital Commodities Consumer Protection Act could be strengthened by further defining digital asset commodities to ensure assets that do not meet the definition of securities are regulated by the CFTC and not by enforcement through the SEC.

Senators Joni Ernst (R-IA) and John Thune (R-SD) posed questions pertaining to how the legislation addresses concerns over American competitiveness. Behnam explained with regulatory certainty, innovators and entrepreneurs will have more incentives to stay within the U.S., raise capital, and start their businesses in the U.S.

Chair Debbie Stabenow (D-MI) noted the House Financial Services Committee is working on a bill to regulate stablecoins and inquired about how the two pieces of legislation would interact. Dixon explained there is a process for listing stablecoins in the Digital Commodities Consumer Protection Act, but it is important to create a clear definition of what a stablecoin is.

Upcoming Hearings and Meetings

September 20

Rural Housing Service: The Senate Banking Committee's Subcommittee on Housing, Transportation, and Community Development Subcommittee will hold a hearing entitled, "Examining the U.S. Department of Agriculture's Rural Housing Service: Stakeholder Perspectives".

Alternative Payment Systems: The House Financial Services Committee's Subcommittee on National Security, International Development, and Monetary Policy will hold a hybrid hearing entitled, "Under the Radar: Alternative Payment Systems and the National Security Impacts of Their Growth."

Diversity and Inclusion at Insurance Companies: The House Financial Services Committee's Subcommittee on Diversity and Inclusion will convene for a hybrid hearing entitled, "A Review of Diversity and Inclusion at America's Largest Insurance Companies."

CFTC Advisory: The CFTC Energy and Environmental Markets Advisory Committee will hold a meeting in Oklahoma.

September 21

Big Bank Oversight: The House Financial Services Committee will hold a hybrid hearing entitled, "Holding Megabanks Accountable: Oversight of America's Largest Consumer Facing Banks."

SEC Investor Advisory Committee: The Securities and Exchange Commission's Investor Advisory Committee will meet to have panel discussions on: human capital management and labor valuation and performance; proposed rule 10B-1 position reporting of large

security-based swap positions/asset-based swaps; schedules 13D and 13G beneficial ownership reports; and ESG Fund disclosure. The advisory committee will also include discussions on the following recommendations: Cybersecurity disclosure; Climate disclosure; and Accounting modernization.

September 22

Big Bank Oversight: The Senate Banking Committee will hold a hearing entitled, “Annual Oversight of the Nation’s Largest Banks”.

Wildfire Risk and the Insurance Market: The House Financial Services Committee will hold a hybrid hearing entitled, “State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market.”

September 28

MRAC Advisory: The Commodity Futures Trading Commission’s (CFTC) Market Risk Advisory Committee (MRAC) will hold an in-person public meeting at the CFTC headquarters.

For more information about financial services issues you may email [Joel Oswald](#) or [Mahlet Makonnen](#).

ENERGY & ENVIRONMENT

Energy Infrastructure Permitting Legislation Faces Challenges

Key Points:

- *In July, Senators Charles Schumer (D-NY) and Joe Manchin (D-WV) reached an agreement on voting on legislation to expedite the regulatory permitting of energy infrastructure.*
- *The agreement called for “comprehensive Permitting reform legislation to be passed before the end of the fiscal year” (September 30).*
- *House progressive Democrats and Senate Republicans are not supporting the agreement on permitting legislation, which will make it difficult to pass, especially before September 30.*

Overview:

In July, in conjunction with the agreement on the “Inflation Reduction Act” ([H.R. 5376](#)), Senate Majority Leader Charles Schumer (D-MT) and Senator Joe Manchin (D-WV) agreed on advancing legislation expediting energy infrastructure permitting. A summary of the agreement states that the legislation would:

- “Direct the President to designate and periodically update a list of at least 25 high-priority energy infrastructure projects and prioritize permitting for these projects.”
- “Set maximum timelines for permitting reviews including two years for [National Environmental Policy Act] reviews for major projects.”
- Clarify the role of states in the Clean Water Act Section 401 permitting process.
- Establish the jurisdiction of the Federal Energy Regulatory Commission (FERC) over “interstate hydrogen pipeline, storage, import, and export facilities.”
- “Enhance federal government permitting authority to interstate electric transmission facilities that have been determined by the Secretary of Energy to be in the national interest.”
- Direct federal agencies to complete the permitting process for the Mountain Valley Pipeline, a long-delayed natural gas project that would cross parts of Virginia and West Virginia.

Despite support from House Speaker Nancy Pelosi (D-CA) and the White House, the legislation faces significant challenges, particularly for passage by the original deadline of September 30.

House Democrats Letter:

On September 9, House Natural Resources Committee Chairman Raul Grijalva (D-AZ) and 71 progressive House Democrats sent a [letter](#) to House Speaker Nancy Pelosi (D-CA) and House Majority Leader Steny Hoyer (D-MD) expressing opposition to the permitting legislation. The Members declared, “attempts to short-circuit or undermine the law in the name of ‘reform’ must be opposed.” The Members asserted that the “proposed legislation would restrict public access to the courts to seek remedies against illegal project development; place arbitrary limits on the amount of time the public is given to comment on polluting projects; and curtail public input, environmental review, and government accountability.” The letter specifically opposes adding the legislation to a continuing resolution to fund the federal government after September 30: “The inclusion of these provisions in a continuing resolution, or any other must-pass legislation, would silence the voices of frontline and environmental justice communities...” An updated [letter](#), released on September 12, includes 77 signatures.

Republican Alternative:

Senator Shelly Moore Capito (R-WV) introduced a permit streamlining bill, the “[Simplify Timelines and Assure Regulatory Transparency \(START\) Act](#)”, as an alternative to Senator

Manchin's legislation. The introduction of a high-profile Republican alternative further complicates the Manchin bill's prospects. A [summary](#) describes its provisions:

- "Section 2 - Codification of NEPA Regulations: Codifies the Trump Administration's modernized National Environmental Policy Act (NEPA) regulations."
- "Section 3 - Providing Regulatory Certainty: (1) Codifies the Trump Administration's Navigable Waters Protection Rule's definition of 'waters of the United States' under the Clean Water Act. (2) Codifies the Trump Administration's Section 401 Certification Rule under the Clean Water Act to prevent state actions that unreasonably block energy projects. (3) Codifies Nationwide Permits issued in 2021 that streamline Section 404 permitting for the development of critical energy projects and other activities under the Clean Water Act. (4) Lengthens the available approval term of permits issued under delegated state water permit programs from 5 to 10 years."
- "Section 4 - Limiting New Red Tape and Costs for Gasoline and Other Fuels: Prohibits the use and adoption of the Biden Administration's interim estimates for the 'social cost of greenhouse gases' and any other estimates that may raise gasoline prices."
- "Section 5 - Expediting Permitting and Review Processes: (1) Codifies key elements of the One Federal Decision framework for energy projects, including timely approvals for projects, permitting review schedules for projects that are no longer than two years, and limitations on the page length of environmental documents. (2) Provides litigation certainty on the timing of judicial challenges to energy project approvals. (3) Allows agencies to share and use one another's categorical exclusions for energy projects under NEPA."
- "Section 6 - States' Authorities in Hydraulic Fracturing Regulations: Grants states the sole authority to promulgate or enforce any regulation, guidance, or permit requirement regarding hydraulic fracturing on or under any land within their boundaries. Clarifies that the exclusivity of this regulation applies to all federal lands located in the state."
- "Section 7 - Federal Lands Freedom Act: Grants states the right to develop energy resources on the federal lands located within their borders. This section gives states the ability to proactively and responsibly develop energy on federal lands. Allows a state to develop a regulatory program governing the leasing and permitting of energy activities on its federal land."
- "Section 8 - Expedited Approval for the Mountain Valley Pipeline: Expedites the approval for the Mountain Valley Pipeline (MVP) project within 21 days of enactment..."
- "Section 9 - Reducing Timeframes for Endangered Species Act Consultations: Reforms the Section 7 consultation process under the Endangered Species Act

(ESA) by shortening consultation timelines from 90 to 60 days. Also shortens thresholds for ending or extending consultation times from 150 to 100 days. This section reforms a well-known roadblock to efficient permitting.”

- “Section 10 - New Source Review Permitting Improvement Act: Reforms the New Source Review (NSR) program under the Clean Air Act. This environmental regulation actually prevents industry from making upgrades to existing facilities to improve efficiency and reduce emissions. Provides greater regulatory certainty about when facility upgrades require a permit.”
- “Section 11 - No Retroactive Permit Vetoes: Clarifies existing law to promote timely and thorough consideration of Clean Water Act Section 404 permits, and eliminates unfair and confusing permitting actions in order to support domestic energy production.”
- “Section 12 – Policy Review under the Clean Air Act: Strikes the statutory mandate under the Clean Air Act Section 309 that EPA review and comment on newly authorized federal projects for construction or any major federal action that falls under NEPA for environmental review as well as agency regulations.”

Upcoming Hearings and Events

September 20

Clean Water Act: The House Transportation and Infrastructure Committee’s Water Resources and Environment Subcommittee will hold a [hearing](#) titled “The Clean Water Act at Fifty: Highlights and Lessons Learned from a Half Century of Transformative Legislation”.

September 22

FERC Open Meeting: The Federal Energy Regulatory Commission (FERC) will hold its monthly [open meeting](#). The [agenda](#) includes: “Customer Matters, Reliability, Security and Market Operations”; “Incentives for Advanced Cybersecurity Investment” (electric); and “Cybersecurity Incentives” (electric).

September 26-30

National Clean Energy Week: The annual [National Clean Energy Week \(NCEW\)](#) will include the virtual Public Policy Forum with “Republican and Democratic policymakers and top speakers in clean energy investment and innovation.” The event “encompasses broad and diverse energy sources, including solar, wind, hydropower, geothermal, nuclear, natural gas, biomass, carbon capture, and waste-to-energy.”

October 13

Energy Transition and Energy Security: The Energy Forum will hold a [webinar](#) titled “Energy Security versus Energy Transition...is it AND or is it OR?”

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

HEALTH**Public Health Officials Testify Before Senate Health, Education, Labor and Pensions Committee on Monkeypox***Key Points:*

- On September 14, key federal public health officials testified before the Senate Health, Education, Labor and Pensions (HELP) Committee.
- Witnesses answered questions about the Biden Administration’s response to the monkeypox outbreak. The Committee was particularly interested in vaccines, community outreach, and pandemic preparedness.

On Wednesday, September 14, the Senate Health, Education, Labor and Pensions (HELP) Committee held a hearing to evaluate the Biden Administration’s response to the monkeypox outbreak. Witnesses included Rochelle Walensky, Director of the Centers for Disease Control and Prevention (CDC); Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases (NIAID) at the National Institutes of Health (NIH); Robert Califf, Commissioner of the Food and Drug Administration (FDA); and Dawn O’Connell, Assistant Secretary for Preparedness and Response at the Administration for Strategic Preparedness and Response (ASPR).

In her opening remarks, Committee Chairwoman Patty Murray (D-WA) stressed the need to remain vigilant against monkeypox and recover from early missteps in the federal response. She encouraged the Administration to apply lessons learned from the COVID-19 pandemic when considering how to move forward in the monkeypox response. She also urged support for her bipartisan Prepare for and Respond to Existing Viruses, Emerging New Threats, and (PREVENT) Pandemics Act ([S. 3799](#)) to enhance preparedness for future disease outbreaks and improve public health infrastructure. Ranking Member Richard Burr (R-NC) was critical of the Biden Administration’s failure to respond to his request for a plan and questioned how public health agencies were unprepared to respond to monkeypox given the recent resources and lessons taken from COVID-19. He echoed calls to support the PREVENT Pandemics Act and called on the Administration to improve its leadership.

Committee members were interested in learning about the JYNNEOS vaccine, transmission, and community outreach efforts. Murray, Burr, and Senators Bob Casey (D-PA), Tina Smith (D-MN), and John Hickenlooper (D-CO) requested more information on vaccine availability, distribution, and manufacturing. O'Connell reported ASPR has ordered an additional 5.5 million vials of the bulk drug substance, 2.5 million of which will be manufactured domestically. She also explained the need to maintain a stockpile of the JYNNEOS vaccine for smallpox. She encouraged states to reach out to ASPR if the Health Partner Order Portal (HPOP) for the monkeypox vaccine is difficult to navigate. In her responses, Walensky emphasized the need to conduct outreach through community organizations to ensure the approach is sensitive and non-stigmatizing. She highlighted successful vaccination events at large gatherings but recognized the need to shift toward smaller-scale distribution like the system used for the COVID-19 vaccine.

Senator Mike Braun (R-IN) cautioned that the public may not take public health emergency (PHE) declarations seriously in the future if they become routine. Senator Bill Cassidy (R-LA) pointed out that trust in public health institutions has not been fully restored. He urged the CDC to bring more employees back to in-person work and said he would struggle to support more appropriations until the agency has a better relationship with Congress. Burr agreed that the CDC should bring employees back to the office. Additionally, Burr and Senator Susan Collins (R-ME) called out agency leadership for not asking Congress for the flexibilities needed to shift resources. O'Connell expressed interest in reprogramming to facilitate the response to monkeypox.

President Appoints Director for ARPA-H

Key Point:

- *President Biden announced his intent to appoint Dr. Renee Wegrzyn to serve as the first director for the Advanced Research Projects Agency for Health.*

On September 12, President Joe Biden announced his intent to appoint Dr. Renee Wegrzyn to serve as the first Director of the Advanced Research Projects Agency for Health (ARPA-H). The Biden Administration launched ARPA-H in March 2022 following \$1 billion in appropriations from Congress.

ARPA-H is modeled after the Defense Advanced Research Projects Agency (DARPA). The aim is to rapidly develop treatments and cures for diseases like cancer and Alzheimer's. Rather than focusing on basic research, ARPA-H will pursue projects with a high likelihood of failure but also a high likelihood of transforming disease treatment if they prevail.

Some questions still remain on the ultimate place for ARPA-H within the federal government's research structure. Currently, ARPA-H is part of the National Institutes of Health but will report directly to the Secretary for the Department of Health and Human Services. Some in Congress have argued for ARPA-H to be a completely separate entity within the Department. Congress is also considering whether ARPA-H should be located within the Washington, D.C. area or elsewhere in the U.S.

Prior to her work in biotech business development in the private section, Dr. Wegrzyn was a program manager in the Biological Technologies Office of DARPA. She received a Superior Public Service Medal for her work at the agency. She has prior experience in biosecurity, gene therapies, emerging infectious disease, neuromodulation, and synthetic biology. Dr. Wegrzyn received her doctorate and bachelor's degrees from the Georgia Institute of Technology.

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

CYBERSECURITY & PRIVACY

CISA Issues Request for Information on the Cyber Incident Reporting Critical Infrastructure Act

Key Point:

- *On September 12, the Cybersecurity and Infrastructure Security Agency (CISA) released a request for information (RFI) as it develops proposed regulations required by the Cyber Incident Reporting Critical Infrastructure Act of 2022 ([H.R. 5440](#)).*

The RFI is part of CISA's directive as it develops proposed regulations required by the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA). Entities that operate critical infrastructure in the U.S. have until mid-November to provide their first official comments on the law, which would require them to report substantial cybersecurity incidents to the federal government within 72 hours.

CISA acknowledged that covered cyber incident and ransomware payment reporting under CIRCIA will not be required until the Final Rule goes into effect, CISA encouraged critical infrastructure openers and operators to voluntarily share this reporting data before the effective date of the final rule. CISA highlighted that this information is also critical to identify trends and protect the homeland.

Some of the issues CISA is seeking comment on include which entities are covered under the legislation, what kind of incidents they must report, what information they must report when an incident occurs when the 72-hour countdown should start, and whether any federal and state regulations are redundant with the new law. Additionally, areas CISA is interested include definitions for and interpretations of the terminology to be used in the proposed regulations, as well as the form, manner, content, and procedures for submission of reports required under CIRCIA. CISA will also host a series of public listening sessions across the country that serve as an additional way to provide input on the rulemaking process. Registration is available [here](#).

Biden Administration Announces Funding for State and Local Cyber Grants

Key Point:

- *\$1 billion in funding from the Bipartisan Infrastructure Law (BIL) was made available for state, local, and territorial governments over four years to strengthen the cybersecurity of their critical infrastructure and ensure resilience against persistent cyber threats.*

On September 16, the Department of Homeland Security (DHS) [announced](#) \$1 billion in funding for state, local, and territorial (SLT) governments to strengthen critical Infrastructure and protect against persistent cyber threats. The program is an example of a unified approach across DHS, working with the Federal Emergency Management Administration (FEMA) and the Cybersecurity and Infrastructure Security Administration (CISA) to increase SLT defenses. Out of the \$1 billion, \$185 million is available in FY2022.

DHS Secretary Mayorkas noted, “[DHS] continues to strengthen our nation’s cybersecurity, including by resourcing state and local communities to build and enhance their cyber defenses. The cybersecurity grant process we are starting today is a vital step forward in this critical effort. Our approach is one of partnership, in the service of an all-of-society investment in the security of our homeland.” CISA Director Jen Easterly added, “CISA works hand-in-hand with our partners in state, local, and territorial governments who face unique cybersecurity challenges but often lack the resources to address them. The State and Local Cybersecurity Grant Program will play a critical role in helping these organizations build their capability and capacity.”

House Committee on Homeland Security Holds Hearing on Securing Industrial Control Systems

Key Point:

- On September 15, the House Homeland Security Subcommittee on Cybersecurity, Infrastructure Protection, and Innovation held a [hearing](#) entitled “Building on Our Baseline: Securing Industrial Control Systems Against Cyberattacks.”

During a hearing on securing industrial controls systems (ICS), witnesses from Idaho National Labs (INL) and the Cybersecurity and Infrastructure Security Administration (CISA) testified on administrative actions, threat vulnerability and visibility management, performance goals, operational authority, the Cyber Century Program, workforce development, information technology (IT), open-source software, diversity, nuclear power, and operational technology (OT).

Chairwoman Yvette Clarke (D-NY) noted the critical role of ICS and OT in ensuring access to power, clean water, and countless other essential functions. She noted policy securing ICS and OT systems is often overlooked, with priority given to the security of traditional Information Technology (IT) systems. She said ICS and OT systems are attractive targets for U.S. adversaries, as service disruptions have the potential to harm communities, the economy, and national security. She cited a recent report from the National Security Telecoms Advisory Committee (NSTAC) found the U.S. has the knowledge and resources to adequately secure ICS and OT systems but has failed to prioritize and allocate resources.

Ranking Member Andrew Garbarino (R-NY) noted the magnitude of the threats to OT is difficult for most people to comprehend but securing and protecting these systems responsible for essential functions is a national imperative. He stated ICS is responsible for safely and securely operating IT and OT in critical sectors including energy, water, and transportation. He said Americans are accustomed to the reliable delivery of these resources but are unaware of the security threats these sectors face. He explained the 2017 NotPetya attack successfully targeted global shipping company Maersk, allowing malware to infiltrate the company’s ICS; halting container ships and ports for nine days. He added this attack also targeted other industries including food and pharmaceutical. He said in 2018, eighty percent of ICS organizations experienced ransomware attacks, and the number of affected parties stands to grow exponentially with the expansion of internet-connected ICS.

For more information about cybersecurity issues you may email [Mahlet Makonnen](#) or [Frank Vlossak](#). Jackson Notes and Bridget Doherty contributed to this section.

TRADE

Congress Examines Economic Relationship with Taiwan

Key Points:

- *The House Ways and Means Committee held a [hearing](#) entitled “The Future of U.S.-Taiwan Trade.”*
- *The Senate Committee on Foreign Relations marked up and favorably reported the Taiwan Policy Act ([S. 4428](#)) favorably to the Senate by a vote of 17-5.*

On September 14, the House Ways and Means Committee held a hearing entitled “The Future of U.S-Taiwan Trade.” Topics discussed included retaliation from China, non-trade barriers, the Indo-Pacific Economic Framework (IPEF), the U.S.-Taiwan Initiative for Twenty-first Century Trade (ITCT), Trade Promotion Authority (TPA), and labor rights.

Chairman Richard Neal (D-MA) opened by noting that Congress was given the exclusive authority to regulate foreign commerce by the Constitution. He noted this hearing symbolizes the interest of the U.S. in fostering a deeper relationship with Taiwan and cited recent successes with the U.S.-Mexico-Canada Agreement (USMCA) as a guide. Chairman Neal stated that increased trade activity should be paired with good environmental, social, and governance (ESG) guidelines. Other members focused on stricter rules of origin for a trade agreement with Taiwan because of their close association with China, along with labor rights and a better trading environment for beef and pork.

Ranking Member Kevin Brady (R-TX) associated himself with many of the Chairman’s remarks. He added that TPA should be reauthorized and is a critical tool to create lasting trade agreements. He expressed support for U.S. Trade Representative (USTR) Katherine Tai and USMCA. He encouraged the U.S. to engage with Taiwan and other key partners in the region but emphasized that frameworks and dialogues are insufficient, going on to share that any framework (in what was perhaps a reference to the IPEF) not approved by Congress is legally dubious and will not hold up long-term. He stated the Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB) should not have expired.

During the hearing, the Senate Committee on Foreign Relations passed the Taiwan Policy Act despite the President urging Congress to not provoke China anymore. The bill now goes to the Senate floor for a vote then will make its way to the House.

President Biden Signs Executive Order Expanding CFIUS Reviews

Key Points:

- President Biden signed an [executive order](#) (EO) expanding the class of issues subject to the Committee on Foreign Investment in the United States (CFIUS).
- The White House released a [fact sheet](#) outlining the added CFIUS review classes.

On September 15, President Biden signed an EO on Ensuring Robust Consideration of Evolving National Security Risks by the Committee on Foreign Investment in the United States (CFIUS). The EO adds the following five areas to the CFIUS review:

- A given transaction's effect on the resilience of critical U.S. supply chains that may have national security implications, including those outside of the defense industrial base.
- A given transaction's effect on U.S. technological leadership in areas affecting U.S. national security, including but not limited to microelectronics, artificial intelligence, biotechnology and biomanufacturing, quantum computing, advanced clean energy, and climate adaptation technologies.
- Industry investment trends that may have consequences for a given transaction's impact on U.S. national security.
- Cybersecurity risks that threaten to impair national security.
- Risks to U.S. persons' sensitive data.

The expansion of what CFIUS will review and focus on in investment reviews is fairly robust. The goal is to include classes outside of the strict national defense areas, such as including transactions that may affect the supply chain, expanding the list of industries to focus on, including the consideration of the effects of multiple transactions, and covering those transactions involving sensitive personal data.

First In-Person IPEF Ministerial Yields Trade Commitments

Key Points:

- The first in-person ministerial of the Indo-Pacific Economic Framework (IPEF) yielded near-unanimous support for IPEF's four pillar, with only India opting out of trade.
- An agreement on incentive-based and self-enforcing binding commitments being preferred over punitive ones was reached.
- IPEF members did not see the framework as an alternative to China but an additional opportunity.

On September 8-9, the IPEF held its first in-person ministerial in Los Angeles. All 14 IPEF countries have joined three of the four pillars, with only India opting out of the trade pillar. Secretary of Commerce Raimondo noted, "There were no skeptics in the room. There was an atmosphere of optimism and commitment and we have a clear roadmap to advance..." She added that opportunities for expedient action exist in the supply chain pillar. U.S. Trade Representative (USTR) Tai noted, "the [IPEF ministerial] was a chance to deepen our partnerships and fill in the details about how we will work collectively..." Each pillar was released a joint statement from members of the ministerial: (1) [Trade](#); (2) [Supply Chain](#); (3) [Clean Economy](#); and (4) [Fair Economy](#). IPEF members also preferred incentive-based and self-enforcing binding commitments over punitive penalties. The South Korean Trade Minister assured reporters that the IPEF was not competing with China but "engaging these countries in their own right." The Malaysian Trade Minister added that "it's not a matter of choosing. We need to trade with everybody."

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