Washington Update

November 22, 2024

This Week In Washington

Senate: The Senate confirmed several nominations.

House: The House passed the Committing Leases for Energy Access Now Act (H.R.1449).

Biden Administration: On November 18, President Biden submitted an emergency supplemental funding request to Congress for $98.4 billion in disaster relief funding. The request responds to the devastations caused by hurricanes earlier this year and aims to help strengthen the federal government's response and recovery efforts for natural disasters.

Next Week In Washington

Senate: The Senate is in recess and will reconvene Monday, December 2. They are expected to continue processing nominations.

House: The House is in recess and will reconvene Tuesday, December 3.

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TAX

JCT Issues Scores for Biden Administration's FY25 Budget Tax Proposals

Key Points:

- *The Joint Committee on Taxation has provided budget scores for the Biden Administration's proposed FY25 budget.*
- *The scores provide a foundation for legislative action and are typically more detailed than Treasury estimates.*
- *Although the Biden Administration's tax-related budget proposals are unlikely to see action in the 118th Congress, the scores may allow provisions to be considered during the 2025 tax debate.*

On November 22, the Joint Committee on Taxation (JCT) issued its official scores for the FY25 budget proposed by the Biden Administration in March. Although the policies included in the budget are unlikely to see action in the remainder of the 118th Congress, the scoring provides a foundation for congressional action on key proposals like raising the stock buyback excise tax to 4% (estimated to raise $73.236 billion over 10 years). Although Treasury provides scores when the President's budget is proposed, the scoring is unofficial for legislative purposes. In addition, JCT's scores can often be more representative of the actual impacts; Treasury estimated that raising the corporate tax rate to 28 percent would raise $1.35 trillion over 10 years, whereas JCT estimates the increase would raise only $881 billion over 10 years. In addition, JCT scoring often includes additional information when compared to estimates from Treasury. Due to the increased detail, many proposals remain unscored by JCT when particular aspects are left unclarified by the President's budget.

The JCT report estimates the following budgetary impacts for proposals across ten years: increasing the corporate alternative minimum tax rate to 21 percent would increase revenues by $136 billion; expanding the limitation on the deductibility of employee remuneration over $1 million would raise $216 billion, revising the global minimum tax regime, limiting inversions, and additional related reforms would raise $302 billion; adopting the undertaxed profits rule would raise $134 billion; repealing the foreign-derived intangible income deduction would raise $160 billion; increasing the top marginal rate would raise $191 billion; taxing capital income for high-income earners at ordinary rates would raise $206 billion; and expanding the child tax credit with full refundability and advanceability would cost $305 billion.

Although these proposals are unlikely to see action in 2024, revenue requirements that may arise next year from the expiration of the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97) may clear a pathway for some of the Biden Administration's proposals to be considered in the 2025 tax debate.

Treasury Finalizes Rule Expanding Clean Energy Credit Eligibility, House CCP Chairman Moolenaar Introduces Bill to Halt Treasury's 45X Tax Credit Rule
Key Points:

- *The Treasury Department has finalized regulations to expand the IRA's clean energy credits for entities that co-own eligible projects.*
- *According to the Department, the alteration will benefit state, local, and tribal government entities.*
- *Shortly after, House Select Committee on the CCP Chairman Moolenaar (R-MI) introduced legislation to reverse a Treasury rule for the 45X Advanced Manufacturing Production Credit.*

On November 19, the Treasury Department announced it had finalized regulations to expand the Inflation Reduction Act's (IRA) (P.L. 117-169) clean energy tax credits for entities that co-own applicable projects. According to a press release, the finalized rules will allow projects to access the credits through elective pay. Treasury states in the release that direct pay will enable state, local, and tribal entities to benefit from the credits, resulting in faster project timelines and reduced costs. In turn, the Department has explained the regulations modify existing tax rules "clarifying how co-owned projects in the clean energy space can elect not to be treated as partnerships for tax purposes." Following public comments on the proposed regulation, the final version clarifies that eligible co-ownership arrangements can be "organized to own and operate property giving rise to any of the Inflation Reduction Act credits where elective pay is available."

The following day, House Select Committee on the CCP Chairman Moolenaar (R-MI) and Representative Golden (D-ME) introduced legislation that would reverse a rule (under the Congressional Review Act) implementing the Treasury Department's 45X Advanced Manufacturing Production Credit rule. Within a press release, Chairman Moolenaar's office asserts that the rule would currently allow CCP-affiliated companies to receive U.S. tax dollars for the production of battery components. Chairman Moolenaar also argues in the release that "under no circumstance should the CCP be allowed to benefit from the tax dollars of hardworking American families." The legislation parallels a similar bill previously introduced by Chairman Moolenaar, dubbed the NO GOTION Act (H.R. 6175), that would prevent companies based in China, Iran, Russia, or North Korea from qualifying for IRA tax credits.

Joint Economic Committee, Senate Banking Hold Hearings on 2025 Tax Priorities

Key Points:

- *The Joint Economic Committee held a hearing to discuss key 2025 tax priorities.*
- *In addition, Senator Warren (D-MA) hosted a Senate Banking subcommittee hearing to criticize key tax priorities of the incoming Trump Administration.*

On November 19, the Joint Economic Committee (JEC) held a hearing entitled, "Building on the Success of the TCJA: The 2025 Tax Policy Debate." Within the hearing, Representative Don Beyer (D-VA) argued in his opening remarks that Republican claims of the economic benefits of the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97) were misleading, citing reports that concluded the costs of the legislation were larger than economic growth. In addition, he noted a recent estimate that 80% of the benefits from the lowered corporate tax rate went to the "richest 10% of the income distribution, resulting in billions of dollars of tax giveaways to big businesses." In contrast, Republicans argued that the TCJA served to return investment in the U.S., bolster the corporate presence in the U.S. market, and provide relief for individual taxpayers. The hearing also included testimony from former JEC Chairman Brady (R-TX), who said in his opening statements that the TCJA remedied the "horribly outdated" U.S. tax code and called for Congress to "build on the gains … fostered by the 2017 reforms – to preserve the opportunities and competitiveness of America's workers."

The following day, Senator Warren (D-MA) chaired a Senate Banking Economic Policy Subcommittee hearing where she and other Democrat members criticized the TCJA. Specifically, Senator Warren stated in her opening remarks that the TCJA was a "$2 trillion tax scam" that gave away "trillions in tax cuts to billionaires and billionaire companies." In addition, she cautioned that President-elect Trump's plan to permanently enact many TCJA provisions, alongside lowering the corporate tax rate, would serve as the "next tax giveaway to billionaires."

President-elect Trump Considers Four Candidates for Treasury Secretary

Key Points:

- *President-elect Trump is currently considering four candidates to tap for Treasury Secretary.*
- *The four major candidates include Apollo Management CEO Marc Rowan, former Federal Reserve Governor Warsh, hedge fund manager Scott Bessent, and Senator Hagerty (R-TN).*

Reports make it clear that President-elect Trump is currently considering at least four candidates to be his Secretary of the Treasury under the incoming Trump Administration. Among the top candidates are Apollo Global Management CEO Marc Rowan, former Federal Reserve Governor Warsh, hedge fund manager Scott Bessent, and Senator Bill Hagerty (R-TN).

Rowan, the CEO of Apollo Global Management, advised the first Trump Administration on ways to support domestic financial markets during the COVID-19 pandemic. In addition, Rowan was largely associated with the action to oust the University of Pennsylvania President following anti-Israel protests. He assumed sole leadership of Apollo after the other co-founder resigned in 2021.

Warsh, formerly serving on the Federal Reserve from 2006 to 2011, has a strong economics and financial background but has also been a critic of the first Trump Administration's tariff policies. In 2018, Warsh penned an opinion piece calling the President's "mercantilist rhetoric" a potential pathway to "economic isolationism [that] would do great harm to our economic growth prospects." Reports indicate that the President-elect has considered appointing Warsh to serve as Treasury Secretary and moving him back to the Federal Reserve when Jerome Powell's chairmanship ends in 2026.

Hedge fund manager Scott Bessent has also been considered for the nomination, but reports have indicated he may already have been offered the head position at the National Economic Council.

Lastly, Senator Hagerty (R-TN), the former U.S. ambassador to Japan, is also being floated as an option.

All four candidates have visited Mar-a-Lago in the past few days.

The prolonged selection process has narrowed since Cantor Fitzgerald CEO Lutnick, who was seeking the Treasury position, was tapped for Commerce Secretary instead. Trump supporters and political allies remain split on whether the President-elect should nominate a candidate that would assuage concerns from Wall Street or would more readily back his plans related to tariff and cryptocurrency policy. Notably, the selection process has been the longest of any of the major positions currently being considered by the Trump transition team.

For more information about tax issues, you may email or call Christopher Hatcher at 202-659-8201. Noah Hawkins contributed to this section.

FINANCIAL SERVICES

SEC Chair Gensler to Depart January 20

Key Point:

- *SEC Chair Gensler will step down in January. President-elect Trump has not yet announced who he intends to nominate to be the next SEC Chairman.*

On November 21, Securities and Exchange Commission (SEC) Chair Gary Gensler announced his resignation from the agency which will take place on January 20, 2025, at 12:00pm. Gensler was appointed to Chair the SEC in April 2021. President-elect Donald Trump has not made an announcement of who will be the acting chair of the SEC when Gensler steps down, or of who he intends to nominate as the next SEC Chair. In addition to Chair Gensler, Commissioner Jaime Lizarraga announced he will resign on January 17, 2025.

CFPB Finalizes Rule on Federal Oversight of Digital Payment Apps

Key Points:

- *The rule will become effective 30 days after publication in the Federal Register.*
- *The rule only applies to transactions made in the U.S dollar currency given the growing diversity of payment currencies.*

On November 21, the Consumer Financial Protection Bureau (CFPB) finalized a rule to supervise the largest non-banks offering digital funds transfer and payment wallet platforms and require these entities to follow the same federal laws as financial institutions covered by CFPB supervision. The companies included under the rule are those which handle more than 50 million transactions annually. The rule will allow the CFPB to monitor and supervise companies in areas of privacy and surveillance, errors and fraud, and debanking. Entities covered by the rule would include “providers of funds transfer and payment wallet functionalities through digital applications for consumers’ general use in making payments to persons for personal, family, or household purposes”, such as digital wallets and payment apps.

CFPB Director Rohit Chopra stated, “Digital payments have gone from novelty to necessity and our oversight must reflect this reality. The rule will help to protect consumer privacy, guard against fraud, and prevent illegal account closures.”

House Financial Services Committee Hearing on the Oversight of Prudential Regulators

Key Points:

- *Federal Reserve Vice Chair for Supervision Michael Barr, Federal Deposit Insurance Corporation (FDIC) Chair Martin Gruenberg, National Credit Union Administration (NCUA) Chair Todd Harper, and Acting Comptroller of the Office of the Comptroller of the Currency (OCC) Michael Hsu testified before the House Financial Services Committee.*
- *Committee Republicans asked witnesses to commit to pausing rulemaking efforts at their respective agencies until the beginning of the Trump Administration.*
- *Discussion included current rulemaking efforts, such as the Basel III Endgame proposal, and workplace culture at the FDIC.*

On November 20, the House Financial Services Committee held a hearing entitled, "Oversight of Prudential Regulators." Chairman Patrick McHenry (R-NC) stated that the approaches of the federal banking regulators have harmed the financial system, innovation, and consumers. He suggested that the agencies proposed a regulatory onslaught to rewrite the rules governing U.S. financial institutions, including inadequate economic analysis, weak justification, and limited public engagement. He claimed these proposals not only harmed consumers in the financial system but also eroded the credibility of independent agencies. He expressed the witnesses' actions endangered the political independence and authority of their agencies. Ranking Member Maxine Waters (D-CA) stated that President-elect Donald Trump and his appointees will give passes to Wall Street banks, allowing big banks to get even bigger. She noted Project 2025 promised to eliminate oversight over big banks and will further harm the nation's consumers in the financial market.

In response to questioning about whether proposed regulations will be finalized before the next Administration, Fed Vice Chair for Supervision Michael Barr stated that he will work on the rulemakings on Basel III, liquidity and long-term debt with his new colleagues at the OCC and FDIC next year.

Other topics discussed during the hearing included Basel III, the brokered deposits rule, passivity agreements, the CFPB Open Banking Rule, the FDIC workplace, a pause in rulemaking, small and community banks, climate risk, check fraud, and DEI.

House Financial Services Committee Republicans Release Final Staff Report on FDIC

Key Points:

- *Prior to the Committee hearing with federal banking regulators, Representative Bill Huizenga (R-MI) and Representative Andy Barr (R-KY) introduced H.Res. 1574, calling for Gruenberg's immediate resignation.*
- *H.Res. 1574 was co-sponsored by all House Financial Services Committee Republicans.*

On November 19, House Financial Services Committee Republicans released their final staff report regarding the workplace culture at the Federal Deposit Insurance Corporation (FDIC). The report was released prior to the Committee's hearing entitled, "Oversight of Prudential Regulators" and follows a year-long investigation by Committee staff and numerous calls for FDIC Chair Martin Gruenberg's resignation.

The report stated, "… an independent third-party review contemplated whether Chairman Gruenberg could lead the agency through the necessary cultural changes that must be made at the agency…. The next Chairman of the FDIC will need to undo the years of damage to morale and culture at the agency. While Chairman Gruenberg's expected imminent replacement by the incoming Administration is welcome news for FDIC employees and the financial system at large, it is not enough."

FDIC Announces Extension of Comment Period for Deposit Insurance Recordkeeping Rule

Key Points:

- *Comments on the proposed rule are due on January 16, 2025.*
- *The proposed rule was originally published on September 17, 2024, with an original comment period ending on December 2, 2024.*

On November 18, the Federal Deposit Insurance Corporation (FDIC) announced a 45-day extension period for public comments on its proposed rule to address risks related to "certain third-party arrangements, protect depositors, and promote public confidence in insured deposits." The rule would require FDIC insured banks, holding certain custodial accounts, to take steps to ensure accurate account records are maintained. The purpose of these requirements are to determine the owner of funds, specifically if a bank uses a third party to maintain records.

Senate Banking Committee GOP Leader Calls for Pause in Rulemaking

Key Points:

- *In a letter to President Biden, Senate Banking Committee Ranking Member Tim Scott (R-SC) called for a pause in rulemaking by financial and housing agencies in addition to the withdrawal of recent nominations to provide President-elect Donald Trump a "fresh slate" for a "new era of government."*
- *The letter was also sent to the heads of financial and housing federal agencies.*

On November 18, Senate Banking, Housing, and Urban Affairs Committee Ranking Member Tim Scott (R-SC) sent a letter to President Biden calling on financial and housing regulators to pause rulemaking activity until the Trump Administration. Scott, who will become the Chairman of the Senate Banking, Housing, and Urban Affairs Committee next year, urged President Biden to rescind his nominations that are pending before the committee.

Ranking Member Scott stated, "I call on the agencies overseen by the Committee to cease all rulemaking, including the finalization of any pending or proposed regulations or guidance, and to comply with federal record retention laws and preserve all agency documents, records, and communications. I subsequently demand that all pending nominations within the Committee's purview be withdrawn. I will not vote for, or advance, any nominees put forth in front of the Committee by your administration. Next Congress I look forward to confirming President Trump's nominees who will bring about economic opportunity for all Americans."

Treasury Issues Final Regulations Enhance CFIUS

Key Points:

- *The final rule builds on comments received regarding a previous rule released in April.*
- *The final rule will become effective 30 days after publication in the Federal Register.*

On November 18, the Department of the Treasury, Committee on Financial Investment in the United States (CFIUS), issued a final rule to enhance CIFUS authorities and sharpen penalties. The final rule will expand types of information required of transaction parties, expand the instances when a civil monetary penalty may be imposed, expand the circumstances in which CFIUS may use subpoena authority, increase the maximum civil monetary penalty for violations of CFIUS regulations, extend the timeframe for a submission of a reconsideration petition of a penalty, and allow the Staff Chairperson at CFIUS to set a timeline for transaction parties to respond to a risk mitigation proposal.

Assistant Secretary for Investment Security Paul Rosen stated, "This rule enhances CFIUS's ability to vigorously defend the national security of the United States by ensuring our investment screening regime has a sharper scalpel to more quickly and effectively address national security risks that arise in CFIUS reviews."

Upcoming Meetings and Events

December 3

Markets: Securities and Exchange Commission (SEC) Chair Gary Gensler will participate in a fireside chat at the Healthy Markets Association (HMA) Conference. The Conference will include a conversation with Financial Industry Regulatory Authority's (FINRA) Chief Legal Officer, a discussion on equity market structure reforms, a discussion on new rules for fixed income, a conversation on predicting the new regulatory and policy agenda, and a discussion on investing in China.

December 5

Securities: Securities and Exchange Commission (SEC) Chair Gary Gensler will provide remarks at the American Bar Association's Federal Regulation of Securities Winter Meeting. Gensler's remarks will be followed by a moderated Q&A session.

December 12

FACI: The Federal Advisory Committee on Insurance (FACI) will hold its next meeting.

December 17

FOMC: The Federal Open Market Committee (FOMC) will hold a two-day meeting.

For more information about financial services issues you may email Joel Oswald or Mahlet Makonnen. Ashley Kinder contributed to this section.

ENERGY & ENVIRONMENT

President-Elect Chooses Secretary of Energy Candidate

Key Point:

- *President Trump named energy industry executive Chris Wright as his pick to head the Department of Energy.*

On November 16, President-Elect Trump announced that Liberty Energy CEO and Chairman Chris Wright will be his nominee to be Secretary of Energy. Trump's announcement notes that Wright "was one of the pioneers who helped launch the American Shale Revolution…has been a leading technologist and entrepreneur in Energy…[and] has worked in Nuclear, Solar, Geothermal, Oil and Gas."

Senate Energy and Natural Resources Committee Ranking Member John Barrasso (R-WY) issued a statement praising Trump's choice of Wright. Barrasso said Wright is "an energy innovator who laid the foundation for America's fracking boom…[who] will help ensure America remains committed to an all-of-the-above energy policy…"

The Department of Energy (DOE) has a sprawling portfolio of issues under its jurisdiction however it does not directly oversee oil and natural gas production. The Department is responsible for management of the Strategic Petroleum Reserve (SPR), as well as authorizing the export of liquefied natural gas (LNG). The DOE's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) is focused on enhancing "the security and resilience of the U.S. energy sector from cyber, physical, and climate-based risks and disruptions." CESER is one of the Department's seventeen program offices, which also include: the Office of Electricity; the Office of Energy Efficiency & Renewable Energy; the Office of Fossil Energy and Carbon Management; and the Office of Nuclear Energy.

Upcoming Hearings and Events

November 26

Hydrogen Pipeline Safety: The Pipeline and Hazardous Materials Safety Administration (PHMSA) will hold an "R&D Core De-Brief Presentation" titled "Review of Integrity Threat Characterization Resulting from Hydrogen Gas Pipeline Service". The research project is intended to "define a list of possible changes to the [current industry standards for the] threat assessment process for hydrogen or hydrogen/natural gas blended service in new or existing pipelines."

December 19

FERC Meeting: The Federal Energy Regulatory Commission (FERC) will hold its monthly open meeting.

For more information about energy and environment issues you may email or call Frank Vlossak at 202-659-8201.

HEALTH

Dr. Mehmet Oz Nominated to Serve as Administrator of CMS

Key Points

- *Dr. Oz is a trained heart surgeon who rose to fame as a television personality*
- *He has expressed support for expanding the MA program*

President-elect Donald Trump announced Dr. Mehmet Oz as the nominee to serve as the Administrator of Centers for Medicare and Medicaid Services (CMS).

Dr. Oz ran for Senate in 2022 and is a former TV host and heart surgeon who served on the Presidential Council on Sports, Fitness and Nutrition in 2018 and 2020. Throughout his career he has been an advocate of alternative medicines and treatments.

Prior to his Senate run, Dr. Oz had expressed support for the Affordable Care Act, health insurance mandates, and proposed a Medicare Advantage for All program but as a candidate called for repealing the ACA.

Dr. Oz co-wrote a 2020 opinion column arguing for a universal health coverage system, in which every American not covered by Medicaid would be enrolled in a private Medicare Advantage plan. The coverage expansion would be financed by an "affordable 20 percent payroll tax," and would end employer health coverage and the government Medicare program.

In the press release announcing the nomination, President-elect said Dr. Oz would "work closely with Robert F. Kennedy Jr. to take on the illness industrial complex, and all the horrible chronic diseases left in its wake" and noted that Dr. Oz had "won nine Daytime

Emmy Awards hosting 'The Dr. Oz Show,' where he taught millions of Americans how to make healthier lifestyle choices."

PBMs Sue FTC Over Insulin Prices Case

Key Point:

- *PBMs hope to pause the FTC's case regarding rising insulin costs.*

On November 19, pharmacy benefit managers (PBMs) CVS, Cigna Group, and UnitedHealth Group Inc. sued the Federal Trade Commission (FTC), claiming the case on rising insulin prices is unconstitutional.

The lawsuit follows an FTC case that alleged PBMs were using unfair rebates to inflate the price of insulin. The companies argued the case should have been litigated in a federal court, explaining their due process rights under the Fifth Amendment were violated.

Seeking a pause in the case, the companies additionally asked for a statement from the FTC commissioners, which explains they are unlawfully protected from dismissal. With the statement granted, the PBMs argued this would prove the in-house case unconstitutional.

For more information about health care issues you may email Laura Simmons. Aubrie Chastain contributed to this section.

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

Senate Homeland Security and Governmental Affairs Committee Advances Cyber Bills

Key Point:

- *The Senate Committee on Homeland Security and Governmental Affairs voted to advance a series of cybersecurity-focused bills at a markup this week.*

The Senate Committee on Homeland Security and Governmental Affairs (HSGAC) advanced a series of cybersecurity-focused bills in a markup held this week. Of the 28 legislative measures considered during the HSGAC meeting, the following featured significant cybersecurity provisions:

- The bipartisan "Federal Contractor Cybersecurity Vulnerability Reduction Act of 2024" (S. 5028), introduced by Senators Mark Warner (D-VA) and James Lankford (R-OK), would require federal contractors implement vulnerability disclosure policies (VDPs) that comply with National Institute of Standards and Technology (NIST) guidelines. While civilian federal agencies are already subject to legal requirements for VDPs, no such standard currently exists for government contractors. The bill is a companion to [H.R. 5255](), introduced by Representative Nancy Mace (R-SC), that was reported by the House Oversight and Accountability Committee in May.

- The "Federal Acquisition Security Council Improvement Act of 2024" (S. 5310), introduced by HSGAC Chairman Gary Peters (D-MI) and Senator Mike Rounds (R-SD), would help address national security threats to U.S. supply chains posed by foreign adversaries. Specifically, the bill would transfer Federal Acquisition Security Council (FASC) leadership responsibility from the Office of Management and Budget (OMB) to the Office of the National Cyber Director (ONCD), which the Senators argue is "better positioned to lead efforts to address national security threats in our information and communications technology supply chain" (Peters Press Release). The House companion H.R. 9597, introduced by House Oversight and Government Reform Committee Chairman James Comer (R-KY), was approved by the House on November 12th.
- The "DHS Cybersecurity On-the-Job Training Program Act" (H.R. 3208), introduced last year by the late Representative Sheila Jackson Lee (D-TX), would establish a program within the Cybersecurity and Infrastructure Security Agency (CISA) to train employees holding non-cybersecurity positions to work on cyber-related matters. The legislation passed the House on September 24th.
- The "DHS Cybersecurity Internship Program Act" (S. 5321), introduced by Chairman Peters (D-MI), would create a paid cybersecurity internship program within the Department of Homeland Security (DHS). The bill's companion, H.R. 9689, introduced by Representative Yvette Clarke (D-NY), was reported out of the House Committee on Homeland Security on September 25, 2024.

House Homeland Security Committee Holds Hearing on TSA's Cyber Regulations for Surface Transportation

Key Points:

- *This week, the House Homeland Security Committee's, Transportation and Maritime Security Subcommittee held a hearing entitled, "Impacts of Emergency Authority Cybersecurity Regulations on the Transportation Sector."*

- *Members and witnesses discussed the sector's vulnerability to cyber-attacks, and TSA's recent rulemaking.*

On Tuesday, the House Homeland Security Committee's Transportation and Maritime Security Subcommittee held a hearing entitled, "Impacts of Emergency Authority Cybersecurity Regulations on the Transportation Sector." Members and witnesses—representing both the federal government and industry—discussed the Transportation Security Administration's (TSA) "Enhancing Surface Cyber Risk Management" Notice of Proposed Rulemaking (NPRM), TSA emergency directives, infrastructure vulnerability, TSA resources, regulatory harmonization, and the industry's concerns.

In his opening statement, Subcommittee Chairman Carlos Gimenez (R-FL) emphasized the critical need for robust cybersecurity measures in the transportation sector. He said cybersecurity is not merely an information technology (IT) issue but a vital aspect of national security, with cyber threats increasingly threatening the safety, stability, and resilience of the U.S. economy. He explained that the country's transportation systems—spanning aviation, rail, public transit, highways, pipelines, and maritime ports—are foundational to the American economy, connecting communities and facilitating commerce. He also noted these systems' reliance on complex digital networks for operations and coordination makes them vulnerable to criminal and nation-state cyberattacks. He said that emerging technologies—such as autonomous vehicles, connected infrastructure, and artificial intelligence—while offering efficiencies, expand the attack surface for cybercriminals and adversaries. He warned that a successful cyberattack could disrupt travel and commerce, threaten public safety, and cause cascading effects across the economy and national security.

Chad Gorman, Deputy Executive Assistant Administrator for Operations Support at TSA, defended the agency's current cybersecurity posture, highlighting the NPRM, published on November 7th which mandates cyber risk management and reporting requirements for certain transportation operators. He highlighted actions taken after the 2021 cyber incident on a major U.S. pipeline, including mandatory incident reporting, designating cybersecurity coordinators, and requiring high-risk operators to develop tailored cybersecurity plans. He emphasized the importance of industry collaboration, noting TSA's transition in 2022 to a performance-based regulatory framework that addresses cybersecurity challenges with flexible and environment-specific measures.

During the hearing, representatives from the transportation industry welcomed TSA's recent NPRM while also expressing concern with regulatory compliance and the sector's overall vulnerability to cyber disruptions. Ian Jefferies, president and CEO of the Association of American Railroads (AAR), identified issues with the proposed rule, such as conflicting timelines for incident reporting and citizenship requirements for security coordinators, which create challenges for Canadian Class 1 railroads operating in the U.S. He commended TSA for using a normal regulatory process for the NPRM after years of relying on emergency directives, which he said bypass public input and risk imposing unnecessary and prescriptive requirements. He cautioned against "one-size-fits-all" mandates that fail to account for differences in cybersecurity preparedness across transportation modes and emphasized the need for performance-based standards to maintain flexibility and encourage innovation.

For more information about cybersecurity issues you may email Mahlet Makonnen or Frank Vlossak. Gray Eisler contributed to this section.

TRADE

President-Elect Trump Selects Lutnick to Serve as Commerce Secretary

Key Points:

- *President-elect Trump has selected Howard Lutnick to serve as his Secretary of Commerce.*
- *Lutnick, a CEO and co-chair of the Trump Administration's transition team, has previously expressed support for the Trump Campaign's tariff policies.*
- *The announcement has provided uncertainty as to whether the Trump Administration would fold USTR into the Commerce Department.*

On November 19, President-elect Trump announced his selection of Howard Lutnick to be Secretary of Commerce for the incoming Trump Administration. Within the announcement, President-elect Trump stated that Lutnick "has been a dynamic force on Wall Street for more than 30 years." Lutnick, the CEO of Cantor Fitzgerald, is also the co-chair of the incoming Trump Administration's transition team. Notably, Lutnick has previously praised the tariff proposals of the Trump campaign, calling them a useful bargaining tool between the U.S. and other nations. In addition, he has praised the potential for tariffs to build up domestic production. Critically, the statement announced that Lutnick would lead the Trump Administration's tariff and trade agenda, "with additional direct responsibility for the Office of the U.S. Trade Representative."

The comment has triggered debate as to how the USTR and Commerce department, which split authority over trade issues, will operate under a second trump Administration. Prior attempts to fold USTR into Commerce, including during the Obama Administration, faced pushback from the Senate Finance and House Ways and Means committees. Finally, it remains unclear what role, if any, Robert Lighthizer will play in a second Trump Administration, but his strong protectionist approach will be relevant if he is given a role.

U.S.-China Security Council Calls on Congress to Solidify China Trade Stances in Annual Report

Key Points:

- *The U.S.-China Economic and Security Review Council has released its annual report.*
- *The report calls on Congress to consider multiple pieces of legislation to set U.S.-China trade priorities, including the formulation of a "defense coalition" and revoking China's PNTR status.*

On November 19, the U.S.-China Economic and Security Review Commission issued its annual report to Congress. Within the report, the Commission argues that Congress should establish clear policy standings in dealing with China. Among the recommendations, the report states that Congress should pass legislation to limit the nation's economic and security dependence on critical supply chains, update existing trade tools to effectively counter China's non-market policies, prioritize domestic production and employment, address Chinese production overcapacity issues, and increase the executive branch's accountability to Congress related to trade actions. The report also calls on Congress to pass legislation disallowing entities in foreign trade zones from qualifying for zero or lower tariffs on products originally imported from China, Chinese-affiliated entities, or Chinese-invested entities. Likewise, the Commission states that relevant congressional committees should hold hearings to consider the possibility of establishing a "defense coalition" with allies to "forestall the risk of a second China shock." In addition, it recommends that Congress establish an Outbound Investment Office in the executive branch, strengthen export control monitoring, and repeal China's Permanent Normal Trade Relations status.

Representative DelBene Introduces Bill to Limit President's Executive Powers in Imposing Tariffs

Key Points:

- *Representative DelBene (D-WA) has introduced legislation that would limit the President's powers to impose tariffs without congressional approval.*
- *Specifically, the bill would exclude tariff imposition powers from the International Emergency Economic Powers Act.*
- *However, the legislation is unlikely to see any progress following the results of the election.*

On November 20, Representative DelBene (D-WA) introduced legislation to limit the President's power to impose tariffs without congressional approval. Her bill, dubbed the Prevent Tariff Abuse Act (H.R. 10181), would specifically limit the powers under the International Emergency Economic Powers Act (IEEPA) (50 USC Ch. 35) by excluding the imposition of tariffs. Within a press release, her office states President-elect Trump's proposal to establish a tariff from 10 to 20 percent could raise prices on consumer goods by $2,600 to $4,000 for the average American family. In turn, Representative DelBene has argued that using IEEPA to establish a universal tariff goes against the intent of the law and would likely lead to retaliatory tariffs targeting American farmers and businesses. Action on the legislation is unlikely, however, given President-elect Trump's win over the White House.

President-elect Trump may choose to utilize IEEPA powers to impose his proposed universal baseline tariff without congressional approval, but the legal foundation for doing so is untested. In 2019, the Trump Administration threatened to use the powers authorized under IEEPA to impose baseline tariffs on Mexican goods, but shortly after canceled the action. No President has yet used IEEPA as a means of imposing tariffs without congressional approval.

For more information about trade issues you may email or call Christopher Hatcher at 202-659-8201. Noah Hawkins contributed to this section.