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# Window on Washington - December 22, 2017 Vol. 1, Issue 40

Dec 22, 2017

## Outlook for This Week in the Nation's Capital

Clark Hill's Window on Washington team wishes you a happy holiday season. The Window will be on hiatus until after Congress returns from recess and our next publication will be on January 8 unless the news warrants an earlier issue.

**Busy January:** Congress has left town with a long list of items that it will need to handle in January and throughout the first quarter of 2018. The continuing resolution that Congress just passed only funds the government through January 19 so there are less than three weeks after Congress returns from recess to agree on a new spending deal. Another short-term continuing resolution is likely as Congress tries to finish negotiations on the FY18 Omnibus and increasing the spending caps for defense and non-defense spending in order to avoid sequestration. Recently, the White House announced that the FY19 budget would be released in February meaning that it will be completed before FY18 funding levels are known causing large discrepancies between the budget request and future FY19 appropriations bills. The Senate will also need to take up the \$81 billion disaster aid package that the House passed before leaving town.

Even though Congress just passed major tax reform, the Senate recently released a tax extenders bill that would renew many tax breaks that expired at the end of 2016. Conversations are underway between the White House and Congress on a compromise on the Deferred Action for Childhood Arrivals programs that would also include certain border security provisions. On health care, Congress needs to address the reauthorizations for the Children's Health Insurance Program and the Federally Qualified Health Centers and the Senate wants to take up legislation on the cost-sharing reduction payments and funding for reinsurance programs. Congress is also working on the higher education reauthorization and the FAA reauthorization. The President would like Congress to begin working on an infrastructure package in the new year that he hopes could be a bipartisan effort. All of this is occurring as Congress needs to vote on raising the debt ceiling limit, which is expected to be reached in March or April. In short, Congress is going to be *busy, busy, busy*.

## Window on Washington - Last Week in the Nation's Capital

### Congress

#### *Tax Reform*

**Trump Signs Major Tax Overhaul into Law:** President Trump last Friday signed the landmark \$1.5 trillion tax overhaul legislation in the Oval Office, forgoing a public signing ceremony as he prepared to leave Washington for his Christmas vacation in Florida. Trump's signature on the tax cut legislation put the finishing touches on his first major legislative accomplishment since taking office last January. He previously celebrated the bill with Congressional Republicans at a pep rally of sorts on the White House's South Lawn. ([Politico](#))

**History Shows You Can't Bank on Tax Bill Projections:** Congressional budget estimators say the tax code overhaul will cost at least \$1 trillion over 10 years if economic growth is considered, and nearly \$1.5 trillion under conventional scorekeeping. Meanwhile, the Committee for a Responsible Federal Budget, a nonpartisan watchdog group, says the real impact is likely to be as much as \$2.2 trillion, including interest payments on the added debt and considering that lawmakers, facing political pressures, aren't likely to let certain tax breaks expire as scheduled. As government number-crunchers readily admit, they are not "forecasters" — they simply try to weigh the impact of a particular policy change against what might happen without it. A host of factors beyond lawmakers' control can come into play to influence the eventual deficit outcome. ([Roll Call](#))

**Financial Planners and Attorneys Will be Kept Busy by New Tax Plan:** The new law will create some financial planning headaches — and opportunities — for advisors and their clients. The tax bill affects a range of savings and investments, such as 529s and HELOCs. ([Financial Planning](#))

#### *Budget*

**Shutdown Averted; Government Funded until January 19:** Congress passed another temporary spending bill last week that funds the government until January 19. The continuing resolution included funding for the Children's Health Insurance Program and community health centers through March 31, \$2.1 billion for a private care access program for veterans and a temporary extension of Section 702 of the Foreign Intelligence Surveillance Act. The bill also included \$4 billion for missile defense and \$700 million for Navy ship repairs. The House passed the bill with a vote of 231-188 and the Senate voted 66-32. ([Roll Call](#))

**Disaster Supplemental Stalls in Senate:** Before leaving for recess, the House passed an \$81 billion emergency aid bill to help communities in Texas, Florida, Puerto Rico and California. However, the aid package stalled in the Senate as Democrats are opposed to how the bill handles aid for Puerto Rico and the Virgin Islands. The Senate will likely bring up the package when it returns in January and has sufficient time to debate the measure. ([Politico](#))

#### *Justice*

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**House Republicans Investigating DOJ and FBI:** A group of House Republicans has been quietly investigating the Justice Department and the FBI for weeks over concerns the agencies improperly handled the unverified contents of a dossier alleging ties between President Trump and Russia. The group, led by House Intelligence Committee Chairman Rep. Nunes, has been working without the knowledge of the committee's Democrats. ([The Hill](#))

#### *Health*

**Congress Funds CHIP through March:** Congress was not able to agree on a long-term reauthorization for the Children's Health Insurance Program and instead, it provided short-term funding for the program through March 31 but some believe the funding might only last into February. Some states are taking measures to end or phase out coverage for children in response to not yet having a long-term funding solution. The disagreement in Congress over CHIP is over how to pay for the reauthorization of the program. ([CBS News](#))

**Senates Delays Consideration of Cost-Sharing Reduction Payment Legislation:** Senate Republicans originally planned to include the Alexander-Murray bill on cost-sharing reduction payments as part of a year-end spending package but decided to delay the consideration of the legislation after the spending package turned into only a short-term continuing resolution. Supporters of the bill announced that they would try and take up the legislation again in January as part of the negotiations of the FY18 Omnibus spending package. ([The Hill](#))

#### *Immigration*

**DACA Negotiators Look to January for Possible Fix:** Top Senate negotiators, feverishly working behind closed doors in recent days, say Republican leadership, including the president, has committed to bring a bipartisan deal to the floor in January to protect undocumented immigrants brought to the U.S. as children, though prospects for such a compromise are unclear. ([ABC News](#))

#### **Executive Branch**

##### *EPA*

**Court Asks EPA When it Will Move Forward with Smog Rule Compliance:** A federal court wants the Environmental Protection Agency to report, with "precision and specificity," how it plans to take a key step in implementing a 2015 smog pollution rule. The demand from the Court of Appeals for the District of Columbia Circuit came after the EPA said in November which areas of the country comply with the regulation, but refused to say which areas do not comply. ([The Hill](#))

##### *Labor*

**One Year Later - Labor and Employment Issues in the Trump Era:** As we approach the first anniversary of President Trump's inauguration, there are some emerging takeaways as to his administration's priorities with regard to labor and employment law. His approach has featured a more limited regulatory vision and a withdrawal from more aggressive Obama Administration enforcement priorities, while the Hill has been slow to act on nominees and legislation in this area, but there could be some movement on several bills in 2018. ([Cleveland Business](#))

##### *DOJ*

**DOJ, AT&T Conclude Unsuccessful Settlement Talks:** The Department of Justice and AT&T announced in a court filing that they could not reach an agreement over the wireless and pay-TV company's bid to buy Time Warner. The Justice Department has sued to stop AT&T from buying Time Warner for \$85 billion because of concerns that it could raise prices for rivals and pay-TV subscribers and hamper the development of online video. A trial to decide the matter is set to begin on March 19. ([CNBC](#))

**DOJ Asks FBI for Information on Uranium One Deal:** On the orders of Attorney General Sessions, Justice Department prosecutors have begun asking FBI agents to explain the evidence they found in a now dormant criminal investigation into a controversial uranium deal that critics have linked to the Clintons. There were allegations of corruption surrounding the process under which the US government approved the sale of US uranium mining facilities to Russia's state atomic energy company but no charges were filed. ([NBC News](#))

##### *Banking/Housing*

**Trump's Finance Regulators Shift Focus to Compliance Costs:** The financial stability risks flagged by Trump Administration regulators in a Thursday report largely mirrored those highlighted by the Obama Administration, but the report's focus on revising the rules governing banks and other financial firms indicates a significant change in perspective among supervisors. The Financial Stability Oversight Council's annual report, the first led by Treasury Secretary Steven Mnuchin and approved by largely Trump-selected regulatory chiefs, highlighted similar cybersecurity, financial innovation and other risks to the global financial system as the same report produced under the Obama Administration in previous years. ([Law 360](#))

**Fannie, Freddie Permitted by U.S. to Keep \$3 Billion Buffers:** The Federal Housing Finance Agency and U.S. Treasury Department have agreed to allow mortgage giants Fannie Mae and Freddie Mac retain capital buffers of \$3 billion a piece, marking the first changes to their bailout arrangements in five years. The change, announced Thursday, came after months of warnings by FHFA Director Mel Watt, who said having no buffers at the government-controlled companies risked disrupting the mortgage market if they had to take more bailout money from the U.S. Treasury. Some Democratic senators had also called for Fannie and Freddie to keep buffers, while some Republicans said such a change was unnecessary. ([Bloomberg](#))

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**Top Regulator Urges Banks to Boost Fintech Services:** The chief U.S. bank overseer on Wednesday called on the financial services industry to provide better ways to serve customers online or risk losing business. Comptroller of the Currency Joseph Otting said that banks must offer customers easier access to lending and other critical services through mobile applications and websites to prevent losing ground to financial technology companies. ([The Hill](#))

HHS

**CDC Reacts to News of Seven Banned Words in Budget Documents:** “The Washington Post” reported that CDC officials flagged seven words and phrases—diversity, entitlement, evidence-based, fetus, science-based, transgender, and vulnerable—that should not be used budget documents. In response, both the CDC and HHS announced that there is no list of banned words. ([Science Magazine](#))

**NIH Revises Funding Strategy for Young Researchers:** Rather than solely focusing on providing additional grant opportunities to early- and mid-career researchers, NIH announced it will now also focus on funding researchers that are struggling to keep their labs afloat. ([The Scientist](#))

**Additional Guidance on 340B Changes Causes More Confusion:** CMS released an additional guidance related to how hospitals would track which drugs were obtained under the 340B program. Hospitals are concerned as the details for this requirement were not previously outlined and they might not be able to comply by the January 1 deadline. ([Modern Healthcare](#))

Transportation

**Trump Predicts GOP Will Work with Dems 'For the Good of the Country':** Perhaps on Infrastructure Package: President Donald Trump suggested Friday that Republicans and Democrats who have been at odds over nearly every major policy issue this year might soon come together on an infrastructure plan “for the good of the country.” A massive infrastructure package has been on Trump’s to-do list since last year’s presidential campaign and is the policy goal where he is most likely to find cooperation from Democrats, at least in theory. ([Politico](#))

**Amtrak Derailment Spotlights Delay in Train Safety Upgrades:** The deadly Amtrak derailment in Washington state earlier this week has turned the spotlight on Congress’s decision to delay a deadline for all railroads to install new train safety technology. The National Transportation Safety Board said that a high-speed Amtrak train traveling from Seattle to Portland was going 80 mph in a 30-mph-zone when it derailed on Monday, leaving at least three people dead and scores more injured. Positive Train Control, which automatically slows down a train that is going over the speed limit, was not yet active along the newly upgraded track. PTC was originally supposed to be in place nationwide two years ago, but lawmakers pushed back the deadline at the urging of industry groups. ([The Hill](#))

IRS/Nonprofit

**Fallout from Allegations of Tea Party Targeting Hamper IRS Oversight of Nonprofits:** Years of conservative attacks on the Internal Revenue Service have greatly diminished the ability of agency regulators to oversee political activity by charities and other nonprofits, documents and interviews show. The fall in oversight, a byproduct of repeated cuts to the IRS budget, comes at a time when the number of charities is reaching a historic high and they are becoming more partisan and financially complex. ([The Washington Post](#))

Interior

**Interior Reimbursed for Zinke Virgin Island Fundraiser, but Contributions Unaccounted for:** Taxpayers have been reimbursed for Interior Secretary Ryan Zinke’s participation in a political fundraiser last spring in the Virgin Islands — but questions remain about the donations he helped solicit, according to campaign finance records and interviews. ([Politico](#))

Energy

**Energy Department Reorganizes:** The Department of Energy is moving offices from the previous “Office of the Under Secretary for Science and Energy” into two separate offices: the “Office of the Under Secretary of Energy” and “Office of the Under Secretary for Science.” No employees will be laid off as part of the reorganization. The combined office was created in 2013 under former Secretary Moniz. ([Bloomberg News](#))

CFPB

**With CFPB in Limbo, States Take the Reins for Consumer Rights:** As the legal fight over leadership of the Consumer Financial Protection Bureau lingers, the states are flexing their muscles and promising to fill the gap. Last week, a group of 17 attorneys general wrote President Trump and vowed to “vigorously enforce state and federal laws to ensure fairness and deter fraud.” The legal chiefs pledged to “redouble our efforts at the state level” if the president impedes the agency from carrying out its mission. ([The Hill](#))

NASA

**Space Industry Takes Prominent Role in Trump’s National Security Strategy:** The Trump Administration is elevating the role of the privately funded space industry in advancing the nation’s interests as competitors like Russia and China seek to challenge the U.S. and its free rein in space. In the 2017 National Security Strategy released Dec. 18, the president commits the U.S. government to partnering with private industry to explore space and defend U.S. assets there. The administration also promises to help defend private space systems from hostile attacks and makes the promotion of space

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commerce a national security priority. ([Space News](#))

**NASA Selects Comet and Titan Missions as New Frontiers Finalists:** NASA has selected missions to return samples from a comet and to explore Titan with a drone as finalists for the next New Frontiers medium-class planetary science mission. The two missions, selected from a pool of 12 proposals and announced by NASA Dec. 20, will receive funding for additional studies through 2018 before NASA picks one of them in the spring of 2019 for full development and launch in 2025. ([Space News](#))

*Education*

**DeVos Praises Tax Bill's School Choice Provision at K-12 Education Summit, Sidesteps Funding Threat:** The expansion of 529 savings plans to cover K-12 education expenses is a good first step to expanding school choice — but just that, Education Secretary Betsy DeVos said Tuesday. “Anything that empowers parents and gives them more opportunities is a good thing, but it doesn’t address the needs of parents who are from lower incomes and does not empower them in significant ways. That has to continue to be an important consideration on our radar screen,” DeVos told reporters. ([The 74](#)).

*Russian Investigation*

**Trump Team's Meeting with Mueller's Office Poised to Ratchet up Tensions:** White House lawyers are expected to meet with special counsel Robert S. Mueller III's office in the near future seeking good news: that his sprawling investigation's focus on President Trump will soon end and their client will be cleared. ([The Washington Post](#))

*White House*

**Trump Taps 10 for Bench in Latest Round of Nominations:** President Trump announced a wave of federal judicial nominations on Wednesday, tapping a New Mexico energy law partner for the Tenth Circuit, a Morgan Lewis & Bockius LLP intellectual property partner for the District of Delaware, and eight more attorneys for federal district judgeships in Pennsylvania, Florida and other states. ([Law 360](#))