

To: Jackson, Ryan[jackson.ryan@epa.gov]
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— Net neutrality repeal vote — interest rate watch

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Welcome to the December edition of the CEO Report, POLITICO Pro's high-level outlook on the policy issues driving the month ... and beyond.

TAX

Racing to reconcile two tax overhaul bills by Christmas: December is the make-or-break month for Republican plans to rewrite the tax code, at least if they want to meet their self-imposed deadline of getting a package to President Donald Trump by year's end, report Pro Tax's Brian Faler and Toby Eckert. The Senate and House have passed separate plans, and there are some [big differences to work out](#), notably:

— The House version would cut the rate on pass-through businesses to 25 percent, while the Senate would give them a 23 percent tax deduction for certain income and continue to tax them overall at individual rates.

— The Senate wants to eliminate Obamacare's mandate that individuals have health insurance or pay a fine. The House bill would keep the mandate.

— The estate tax and alternative minimum tax — both long targeted by Republicans for elimination — are also treated differently. The House would boost the amount of money exempted from the estate tax and eventually eliminate it. The Senate would boost the exemption but keep the tax. The House would also abolish the AMT, which was created to ensure that wealthy people don't escape taxes entirely but has begun reaching into the middle class. The Senate decided to keep it.

— The House would cut the maximum mortgage interest deduction in half — limiting it to the interest on \$500,000 in mortgage debt, down from \$1 million now — and eliminate it entirely on mortgages for second homes. The Senate targeted only the interest write-off on home equity loans, which it would end.

The bills also differ on how they treat education-related tax breaks, corporate interest expenses and taxing multinational corporations, among others.

None of these, however, are considered deal-breakers.

House Speaker [Paul Ryan](#) today plans to appoint members to a conference committee to work out the differences, and Senate Majority Leader [Mitch McConnell](#) is expected to do the same this week.

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DATAPoint

Pass-through deduction changes win support: The Senate's tax reform legislation includes last-minute changes to allow pass-through businesses to deduct a slightly higher percentage of business income. The move secured the support of Sen. [Steve Daines](#), who had been concerned about the treatment of pass-throughs relative to C corporations. Sen. [Ron Johnson](#) has raised similar concerns, and he supported the bill as well. — *Taylor Thomas*

View the full graphic [online](#) and find out more about DataPoint [here](#).

BUDGET & APPROPRIATIONS

Stopgap rollercoaster ride: Prepare for one shutdown scare after another this month as Republican leaders [attempt a string](#) of short-term funding extensions. The spending bill Congress cleared in September only keeps the government running through Friday. And since lawmakers have yet to settle on updated levels for the whole fiscal year, stopgap spending is back on the table — times two.

GOP leaders [plan](#) to subject themselves to multiple nail-biter funding votes over the next few weeks, with one wedged up against Christmas Eve. The idea is to extend funding until Dec. 22 and then pass another stop-gap that would fund the government until sometime in January, with the hope of clearing a full-year package not too long after the start of the new year.

The two-part plan is meant to appease defense hawks who refuse to close out December without at least a promise of elevated funding for the military. Leaders aim to

settle on overall caps for defense and non-defense money by that Dec. 22 deadline. But neither December vote is a sure bet for passage. Congress' fiscal conservatives say a pre-Christmas vote is never advantageous to their cause since it cedes leverage to the minority party. And in the Senate, leaders need the votes of at least eight Democrats, who may be willing to play hardball in an attempt to get concessions such as protections for young undocumented immigrants.

Always ripe for additions, any year-end spending bill is also at risk of getting tied up by other urgent efforts. This time, that could mean extending funding for the Children's Health Insurance Program, reauthorizing the National Flood Insurance Program, raising the debt ceiling or clearing another disaster aid package.

Speaker Ryan has said, however, that disaster relief funding is unlikely to hitch a ride on the spending bill Congress will try to pass this week. And the Congressional Budget Office has just provided a more optimistic assessment on the debt ceiling, predicting the nation won't risk defaulting on its loans until the end of March or early April — further down the road than the Treasury Department's previous estimate. — *Jennifer Scholtes*

CYBERSECURITY

The midnight hour is nigh: The day of judgment is finally arriving for a set of online surveillance tools that expire at year's end. Congress has just a few legislative days left to find a way to renew the powerful snooping effort authorized under Section 702 of the Foreign Intelligence Surveillance Act. And as the clock winds down, lawmakers have yet to coalesce around one approach to renewing — and possibly revising — the 702 statute.

After the House Judiciary Committee spent weeks pushing a renewal measure that contained significant alterations — including some fiercely debated warrant requirements for FBI officials seeking to view Americans' digital communications in certain situations — the Intelligence panels in the House and Senate decided to plow forward with their own renewal measures that contain fewer revisions and no warrant requirements. And the leaders of both Intelligence panels have indicated they may have to attach their 702 measures to a must-pass bill, such as legislation to avert a government shutdown.

The move has enraged privacy and civil liberties-minded lawmakers on both the right and left, who insist that a strict warrant requirement is necessary to protect the constitutional rights of Americans whose online chatter is incidentally sucked into the NSA's foreign surveillance database. But Trump administration officials have warned that such a provision would hamper criminal and terrorism investigations.

Protecting future elections: In the coming weeks, House Democrats will roll out a bill they believe will help harden the digital defenses of the country's election system. It will

be the latest in a slew of legislative offerings — many of them bipartisan — Capitol Hill has received this year to inoculate future U.S. elections from foreign meddling. But there's been few signals that Congress will take swift action. And for some critical targets, it might already be too late. By this point during the 2016 election cycle, Russian hackers had already been in the Democratic National Committee's networks for at least three months.

Tell her about it: Expect lawmakers to keep Uber in the spotlight after the ride-hailing giant recently revealed it had covered up a 2016 data breach by paying off the digital thieves to keep quiet. The incident — which has spawned multiple government investigations and lawsuits — has once again spotlighted the lack of a nationwide standard for when companies must notify victims and regulators following cyber intrusions. The issue was already front and center after the mammoth Equifax data breach, which exposed over 145 million Americans' private data, with several lawmakers introducing proposals for such a law. But none of the offerings have moved, and with a packed congressional calendar, lawmakers don't seem poised to act soon.

Kaspersky be gone: Federal agencies have until mid-December to start removing Russia-based Kaspersky Lab software from their computer systems. The Department of Homeland Security in September barred the government from using the antivirus giant's tools, citing concerns that the software could give the Kremlin a foothold in the U.S. government. For years, Kaspersky has fended off allegations that it assists the Kremlin with its digital espionage efforts. Those fears came to a head in October when several news outlets reported that Moscow had obtained secret National Security Agency cyber weapons through Kaspersky's software, which had apparently picked them up from an NSA employee's personal computer. Kaspersky has vehemently denied it handed the NSA tools over to the Kremlin, suggesting that Russia-linked malware on the staffer's computer nabbed the classified files. — *Cory Bennett*

TECHNOLOGY

Net neutrality vote : After months of buildup, the Republican-led FCC is poised to fully dismantle the agency's net neutrality rules this month. GOP commissioners are expected to approve the repeal at the FCC's Dec. 14 meeting over the objections of the minority Democrats. That will open the door, at least in theory, for internet service providers to block or throttle websites, or charge businesses for internet "fast lanes" to consumers. While the FCC says the Federal Trade Commission will be able to curtail companies that engage in anti-competitive behavior, digital activists fear the internet will slowly turn into something akin to cable service, with different tiers. They also warn it will create an uneven playing field for businesses, with startups and small firms unable to pay for the same access to consumers. The repeal is widely expected to end up in court, with some combination of public interest groups filing a lawsuit to challenge the decision. So in the end, judges, not regulators, may have the final say.

AT&T-Time Warner lawsuit : Another big telecom lawsuit is already playing out in court, as the Justice Department battles AT&T and Time Warner over the government's decision to block their \$85 billion merger. It's shaping up to be a groundbreaking case, with the DOJ arguing the combined company would have too much power and the firms contending the government broke with years of precedent in rejecting their "vertical" deal, which doesn't eliminate a direct competitor. Hovering over the proceedings are the words of Trump, who has said he doesn't like the merger and makes a habit of attacking Time Warner's CNN over its coverage of his administration. While AT&T and Time Warner, in their initial legal response to the government's lawsuit, didn't make an issue of the president, many expect the companies will seek to explore potential White House meddling with the antitrust decision. When the negotiations began to break down in early November, sources close to the deal told POLITICO that it was clear the Justice Department wanted AT&T and Time Warner to get rid of CNN, something DOJ officials denied. — *Angela Greiling Keane*

ENERGY

Arctic oil drilling: Republicans are on the cusp of getting a policy change they've sought for more than two decades: opening the Arctic National Wildlife Refuge in Alaska to oil and gas drilling. The language, authored by Senate Energy Chairwoman Lisa Murkowski and attached to the GOP tax plan, directs Interior to hold two lease sales over the next decade, which the Congressional Budget Office has said would raise \$1 billion. Previous attempts to open ANWR during the Bill Clinton and George W. Bush presidencies failed, and it faces staunch opposition from environmental groups and Democrats. But with the current legislation moving under the budget reconciliation process, it would avoid a Democratic filibuster.

Electric grid resiliency: The electricity market regulators at FERC have promised to take action by Dec. 11 on a proposal pushed by Energy Secretary Rick Perry to help keep coal and nuclear power plants afloat in the name of bolstering grid resiliency. It's anyone's guess what the FERC action might look like, but Perry's push has drawn opposition from interests as varied as the renewable energy industry, many power generators and the oil and natural gas sector. The chief FERC proponent, Neil Chatterjee, has called for establishing an interim measure to protect coal and nuclear power plants, but he's likely to face opposition from his colleagues. — *Anthony Adragna*

FINANCIAL SERVICES

Interest rate watch: Federal Reserve policymakers will meet Dec. 12-13 to decide whether to raise interest rates. Though they are expected to hike rates for the third time this year, it's not a slam dunk. While outgoing Fed Chair Janet Yellen told lawmakers on Nov. 29 that she expects the economy to continue to expand and the job market to

strengthen, she has expressed puzzlement that inflation is so tame. Other Fed officials have underscored that concern, although they still seem to be leaning toward a December move. Gov. Jerome Powell, Trump's pick to replace Yellen as Fed chief, told senators last week that a case for raising rates "is coming together."

Less stress for lenders: On the bank regulation front, the Fed is also likely to propose making more information available about its annual stress tests for lenders. The idea is to help banks better gauge whether their estimated losses under extreme market conditions are in line with the Fed's models. Banks have complained the criteria for passing the tests has been vague — a perhaps intentional move by Fed officials to keep the examinations from becoming too predictable.

A bank bill with legs: The Senate Banking Committee on Tuesday is expected to approve a landmark bill that would ease regulations for a number of small and regional banks. The legislation — which has rare bipartisan support — is the most significant attempt by the Senate to rewrite financial rules since the 2010 Dodd-Frank law. Analysts say the bill probably has enough backing to clear the full Senate, though that might not happen until next year.

The committee also set its confirmation vote for Powell for that same day.

Blowing through flood insurance deadline: Congress appears unlikely to pass a long-term reauthorization and overhaul of the National Flood Insurance Program before the Dec. 8 expiration date. A short-term extension will likely be needed to keep the program fully functional. That could push the issue into 2018 — an election year — when lawmakers may be even more reluctant to debate a high-stakes program that millions of coastal Americans rely on.

Fannie-Freddie buffer: Officials at Treasury and the Federal Housing Finance Agency are working on a plan to let Fannie Mae and Freddie Mac maintain a capital buffer, and could make an announcement this month. The clock is ticking: Come January, both mortgage giants will have exhausted their financial assets as part of a bailout deal struck after the housing collapse. — *Mark McQuillan*

TRADE

WTO reproach? Front and center on the trade calendar is the Dec. 10-13 World Trade Organization ministerial conference in Buenos Aires, where U.S. Trade Representative Robert Lighthizer could offer a further rebuke of the failings he sees in a rules-based system. Lighthizer and other Trump administration officials have criticized the WTO and other global agencies for what they see as overreach and hindering economic growth.

Meanwhile, trade ministers from 11 countries working to salvage the Trans-Pacific Partnership could meet on the sidelines to advance the pact abandoned by the U.S.

earlier this year.

NAFTA slog: NAFTA talks will continue with chief negotiators meeting the week of Dec. 11 in Washington, D.C. The meeting will lay the groundwork for the formal sixth round of talks, in Montreal in late January. Mexican Economy Secretary Ildefonso Guajardo recently said he was optimistic negotiators could close chapters on food safety and inspection, regulatory practices, telecommunications and energy at the D.C. meeting.

Trade bill watch: On Capitol Hill, two bills could also find their way into stopgap spending discussions. Congress will have to act to prevent the Generalized System of Preferences, a program designed to boost developing countries' economies, from expiring by the end of the year and pass a new Miscellaneous Tariff Bill, which reduces or suspends import tariffs on certain products.

Big decisions: Meanwhile, the U.S. International Trade Commission will make its final injury determination on imports of Canadian softwood lumber on Thursday. Canada has already announced it will dispute U.S. anti-dumping and countervailing duties through a NAFTA panel and at the WTO. On Tuesday, the panel will also make a final determination on whether imports of biodiesel from Argentina and Indonesia are hurting U.S. producers. — *Adam Behsudi*

DEFENSE

Increasing defense spending : To boost spending to the level proposed by the defense policy bill, congressional leaders will have to cut a bipartisan deal to increase caps on defense and domestic spending. So far, Republicans and Democrats haven't agreed on spending levels, but congressional leaders had considered a two-year deal that would boost defense by \$54 billion a year above the caps, putting the defense budget even with the president's \$603 billion budget request. Without a deal, however, lawmakers will be forced to pass another continuing spending resolution by Friday to keep the government open through late December.

Defense policy bill finally on Trump's desk: The National Defense Authorization Act has been sent to the White House, where Trump is expected to sign it. The measure, which calls for nearly \$700 billion in defense spending for the current 2018 fiscal year, easily cleared the House and the Senate last month.

Key Pentagon nuclear report in the offing: A major study of the nation's nuclear forces is wrapping up. The Nuclear Posture Review, expected to be finished early in the new year, will lay out the administration's roadmap for modernizing and structuring the U.S. nuclear arsenal — an endeavor that could cost \$1.2 trillion. — *Connor O'Brien*

EMPLOYMENT & IMMIGRATION

Democrats threaten shutdown over DACA: The fate of nearly 800,000 undocumented immigrants approved for the Deferred Action for Childhood Arrivals program hangs in the balance as Congress races to reach a spending agreement by Friday. Congressional Democrats have said they are prepared to shut down the government if a year-end spending bill doesn't codify DACA, which otherwise will start to wind down in March. The program shields from deportation so-called DREAMers, undocumented immigrants brought to the U.S. as children.

McConnell has said he's open to a legislative solution, but that any such bill would also have to tighten legal immigration, a move most Democrats oppose. Attaching DACA to the spending bill, McConnell said Sunday, would be "ridiculous" because that's "a non-emergency that we can address anytime between now and March." (Trump opposes putting DACA into the spending bill, too.)

Immigration crackdown lags promises: U.S. Immigration and Customs Enforcement acting Director Thomas Homan has promised to ring in the new year by stepping up enforcement actions against businesses that employ undocumented workers.

The president made cracking down on illegal immigration a central focus of his first year in office, and in October, Homan said he wanted to increase worksite investigations "four to five times." Such investigations have never been popular with the pro-business Republican base. Even so, Homan said he was serious. "Not only are we going to prosecute the employers that have knowingly hired illegal aliens," he said. "We're going to detain and remove the illegal alien workers."

Should that occur, it would be a reversal of the trend under Trump thus far, which has been fewer rather than more worksite enforcement actions. Under Barack Obama, ICE conducted an average of 2,014 audits of I-9 worker authorization forms that businesses are required to complete each year. Under Trump, ICE conducted only 420 audits. Criminal arrests tied to workplace investigations are down, too. Under Obama, ICE averaged 416 such arrests per year; under Trump, that dropped to 97 arrests. — *Ted Hesson*

EDUCATION

Higher Education Act reauthorization heats up: The House and Senate education committees have started on the first reauthorization of the sweeping higher education law in nearly a decade. The House plan, which would make major changes to the law, including some likely to please for-profit colleges, has already drawn Democratic criticism. The Senate, meanwhile, has struck a more bipartisan tone, kicking off its reauthorization process with a friendly hearing on simplifying the application for federal student aid — something nearly everyone agrees should happen.

Confirmation hearings continue: Two more Education Department nominees will face the Senate HELP Committee this month. Kenneth Marcus, Trump's pick to lead the department's Office for Civil Rights, and Johnny Collett, the nominee to be assistant secretary for Special Education and Rehabilitative Services, will face questions from the committee on Tuesday. Both are likely to draw scrutiny from Democrats, who have been critical of the Trump administration's approach to civil rights and special education issues.

'Gainful employment' negotiations get underway: The Trump administration will kick off its efforts to rewrite the Obama-era "gainful employment" rule, which cuts off federal funding to career college programs that produce graduates with large student loan debt relative to their earnings. The first round of negotiations begins today at the Education Department.

More ESSA approvals on the horizon: States that submitted their Every Student Succeeds Act plans to the Education Department this fall should see federal feedback this month. The Trump administration's reviews of the state K-12 education plans have drawn criticism from Democrats, including Sen. Patty Murray (D-Wash.), the ranking member of the HELP Committee. She accused Education Secretary Betsy DeVos of violating ESSA and called for her to testify before the committee. — *Benjamin Wermund*

TRANSPORTATION

Dead calm on infrastructure, FAA plan: The two marquee legislative issues that have been pending for some time — Trump's promise of a \$1 trillion infrastructure plan, and a House FAA bill that would separate air traffic control operations from the FAA — are both still pending, and likely will be through December. Pennsylvania Republican Bill Shuster, the architect of the House's FAA bill, hasn't given up hope yet — but each day that passes without the bill being brought to the floor makes it more likely the effort is kaput, at least for now. And Trump's long-promised infrastructure plan appears to be suffering the same fate — although a White House adviser promised recently that a 70-page draft of principles for Congress to follow in drafting a bill will be coming soon, possibly in January.

Driverless cars gain traction: There is one closely-watched piece of legislation that is moving — a package of policies intended to help grease the skids for developing and deploying driverless cars. The House has already passed its bill, and the Senate could follow suit soon. — *Kathryn Wolfe*

AGRICULTURE

Top lawyer in limbo? Agriculture leaders will be watching closely to see if the Department of Agriculture can finally get its top lawyer confirmed this month. General counsel nominee Stephen Vaden — who has functioned as deputy general counsel since March — had his hearing before the Senate Agriculture Committee in early November, but there's still no word on when the committee might approve him or when the full Senate might take up his nomination. That delay has sparked buzz about why he hasn't advanced. Vaden has come under fire from Democrats for past work on state voter ID laws, which some argue were designed to restrict the voting access of blacks and other minorities. And during his time at USDA, he's run afoul of the union that represents the department's lawyers.

Delays in USDA staffing: Bill Northey, the pick to head Agriculture Secretary Sonny Perdue's newly created farm services and conservation mission area, was expected to sail through the Senate after the Ag committee greenlighted his nomination in October. But he's been held up by Ted Cruz and eight other senators in a battle with the Trump administration over its plans for the Renewable Fuel Standard — which was released late last week without any input from Cruz and company, who had made a meeting to discuss the RFS a condition of the hold. The day after the RFS rule was released, it was reported Trump had agreed to a meeting, which is planned for Thursday.

Missing pieces: No one has been named for four undersecretary posts — natural resources and the environment; food, nutrition and consumer services; food safety; and, after Sam Clovis withdrew from consideration last month, undersecretary for research, education and economics. The result: USDA is heading into 2018 — a farm bill renewal year — with a skeleton leadership team.

PAYGO watch: Senate passage of the tax bill has raised questions about whether lawmakers will be able to waive the pay-as-you-go rule — a scenario that would force steep cuts to pay for the \$1.5 trillion tax cut, and would target farm safety net programs, though the Supplemental Nutrition Assistance Program would be exempted. Republican leaders have pledged to waive the rule to avoid triggering such cuts — but in this Congress, anything can happen. — *Helena Bottemiller Evich*

HEALTH CARE

Trump's first Obamacare enrollment wrapping up: The first-ever Obamacare sign-up season of the Trump era comes to a close Dec. 15, with the law's supporters hoping for a major enrollment surge with less than two weeks to go. Roughly 2.8 million people signed up through HealthCare.gov as of late November, according to the most recent HHS figures, putting enrollment on pace to fall well short of last year's numbers. (Those numbers don't include enrollment in nearly a dozen state-run insurance marketplaces.) The pace tends to pick up near the end of the sign-up season, but there are a number of Trump-induced factors that could depress enrollment in the final weeks: The administration cut this enrollment period in half to six weeks, slashed advertising by 90

percent and is backing a provision in the tax bill to eliminate the requirement to have health insurance. — *Jason Millman*



Advancing telemedicine? The health IT world is on the lookout for telemedicine nuggets in end-of-the-year spending legislation. Either of the expected continuing resolutions could include the Ways and Means "extenders" deal that would make it easier for private Medicare Advantage health care plans to offer and get reimbursement for telemedicine.

Data sharing : The Office of the National Coordinator for Health IT says it expects to release a draft of the trusted exchange framework, a set of principles to encourage increased health data sharing among providers, electronic health record vendors, and health information exchanges. The ONC's creation of the trusted exchange framework is a requirement of last year's 21st Century Cures Act. — *Arthur Allen*

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