

Van Scoyoc Associates Washington Update

September 30, 2022

WHITE HOUSE

Secretary Raimondo makes CHIPS announcement

Commerce Secretary Gina Raimondo, the point-person on enhancing US technological competitiveness against China, said she anticipates the building of about 10 to 15 new semiconductor plants stemming from recently passed legislation. "In implementing the Chips Act, we think we will stimulate the production of, I don't know, 10, 11, 12, 15 more fabs in America," Raimondo said Thursday at an event sponsored by the Atlantic Council, using the industry's term for production facilities. She said that the \$50 billion-plus in federal funding from the Chips and Science Act is "not nearly enough" to compete with China, and that it will be vital to "crowd in" private capital to maximize the impact.

Ian Disrupts Supply Chains From Sea to Land as It Regains Force

Major ports and rail facilities across the US Southeast have halted operations as one of the strongest hurricanes to ever hit the country heads north, causing disruptions along the way and resulting in another blow for already-strained supply chains. Jacksonville, the largest container port in Florida and a main trade gateway for auto shipments, shut down Wednesday and will remain closed until the Coast Guard authorizes operations to resume, spokesperson Chelsea Kavanagh said in an emailed statement. The hub is "on standby to assess any damage and reopen port facilities as soon as possible," she added.

All other Florida ports, including Miami and Tampa, have either closed or have implemented some restrictions, and Coast Guard crews are doing assessments on each hub to decide how and when to open them, said Nicole Groll, a public affairs officer for the agency. As Ian -- now a tropical storm -- regains strength, Georgia's Port of Savannah, the largest container hub in the Southeast, is allowing ships at anchor to leave toward safer locations, but is closed for new arrivals. Meanwhile, South Carolina's Port of Charleston plans to suspend all marine-terminal operations today.

White House Hosts Hunger, Nutrition, and Health Conference

On Tuesday, the White House hosted its conference to address issues related to hunger, nutrition, and health. The goals were to 1) improve food access and nutrition, 2) integrate nutrition and health, 3) empower consumers to make and have access to healthy choices, 4) support physical activity for all, and 5) enhance food and nutrition research. The conference announced a "whole of society" approach to address hunger, nutrition, and health by incorporating federal, state, local, and private sector steps to meet these goals. According to President Biden, the goal is to "End hunger in this country by the year 2030 and lower the toll that diet-related diseases takes on for too many Americans."

CONGRESS

Congress Poised to Pass Continuing Resolution, Avoid Government Shutdown

After several weeks of talks, Congress passed a continuing resolution which extends FY22 spending levels for most federal programs through December 16th while Congress negotiates a full-year spending plan. Shortly after midnight on Tuesday, the House Appropriations Committee released the [legislative text](#) and the [section by section summary](#) for the continuing resolution.

The major provisions of the bill include:

- Extends federal funding at FY22 levels through December 16th.
- \$12.3 billion for Ukrainian military, humanitarian, and economic assistance.
- \$1 billion in additional LIHEAP assistance.
- Natural disaster assistance.
- Temporarily reauthorizes the National Flood Insurance Program.
- Additional veterans benefits, including homeless veteran programs.
- Extends many Medicare and public health programs through December 16th. However, it DOES NOT include the President's request for \$22 billion for COVID and monkeypox funding.
- Five-year FDA user fee agreement for drugs, devices, biosimilar biologics, and generic drugs. Further extends through December 16th a variety of smaller FDA programs.

The legislation, however, was not without drama. As the bill came to the Senate floor, many observers were concerned about the inclusion of Senator Manchin's energy permitting legislation. The energy permitting title was included pursuant to a commitment Senate Democratic Leader Chuck Schumer (D-NY) made to Senator Manchin as they negotiated the Inflation Reduction Act. Manchin had previously warned he would vote against the CR without his energy permitting reform. However, many Republicans, including top Republican on the Senate Appropriations Committee Senator Richard Shelby (R-AL), pledged to oppose the bill if it included the Manchin language (they preferred Senator Capito's version). Additionally, many progressive Democrats also oppose the Manchin language. As such, it appeared Democrats would potentially be unable to pass the bill with or without the Manchin provisions.

Once the legislation reached the Senate floor, Senator Manchin acknowledged that his energy permitting title did not have the sufficient votes to pass the Senate, and reluctantly removed the matter from the continuing resolution in order to avoid a government shutdown. As a result, the Senate ultimately voted 72 to 25 on Thursday to pass the continuing resolution and then adjourned until after the November elections.

On Friday the House voted 230 to 201 to pass the bill, upon which it too adjourned until after the elections. When the bill is presented to President Biden, he intends to sign it, hopefully before 11:59pm tonight to avoid even the briefest of government shutdowns.

Athlete Opportunity and Taxpayer Integrity Act

Sens. John Thune (R-S.D.) and Cardin (D-Md.) have introduced the [Athlete Opportunity and Taxpayer Integrity Act](#), which would prohibit individuals and organizations from taking a charitable tax deduction for specific contributions that compensate college or incoming college athletes for the use of their name, image, and likeness (NIL). With the adoption NCAA NIL rules, certain organizations have established models that facilitate payment to current and incoming college athletes while claiming 501(c)(3) charitable status, which make those specific contributions tax deductible. Sens. Thune and Cardin believe that this is inconsistent with the intended purpose of the charitable tax deduction, and it forces taxpayers to subsidize the potential recruitment of – or payment to – college athletes based on their NIL status. The Athlete Opportunity and Taxpayer Integrity Act would apply to individuals, organizations, and “collectives” organizations that pool financial resources and direct funds to athletes to profit from their NIL). Educational institutions would be exempt from the legislation.

SBIR/STTR Reauthorization heads to the President's desk

The Small Business Innovation Research (SBIR), Small Business Technology Transfer (STTR), and several related pilot programs are soon to be reauthorized for three years, through Sept. 30, 2025. Following the [Senate's lead](#), yesterday, the House voted 411-9 to pass the 43-page legislation that would extend the Small Business Administration's (SBA) federally funded [Innovation Research \(SBIR\)](#) and [Technology Transfers \(STTR\)](#) program through 2025, ahead of its Sept. 30 expiration date. Some of the major changes spelled out in legislation, meant to curb potential abuse of the program, include tighter restrictions on contract awards, mandatory disclosures of foreign ties and new oversight reporting.

Senate Commerce Committee Hearing on Federal Aviation Administration Reauthorization

U.S. Senator Roger Wicker, R-Miss., ranking member of the Senate Committee on Commerce, Science, and Transportation, today participated in an Aviation Safety, Operations and Innovation subcommittee hearing titled "FAA Reauthorization: Integrating New Entrants into the National Airspace System." The hearing included [testimony](#) on the 2023 reauthorization of the Federal Aviation Administration (FAA) and how the agency can best integrate uncrewed aviation systems (UAS) and advanced air mobility platforms.

Senate & House on Break Until After Midterm Elections

Senate Majority Leader Chuck Schumer announces the next roll-call vote will be in mid-November, scrapping a two-week October session. Members should be prepared for an "extremely busy" agenda in the last two months of this Congress, Schumer says on the floor. Note: Most members will be home campaigning as the parties vie for control of the chambers.

ECONOMIC INNOVATION

Department of Energy Rare Earth Elements (REE)

The Department of Energy (DOE) announced up to \$156 million in funding from President Biden's Bipartisan Infrastructure Law for a first-of-a-kind facility to extract and separate rare earth elements (REE) and critical minerals (CM) from unconventional sources like mining waste. Rare earth elements and other critical minerals are key to manufacturing clean energy technologies right here in America—such as solar panels, wind turbines, electric vehicles, and hydrogen fuel cells. Eligible applicants include U.S. academic institutions.

An informational webinar will be hosted on October 13, 2022 at 2:00 PM ET to discuss this funding opportunity as well as the application requirements.

[Click here to attend](#)

This funding opportunity announcement has two (2) areas of interest:

1. Association for the Advancement of Cost Engineering (AACE) Class 3 FEED Study for Rare Earth Element (REE) Demonstration Facility
2. Completed AACE Class 3 FEED Study Separately Funded for REE Demonstration Facility

Regional Clean Hydrogen Hubs program

The Department of Energy (DOE) has [announced](#) a funding opportunity for the Regional Clean Hydrogen Hubs program (H2Hubs), a program authorized under the IIJA. IIJA contains \$7 billion to establish six to ten regional clean hydrogen hubs across America. This program will develop H2Hubs that demonstrate the production, processing, delivery, storage, and end-use of clean hydrogen. Each H2Hub will include multiple partners that will bring together diverse hydrogen technologies to produce and utilize large amounts of hydrogen in different ways. These clean hydrogen demonstrations will balance hydrogen supply and demand, connective infrastructure, and a plan for long-term financial viability. The



H2Hubs will also include substantial engagement of local and regional stakeholders, as well as Tribes, to ensure that they generate local, regional, and national benefits.

This week in Washington IP news

The Senate Aviation Safety Subcommittee looked at incorporating unmanned aerial systems more fully into the U.S. national airspace, while the full Senate Commerce Committee explored how to maintain U.S. leadership in emerging compute technologies. The House Science Committee focused on the risks that must be managed as artificial intelligence (AI) systems become more highly developed. Elsewhere, the U.S. Patent and Trademark Office hosted the latest public meeting of the Patent Public Advisory Committee, and the American Enterprise Institute hosted a half-day event on Tuesday featuring multiple expert panels discussing topics at the intersection of technology and government.

FEMA and EDA Release New Resource to Align Community Plans and Build Resilience

A new resource will help economic development and hazard mitigation planners achieve mutually beneficial outcomes. The Comprehensive Economic Development Strategy and Hazard Mitigation Plan Alignment Guide connects economic development and hazard mitigation plans so communities can be more resilient from natural hazards. The guide was a collaboration between FEMA and the U.S. Economic Development Administration (EDA). Communities, states and federal officials can use the guide when preparing or reviewing FEMA [Hazard Mitigation](#) Plans and EDA [Comprehensive Economic Development Strategies](#) (CEDs). Included in the guide are strategies to help align strategies with approved local plans.

SCIENCE RESEARCH AND DEVELOPMENT

CHIPS Implementation

The Department of Commerce held a webinar earlier this week on CHIPS implementation. They announced a February 2023 timeline for funding opportunity announcements that only applies to manufacturing incentives (\$39 billion). They are still working on determining both the guidelines and timelines for the R&D funding (\$11 billion). With respect to the \$39 billion for manufacturing incentives, they noted that applicants will need to include workforce development as part of their applications.

DOE awards \$24 million to advance solar-thermal and industrial decarbonization technologies

The Energy Department on Tuesday [released](#) a new roadmap and awarded \$24 million to ten research teams that will advance next-generation concentrating solar-thermal power (CSP) technologies. Five of these ten projects will focus on advancing industrial uses for this technology and help advance the goals laid out in DOE's Industrial Decarbonization Roadmap and recently launched Industrial Heat Shot. The other five projects will support DOE's \$100 million ongoing efforts to develop next-generation CSP plants.

NASA funds projects to study orbital debris, space sustainability

As part of NASA's efforts to address orbital debris, the agency is [funding](#) research proposals from three university-based teams over the next year to analyze the economic, social, and policy issues associated with space sustainability. "Orbital debris is one of the great challenges of our era," said Bhavya Lal, associate administrator for the Office of Technology, Policy, and Strategy (OTPS) at NASA Headquarters in Washington.

HEALTH POLICY

House Passes Mental Health Legislation

On Thursday, the House passed the Mental Health Matters Act (HR 7780) by a vote of 220 – 205. Among other provisions, the bill creates various grants to increase the number of school-based mental health services providers and establishes requirements for institutions of higher education concerning students with disabilities. Additionally, the legislation would give the Department of Labor more authority to enforce plan requirements under the Mental Health Parity and Addiction Equity Act and Employee Retirement Income Security Act, ban forced arbitration agreements when plans improperly deny benefits, and ensure a fair standard of review by the courts. The parity provision drew opposition from employer groups with the Chamber of Commerce [stating](#) that it would be “inappropriate to expand DOL’s enforcement authority given the lack of clarity that remains as to DOL’s interpretation of MHPAEA and its implementing regulation” among other concerns.

CDC Relaxes Mask and Vaccine Requirements at Health Facilities

The Center for Disease Control and Prevention [announced it was updating its mask and vaccine guidance](#) for healthcare facilities to provide more flexibility. With the exception of areas in which there is high COVID-19 transmission, individuals in health facilities are no longer required to wear masks. Further, vaccine status should no longer be a primary benchmark for PPE and other screening methods.

HHS Outlines New Office on Medicare Drug Price Negotiation

The Department of Health and Human Services recently outlined their plan to establish a new Medicare office to negotiate drug prices and oversee rebates when companies increase prices faster than inflation. This is the first outline of how the Biden administration plans to implement the provisions of the Inflation Reduction Act requiring Medicare to negotiate prices for certain high-cost drugs directly with manufacturers within a limited set of parameters. A letter from HHS Secretary Xavier Becerra sent to lawmakers on September 22 included an organizational chart proposing to hire 95 full-time employees under the Centers for Medicare and Medicaid Services (CMS). HHS has not yet announced who will lead the office, but it reportedly will likely start staffing up soon.

The Medicare Drug Rebate and Negotiations Group will include six divisions:

- Division of Rebate Agreements & Drug Price Negotiations
- Division of Policy
- Division of Data Assessment and Analytics
- Division of Manufacturer Data and Inflation Rebate Operations
- Division of Manufacturer Compliance and Oversight
- Division of Contract Support

According to CMS, the agency is planning to issue guidance to help stakeholders understand how the program will work. The first part of the law to kick in will be penalties for drugmakers that raise prices faster than inflation, and the measurement period starts on Saturday. Rebates in Part D are scheduled to begin in 2023. The department is also required to publish the first 10 Part D drugs selected for negotiation by September 1, 2023, with prices taking effect on January 1, 2026, unless Congress or the executive branch changes that timeline.

HIGHER EDUCATION

Clean School (K-12) Bus Program

The EPA is holding a listening session to gather feedback from stakeholders as they work towards implementation of the Clean School (K-12) Bus Program. Eligible recipients for funding through this new program include: state and local governments, certain contractors, nonprofit school transportation associations, and Tribes, Tribal organizations or Tribally-controlled schools. Register [here](#). To be held Oct 5th

[EPA Clean School Bus Grants Virtual Listening Session](#)

CONGRESS

This House passed the *Mental Health Matters Act* ([H.R.7780](#)) in a largely party-line 220-205 vote. In general, the bill expands grants for mental and behavioral health care for students and youth in Head Start programs and public schools. Highlights of provisions include:

- Established a competitive grant program to eligible partnerships, including IHEs, to carry out pipeline programs to increase the number of school-based mental health services providers employed by high-need local educational agencies
- Grants to States to increase access to school-based mental health services providers at high-need schools served by the local educational agencies
- Provides funding to increase student, teacher, school leader, and other school personnel access to evidence-based trauma support services and mental health services by developing innovative initiatives, activities, or programs to connect schools and local educational agencies, or tribal educational agencies, as applicable, with community trauma-informed support and mental health systems.
- Requires institutions of higher education to adopt policies that determines eligibility for accommodations concerning students with disabilities
- Prohibits arbitration and discretionary clauses in employer-sponsored benefit plans under the Employee Retirement Income Security Act of 1974

Republican [Fact Sheet](#) on the Mental Health Matters Act

ADMINISTRATION

Student Loan Forgiveness

The department made sudden changes to eligibility criteria for those seeking debt forgiveness this week. The reversal will negatively affect over 770,000 student loan borrowers who held federal student loans that originated outside of DoED. These loans are now ineligible for debt relief through consolidation into directly held loans. [NPR](#)

In addition, an awaited [lawsuit](#) was filed Thursday against DoED by six state attorneys generals on behalf of state-based loan servicers and investment entities that manage old, privately-held federal loans, known as FFEL loans. Their argument is that the debt relief offer causes harm – in that letting FFEL loan holders consolidate their old loans to qualify for cancellation negatively impacts the revenues of state-based loan agencies.

Another lawsuit filed by Arizona Attorney General Mark Brnovich takes a slightly different tack. He argues that in addition to a loss of tax revenues, the broad debt relief will nullify the impact of the Public Service Loan Forgiveness program, which many encourages many teachers, firefighters and other public servants into the workforce. Challenging the President's executive order in court is the immediate pathway forward for Republicans. As House Education Ranking

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Member Virginia Foxx (R-N.C.) stated, "I can assure you that my Republican colleagues and I will fight to the bitter end against this illegal, abusive use of the executive pen."

USDoED released an update estimate of the cost student loan forgiveness plan, now expected to cost the federal government \$379 billion [Press Release](#). However, [CBO estimates](#) the cost of the Biden's administration student loan debt cancellation to be over \$400 billion. CBO estimates 95 percent of borrowers will meet the income criteria for eligibility and 45 percent of income-eligible borrowers will have their entire outstanding debt canceled.

[Joint Statement](#) From Leader Schumer & Senator Warren On CBO Estimate Of Student Debt Cancellation House Republicans [Press Release](#) and Senate Republican [Press Release](#)

K-12 Annual Assessments

Secretary Cardona sent a [Dear Colleague Letter](#) to education stakeholders reminding them not to use the results of annual assessment testing in a punitive manner, including educator evaluations. The Department resisted efforts to continue a waiver on the requirement of annual testing during the COVID pandemic, instead suggested that results could inform instruction and help school leaders drive COVID relief resources to the schools and students.

Apprenticeship Programs

The Department of Labor announced a [final rule](#) to rescind the Trump administration's industry-recognized apprenticeship model that allowed employers and trade groups to create and oversee their own apprenticeship programs. The DOL will instead direct its resources toward its own regulated system of registered apprenticeships, the department said. The rule goes into effect Nov. 25. [Press Release](#): Biden Terminates Employer-Led Apprenticeships

FEDERAL REGISTER

[Comment Request](#): **Request for Designation as an Eligible Institution Under Titles III, V, and VII Programs and Waivers of the Non-Federal Cost Share Reimbursement.** An institution must apply to the Secretary to be designated as an eligible institution for programs authorized include the Strengthening Institutions, Alaskan Native and Native Hawaiian-Serving Institutions, Asian-American and Native American Pacific Islander-Serving Institutions, Native American Serving Institutions, Hispanic-Serving Institutions, Hispanic-Serving Institutions (Science, Technology, Engineering and Math and Articulation), Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA), and Predominantly Black Institutions Programs. Comments due by October 28.

LEGISLATION

H.R.9079 — To direct the Secretary of Education to establish a program to facilitate the transition to tuition-free community college in certain States, and for other purposes. Sponsor: Smith, Adam [Rep.-D-WA-9]

[Press Release](#): Rep. Smith Introduces Bill to Create Tuition-Free Community and Technical Schools Across the Country

H.R.9085 — To establish a grant program carried out by the Department of Homeland Security to fund university-based cybersecurity clinics at junior or community colleges, historically Black colleges and universities (HBCUs), Hispanic-serving institutions (HSIs), and other minority-serving institutions, and for other purposes.

Sponsor: Veasey, Marc A. [Rep.-D-TX-33]

S.4969 — A bill to amend the Internal Revenue Code of 1986 to disallow a deduction for charitable contributions for certain purposes relating to college athletics. Sponsor: Thune, John [Sen.-R-SD]



[Press Release](#): Thune, Cardin Introduce Bill to Prohibit Name, Image, and Likeness Tax Write-Offs for College Sports

S.4970 — A bill to amend the Higher Education Act of 1965 to promote comprehensive campus mental health and suicide prevention plans, and for other purposes. Sponsor: Blumenthal, Richard [Sen.-D-CT]

[Press Release](#): Blumenthal & Scott Lead Introduction of Bipartisan Legislation to Improve Mental Health on College Campuses

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