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RE: CONGRESSIONAL UPDATE

This Week in Congress: Both chambers of Congress continued their budget and border negotiations to keep the government open beyond February 15th. The Senate debated a package of Middle East policy bills highlighting a new round of sanctions against Syria, along with authorizations of assistance for Jordan and Israel. On Tuesday, with a vote 11-10, the Senate Environment and Public Works Committee approved Andrew Wheeler's nomination to permanently lead the Environmental Protection Agency (EPA). Additionally, the Senate Judiciary Committee considered the nomination of William Barr for attorney general. Meanwhile, the House voted on noncontroversial legislation, and spent most of its time on oversight work happening in its committees. To that end, the House Education and Labor Committee held a hearing on Thursday on raising the minimum wage to \$15 per hour; legislation to gradually increase the minimum wage has been introduced in both chambers by Democrats. Additionally, on Thursday, the House Transportation and Infrastructure Committee held a hearing to examine the state of highways, bridges, transit systems, ports, airports, and backlog of maintenance and repair needs. Finally, on Tuesday, the President delivered his annual State of the Union Address.

SOTU: President Trump delivered his State of the Union address to renew his call for tough action on immigration, funding for the wall, an infrastructure bill, drug costs and other issues. Trump's address included a call to adopt a revised trade agreement with Mexico and Canada and to wind down American involvement in wars around the globe. He did not announce plans to use emergency powers to fund construction of the border wall.

MULTIEMPLOYER PENSION REFORM:

- **PBGC/MPRA:** On Wednesday, the Federal Register contained a proposed rule from the PBGC implementing provisions in MPRA concerning the determination of withdrawal liability. We are in the process of reviewing it, but we're expecting it to provide simplified methods for determining withdrawal liability and annual payment amounts that a plan sponsor would be able to adopt to satisfy the statutory requirements that certain amounts associated with funding improvement/rehabilitation plans and benefit suspensions be disregarded. Comments will be due 60 days from today.
- **Ways and Means Committee:** On Wednesday, the House Ways and Means Committee held a hearing on "Improving retirement security for America's workers" and the Construction Employers Association issued a letter to be added to the hearing's record outlining the consideration of employer viability and retirement security, along composite plan design.

CADILLAC TAX: The U.S. Chamber of Commerce and the Construction Employers Association is requesting members of Congress to cosponsor the bipartisan bill HR 748, the Middle Class Health Benefits Tax Repeal Act of 2019. The legislation will repeal the impending 40% "Cadillac Tax" on employer-provided health care.

WORKERS: Per the Bureau of Labor Statistics, blue-collar positions in the U.S. are becoming harder to fill due to a lack of available workers, with job openings in the manufacturing industry alone reaching 522,000 in October 2018. Federal programs, private training programs at companies, and some high-school districts are working to address the problem.

BORDER SECURITY FUNDING: Senate appropriators are optimistic that the conferees on the Homeland Security bill can reach a bipartisan deal. Sen. Leahy (D-VT) stated that “he believes that the Senate could wrap this up easily and we want to get something that can get a strong bipartisan agreement. I think I feel more confident today than a few days ago.” Sen. Shelby (R-AL) held a closed-door briefing on border security on Wednesday with the conferees. Per Sen. Shelby, “we’re trying to figure out how we can reach a compromise.” However, House leaders are not that optimistic and are planning to stay in session on February 14th and 15th of next week to work on the homeland package (the House was originally scheduled to recess for the Democratic Caucus annual retreat those days).

NATIONAL EMERGENCY ACT (NEA): The President has been threatening for weeks to declare a national emergency to provide defense funding to build the border wall. Per the New York Times, Senate Majority Leader McConnell has told the President that is a bad idea, “anxiety over the damage being inflicted on the party is growing.” Last week, in a one-on-one meeting with the President, Sen. McConnell reportedly warned Mr. Trump that declaring a national emergency to build his wall would almost certainly spark a rebellion within his party and a vote to overrule him. Per Sen. Cornyn, “the whole idea that a president - whether it’s President Trump or President Warren or President Sanders - can declare an emergency and then somehow usurp the separation of powers and get into the business of appropriating money for specific projects without Congress getting involved is a serious constitutional question.”

To that end, on Monday, 15 Democratic senators introduced a bill to prevent President Trump from using the National Emergencies Act to access defense funds to build the border wall. The legislation would bar the transfer of any funding from U.S. Army Corps of Engineers or Military Construction accounts for construction, land acquisition or other activities related to President Trump’s border wall following any potential emergency declaration, unless Congress granted specific authority to do so. While the administration has not released precise figures, some estimates indicate there could be as much as \$35 billion in congressionally appropriated, but yet unobligated funding for DOD military construction projects and Army Corps disaster funds at risk from an emergency declaration move.

If President Trump should declare a national emergency, Speaker Pelosi could trigger a process that would require the Senate to hold a vote on such a declaration, which would pit the Senate Republicans against the President. Under the National Emergency Act (NEA), both chambers of Congress can pass a resolution terminating any presidentially declared national emergency. The NEA stipulates that if one chamber passes such a resolution, the other must act on it within a very short time period forcing GOP senators to decide whether to support it. The Senate could vote not to consider that resolution or change its rules to avoid such a vote, but in those scenarios, the Senate would, in effect, be voting to greenlight Trump’s emergency declaration.

2020 DEMOCRATIC PRESIDENTIAL HOPEFULS: With the Iowa caucuses less than a year away, five former or current elected officials have now joined the Democratic presidential primary, while three more have formed exploratory committees, Sen. Booker (D-NJ) joined the field last Friday. Rep. Gabbard (D-HI) launched her campaign on Saturday and Sen. Warren (D-MA) is expected to formally join the field this Saturday. Former Vice President Biden is close to saying yes to a presidential bid. Several potential candidates (including former Texas Rep. O’Rourke, former Virginia Gov. McAuliffe, and Montana Gov. Bullock) are also considering announcements.