

Washington Update

May 10, 2024

This Week In Washington

Senate – The Senate confirmed several nominations and passed a five-year Federal Aviation Administration (FAA) reauthorization bill ([H.R. 3935](#)) and a one-week extension of FAA programs ([H.R. 8289](#)), sending it to President Biden, as the House considers the five-year FAA reauthorization bill.

House – The House passed the Mining Regulatory Clarity Act of 2024 ([H.R. 2925](#)), the Hands Off Our Home Appliances Act ([H.R. 6192](#)), the Equal Representation Act ([H.R. 7109](#)), and [H.J. Res. 109](#), a Congressional Review Act vote that would overturn an SEC staff position on crypto custodians and accounting for those crypto liabilities. It also passed [H.R. 8289](#) to extend FAA programs for one week as it considers the five-year FAA reauthorization bill.

Biden Administration – On May 3, the White House [announced](#) that the Department of Health and Human Services, through the Centers for Medicare & Medicaid Services, finalized a rule to remove the prohibition on Deferred Action for Childhood Arrivals (DACA) recipients' eligibility for Affordable Care Act coverage.

Next Week In Washington

Senate – The Senate will reconvene on Tuesday, May 14, and is expected to continue processing nominees.

House – The House will reconvene on Tuesday, May 14, and is expected to consider the five-year FAA reauthorization bill. It may also consider the Detain and Deport Illegal Aliens Who Assault Cops Act ([H.R. 7343](#)) and the Police Our Border Act ([H.R. 8146](#)).

TAX

TCJA Extension to Cost \$4.6 Trillion, CBO Says

Key Points:

- *The CBO now estimates making permanent expiring TCJA provisions would cost \$4.6 trillion (including interest costs), up from last year's estimate of \$3.5 trillion.*
- *Extension of individual tax measures represent the bulk of the cost, totaling \$3.256 trillion over 10 years.*
- *The report was requested by Senate Finance Chair Wyden (D-OR) and Senate Budget Chair Whitehouse (D-RI), both of whom do not support extending many provisions contained in the TCJA.*

In a [report](#) released by the Congressional Budget Office (CBO) this week, extending lapsing provisions contained within the Tax Cuts and Jobs Act (TCJA) would cost \$4.6 trillion over 10 years, up from the \$3.5 trillion price tag estimated by CBO last year.

CBO conducted its assessment through assuming multiple “alternate” budget baselines, each with an associated cost. CBO’s cost breakdown is as follows:

- Make permanent all expiring individual tax measures: \$3.256 trillion
- Make permanent expiring estate and gift tax measures: \$167 billion
- Make permanent expiring investment measures (such as 100 percent bonus depreciation): \$378 billion
- Maintain current treatment for certain business tax provisions (such as maintaining full 37.5 percent FDII deduction; maintaining current 10 percent BEAT rate): \$172 billion

These budget baselines each add up to a total cost of \$3.973 trillion over ten years. The final \$4.6 trillion estimate comes from the additional \$605 billion in interest payments.

The report was written at the request of Senate Finance Chair Wyden (D-OR) and Senate Budget Chair Whitehouse (D-RI), who have expressed concern about extending many provisions contained within the TCJA. House and Senate Democrats are likely to use the report as an additional talking point to argue against TCJA extensions in 2025. The heightened price tag may also raise concerns for some Republican taxwriters. While Senate Republicans largely maintain the party’s long-held belief that tax policy does not have to be entirely paid for, deficit hawks in the House GOP conference have recently pushed for tax bills to be offset through pay-fors.

Ways and Means Republicans Introduce Bill Increasing Penalties for Leaking Tax Information

Key Points:

- *Bill released in response to prior five-year imprisonment, \$5,000 fine given to individual who leaked former President Trump's tax information.*
- *The bill would increase the maximum sentence to 10 years in prison and a \$250,000 fine, with each impacted taxpayer counting as an individual instance of an improper disclosure.*
- *The bill may be marked up as soon as Wednesday.*

This week, House Ways and Means Republicans, led by Chairman Smith (R-MO), introduced "The Taxpayer Data Protection Act" ([H.R. 8292](#)). The bill, which seeks to increase penalties for the unauthorized release of taxpayer data, was developed in response to the 2019 leaks of tax information of President Trump and hundreds of wealthy taxpayers by an Internal Revenue Service contractor. In 2023, the Department of Justice announced it would charge this individual with one count of disclosing tax return information without authorization. This individual was subsequently sentenced to a maximum of five years in prison and fined \$5,000.

The bill amends 26 U.S.C. § 7213(a) to increase the penalties for unauthorized disclosure of taxpayer information from the current five-year prison, \$5,000 fine standard to a stiffer \$250,000 fine, and imprisonment of not more than 10 years. The bill also ensures each impacted taxpayer counts as an individual instance of improper disclosure.

The legislation may potentially be marked up in the Ways and Means Committee on Wednesday.

Upcoming Hearings and Meetings

May 15

Tentative - House Ways and Means Markup: On Wednesday, May 15, the House Ways and Means Committee may hold a markup to consider various bills, including "The Taxpayer Data Protection Act" ([H.R. 8292](#)). The markup has not yet been noticed, however. The hearing will be held at 1100 Longworth House Office Building and will be broadcast to the Committee's [website](#).

For more information about tax issues, you may [email](#) or call Christopher Hatcher at 202-659-8201. Logan Mazer contributed to this section.

FINANCIAL SERVICES

Independent Report Finds Toxic Work Environment at the FDIC

Key Points:

- *The report found that the FDIC fostered a toxic work environment before concluding that “cultural and structural change” is needed.*
- *The report expressed uncertainty about Chairman Gruenberg’s ability to lead a “cultural transformation.”*
- *Gruenberg vowed to “create a workplace where every employee feels safe, valued, and respected.”*
- *House Financial Services Committee Chairman McHenry called on Gruenberg to resign, while Senate Banking Committee Chairman Brown called on Gruenberg to address the findings in the report.*

An independent investigation by law firm Cleary Gottlieb Steen & Hamilton found that the Federal Deposit Insurance Corporation (FDIC) fostered a toxic work environment for several years in which hundreds of employees reported facing sexual harassment and discrimination. The report says that “for far too many employees and for far too long, the FDIC has failed to provide a workplace safe from sexual harassment, discrimination, and other interpersonal misconduct.” The report explains that “a patriarchal, insular, and risk-averse culture” and “widespread fear of retaliation” have allowed misconduct to persist for years. While the report did not conclude that FDIC Chairman Gruenberg failed to act on the initial allegations reported several months ago, it argued that his “reputation raises questions about the credibility of the leadership’s response to the crisis and the ‘moral authority’ to lead a cultural transformation.” Chairman Gruenberg issued a [statement](#) in which he said the report presents “a sobering look” at the FDIC’s workplace and vowed to “spare no effort to create a workplace where every employee feels safe, valued, and respected.”

Following the release of the report, House Financial Services Committee Chairman Patrick McHenry (R-NC) called on Chairman Gruenberg to resign, [saying](#):

“It’s time for Chair Gruenberg to step aside. The independent report released today details his inexcusable behavior and makes clear new leadership is needed at the FDIC. This report confirms the toxic workplace culture at the FDIC—which starts at the top—has led to entrenched and widespread misconduct at the agency. The

FDIC must be held to the same standards of conduct it imposes on the entities it regulates. The agency's culture must be overhauled..."

Senate Banking Chairman Sherrod Brown (D-OH) called on Chairman Gruenberg to work to address the findings in the report, but stopped short of calling for him to resign, saying:

"The FDIC needs to be fixed. The women and men who work there deserve better. Chair Gruenberg must accept responsibility and must immediately work to make fundamental changes to the agency and its culture."

House Financial Services Committee Ranking Member Maxine Waters (D-CA) [responded](#),

"This report affirms that the FDIC needs to change its policies and programs to improve its workplace culture- particularly in the area of anti-sexual harassment... Chairman Gruenberg must work diligently to fix what is broken at the FDIC and to restore the trust of employees in his leadership and in the organization... However, the Cleary report places the focus for 'tone at the top' solely on the Democratic Chair under whose leadership the agency received the most favorable ratings from its employees, while it completely ignores the activities of the two previous Republican Chairs..."

Next week, Chairman Gruenberg, along with Federal Reserve Vice Chair for Supervision Michael Barr and Acting Comptroller of the Office of the Comptroller of the Currency Michael Hsu will testify at oversight hearings before the House Financial Services Committee and Senate Banking Committee.

House Panel Holds Hearing on SEC Oversight

Key Point:

- *Members discussed the SEC's enforcement function and its impacts and digital assets, among other topics.*

On May 7, the House Financial Services Subcommittee on Capital Markets held a [hearing](#) entitled, "SEC Enforcement: Balancing Deterrence with Due Process." Chairwoman Ann Wagner (R-MO) emphasized that the Securities and Exchange Commission's enforcement policy must strike the right balance between deterring and punishing securities fraud, preserving due process rights, and protecting the interests of those who rely on U.S. markets. She warned that the SEC's current trend of regulation by enforcement harms market participants by implementing policy changes that are not subject to the

Administrative Procedure Act's notice and comment requirements. She expressed concern that proceedings before administrative law judges may infringe on due process rights and the SEC's no deny policy may restrict free speech. She stressed that her goal is not to restrict access to important investigative tools, but rather protect the due process rights of all market participants, increase accountability and transparency, and enhance public trust.

Ranking Member Brad Sherman (D-CA) said it is "not a coincidence" that a disproportionate amount of SEC enforcement action is against the digital asset industry because crypto is "a garden of snakes." He said he would prefer that the SEC issue comprehensive regulation so that everybody knows "what the law is in every instance" but argued that the crypto industry has "fought tooth and nail" against that. He called on Congress to give the SEC "absolute and clear" jurisdiction over digital assets because the SEC is the best agency to regulate investment assets that are intangible.

House Passes Resolution to Overturn SEC's SAB 121

Key Point:

- *The resolution would overturn an SEC staff bulletin on crypto custodians and accounting for those crypto liabilities.*

On May 8, the House of Representatives voted 228-182 on [H.J. Res. 109](#), which would overturn the Securities and Exchange (SEC) staff accounting bulletin (SAB) requiring SEC-regulated entities performing crypto custodial activities to include the crypto as a liability on their balance sheet. Twenty-one Democrats joined all present Republicans in voting in favor of the resolution, but the White House issued a Statement of Administration Policy [opposing](#) the legislation.

House Financial Services Committee Chairman Patrick McHenry (R-NC) spoke on the House floor in favor of the resolution, saying:

"Staff Accounting Bulletin 121 is one of the most glaring examples of the regulatory overreach that has defined Gary Gensler's tenure at the SEC. SAB 121 requires financial institutions and firms that are safeguarding their customers' digital assets to hold those assets on their balance sheet, making it cost prohibitive to do so. Rep. Flood's bipartisan, pro-consumer H.J. Res. 109 nullifies the SEC's disastrous SAB 121 and brings commonsense into our digital asset policy. This resolution will allow consumers to hold their digital assets in one of the safest ways possible—through highly regulated banks and other financial institutions. I'm pleased to see it pass the

House with support from both sides of the aisle and applaud the efforts of Congressmen Flood and Nickel in getting it across the finish line.”

House Financial Services Committee Ranking Member Maxine Waters (D-CA) spoke on the House floor against the resolution, saying:

“I rise in strong opposition to H.J.Res.109, a Congressional Review Act resolution that would overturn accounting guidance for crypto assets from the Securities and Exchange Commission, known as Staff Accounting Bulletin 121, or SAB 121. The bill sponsors have falsely asserted that this bill is meant to address a narrow concern from a particular special interest group, but in reality, it is drafted in a way that is far broader than this narrow concern. The collateral damage caused by this CRA resolution would be far reaching, causing significant harm to investors, consumers, public companies, and the safety and soundness of our capital markets.”

House Panel Holds Hearing on Defense Production Act Reauthorization

Key Point:

- *Members discussed the impending DPA reauthorization and debated the extent to which the President can invoke the DPA.*

On May 8, the House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions held a [hearing](#) entitled, “Mission Critical: Restoring National Security as the Focus of Defense Production Act (DPA) Reauthorization, Part II.” Chairman Blaine Luetkemeyer (R-MO) emphasized the need to examine and consider the DPA because of its increased use by the Trump and Biden administrations and the need to restore the American defense industry for great power competition with China. He expressed concern that several expanded authorities for which the DPA are being used seem to have little to do with what the legislation was originally intended to accomplish, citing President Biden’s use of the DPA in June 2022 to accelerate domestic production of energy technologies like solar panel parts, insulation, heat pumps, biofuels, and power grid infrastructure. He warned that exercising DPA authorities for reasons unrelated to national security undermines support for the DPA. He argued that the DPA needs “a thorough review and careful adjustment, not just rubber stamp approval from Congress.”

Ranking Member Joyce Beatty (D-OH) said Congress amended the definition of national defense over the years to include emergency preparedness, critical infrastructure protection and restoration, homeland security, etc. She argued that the DPA does not give the President a blank check to spend taxpayer money. She said it is “imperative” to assess

national defense through a wider lens by leveraging tools like the DPA. She argued that the Biden administration “appropriately” invoked the DPA to produce ventilators and vaccinations, and to accelerate domestic manufacturing of clean energy technology. She emphasized that preparation, prevention, and deterrence are key components of national defense.

Senate Banking Committee Holds Hearing on “Junk Fees”

Key Point:

- *Senators debated the causes of increasing costs and the merits of the CFPB’s Credit Card Late Fee rule.*

On May 8, the Senate Banking Committee held a [hearing](#) entitled, “Consumer Protection: Examining Fees in Financial Services and Rental Housing.” Chairman Sherrod Brown (D-OH) described junk fees as “hidden add-ons, surcharges, and fees” that “inflate” the price of a good without adding value. He said they are often hidden and only disclosed when it is time to pay. He warned that this prevents consumers from finding the lowest price for a good. He called junk fees a “mockery of free and fair markets.” He expressed support for the Consumer Financial Protection Bureau’s (CFPB) credit card late fee rule because credit card late fees are the most costly and frequently applied junk fee. He explained that the CFPB found that credit card companies are charging consumers “more than five times their costs” and that the new rule will lower credit card late fees to \$8. He emphasized that this will save consumers \$10 billion per year. He called on Congress to “expose and crack down” on these fees.

Ranking Member Tim Scott (R-SC) blamed Bidenomics, “skyrocketing” inflation, increasing global instability, and “the slush fund known as the Inflation Reduction Act” for the high prices consumers are facing. He said junk fees are a “boogeyman” and one of several scapegoats Democrats and the Biden administration have used to “deflect blame” from the economic harm their policies caused. He expressed support for his Congressional Review Act to overturn the CFPB credit card late fee rule, warning that the rule would result in lower credit limits and higher interest rates for borrowers, new fees for services that are currently provided free of charge, and cut off access to credit and stymie financial inclusion for those who need it most. He called the rule “divorced from economic reality.” He noted that the Biden administration claimed that a junk fee is a charge “designed either to confuse or deceive consumers” but argued that overdraft and credit card late fees are two of the most highly regulated and transparent business practices in any industry. He emphasized that regulatory costs have increased by \$1.37 trillion since President Biden took office and argued that this is paid for in the form of higher prices. He

warned against pushing the financial services industry into only offering one-size-fits-all all products.

CFPB and DOT Hold Joint Hearing on Airline and Credit Card Rewards Programs and CFPB Releases Report

Key Points:

- *The CFPB and DOT held a joint hearing in which both agencies highlighted the benefits of such programs, but also their alleged drawbacks for consumers and business competition.*
- *The CFPB released a report detailing consumer concerns about losing benefits to devaluation, limited redemption opportunities, and vague or hidden terms and conditions.*

On May 9, the Consumer Financial Protection Bureau (CFPB) and the Department of Transportation (DOT) held a joint [hearing](#) entitled “Hearing on Airline and Credit Card Rewards Programs.” Transportation Secretary Pete Buttigieg acknowledged that the programs bring value to consumers but noted that consumers may choose to pay a higher price for a flight under a frequent flyer program than they would otherwise. He said that while the expected value of points must not be abruptly changed, the fairness, transparency, and predictability of this system should be evaluated. He emphasized that DOT would be particularly concerned if there was evidence of systems blocking the growth of smaller competitors.

CFPB Director Rohit Chopra said that while many families may highly value the benefits advertised by credit cards, frequent flyer programs have evolved from a perk for loyal customers to a multi-billion-dollar currency market where airlines and cards buy, sell, and issue points across the economy. He explained that the CFPB has been studying the market and intends to protect people’s points against massive devaluation after the CFPB’s initial review of fine print indicated that airline programs can devalue points by limiting the inventory available for purchase. He expressed concern that some companies have “stripped away” promised rewards. He said the largest credit card companies have made passive payments to ensure airlines do not sell points and miles to competing card companies and argued that such agreements have been detrimental to small credit card companies. He added that many large credit cards charge dramatically higher rates on rewards cards than their non-reward card offerings and warned that the higher rates associated with these reward cards may counteract the benefits of these cards.

Additionally, a panel of airline representatives and consumer advocates discussed what they viewed as the positives and negatives of rewards programs.

That same day, the CFPB issued a [new report](#) “finding consumers encounter numerous problems with credit card rewards programs.” The report stated that these problems include: (1) credit card issuers impose vague or hidden conditions that keep consumers from receiving rewards; (2) companies devalue rewards; (3) consumers encounter redemption issues with earned benefits; and (4) companies revoke previously earned rewards. CFPB Director Chopra said of the report, “Credit card companies promise upfront benefits for signing up and using their rewards card, but often bury complex terms in the fine print for using the rewards. The CFPB will be looking for ways to protect people’s points, stop bait-and-switch scams, and promote a fair and competitive market for credit card rewards.”

Upcoming Hearings and Meetings

May 15

Prudential Regulator Oversight: The House Financial Services Committee will hold a [hearing](#) entitled, “Oversight of Prudential Regulators.” Federal Reserve Vice Chair for Supervision Michael Barr, Federal Deposit Insurance Corporation Chairman Martin Gruenberg, and Acting Comptroller of the Office of the Comptroller of the Currency Michael Hsu will testify.

May 16

Financial Services Legislation markup: The House Financial Services Committee plans to hold a markup to consider financial services bills.

Prudential Regulator Oversight: The Senate Banking Committee will hold a [hearing](#) entitled, “Oversight of U.S. Financial Regulators: Accountability and Financial Stability.” Federal Reserve Vice Chair for Supervision Michael Barr, Federal Deposit Insurance Corporation Chairman Martin Gruenberg, and Acting Comptroller of the Office of the Comptroller of the Currency Michael Hsu will testify.

Asset Management Trends: The Securities and Exchange Commission’s Division of Investment Management will host the annual [Conference](#) on Emerging Trends in Asset Management. Participants in the conference will include academics and individuals from the asset management industry.

June 4

FACI Meeting: The Federal Advisory Committee on Insurance (FACI) will hold an open meeting. An agenda will be announced at a future date.

June 20

FHLBank and CDFI Symposium: The Federal Housing Finance Agency (FHFA) will host a Federal Home Loan Bank (FHLBank) and Community Development Financial Institution (CDFI) [Symposium](#). Representatives from the FHLBanks and CDFIs will discuss several topics, including (1) "FHLBank membership and programs;" (2) "appropriately measuring risk in CDFI lending;" and (3) "innovative FHLBank and CDFI products and partnerships."

For more information about financial services issues you may email [Joel Oswald](#) or [Mahlet Makonnen](#). Nicholas May contributed to this section.

ENERGY & ENVIRONMENT**Subcommittee Reviews Pipeline Safety Programs***Key Points:*

- *On Tuesday, the Railroads, Pipelines, and Hazardous Materials Subcommittee held a hearing to discuss pending pipeline safety reauthorization legislation.*
- *Witnesses included the Pipeline and Hazardous Material Safety Administration's (PHMSA) highest ranking official, Deputy Administrator Tristan Brown.*

On May 7, the House Transportation and Infrastructure Committee's Railroads, Pipelines, and Hazardous Materials Subcommittee held a hearing titled "Ensuring Safety and Reliability: Examining the Reauthorization Needs of the Pipeline and Hazardous Materials Safety Administration". The hearing follows the Committee's approval on December 6, 2023, of the "Pipeline Efficiency and Safety (PIPES) Act of 2023" ([H.R. 6494](#)). On March 20, 2024, the House Energy and Commerce Committee voted to report its own reauthorization bill to the House, the "Pipeline Safety, Modernization, and Expansion Act of 2024" ([H.R. 7655](#)). The House must combine the two bills before the full chamber votes on pipeline safety legislation.

In his opening statement, Subcommittee Chairman Troy Nehls (R-TX) noted that the Transportation and Infrastructure Committee approved its pipelines safety reauthorization bill on a bipartisan basis after the Committee solicited input from a wide range of pipeline safety stakeholders. He stated the U.S. has 3.3 million miles of onshore pipeline infrastructure that safely carries resources vital for energy independence. He said Congress

must ensure PHMSA focuses on its core mission of advancing the safe transportation of fuels. Nehls noted that the PIPES Act includes provisions to: promote public safety by strengthening state programs to reduce the number of excavation damage incidents; update regulations for the safe transportation of carbon dioxide (CO₂); and authorize a study of hydrogen blending in natural gas pipelines. Nehls emphasized the need to reauthorize PHMSA to provide certainty to the agency and regulated entities.

Ranking Member Frederica Wilson (D-FL) stated her priority is to ensure the safety of children. She expressed concern about pipeline incidents near schools, specifically noting two incidents in Conway, Washington, and Merigold, Mississippi. She expressed an interest in learning how pipeline operators and inspectors work to ensure the safety of students and impacted communities.

In his [testimony](#), PHMSA Deputy Administrator Tristan Brown said a significant portion of the interstate pipeline infrastructure was built shortly after World War II. He said the Infrastructure Investment and Jobs Act's Natural Gas Modernization Grant Program allows PHMSA to modernize aging infrastructure. He said that PHMSA is grateful for the Committee's work to increase authorization levels for the agency. Brown testified that the U.S. is the global leader in the energy transportation sector regarding safety rules, the rule of law regarding disputes and compliance, research, transparency, and community engagement.

Upcoming Hearings and Events

May 13

Electric Transmission: The Federal Energy Regulatory Commission (FERC) will hold an open meeting on electric transmission issues. The [agenda](#) includes: "Building for the Future Through Electric Regional Transmission Planning and Cost Allocation"; and "Applications for Permits to Site Interstate Electric Transmission Facilities".

Hunting, Fishing, and Recreation: The House Natural Resources Committee's Federal Lands Subcommittee will hold a [hearing](#) titled "Improving Access and Opportunities for Hunting, Fishing, and Outdoor Recreation on America's Federal Lands". This field hearing will be held in Hayward, Wisconsin.

May 15

Pending Legislation: The Senate Energy and Natural Resources Committee's National Parks Subcommittee will hold a [hearing](#) on the President's Fiscal Year 2025 budget request for

the National Park Service, as well as pending legislation. Michael Caldwell, Associate Director, Park Planning, Facilities, and Lands, National Park Service, is scheduled to testify.

EPA Budget: The House Energy and Commerce Committee's Environment, Manufacturing, and Critical Materials Subcommittee will hold a [hearing](#) on the Environmental Protection Agency's (EPA) Fiscal Year 2025 budget request. EPA Administrator Michael Regan is scheduled to testify.

Bureau of Land Management and National Park Service Budget: The House Natural Resources Committee's Federal Lands Subcommittee will hold a [hearing](#) titled "Examining the President's FY 2025 Budget Request for the Bureau of Land Management and National Park Service".

National Security and Climate Change: The Senate Budget Committee will hold a [hearing](#) titled "Budgeting for the Storm: Climate Change and the Costs to National Security". Scheduled witnesses are: Dennis McGinn, Retired Vice Admiral, And Former Assistant Secretary of the Navy for Energy, Installations, and Environment; Erin Sikorsky, Director, The Center for Climate and Security, and The International Military Council on Climate and Security; and Rick Dwyer, Executive Director, Hampton Roads Military and Federal Facilities Alliance.

May 16

Council on Environmental Quality: The House Natural Resources Committee will hold a [hearing](#) titled "Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters".

National Forest Service: The Senate Energy and Natural Resources Committee will hold a [hearing](#) "to examine the President's budget request for the U.S. Forest Service for Fiscal Year 2025." Randy Moore, Chief, U.S. Forest Service, Department of Agriculture, is scheduled to testify.

May 23

FERC Open 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. Logan Mazer and Noah Hawkins contributed to this report. Updates on energy and environment issues are also available on [X](#).

HEALTH

House Ways and Means Committee Marks Up Telehealth Legislation

Key Points:

- *On May 8, the House Ways and Means Committee favorably reported the Preserving Telehealth, Hospital, and Ambulance Access Act (H.R. 8261) to the House, as amended, by a vote of 41-0.*
- *The bill extends telehealth flexibilities for two additional years, extends the acute hospital care at home waiver for five additional years, requires a report on wearable medical devices, and states that pharmacy benefit managers (PBMs) cannot derive any remuneration for their services other than bona fide service fees.*

On May 8, the House Ways and Means Committee favorably reported the Preserving Telehealth, Hospital, and Ambulance Access Act ([H.R. 8261](#)) to the House, as amended, by a vote of 41-0. This bill extends the telehealth flexibilities for Medicare beneficiaries granted during the pandemic for two additional years. Provisions in the bill also require a report by the Comptroller General on the capabilities and limitations of wearable medical devices and an extension of the acute hospital care at home waiver for five more years. The offsets for the legislation include a provision that states that PBMs cannot derive any remuneration for their services other than bona fide service fees. The provision also requires a report on the transparency of prescription drug costs from the Government Accountability Office (GAO) and a report on agreements with PBMs on prescription drug plans and Medicare Advantage prescription drug (MA-PD) plans from the Medicare Payment Advisory Commission (MedPAC).

Representative Lloyd Doggett (D-TX), Representative Earl Blumenauer (D-OR), and Representative Mike Thompson (D-CA) expressed concerns about the hospice recertification provision and the lack of telehealth fraud prevention in the legislation. The Committee also favorably reported the following bills to the House: the Preserving Emergency Access in Key Sites (PEAKS) Act ([H.R. 7931](#)), as amended, by a vote of 24-18, the Rural Hospital Stabilization Act ([H.R. 8245](#)), as amended, by a vote of 24-18, the Ensuring Seniors' Access to Quality Care Act ([H.R. 8244](#)), as amended, by a vote of 25-18, the Rural Physician Workforce Preservation Act ([H.R. 8235](#)), as amended, by a vote of 24-16, and the Second Chances for Rural Hospitals Act ([H.R. 8246](#)), as amended, by a vote of 24-16.

Justice Department Announces Task Force on Health Care Monopolies and Collusion

Key Points:

- On May 9, the DOJ announced the creation of the Antitrust Division's Task Force on Health Care Monopolies and Collusions (HCMC).
- The HCMC will oversee the division's enforcement strategy and policy approach including advocacy, investigations, and civil and criminal enforcement in the health care market.

On May 9, the DOJ [announced](#) the creation of the Antitrust Division's Task Force on HCMC. The HCMC will oversee the division's enforcement strategy and policy approach including advocacy, investigations, and civil and criminal enforcement in the health care market. The Task Force will bring together civil and criminal prosecutors, economists, industry experts, technologists, data scientists, and internal investigators and policy advisors to identify antitrust problems in health care. HCMC will consider competition concerns shared by patients, health care professionals, businesses, and entrepreneurs.

Senate Appropriations Hearing on the FY 2025 FDA Budget

Key Points:

- On May 8, the Senate Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a hearing entitled, "Hearing to Examine Proposed Budget Estimates and Justification for Fiscal Year 2025 for the Food and Drug Administration."
- Topics discussed during the hearing included drug shortages, opioids, Mifepristone, medical gas, cell and tissue therapy, avian flu, infant formula shortages, vaping, cosmetics, Food and Drug Administration (FDA) reorganization, and food imports.

On May 8, the Senate Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a [hearing](#) entitled, "Hearing to Examine Proposed Budget Estimates and Justification for Fiscal Year 2025 for the Food and Drug Administration." Topics discussed during the hearing included drug shortages, opioids, Mifepristone, medical gas, cell and tissue therapy, avian flu, infant formula shortages, vaping, cosmetics, FDA reorganization, and food imports. Ranking Member John Hoeven (R-ND) questioned FDA Commissioner Robert Califf about the greatest challenges to preventing drug shortages. Commissioner Califf emphasized there is a market failure and explained shortages exist because generic prices are too low, and manufacturers make patented drugs to make a profit.

Senate Budget Hearing on Alleviating Administrative Burdens in Health Care

Key Points:

- On May 8, the Senate Budget Committee held a hearing entitled, “Reducing Paperwork, Cutting Costs: Alleviating Administrative Burdens in Health Care.”
- Topics discussed in the hearing included the fee-for-service model, physician burnout, standardization in prior authorizations, inefficiencies with prior authorizations, value-based approaches to health care, competition in health care, the cost of health care, and the quality of patient care.

On May 8, the Senate Budget Committee held a [hearing](#) entitled, “Reducing Paperwork, Cutting Costs: Alleviating Administrative Burdens in Health Care.” Topics discussed in the hearing included the fee-for-service model, physician burnout, standardization in prior authorizations, inefficiencies with prior authorizations, value-based approaches to health care, competition in health care, the cost of health care, and the quality of patient care. Chairman Sheldon Whitehouse (D-RI) discussed legislation that will require the Centers for Medicare and Medicaid Services (CMS) to identify the “worst” prior authorization practices in Medicare Advantage (MA), require CMS to set common standards for prior authorization across insurance providers, and lift the prior authorization burden off providers and affordable care organizations accountable care organizations (ACOs) with a proven track record of high-quality patient care. Additionally, Ranking Member Chuck Grassley (R-IA) called for increased transparency, competition, fraud prevention, and administrative red tape to fix the waste and inefficiency in the health care system.

HHS Releases Medicare Trustees Report

Key Points:

- On May 6, the Department of Treasury, Department of Health and Human Services (HHS), Department of Labor (DOL), and CMS released the annual Medicare Trustees Report.
- The report outlines the projected financial status of the Medicare program.

On May 6, the Department of Treasury, HHS, DOL, and CMS released the annual Medicare Trustees Report. The report outlines the projected financial status of the Medicare program. Following previous years, the report found that Medicare will continue to face significant financing issues. The Trustees extended the solvency of the Hospital Insurance (HI) Part A trust fund for five additional years from 2031 to 2036. Part A spending increased an average of 5.5 percent annually over the past five years. Additionally, the report found that Supplemental Medical Insurance (SMI) trust fund Part B spending has averaged 8.3 per year for the last five years while Part D optional plans grew at an average of 6.6 percent.

The report projects that starting in 2026 the drug price negotiation program will gradually lower program and beneficiary costs.

The report is available [here](#). A summary is available [here](#).

Upcoming Hearings and Events

May 15

Veterans' Access: The Senate Veterans' Affairs Committee will hold a [hearing](#) entitled, "Hearings to examine frontier health care, focusing on ensuring veterans' access no matter where they live."

May 16

NIH Oversight: The House Oversight and Accountability Select Subcommittee on the Coronavirus Pandemic will hold a [hearing](#) entitled, "Overseeing the Overseers: A Hearing with NIH Deputy Director Lawrence Tabek."

Dental Care: The Senate Health, Education, Labor, and Pensions Committee will hold a [hearing](#) entitled, "Hearings to examine the dental care crisis in America, focusing on making dental care more affordable and more available."

Rural Health Care: The Senate Finance Committee will hold a [hearing](#) entitled, "Hearings to examine rural health care, focusing on supporting lives and improving communities."

For more information about health care issues you may [email](#) or call Nicole Ruzinski Bertsch at 202-659-8201. Windsor Warlick and Maddy Suna contributed to this section.

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

Cybersecurity and Infrastructure Security Agency (CISA) Announces Voluntary Secure by Design Commitments from Software Manufacturers

Key Point:

- *68 software manufacturing companies signed CISA's Secure by Design Pledge to implement seven tenants of secure software design and strive to produce products with heightened security.*

On May 8, CISA announced that 68 global leading software manufacturers voluntarily agreed to adopt the agency's [Secure by Design Pledge](#), which commits these companies to

designing software products with heightened security in mind. The Secure by Design Pledge includes seven goals: (1) increase the use of multi-factor authentication; (2) reduce default passwords across products; (3) take action to reduce one or more vulnerability classes across manufacturer's products; (4) measurably increase the installation of patches by customers; (5) publish a vulnerability disclosure policy (VDP); (6) demonstrate transparency in vulnerability reporting; and (7) increase the ability of customers to gather evidence of cybersecurity intrusions affecting products.

CISA Director Jen Easterly commented on companies signing the pledge: "More secure software is our best hope to protect against the seemingly never-ending scourge of cyberattacks facing our nation. I am glad to see leading software manufacturers recognize this by joining us at CISA to build a future that is more secure by design" ([CISA](#)). CISA Senior Technical Advisor Jack Cable also commented: "Every software manufacturer should recognize that they have a responsibility to protect their customers, contributing to our national and economic security. I appreciate the leadership of those who signed on and hope that every technology manufacturer will follow suit."

Office of the Director of National Intelligence (ODNI) Publishes Policy Framework for the Purchase of Commercially Available Information

Key Point:

- *ODNI published a framework describing how the intelligence community can purchase commercially available information along with a statement expressing the importance for the intelligence community to be able to obtain this data.*

On May 8, ODNI published the [Policy Framework for Commercially Available Information](#) which describes how the intelligence community can purchase data from large data brokers. The first section of the framework establishes principles governing the intelligence community's access, collection, and processing of commercially available information (CAI). The second section of the framework establishes principles governing how the intelligence community can access, collect, and process sensitive forms of CAI. Along with the CAI framework, ODNI published a complimentary [statement](#) explaining the need for the intelligence community to be able to collect CA, citing its use within the Russia-Ukraine War.

Senator Ron Wyden (D-OR), who has been at the forefront of Congressional efforts to put guardrails on the intelligence community's ability to purchase Americans' data, criticized the frameworks' lack of clear rules regarding which CAI can and cannot be purchased: "The framework's absence of clear rules about what commercially available information can and cannot be purchased by the intelligence community reinforces the need for Congress to

pass legislation protecting the rights of Americans” ([Cyberscoop](#)). He followed up and called ODNI’s publication “an important step forward” to establishing a set of rules to govern the intelligence communities purchasing of Americans’ information.

Communications Director for the Surveillance technology Oversight Project, Will Owen, criticized the lack of clear Congressional guidelines governing the intelligence community’s purchase of CAI: “This policy offers a first step toward greater transparency and safeguards for the use of commercially available information, but we need to ban law enforcement from purchasing Americans’ data from data brokers to actually protect our privacy and civil liberties” ([Cyberscoop](#)).

Senate Commerce, Science, and Transportation Subcommittee on Consumer Protection, Product Safety, and Data Security Holds Hearing on Strengthening Data Security

Key Point:

- *The Senate Commerce, Science, and Transportation Subcommittee on Consumer Protection, Product Safety, and Data Security held a hearing on strengthening data security and discussed data minimization, cyber defense, and federal regulation and action.*

On May 8, the Senate Commerce, Science, and Transportation Subcommittee on Consumer Protection, Product Safety, and Data Security held a [hearing](#) entitled, “Strengthening Data Security to Protect Consumers.” Topics discussed in the hearing included data minimization; cyber defense; and federal regulation and action. Four witnesses testified in front of the subcommittee including James Lee (COO of Identify Theft Resource Center), Sam Kaplan (Assistant General Counsel and Senior Director for Public Policy & Government Affairs at Palo Alto Networks), Prem Trivedi (Policy Director of New America’s Open Technology Institute), and Jake Parker (Senior Director of Government Relations at the Security Industry Association).

In his opening statement, Chairman John Hickenlooper (D-CO) said new technologies are increasingly relying on sensitive individual data and stated businesses are collecting personally identifiable information at unprecedented rates. He noted that 16 states have passed or are in the process of passing privacy laws, all of which provide meaningful lessons to the federal government and praised the recent American Data Privacy Rights Act of 2024 ([S. ___](#)) as a strong step towards protecting Americans’ data. He emphasized the importance of data minimization to data security and said Congress has an obligation to build bipartisan consensus around these issues.

In her opening statement, Ranking Member Marsha Blackburn (R-TN) highlighted her Data Security and Breach Notification Act ([112th Congress](#)), which she introduced in the House as a member of the House Energy and Commerce Committee. She emphasized Congress cannot cede its authority to state governments and foreign countries on data protection leadership. She noted the European Union (EU) is using its General Data Protection Regulation (GDPR) law to regulate artificial intelligence and data privacy, but said GDPR should be seen as a “cautionary tale” in the U.S.

For more information about cybersecurity issues you may email [Mahlet Makonnen](#) or [Frank Vlossak](#). Joe Maalouf contributed to this section.

TRADE

House Ways and Means Chairman Smith Calls for Release of Four-Year Section 301 Review Amid Reports of Its Looming Publication

Key Points:

- *House Ways and Means Chairman Jason Smith (R-MO) and Trade Subcommittee Chairman Adrian Smith (R-NE) have issued a letter to USTR calling on the agency to release its four-year review of Section 301 tariffs on Chinese goods.*
- *The letter criticizes the Biden Administration’s inaction in addressing trade issues with China.*
- *The correspondence precedes press reports that the four-year review could be released next week.*

On May 7, House Ways and Means Chairman Jason Smith (R-MO) and Trade Subcommittee Chairman Adrian Smith (R-NE) issued a [letter](#) to U.S. Trade Representative (USTR) Tai calling for the release of the four-year review on Section 301 tariffs on Chinese goods. Within the letter, the two members argue that “continued inaction on the four-year review poses serious risks for U.S. farmers, manufacturers, innovators, small businesses, and workers.” The correspondence states that the Biden Administration’s lack of swift action represents a “passive approach to China trade challenges that lacks strategic focus.” The two signatories urge USTR to ensure the review’s “swift conclusion ... so that we can begin to address the looming China trade challenges facing the U.S. economy.”

The four-year review, which was initiated in 2022, aims to evaluate Trump-era tariffs on Chinese goods. USTR initially planned to release the review in 2023 but chose in late 2023 to [extend](#) exclusions for Section 301 tariffs through May 31, 2024. USTR Tai stated in a

hearing held by the House Ways and Means Committee in mid-April that the four-year review would be released “quite soon.”

The letter precedes reporting late this week from Bloomberg that USTR is set to release the four-year review of Section 301 tariffs as soon as next week. According to their reporting, the Biden Administration is set to increase tariffs on specific sectors of concern like electric vehicles and battery manufacturing rather than increasing baseline tariff rates.

Senator Brown Calls on Commerce Department to Ban Chinese Smart Cars

Key Point:

- *Senator Brown (D-OH) has called on the Commerce Department to prohibit the import of all Chinese-connected vehicles, citing national security concerns.*

On May 8, Senator Brown (D-OH) issued a [letter](#) to the Commerce Department calling for it to “ban all Chinese internet-connected vehicles and smart vehicle technology that is designed, developed, or supplied from China,” according to a [press release](#). The letter, which was written in response to an advanced notice of proposed rulemaking on connected vehicles, states that Commerce should issue a proposed rulemaking that prohibits all vehicles and technology for connected vehicles that are designed, developed, or supplied from China. Senator Brown further states in the correspondence that China’s civil-military fusion means that “both finished vehicles and technology would enable the Chinese Communist Party to access sensitive personal data of Americans and of critical U.S. infrastructure.”

The letter raises concerns that connected vehicles store a range of sensitive information which presents national security risks given that “Chinese companies would be instruments of the Chinese military and intelligence apparatus.” Senator Brown concludes the letter by calling on Commerce to issue a notice of proposed rulemaking that “addresses the unacceptable risks posed by Chinese vehicles ... that are designed, developed, or supplied from that PRC that would enable the Chinese Communist Party access to sensitive personal data or U.S. infrastructure.”

Bipartisan Coalition of Lawmakers Release National Maritime Strategy Report

Key Points:

- *A bipartisan group of two senators and two representatives have issued a report on steps to build out the nation’s maritime and shipbuilding capacity.*

- *The report includes recommendations to spur investment in domestic shipbuilding and restrict cash flows to the PRC's maritime sector.*

On May 8, Senator Rubio (R-FL), Senator Kelly (D-AZ), Representative Waltz (R-FL), and Representative Garamendi (D-CA) published the Congressional Guidance for a National Maritime Strategy [report](#). According to a [press release](#), the bipartisan report “provides a comprehensive vision for planning guidance, strategic objectives, and actionable steps to revitalize our nation’s maritime sector.” Within the report, the contributors assert that decades of neglect by the federal government have weakened the nation’s maritime sector and that additional actions to bolster the sector are necessary to counter China and ensure national security. The report includes ten broad recommendations for congressional action to improve the nation’s maritime sector, including increased funding for the Maritime Administration and the Federal Maritime Commission alongside spurring investment in inland waterways. Notably, the report calls for actions to “attract private investment into the U.S.-flag shipping and domestic shipbuilding while restricting cash flow into the People’s Republic of China’s maritime and shipbuilding industries.” In turn, the report also advocates for Congress to evaluate ways the U.S. is reliant on strategic competitors and bolster domestic capabilities.

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