

March 29, 2019

## Washington Update

### This Week In Congress

**House** – The House passed H.R. 7, “**The Paycheck Fairness Act;**” and H.R. Res. 252, a resolution expressing opposition to banning service in the Armed Forces by openly transgender individuals. Additionally, the House failed to override the President’s veto of H.J. Res. 46, which would nullify the emergency declaration related to the Southern Border.

**Senate** – The Senate failed to invoke cloture on S.J. Res. 8, a joint resolution recognizing the duty of the Federal Government to create a Green New Deal, by a vote of 0-57. The Senate confirmed nominations of Bridget S. Bade, to be United States Circuit Judge for the Ninth Circuit; and Nicole Nason, of New York, to be Administrator of the Federal Highway Administration.

### Next Week In Congress

**House** – The House plans to consider H.R. 1585, “**The Violence Against Women Reauthorization Act.**”

**Senate** – The Senate will continue its consideration of [H.R. 268](#), which would make supplemental appropriations for the fiscal year ending September 30, 2019.

## **TAX**

### **House Ways and Means Committee Holds Hearing on the Tax Cuts and Jobs Act**

#### *Key Points:*

- *The hearing on the TCJA and its effects saw Democrats arguing that the bill failed to address the middle class, increased the national deficit, and benefited the wealthiest Americans. Republicans argued that the law boosted the economy, helped small businesses, and was the major driver for wage growth in 2018.*
- *Democratic-invited witnesses agreed that the bill primarily helps corporations and the wealthiest individuals while the Republican-invited witness argued that the bill was much*

*needed and helped put America back into an economically competitive position.*

- *Democrats agreed that the bill should be modified and noted that it has been common practice in the past to reform major tax legislation after studying the effects of the original bill.*

On Wednesday, the House Ways and Means Committee held a [hearing](#) entitled “The 2017

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Tax Law and Who It Left Behind.” Witnesses at the hearing included Elise Gould, Ph.D., Senior Economist, Economic Policy Institute; Jason Oh, Professor of Law, University of California Los Angeles School of Law; Christopher M. Shelton, President, Communications Workers of America; Nancy Abramowitz, Professor of Law and Director of the Janet R. Spragens Federal Tax Clinic, American University Washington College of Law; and Douglas Holtz-Eakin, President, American Action Forum. Topics discussed in the hearing included: (1) Tax Cuts and Jobs Act Reform; (2) Child Care; (3) Wages; (4) International Tax Provisions; (5) Section 199A; (6) National Deficit; (7) Opportunity Zones; (8) State and Local Tax Deduction; (9) Standard Deduction; (10) Affordable Care Act; and (11) Immigrants.

Chairman Neal (D-MA) explained his negative opinion of the Tax Cuts and Jobs Act (TCJA) by highlighting that the bill increased the deficit by roughly \$2 trillion and did nothing to help the middle class. He argued that the law was a backdoor effort to raise healthcare costs and urged his colleagues to consider reforming the bill. Ranking Member Brady (R-TX) touted the legislation but noted that it is still too early to gauge its full effects. He highlighted the fact that because of the TCJA American businesses brought back \$700 billion from overseas and that America is once again the most competitive economy in the world.

Witnesses in the hearing collectively agreed that there is concern for how the bill will be paid for. The Democratic-invited witnesses agreed that the bill primarily helps corporations and the wealthiest individuals in America while the Republican-invited witness said the bill was much needed and helped put America back into an economically competitive position.

The hearing represents the first in a possible series that Chairman Neal promised when he took the gavel to create a record around the TCJA. Other hearings are expected in the coming weeks or months.

### **Internal Revenue Service Reform Legislation to be Considered in Committee**

#### *Key Points:*

- *The Taxpayer First Act of 2019, introduced on March 28, includes similar provisions to The Taxpayer First Act of 2018 that passed the House in December 2018 but never received a vote in the Senate.*
- *Senate Finance Chairman Grassley (R-IA) and Ranking Member Wyden (D-OR) plan on introducing companion legislation in the near future.*
- *The bill includes provisions requiring the IRS to submit a comprehensive customer service strategy to Congress and to restructure its organization, oversight, and enforcement programs. The bill also includes provisions related to cyber security aiming to strengthen the IRS's ability to proactively combat identity theft tax refund fraud.*

This week, the House Ways and Means Committee released a new Internal Revenue Service (IRS) reform bill (H.R. 1957) that will be marked up next week. Last year's version, the Taxpayer First Act of 2018 ([H.R. 7227](#)), introduced by then-Representative Jenkins (R-KS) and Representative Lewis (D-GA), passed the House in December 2018 but never received a Senate vote. Senate Finance Chairman Grassley (R-IA) and Ranking Member Wyden (D-OR) will introduce companion legislation as well, according to House Ways and Means Committee Ranking Member Brady.

Ranking Member Brady indicated that the bill will virtually mirror H.R. 7227 and will include provisions requiring the IRS to submit a comprehensive customer service strategy to Congress and to restructure its organization, oversight, and enforcement programs. The [legislative text](#), a [summary](#) of the bill, a [one-pager](#) on the legislation, and a [list of additional cosponsors](#) can be found [here](#). A bill addressing expired tax provisions, also known as tax extenders, is expected to be introduced later.

## Upcoming Hearings and Meetings

### TBD

**IRS Reform:** The House Ways and Means Committee will hold a markup for The Taxpayer First Act of 2019 sometime next week.

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

## FINANCIAL SERVICES

### **Senate Banking Committee Holds Hearings on Housing Finance Reform; Administration Releases Housing Finance Reform Memo**

#### *Key Points:*

- *The Committee held two hearings to discuss the housing finance reform outline put out by Chairman Mike Crapo (R-ID).*
- *The White House issued a memo directing the Department of Treasury and the Department of Housing and Urban Development to develop legislative or administrative plans for housing finance reform.*

On March 26 and 27, the Senate Banking Committee held hearings to discuss the

[housing finance reform outline](#) released by Chairman Mike Crapo (R-ID) earlier in the year. Chairman Crapo said the Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac, have been in conservatorship for a decade and taxpayers remain on the hook. He suggested that the government has actually expanded its reach into the housing market. He said 70 percent of single family mortgages originated is now touched in some way by the federal government. He stressed the need for a legislative solution, noting that the Committee previously passed legislation in this area. He noted that he released an outline for housing finance reform, which would preserve existing infrastructure, increase the role of private capital, place levels of protection between taxpayers and risk, create a level playing field for all originators, impose strong underwriting standards, and promote broad accessibility of mortgage credit.

Ranking Member Sherrod Brown (D-OH) said housing is unaffordable for too many Americans, raising concerns that many proposals inadequately consider affordability. He said families need access to lenders of all sizes. Brown said the Federal Housing Finance Agency (FHFA) has implemented policies to provide equitable treatment to all lenders. He suggested that the current system is working for all lenders, stating that the Committee should not undermine this system or create unhealthy competition. He expressed opposition to allowing one institution to perform both primary and secondary market functions. He noted that the National Association of Realtors (NAR) has examined the impact of student debt on homeownership.

In his closing remarks at the March 27 hearing, Ranking Member Brown offered four takeaways: (1) guarantors must serve a broad national market; (2) guarantors must all serve all lenders equitably; (3) the duty to serve must

be preserved; and (4) the guarantors must be regulated utilities with regulated rates of return, in order to avoid a race to the bottom. Brown and Senators Brian Schatz (D-HI), Elizabeth Warren (D-MA), and Tina Smith (D-MN) also raised concerns with the proposed repeal of the GSEs' affordable housing goals.

On March 27, the White House issued a [memo](#) directing the Department of the Treasury and the Department of Housing and Urban Development to develop a plan for administrative or legislative reforms to the housing finance system. The memo outlined the Administration's goal for housing finance reform: (1) end the conservatorship of the GSEs; (2) facilitate housing finance market competition; (3) establish regulation of the GSEs that "safeguards their safety and soundness and minimizes the risks they pose" to financial stability; and (4) provide that the federal government "is properly compensated for any explicit or implicit support it provides to the GSEs or the secondary housing finance market."

### House Financial Services Committee Approves Five Bills

#### Key Points:

- *The Committee approved legislation related to oversight of the CFPB, access to banking services for cannabis-related businesses, combatting homelessness, the SEC disclosure regime, and foreign corruption.*

On March 26-28, the House Financial Services Committee held a [markup](#) and approved five financial services bills:

- The Kleptocracy Asset Recovery Rewards Act ([H.R. 389](#)), introduced by Representative Stephen Lynch (D-MA), which would establish in the Department of the Treasury the Kleptocracy Asset Recovery Rewards

Program. The program may provide rewards to individuals furnishing information leading to the restraining, seizure, forfeiture, or repatriation of stolen assets linked to foreign government corruption. The Committee favorably reported H.R. 389, as amended, by voice vote.

- The Consumers First Act ([H.R. 1500](#)), introduced by Chairwoman Maxine Waters (D-CA), which would rescind a number of actions taken by the Consumer Financial Protection Bureau (CFPB) since November 2017. The Committee favorably reported H.R. 1500, as amended, by a vote of 34-26.
- The Secure and Fair Enforcement (SAFE) Banking Act ([H.R. 1595](#)), introduced by Representative Ed Perlmutter (D-CO), which would create protections for depository institutions that provide financial services to state-authorized cannabis-related businesses (CRB) and service providers for such businesses. The Committee adopted an amendment to the SAFE Banking Act, offered by Representative Steve Stivers (R-OH), which would clarify that insurers are included in the safe harbor provided by the bill. The amendment was adopted by voice vote. The Committee favorably reported H.R. 1595, as amended, by a vote of 45-15.
- The SEC Disclosure Effectiveness Testing Act ([H.R. 1815](#)), introduced by Representative Sean Casten (D-IL), which would require the Securities and Exchange Commission (SEC), when developing rules and regulations about disclosures to retail investors, to conduct investor testing, including a survey and interviews of retail investors. The Committee favorably reported H.R. 1815, as amended, by a vote of 33-26.

- The Ending Homelessness Act ([H.R. 1856](#)), introduced by Chairwoman Maxine Waters (D-CA), which would appropriate \$13.27 billion in mandatory funding over five years for various Department of Housing and Urban Development (HUD) programs and initiatives with the goal of ending homelessness in America. The Committee favorably reported H.R. 1856, as amended, by a vote of 32-26.

### SEC Holds Investor Advisory Committee Meeting

#### *Key Point:*

- *The Investor Advisory Committee approved a recommendation on human capital disclosures, and discussed stock exchange regulation and trends in investment research.*

On March 28, the Securities and Exchange Commission's (SEC) Investor Advisory Committee (IAC) convened a [meeting](#) to discuss two items: (1) Stock Exchanges: Investor Protection Under the Modern Exchange Regulatory Structure; and (2) Trends in Investment Research and Potential Regulatory Implications. The IAC also approved a [recommendation](#) from the Investor as Owner Subcommittee regarding disclosures on human capital.

Chairman Jay Clayton, in a [statement](#), noted that earlier in the month he and Division of Trading and Markets Director Brett Redfearn spoke at length about equity market structure, stressing that the regulatory framework must reflect current markets. He said he was pleased that last year the SEC adopted rules providing for increased transparency of order routing practices, rules providing for operational disclosures by alternative trading systems (ATSs) trading national market system (NMS)

stocks, and a transaction fee pilot program. He said another key issue is market data and market access. Regarding disclosures, Clayton stated that the SEC's disclosure requirements should evolve over time to reflect changes in markets and the industry. He said disclosure requirements and guidance should be rooted in five principles: (1) materiality; (2) comparability; (3) flexibility; (4) efficiency; and (5) responsibility. He stated that the strength of the economy is due in part to human capital, stating that human capital is essential to many companies. He suggested that disclosure should focus on the material information that a reasonable investor needs to make informed investment and voting decisions. He said the SEC should not impose rigid standards for human capital on all companies, suggesting that investors would be better served to understand the lens through which companies examine their human capital. He said the SEC should focus on how human capital disclosures can be used by investors in assessing capital allocations. Clayton also discussed investment research issues, noting that MiFID II has gone into effect in the EU, which has changed how European firms can pay for research. He said the SEC has issued temporary no-action assurances for broker-dealers that receive certain payments under MiFID II. He noted that some market practices have emerged which may make additional no-action relief unnecessary, but he questioned whether the system is working for everyone. He expressed concern that broad availability of research may be reduced under MiFID II.

Commissioner Robert Jackson commended the IAC for its agenda. He stated that not enough attention is paid to impact of market structure on investors. He said the market is becoming more human capital-centric, stressing the need for better disclosure on human capital investments. He expressed interest in the panel on the impact of MiFID II on research.

Commissioner Elad Roisman, in a [statement](#), said the equity markets are working extremely well today. He stated that it has never been easier or cheaper for retail investors to trade, but the SEC should continue to identify areas for improvement. He said there are a wide variety of views on the issue of market data. He expressed interest in what actions the SEC could take to better serve investors. He noted that exchanges are just one type of execution facility, urging the IAC to provide comments on other non-exchange facilities. Roisman said he agrees with Chairman Clayton on human capital disclosures. He said he would be hesitant to mandate rigid standards for human capital disclosures. He stated that the SEC should gather more data on the trends in investment research before moving forward with regulatory changes.

### **SEC Issues Stay on Parts of Transaction Fee Pilot**

#### *Key Points:*

- *The Commission issued a stay on portions of the Transaction Fee Pilot Program in response to petitions by the NYSE, Nasdaq and Cboe.*

On March 28, the SEC issued an [order](#) issuing a stay of parts of Rule 610T and the Transaction Fee Pilot program, “pending a decision by the court of appeals regarding the petitions for review and further order of the Commission.” On February 15, the New York Stock Exchange (NYSE), Nasdaq, and Cboe filed petitions seeking a review of the Pilot program. The petitioners had filed motions with the Commission to stay the effect of Rule 610T and the Pilot program pending final resolution of their petitions for review.

From the SEC order:

Without addressing the merits of petitioners’ challenges to the Rule or

the Pilot program, the Commission has determined to exercise that discretion to grant a stay, in part. Pending a decision by the court of appeals regarding the petitions for review and further order of the Commission, the Commission is staying the requirement that the registered national securities exchanges subject to the Pilot furnish Pilot data to the Commission, or publicly disclose it as applicable, during the pre-Pilot period, and is staying the Pilot and post-Pilot periods in their entirety. The remainder of Rule 610T will become effective on its effective date, meaning that the data-gathering requirement of the Pilot program’s pre-Pilot period shall begin as provided in the Rule and on further notice by the Commission. The exchanges will still be required to collect pre-Pilot data during the pre-Pilot period even though they are not required to transmit that data to the Commission or publicly disclose it while petitioners’ challenges are pending. Moreover, while not required to do so, the exchanges may transmit pre-Pilot data to Commission staff on a voluntary basis during the pendency of the stay for quality control purposes...

Because the exchanges will not be required to alter their fee and rebate structures, report pre-Pilot data to the Commission, or publicly disclose it, this partial stay avoids the majority of the potential harms petitioners allege....

Accordingly, it is ORDERED, pursuant to Section 25(c)(2) of the Exchange Act and Section 705 of the Administrative Procedure Act that petitioners’ motions for a stay of Rule 610T and its Transaction Fee Pilot program pending resolution of their

petitions for review by the court of appeals be, and hereby are, granted in part. The Pilot and post-Pilot periods identified in Rule 610T(c)(1)(ii) and (iii), respectively, are stayed in their entirety pending a decision by the court of appeals regarding the petitions for review and further order of the Commission. The remainder of Rule 610T shall become effective in the ordinary course, and the Rule's pre-Pilot period identified in Rule 610T(c)(1)(i) shall become effective as provided in the Rule and on further notice by the Commission. The exchanges shall comply with the data-compilation requirements in Rules 610T(d) and (e) during the pre-Pilot period. However, pending a decision by the court of appeals regarding the petitions for review and further order by the Commission, the data-reporting and public disclosure requirements created by Rules 610T(d) and (e) are stayed.

## Upcoming Hearings and Meetings

### April 2

***Fair Housing Act:*** The House Financial Services Committee will hold a hearing entitled “The Fair Housing Act: Reviewing Efforts to Eliminate Discrimination and Promote Opportunity in Housing.”

***Rural Housing:*** The House Financial Services Committee's Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled “The Affordable Housing Crisis in Rural America: Assessing the Federal Response.”

***Environmental, Social, and Governance Investing:*** The Senate Banking Committee will hold a hearing entitled “The Application of

Environmental, Social, and Governance Principles in Investing and the Role of Asset Managers, Proxy Advisors, and Other Intermediaries.” The witnesses at the hearing will be the Honorable Phil Gramm, Former United States Senator; Mr. James R. Copland, Senior Fellow and Director of Legal Policy, Manhattan Institute; and Mr. John Streur, President and Chief Executive Officer, Calvert Research and Management.

### April 3

***Member Day:*** The House Financial Services Committee will hold a “Member Day Hearing.”

***Executive Accountability:*** The House Financial Services Committee's Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled “Putting Investors First: Reviewing Proposals to Hold Executives Accountable.”

***Department of Housing and Urban Development:*** The House Appropriations Committee's Subcommittee on the Departments of Transportation, and House and Urban Development, and Related Agencies will hold a hearing on the Fiscal Year 2020 budget for the Department of Housing and Urban Development (HUD). HUD Secretary Ben Carson will testify at the hearing.

### April 9

***Community Reinvestment Act:*** The House Financial Services Committee's Subcommittee on Consumer Protection and Financial Institutions will hold a hearing on “The Community Reinvestment Act: Assessing the Law's Impact on Discrimination and Redlining.”

***Treasury Department:*** The House Financial Services Committee will hold a hearing on “The Annual Testimony of the Secretary of the

Treasury on the State of the International Financial System.”

#### **April 10**

***Globally Systemically Important Banks:*** The House Financial Services Committee will hold a hearing entitled “Holding Megabanks Accountable: A Review of Global Systemically Important Banks 10 years after the Financial Crisis.”

#### **April 15**

***Global Markets Advisory Committee:*** The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Global Markets Advisory Committee (GMAC). The GMAC is scheduled to examine four pillars of the 2009 G20 directive regarding the over-the-counter (OTC) derivatives market: (1) trading on exchanges or electronic trading platforms; (2) clearing through central counterparties; (3) margin requirements for non-centrally cleared derivatives; and (4) data reporting to trade repositories.

#### **April 17**

***Energy and Environmental Markets Advisory Committee:*** The CFTC will hold a meeting of its Energy and Environmental Markets Advisory Committee (EEMAC). The meeting will focus on three topics: (1) derivatives markets’ responses to physical markets’ developments; (2) exchange-traded energy derivatives markets; and (3) the availability of clearing and other services in the energy derivatives markets.

*For more information about financial services issues you may email [Joel Oswald](mailto:Joel.Oswald@williamsandjensen.com) or [Alex Barcham](mailto:Alex.Barcham@williamsandjensen.com).*

## **ENERGY & ENVIRONMENT**

### **Upcoming Hearings and Events**

#### **April 2**

***DOE National Nuclear Security Administration Budget:*** The House Appropriations Committee’s Subcommittee on Energy and Water Development, and Related Agencies will hold a [hearing](#) on “Budget: Department of Energy, National Nuclear Security Administration”.

***Pipeline Safety:*** The House Committee on Transportation and Infrastructure’s Subcommittee on Railroads, Pipelines, and Hazardous Materials will hold a [hearing](#) on “Pipeline Safety: Reviewing the Status of Mandates and Examining Additional Safety Needs”.

***DOE Budget:*** The Senate Energy and Natural Resources Committee will hold a [hearing](#) to “Examine the President’s FY 2020 Budget Request for DOE”.

***EPA Budget:*** The House Committee on Appropriations’ Subcommittee on Interior, Environment, and Related Agencies will hold a [hearing](#) on “Budget: Environmental Protection Agency”.

***State of Infrastructure:*** The House Natural Resources Committee’s Subcommittee on Water, Oceans, and Wildlife will hold a [hearing](#) on “WOW 101: The State of Western Water Infrastructure and Innovation.”

***Offshore Drilling:*** The House Committee on Natural Resources’ Subcommittee on Energy and Mineral Resources will hold a [hearing](#) on “Protecting Coastal Communities from Offshore Drilling.”

***Nuclear Regulatory Commission:*** The Senate Environment and Public Works Committee will hold a [hearing](#) on “Oversight of the Nuclear Regulatory Commission.”

***Climate Change:*** The House Energy and Commerce Committee’s Subcommittee on Environment will hold a [hearing](#) on “Lessons from across the Nation: State and Local Action to Combat Climate Change.”

***Public Lands:*** The House Natural Resource Committee’s Subcommittee on National Parks, Forests, and Public Lands will hold a [hearing](#) on: the “Colorado Outdoor Recreation and Economy Act” (H.R. 823); the “Rim of the Valley Corridor Preservation Act” (H.R. 1708); the “Emancipation National Historic Trail Act” (H.R. 434); and the “Kettle Creek Battlefield Park Study Act” (H.R. 306).

#### **April 3**

***DOE Budget:*** The House Committee on Appropriations’ Subcommittee on Energy and Water Development, and Related Agencies will hold a [hearing](#) on “Budget: Science, Energy, and Environmental Management Programs”.

#### **April 4**

***Climate Change:*** The House Select Committee on the Climate Crisis will hold a [hearing](#) on “Generation Climate: Young Leaders Urge Climate Action Now”.

***BLM, BOEM and BSEE Budgets:*** The House Committee on Appropriations Subcommittee on Interior, Environment, and Related Agencies will hold a [hearing](#) on “Budget: Bureau of Land Management, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement”.

#### **June 25-26**

***Natural Gas Pipeline Safety Regulations:*** The Pipeline and Hazardous Materials Safety

Administration (PHMSA) will convene a meeting of its Gas Pipeline Advisory Committee (GPAC). As detailed in the [meeting notice](#), the “GPAC will be considering the gathering line component of the proposed rule titled ‘Safety of Gas Transmission and Gathering Pipelines,’ which was published in the Federal Register on April 8, 2016, (81 FR 20722) and the associated regulatory analysis.”

*For more information about energy and environment issues you may [email](#) or call Frank Vlossak at 202-659-8201. Sam Brooks contributed to this report. Updates on energy and environment issues are also available on [twitter](#).*

## **HEALTH**

### **House Energy and Commerce Committee Marks Up 12 Drug and ACA Bills**

#### *Key Points:*

- *The House Energy and Commerce Committee’s Subcommittee on Health marked up 12 bills.*
- *Six bills focused on drug pricing transparency and improving generic competition.*
- *The remaining six bills focused on Affordable Care Act (ACA) exchange funding and enrollment outreach, as well as the Administration’s extension of plans exempted from ACA requirements.*

On March 27, the House Energy and Commerce Committee’s Health Subcommittee held a [markup](#) of 12 bills aimed at reducing prescription drug prices and amending the Trump Administration’s changes to the Affordable Care Act (ACA). The Subcommittee favorably reported all 12 bills to the full Committee.

The Subcommittee favorably reported the following bills by voice vote:

- [H.R. 1781](#), Payment Commission Data Act of 2019;
- [H.R. 938](#), Bringing Low-cost Options and Competition while Keeping Incentives for New Generics (BLOCKING) Act of 2019;
- [H.R. 1520](#), Purple Book Continuity Act of 2019, as amended;
- [H.R. 1503](#), Orange Book Transparency Act of 2019, as amended;
- [H.R. 1499](#), Protecting Consumer Access to Generic Drugs Act of 2019, as amended;
- [H.R. 965](#), Creating and Restoring Equal Access to Equivalent Samples (CREATES) Act of 2019, as amended;
- [H.R. 1385](#), State Allowance for a Variety of Exchanges (SAVE) Act;
- [H.R. 1386](#), Expand Navigators' Resources for Outreach, Learning, and Longevity (ENROLL) Act;
- [H.R. 987](#), Marketing and Outreach Restoration to Empower (MORE) Health Education Act of 2019.

The Subcommittee favorably reported the following bills by roll call vote:

- [H.R. 1425](#), State Health Care Premium Reduction Act, as amended, by roll call vote 18-13;
- [H.R. 986](#), Protecting Americans with Preexisting Conditions Act of 2019 by roll call vote 19-13;
- [H.R. 1010](#), To provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect, by roll call vote 19-13.

The CREATES Act was the primary subject of debate amongst the drug pricing bills. Representative Greg Gianforte (R-MT) offered an [amendment](#) to change the maximum

monetary amount of recapture from earned revenue to treble damages or earned profits on the covered product during the period of withheld samples. Republicans offered support for the amendment, arguing treble damages or profits is the customary standard for maximum recapture, while Democrats expressed concern that the amendment would weaken the underlying legislation's strong deterrent effect on sample withholding. Representative Larry Bucshon (R-IN) offered an additional [amendment](#) to ensure brand manufacturers a safe harbor from litigation in cases where an offer is made at "commercially reasonable market-based terms." Republicans stressed this amendment was necessary to safeguard against frivolous litigation from generic manufacturers, while Democrats contended the addition time for determining fair offers would further delay sample sharing. Both amendments were rejected by voice vote.

Debate on the ACA bills focused on the Administration's changes to marketing outreach, funding for state exchanges and reinsurance programs, and use of ACA flexibilities to offer additional plans. Full Committee Chairman Frank Pallone (D-NJ) was particularly critical of the Administration's use of Section 1332 waivers to allow state to offer plans that do not cover the ACA essential health benefits. He called Association Health Plans (AHPs) and short-term, limited-duration plans "junk," and contended these are marketed deceptively to consumers. Republicans argued the plans offer states more flexibility for extending coverage to consumers unable to afford premiums on ACA exchange plans.

## Upcoming Hearings and Meetings

### April 1

**Drug Pricing:** The Cato Institute will hold a briefing on “How Much Should Medicare Pay for Drugs?”

### April 2

**Alzheimer’s:** The Senate Aging Committee will hold a hearing on “Alzheimer’s: New Directions in Biomedical Research and Caregiving.”

**Surprise Billing:** The House Education and Labor Committee will hold a hearing on “Examining Surprise Billing: Protecting Patients from Financial Pain.”

**NIH:** The House Appropriations Committee will hold a hearing on the National Institutes of Health Budget Request for FY 2020.

**Insulin:** The House Energy and Commerce Committee will hold a hearing on “Priced Out of A Lifesaving Drug: The Human Impact of Rising Insulin Costs.”

### April 3

**FDA:** The House Appropriations Committee will hold a hearing on the Food and Drug Administration Budget Request for FY 2020.”

### April 4-5

**Medicare:** The Medicare Payment Advisory Commission will hold a public meeting.

*For more information about healthcare issues you may [email](#) or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201. Thomas McGrath contributed to this section.*

## TRADE

### House Ways and Means Committee Discusses Labor Issues in the USMCA

#### *Key Point:*

- *The labor enforcement mechanisms and dispute settlement process in the current version of the USMCA are unacceptable to some labor unions.*

On Tuesday, the House Ways and Means Committee’s Subcommittee on Trade invited representatives from labor unions to offer opinions and recommendations on the U.S.-Mexico-Canada Agreement (USMCA). The labor unions unanimously agreed that the current enforcement mechanisms for labor standards and obligations are not strong enough to ensure that Mexico will abide by them. Celeste Drake, a trade policy specialist with the AFL-CIO, proposed making enforcement an obligation. She said if any government refuses to enforce the labor obligations citizens could go to a federal court, and demand that the federal government act to enforce the agreements. Additionally, the AFL-CIO raised concerns about the ineffectiveness of the current dispute settlement process. Drake explained that the USMCA would allow any party to block the formation of a dispute settlement panel, effectively paralyzing the process at the outset. She argued that the very country being challenged for violating the trade agreement cannot be allowed to prevent the dispute settlement panel from forming. When asked whether or not the USMCA represents an improvement over NAFTA, the labor union representatives acknowledged that the USMCA is an improvement.

The hearing helps continue to set the stage for possible consideration of the USMCA text in the coming months, possibly with additional labor language in the text or in binding side

agreements. At a closed-door meeting with Senate Republicans, President Trump suggested he would send the USMCA agreement as soon as he was allowed to in about a month. He may have been referring to the deadline for the International Trade Commission (ITC) to issue its report, by April 17; however, the Administration has been working with House Democrats to ensure they are accepting of the timing as to when the draft text will be submitted to Congress.

### China Negotiations Ongoing

#### *Key Points:*

- *NEC Director Kudlow implied that there is no rush to get a deal done by a certain time.*
- *USTR Lighthizer and Secretary Mnuchin continue high-level negotiations in Beijing, China.*

National Economic Council (NEC) Director Larry Kudlow on Thursday said trade talks between the U.S. and China could drag on for weeks or months. He indicated that President Trump is more interested in getting a great deal than in signing one as soon as possible. He said, “[i]f it takes a few more weeks or if it takes months, so be it. We have to get a great deal, as the president says, that works for the United States. That’s our principal interest.” Kudlow suggested the scope of the talks is very broad, saying a deal would include “significant market openings” for commodities fueled by reductions in tariffs and non-tariff barriers. He added that good progress was being made on the issue of forced technology transfer, which he said was an ownership issue resulting from joint ventures. He claimed that China is offering “tremendous increases in ownership,” including up to 100 percent foreign ownership potentially allowed in the financial services sector. President Trump continues to stand by his claim that Section 301 China tariffs will remain for a substantial period of time to make sure China “lives by the deal.”

On Thursday, U.S. Trade Representative (USTR) Robert Lighthizer and Treasury Secretary Steve Mnuchin traveled to Beijing to resume high-level negotiations with China and finalize translations. The talks this week apparently focused on ensuring that the Chinese translation of the draft agreement tracked agreed-upon commitments that were in English. Representatives Tom Reed (R-NY) and Will Hurd (R-TX) said this week after a meeting with President Trump, that administration officials have told them a U.S.-China deal is close.

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

*This Week in Congress was written by Alex Barcham.*