

April 5, 2019

Washington Update

This Week In Congress

House – The House passed [S. J. Res 7](#), a joint resolution to direct the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress. The White House has indicated that President Trump will veto the resolution. The House also passed [H.R. 1585](#), “**The Violence Against Women Reauthorization Act.**”

Senate – The Senate adopted [S. Res. 50](#), which limits post-cloture consideration for certain nominees to two hours. The Senate failed to invoke cloture on [H.R. 268](#), which would make supplemental appropriations for the fiscal year ending September 30, 2019. The Senate confirmed Jeffrey Kessler to be Assistant Secretary of Commerce, and Mark Calabria to be Director of the Federal Housing Finance Agency.

Next Week In Congress

House – The House is expected to consider [H.R. 1644](#), “**The Save the Internet Act.**” The House may also take up H.R. 2021, which would raise the spending caps for defense and domestic funds in Fiscal Years (FY) 2020 and 2021.

Senate – The Senate is expected to vote on the nomination of Cheryl Stanton to be Administrator of the Wage and Hour Division at the Department of Labor.

TAX

House Ways and Means Holds Markup of Retirement and IRS Reform Bills

Key Points:

- *The three bills are bipartisan and passed through the Committee unanimously.*
- *Some Republicans took issue with a provision in H.R. 1994 that would relax certain funding rules for defined community newspapers.*

On April 2, the House Ways and Means Committee held a markup and approved the following bills:

- [H.R. 1759](#), “Building on Reemployment Improvements to Deliver Good Employment for Workers (BRIDGE for Workers) Act”
- [H.R. 1994](#), “Setting Every Community Up for Retirement Enhancement Act of 2019”
- [H.R. 1957](#), “Taxpayer First Act of 2019”

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Additional markup materials (the Chairman’s Substitute Amendment) included:

- [AINS to H.R. 1759](#)
- [AINS to H.R. 1994](#)
- [AINS to H.R. 1957](#)

The three bills considered are all bipartisan and passed through the Committee unanimously. Chairman Neal (D-MA) said H.R. 1994 is particularly important for women and will help all Americans set up robust retirement saving accounts. H.R. 1759, according to Neal, builds on last year’s retirement package and will allow states to tailor their unemployment programs to help get people back to work. H.R. 1957 would reform the Internal Revenue Service (IRS) by allowing free-file online programs for those in lower tax brackets, upgrading the agency’s cyber efforts and technology, and put more of a focus on customer service. The estimated revenue effects of the IRS bill can be found [here](#). The bill could see a House floor vote by April 15.

While the bills were bipartisan, Republicans took issue with a provision in H.R. 1994 that would relax some funding rules for defined community newspapers. Republicans argued that under this provision, the real beneficiaries of the legislation are largely unknown and primarily benefit wealthy taxpayers.

Senate Finance Chairman and Ranking Member Introduce Retirement Enhancement and Savings Act of 2019

Key Points:

- *Senate Finance Committee Chairman Grassley (R-IA) and Ranking Member Wyden (D-OR) introduced the Retirement Enhancement and Savings Act of 2019 that would reform retirement savings laws in several ways, including:*

- *Expand multiple employer plans (MEPs) so employers can join together to sponsor a single defined contribution retirement plan;*
- *Make it easier for small employers to sponsor a retirement plan; and*
- *Help employees add to their retirement savings each year through automatic increases in contributions to 401(k) plans.*
- *The bill is bipartisan and support for retirement enhancement is bicameral, making it one of the more likely issues to see enactment this year.*

On Wednesday, Senate Finance Chairman Grassley (R-IA) and Ranking Member Wyden (D-OR) introduced [S.972](#) - the bipartisan Retirement Enhancement and Savings Act of 2019 (RESA). According to Chairman Grassley, the bill would reform retirement savings laws in several ways including improving the existing “multiple employer plan” (MEPs) by expanding the plans so employers can join together to sponsor a single retirement plan for their workers. The legislation also includes provisions aimed at making it easier for small employers to sponsor a retirement plan. Grassley explained that the bill will be paid for through an option under current law for a person to pass along his or her IRA or 401(k) account to a family member or other beneficiary. The bill maintains this option but places a limit on how large an account can be inherited on a tax-protected basis.

House Ways and Means Chairman Requests President's Tax Returns

Key Points:

- *House Ways and Means Committee Chairman Neal (D-MA) formally requested President Trump's tax returns this week.*
- *The Chairman's request includes six years of President Trump's personal tax returns as well as the returns for some of his business entities.*
- *Treasury Secretary Mnuchin is expected to not comply with the request which will lead to a lengthy court process.*

On Wednesday, House Ways and Means Committee Chairman Neal (D-MA) officially submitted a request for President Trump's tax returns. In a statement, the Chairman asked that the IRS turn over six years of President Trump's personal tax returns as well as the returns for some of his business entities. Under sections 6103(f)(1) and (4)(A) of the Internal Revenue Code (IRC), Chairman Neal has the ability to request the President's tax returns. The President responded to the request by saying that he's "not inclined" to share his returns with the Committee.

Republicans on both Senate Finance and the House Ways and Means Committee argue that the move is an abuse of power. Chairman Neal's counterpart in Senate Finance, Ranking Member Wyden (D-OR), supported Chairman Neal's request and said the law is "crystal clear" that the Treasury Department must comply with the request. Should Treasury Secretary Steven Mnuchin not comply with the request the matter will end up in court. This will likely not be a quick process and will be very partisan in nature.

Upcoming Hearings and Meetings

April 10

Internal Revenue Service: On Wednesday, April 10, the Senate Finance Committee will hold a hearing entitled "The 2019 Tax Filing Season and the 21st Century IRS." IRS Commissioner Charles Rettig is the lone witness in the hearing. The hearing will take place at 10:15 a.m. in 215 Dirksen Senate Office Building.

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 Hearing on Environmental, Social and Governance Investing

Key Points:

- *Chairman Mike Crapo (R-ID) stressed the need to ensure that retail investors are appropriately represented in corporate governance, noting the increasing role of institutional investors.*
- *Republicans raised concerns with the shareholder proposal threshold and the role of proxy advisors.*

On April 2, the Senate Banking Committee held a [hearing](#) entitled "The Application of Environmental, Social, and Governance Principles in Investing and the Role of Asset Managers, Proxy Advisors, and Other Intermediaries". Chairman Mike Crapo (R-ID) noted that last year Securities and Exchange Commission (SEC) Chairman Jay Clayton raised concerns that the voices of long-term retail investors may be underrepresented or selectively represented in corporate governance. He stressed the need to ensure that retail investors have an appropriate voice.

He said last year John Bogle wrote an op-ed on the success of index funds, in which he suggested that if this trend continues a small handful of institutional investors will eventually hold voting control of almost all U.S. corporations. He stated that asset managers already vote a huge number of shares. Crapo said most funds are not targeted at environmental or social impact objectives, noting that their investors do not expect them to address these issues on their behalf. He stated that there has been a rise in Environmental, Social, and Governance (ESG) shareholder proposals, and they were the largest category of shareholder proposals on proxy ballots in 2018. He stressed the need to understand how institutional investors are voting and how retail investors are being represented.

Ranking Member Sherrod Brown (D-OH) said corporations have become beholden to quarterly earnings reports, rather than focusing on long-term growth. He stressed the need to focus companies on their long-term sustainability. He said corporations spent \$800 billion on stock buybacks last year, noting that last year for the first time corporations spent more on stock buybacks than on long-term capital investments. Brown said companies which focus on workers and the environment do better in the long run. He noted that last week the Investor Advisory Committee (IAC) recommended that the SEC consider disclosures on human capital management. He urged the SEC to act on this recommendation. He emphasized the need to hold management accountable, suggesting CEOs want the government to protect them from investors trying to make their voices heard on climate change, gun violence, and labor issues. He asserted that Congress does not need to protect executives from shareholders.

Senators Mike Rounds (R-SD) and Pat Toomey (R-PA) expressed support for raising the submission thresholds for shareholder proposals. Former Senator Phil Gramm said the system is being abused. He said there should be requirements for proposals to have a certain percentage of support in order to receive a vote. He said it does not make sense for one person with \$2,000 in stock to be able to force a vote at the General Motors shareholder meeting. He said there should be changes to the resubmission process. James Copland (Manhattan Institute) said the threshold is too low and has not been adjusted in 20 years. He suggested that there should be a higher threshold, contending that this would not squeeze out small investors. John Streur (Calvert Research and Management) stated that while there has been some misuse, that does not mean the entire system should be changed. He noted that there are conditions which must be met for a proposal to be on the ballot, as well as a process for companies to challenge proposals to the SEC. He said the system could be improved, but radical change is not needed.

Chairman Mike Crapo (R-ID) asked if the witnesses were comfortable with the role of proxy advisors. He raised concerns that political considerations are overtaking profitability considerations. Streur said he understands Crapo's concerns, but stressed that the investment industry is very competitive. He stated that concerns that the investment industry will put political considerations ahead of returns are not well founded. Gramm said it is concerning that there are only two proxy firms and one is affiliated with a group with political positions. He said his main concern is not with proxy advisors, but with the situation where people are voting shares which are not their own. Copland said the proxy advisors often "run out in front" of institutional investors on ESG proposals. He said proxy advisors are more likely than the average

shareholder to support ESG proposals, asserting that they do influence voting.

House Financial Services Committee Holds Hearing on Proposals Related to Insider Trading, Executive Compensation, and Whistleblower Protection

Key Points:

- *The Committee discussed legislation to create a statutory prohibition on insider trading and require the SEC to implement Dodd-Frank Act requirements related to executive compensation.*
- *Republicans raised concerns that the bills would impose additional barriers to capital formation.*

On April 3, the House Financial Services Committee's Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets held a [hearing](#) entitled "Putting Investors First: Reviewing Proposals to Hold Executives Accountable."

The Subcommittee discussed six draft bills:

- [The Insider Trading Prohibition Act](#), offered by Representative James Himes (D-CT), which would codify the prohibition on insider trading.
- [The Investor Choice Act of 2019](#), offered by Representative Bill Foster (D-IL), which would prohibit both broker-dealers and investment advisers from including mandatory arbitration clauses in their agreements with customers.
- [The 8-K Trading Gap Act of 2019](#), offered by Chairwoman Carolyn Maloney (D-NY), which would direct the Securities and Exchange Commission (SEC) to issue a rule requiring public companies to put in place policies and procedures that are

reasonably designed to prohibit officers and directors from trading company stock after the company has determined that a significant corporate event has occurred, and before the company has filed a Form 8-K disclosing such event.

- A [bill](#) to require the SEC to complete rulemaking required by section 10D of the Securities Exchange Act of 1934. Section 954 of the Dodd-Frank Act (DFA) directed the SEC to issue a rule requiring exchange-traded companies to have policies in place that will allow them to recover money that they previously paid to executives as incentive compensation, if the incentive compensation was paid due to material noncompliance with the financial reporting or accounting rules.
- A [bill](#) to require the SEC to complete rulemaking required by section 14(i) of the Securities Exchange Act of 1934. Section 953(a) of the Dodd-Frank Act directed the SEC to issue a rule requiring public companies to disclose in their annual proxy statements a clear description of any executive compensation required to be disclosed under SEC rules.
- [Draft legislation](#), offered by Representative Al Green (D-TX), which would amend the definition of whistleblower under the Securities and Exchange Act of 1934. The bill would amend Section 922 of Dodd-Frank to clarify that whistleblowers who only report alleged misconduct to their employers, and not to the SEC, are also protected by the anti-retaliation provisions in Section 922.

Chairwoman Carolyn Maloney (D-NY) said the bills being considered would improve the accountability of public companies and their executives. She stressed the need for the 8-K Trading Gap Act, which would prohibit executives from trading in the four day 8-K gap. She expressed support for: codifying insider trading law under the Insider Trading Prohibition Act; and the Investor Choice Act, which prohibits the use of mandatory arbitration clauses by broker-dealers. She said the bill by Representative Al Green (D-TX) would protect whistleblowers and fix a recent Supreme Court decision which found that only whistleblowers who report to the SEC should be protected.

Ranking Member Bill Huizenga (R-MI) said the capital markets are key to the growth of the U.S. economy, but many of the regulations in this area are outdated. He said small businesses drive the American economy. He said 70 percent of startups receive less financing they initially request. He noted that 80 percent of business financing comes from the capital markets. He pointed to the decline in initial public offerings (IPOs) and the rise of compliance costs. He said going public used to be the ultimate goal for new enterprises, but it has become less attractive. He said the public model is no longer viewed as an attractive means for raising capital, noting that companies are going public later or not at all. He said SEC Chairman Jay Clayton has said the reduction in the number of public companies is a serious issue for the U.S., as it prevents investors from participating in their growth. Huizenga spoke in opposition to the six bills, suggesting that they will do more harm than good in many cases. He suggested that the bills would create barriers to capital formation, deter companies from going public, and limit options for Main Street investors.

Senate Confirms Mark Calabria to be Director of the Federal Housing Finance Agency

Key Point:

- *The Senate confirmed Mark Calabria to a five year term as Director of the FHFA by a vote of 52-44.*

On April 4, the Senate confirmed Mark Calabria for a five year term as Director of the Federal Housing Finance Agency (FHFA) by a vote of 52-44, along party lines. Calabria's nomination was favorably reported by the Senate Banking Committee on February 26, 2019. Democrats, including Senate Banking Committee Ranking Member Sherrod Brown (D-OH), had raised concerns with Calabria's prior statements on housing finance reform. Senate Banking Committee Chairman Mike Crapo (R-ID) expressed support for Calabria's nomination, stating that FHFA can play an important role in moving toward a more sustainable housing finance system.

Upcoming Hearings and Meetings

April 8

Federal Reserve Open Meeting: The Federal Reserve Board will hold an open meeting to consider one item: proposed rules on prudential standards for foreign banking organizations and resolution plan requirements for foreign and domestic banking organizations.

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.” Treasury Secretary Steven Mnuchin will testify at the hearing.

Treasury Department Budget: The House Appropriations Committee’s Subcommittee on Financial Services and General Government will hold a hearing on the FY2020 budget request for the Treasury Department. Treasury Secretary Steven Mnuchin will testify at the hearing.

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 11

Agricultural Advisory Committee: The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Agricultural Advisory Committee (AAC). The agenda for the meeting includes presentations from: (1) The Division of Swap Dealer and Intermediary Oversight and Futures Commission Merchants (FCMs) about the operational and regulatory environment for FCMs; (2) Cash market innovators about technological, transparency and operational innovations in agricultural cash markets; and (3) CME Group presenting the evolution of electronic trading in its agricultural markets and an overview of its matching algorithms.

April 15

Global Markets Advisory Committee: The 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.

Fixed Income Market Structure Advisory Committee: The SEC will hold a meeting of its Fixed Income Market Structure Advisory Committee (FIMSAC). The agenda for the meeting includes presentations from the FIMSAC subcommittees and a discussion on the transition away from LIBOR.

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

House Energy and Commerce Committee Approves Legislation to Mandate U.S. Participation in the Paris Climate Accord

Key Points:

- *On April 4, the Energy and Commerce Committee voted to report the “Climate Action Now Act” to the full House of Representatives.*
- *The bill would require the U.S. to reenter the Paris Climate Accord.*
- *On June 1, 2017, President Trump announced that the United States would withdraw from the international agreement to limit global greenhouse gas emissions.*

On Thursday, the House Energy and Commerce Committee, during a [markup](#) of several bills, approved the “Climate Action Now Act” ([H.R. 9](#)) by a 30-19 roll call vote.

As described in a Committee [background memorandum](#), the legislation would:

- Prohibit “the use of funds to advance the withdrawal by the United States from the [Paris] Agreement”; and
- Require “the President to submit to the appropriate Congressional Committees and make public a plan for the United States to meet its Nationally Determined Contribution (NDC) under the Paris Agreement to Congress 120 days after enactment.”

The memorandum notes that the U.S. NDC committed to “reducing greenhouse gas emissions 26-28 percent below 2005 levels by 2025.”

Chairman Frank Pallone (D-NJ) spoke in support of H.R. 9, asserting that it takes a critical step in addressing climate change by keeping the U.S. in the Paris Agreement. He

said the Paris Agreement is the most aggressive climate change pact in history and provides a framework for reducing emissions while growing the economy. He said the bill would give the President and Republicans an opportunity to present their plan for climate change and innovation. He noted the Paris Agreement is technology neutral, suggesting that amendments proposed by Committee Republicans regarding specific technologies were not appropriate.

Ranking Member Greg Walden (R-OR) said Republicans support innovation, adaptation and conservation. He said there are areas where bipartisan agreement can be reached, noting that he was working with Representative Paul Tonko (D-NY). He noted that the Committee had not held a hearing on the bill and was not following regular order by marking it up within a few days of its introduction. He raised concerns with the feasibility and cost-effectiveness of the U.S. commitments under the Paris Agreement. He said he could not support the bill for procedural and substantive reasons, urging Democrats to withdraw it from consideration.

Representative Paul Tonko (D-NY) stated that the U.S. should not withdraw from the global discussion on climate change. He said there should be an economy-wide and market-based approach in the U.S., asserting that decarbonization should occur in every sector.

Before voting to report the bill to the full House, the Committee considered a number of amendments, including:

- An [amendment](#) offered by Representative John Shimkus (R-IL) that would have predicated implementation of the legislation on a certification by the Secretary of Energy that “electricity rates and gasoline prices will not increase under the terms of the

Paris Agreement.” The Committee rejected the amendment on a 24-29 vote.

- An [amendment](#) offered by Representative John Carter (R-TX) that would have specified that the President include in the plan to meet the U.S. NDC “how use of carbon-free nuclear power will contribute to domestic and global emissions reductions.” The Committee rejected the amendment on a 23-29 vote.
- An [amendment](#) offered by Representative Markwayne Mullin (R-OK) that would have delayed implementation of the legislation until the Secretary of Energy certified that “China and Russia have each committed to emissions reductions that are equivalent to the emissions reductions commitments of the United States.” The Committee rejected the amendment on a 22-28 vote.
- An [amendment](#) offered by Representative Cathy McMorris Rodgers (R-WA) that would have specified the President include in the plan to meet the U.S. NDC “how use of renewable hydropower will contribute to global and domestic emissions reductions.” The Committee rejected the amendment by a 22-29 vote.
- Representative Bill Flores (R-TX) offered the “Green New Deal” resolution as an [amendment](#), and subsequently withdrew the amendment.
- Representative Bill Johnson (R-OH) offered an [amendment](#) that would have specified the President include in the plan to meet the U.S. NDC “how the use of clean burning natural gas and United States LNG exports will contribute to domestic and global

emissions reductions”. The Committee rejected the amendment on a 19-29 vote.

Subcommittee Reviews Pipeline Safety

Key Points:

- *On Tuesday, a subcommittee of the House Transportation Committee held a hearing on pipeline safety.*
- *The current reauthorization of the Pipeline Safety Act expires on September 30, 2019, and Congress is expected to work on a new reauthorization bill this year.*
- *Tuesday’s hearing focused on last fall’s Massachusetts gas distribution system incident, as well as the status of pending pipeline safety rulemakings.*

On April 2, 2019, the House Transportation and Infrastructure Committee’s Subcommittee on Railroads, Pipelines, and Hazardous Materials held a [hearing](#) on “Pipeline Safety: Reviewing the Status of Mandates and Examining Additional Safety Needs”. The hearing focused on the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) implementation of past pipeline safety reauthorization legislation, and served as a precursor to developing a new reauthorization bill as the current authorization expires on September 30, 2019.

As in last June’s Subcommittee hearing on pipeline safety, there was significant interest from Members of Congress on pending pipeline safety rulemakings mandated in the 2011 and 2016 reauthorization acts. In addition to the panels of government and private sector witnesses, the Subcommittee also heard from two Members of Congress from Massachusetts who discussed the 2018 Merrimack Valley gas distribution system incident.

In his opening statement, Subcommittee Chairman Dan Lipinski (D-IL) described pipeline incident statistics from 1999 through 2018, including: 11,922 incidents; 317 deaths; and \$8.1 billion in damages. He asserted that “incidents increased nearly two-fold from 1999 to 2018.” Lipinski added that “this shows we still have much work to do to ensure the safety of our pipeline system.” He emphasized the need for PHMSA to complete the outstanding mandates from the 2011 and 2016 acts. Lipinski contended that PHMSA and the Department of Transportation’s (DOT) inaction continues to place lives at risk, and that is not acceptable.” He expressed interest in examining “PHMSA’s rulemaking process to determine if there are obstacles to more swift promulgations of regulations, including the unique benefit-cost analysis that PHMSA is required to undertake as part of any rulemaking.” He also noted the “concerns that some of PHMSA’s regulations are woefully outdated and inhibit industry innovation in new areas.” Lipinski expressed a willingness “to listen to industry stakeholders on some of the challenges they face”. He also suggested consideration of “reasonable requests about how we can modernize our regulations, while holding bad actors accountable and not compromise safety.”

Subcommittee Ranking Member Rick Crawford (R-AR) noted that the U.S. “has the largest network of energy pipelines in the world.” He added that the U.S. oil and gas industry supports 10.3 million jobs. He remarked that “every year more than 2.6 million miles of pipeline safely deliver large volumes of natural gas and liquid petroleum products...” Crawford also said that “pipelines remain one of the safest and most cost-effective means to transport large quantities of our nation’s energy products...”

Full Committee Chairman Peter DeFazio (D-OR), in his opening statement, said that “last year eight people were killed, 92 injured in 633 pipeline incidents...” He discussed the Merrimack Valley gas distribution system incident. Regarding PHMSA’s progress in processing rulemakings, DeFazio contended that it is “simply unacceptable to have safety-critical rules...lingering somewhere...[in the Office of Management and Budget] OMB...[or] the Secretary [of Transportation’s] office.” He added, “I don’t know what value the Secretary or one of the trolls at OMB puts on their life, but when you lose that many people in a year, and you have safety-critical rules not yet promulgated, you’ve got to question what’s going on.” DeFazio suggested that as the Committee develops reauthorization legislation that he “will be looking for ideas on additional, if necessary, rulemakings.”

In his testimony, PHMSA Administrator Skip Elliott noted that “last summer, this Subcommittee expressed its frustration loud and clear” regarding delays in rulemakings. He explained that the pending Safety of Gas Transmission Pipelines final rule, Safety of Hazardous Liquid Pipelines final rule, and the Valve Installation and Rupture Detection Standards Notice of Proposed Rulemaking (NPRM) will address pending mandates from the 2011 and 2016 acts. Elliott told the Subcommittee that PHMSA is making progress “toward completing our mandates.” He also described PHMSA’s oversight and field activities.

National Transportation Safety Board (NTSB) Member Jennifer Homendy declared that because of pipeline incidents, “lives were lost [and] families will never be the same.” She noted the history of NTSB’s efforts to recommend installation of excess flow valves on gas distribution lines. Citing past incidents, Homendy emphasized the need for PHMSA to

implement recommendations to require “installation of automatic shutoff or remote-controlled valves in high consequence areas.”

During the questioning of the witnesses, Chairman Lipinski asked, “How is PHMSA reforming its regulatory process so that congressional mandates are implemented faster?” Elliott responded that PHMSA is working to streamline its rulemaking process, and said that “today we have a much better process internally.” Elliott noted that PHMSA has completed work on the Safety of Gas Transmission Pipelines final rule and the Safety of Hazardous Liquid Pipelines final rule, and expressed hope that “these will be published in the not too distant future.”

Ranking Member Crawford asked how PHMSA’s rulemaking process can be improved to ensure that regulations are “keeping up with technical advances.” Elliott replied that PHMSA works to use the special permit process to test new safety technologies. He added that there are “some additional ways...to include emerging technologies...and we continue to explore ways to do that.”

Chairman DeFazio asked about the status of the Valve Installation and Rupture Detection NPRM. Elliott replied “we’ve completed our work with that and it is currently undergoing internal review at DOT.” He expressed hope that PHMSA would “publish that Notice of Proposed Rulemaking in the near future.”

Upcoming Hearings and Events

April 9

Puerto Rico Energy: The House Natural Resources Committee will hold a [hearing](#) on “The Status of the Rebuilding and Privatization of the Puerto Rico Electric Power Authority (PREPA).”

Climate Change: The House Oversight and Reform Committee will hold a [hearing](#) on “The Need for Leadership to Combat Climate Change and Protect National Security.”

Mining: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a [hearing](#) on “Health and Environmental Impacts of Mountaintop Removal Mining.”

Climate Change: The House Oversight and Government Reform Committee’s Subcommittee on Environment will hold a [hearing](#) titled “Climate Change, Part I: The History of a Consensus and the Causes of Inaction.”

April 10

BLM and U.S. Forest Service: The House Natural Resources Committee’s Subcommittee on National Parks, Forests, and Public Lands will hold a [hearing](#) on “Examining the Spending Priorities and Missions of the U.S. Forest Service and the Bureau of Land Management.”

Energy Infrastructure: The House Energy and Commerce Committee’s Subcommittee on Energy will hold a [hearing](#) on “Investing in America’s Energy Infrastructure: Improving Energy Efficiency and Creating a Diverse Workforce.”

Pipeline Safety: The Senate Commerce Committee’s Subcommittee on Transportation and Safety will hold a [hearing](#) titled “Pipeline Safety: Federal Oversight and Stakeholder Perspectives”. As described by the Committee, the “hearing will examine federal pipeline safety and federal oversight as the...Committee considers reauthorization of the Pipeline and Hazardous Materials Safety Administration’s pipeline safety program.” Scheduled witnesses include: Howard “Skip” Elliott, Administrator,

Pipeline and Hazardous Materials Safety Administration (PHMSA); Robert Sumwalt, Chairman, National Transportation Safety Board (NTSB); Paul Amato, Vice President, Engineering, Operations and Environmental, Health and Safety, Iroquois Pipeline Operating Company, representing the Interstate Natural Gas Association of America (INGAA); and Robin Rorick, Vice President, Midstream and Industry Operations, American Petroleum Institute (API).

April 11

Climate Change: The Senate Energy and Natural Resources Committee will hold a [hearing](#) to “Examine Opportunities for Energy Innovation and Other Potential Solutions to Help Address Global Climate Change.”

Energy Efficiency Standards Process Rule: The Department of Energy will hold a [public meeting](#) on “proposals to update and modernize the Department’s current rulemaking methodology titled, ‘Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products (Process Rule)’”.

April 15

New Mexico Oil and Gas Development: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a field hearing in Santa Fe, New Mexico titled “Oil and Gas Development: Impacts on Air Pollution and Sacred Sites”.

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. Alex Barcham, Sam Brooks and Thomas McGrath contributed to this report. Updates on energy and environment issues are also available on [twitter](#).

HEALTH

Gottlieb to Return to American Enterprise Institute

Key Point:

- *Departing Food and Drug Administration Commissioner Scott Gottlieb intends to rejoin the American Enterprise Institute as a resident fellow with a focus on drug prices.*

Food and Drug Administration (FDA) Commissioner Scott Gottlieb departs the agency on April 5. Gottlieb announced last month he would be stepping down to spend more time with his family. It has now been announced Gottlieb will return to his previous position as a resident fellow at the American Enterprise Institute. He intended to spend a half-dozen days a month in Washington, D.C.

Gottlieb plans to work on issues related to prescription drug pricing. He said he would focus on some of the structures in Medicare that inhibit competition and issues of brand name companies blocking generic competitors. He also stated he is interested in trying to figure out how to pay for innovative treatments that may be administered only once but provide lifelong benefits.

National Cancer Institute Director Ned Sharpless will serve as Acting FDA Commissioner.

House Energy and Commerce Favorably Reports 12 Drug and ACA Bills

Key Points:

- *The House Energy and Commerce Committee marked up 12 health care 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 requirement.*

On April 3, the House Energy and Commerce Committee held a [markup](#) of 14 bills addressing net neutrality, prescription drug prices, the Affordable Care Act (ACA), and climate change. The Committee favorably reported all 12 health care bills.

The Committee favorably reported the following bills by voice vote:

- [H.R. 1781](#), Payment Commission Data Act of 2019, as amended;
- [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. 986](#), Protecting Americans with Preexisting Conditions Act of 2019.

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

- [H.R. 965](#), Creating and Restoring Equal Access to Equivalent Samples (CREATES) Act of 2019, as amended, by roll call vote 51-0;

- [H.R. 1385](#), State Allowance for a Variety of Exchanges (SAVE) Act, as amended, by roll call vote 29-22;
- [H.R. 1386](#), Expand Navigators' Resources for Outreach, Learning, and Longevity (ENROLL) Act, as amended, by roll call vote 30-22;
- [H.R. 987](#), Marketing and Outreach Restoration to Empower (MORE) Health Education Act of 2019, as amended, by roll call vote 30-22;
- [H.R. 1010](#), to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect, by roll call vote 30-22;
- [H.R. 1425](#), State Health Care Premium Reduction Act, as amended, by roll call vote 30-22.

In response to Republican concerns in the subcommittee markup, Chairman Frank Pallone (D-NJ) offered a substitute amendment to the CREATES Act to provide an affirmative defense for drug manufacturers in cases where a sample sharing offer was made to a generic company at commercially reasonable, market-based terms. The amendment also clarified that providing samples under the CREATES Act would not constitute a violation of Risk Evaluation and Mitigation Strategies (REMS) requirements. The amendment was adopted by voice vote.

A bipartisan manager's amendment was also offered to H.R. 1449 to strike language that would have given the Federal Trade Commission (FTC) authority to use the bill's new presumptions for retroactive enforcement against existing "pay-for-delay" agreements. Representative Bobby Rush (D-IL), the sponsor of the underlying legislation, clarified that FTC would retain authorities granted by the *FTC v. Actavis, Inc.* decision. He further explained the amendment would give FTC

discretion to not enforce on agreements determined to be pro-competitive. The amendment was adopted by voice vote.

Debate on the ACA market bills centered on the causes of high premiums in exchange plans. Democrats contended that premiums were rising as a result of Administrative action to extend Association Health Plans (AHPs) and short-term, limited-duration plans, while Republicans blamed premium increases on structure flaws in the ACA. All health care market bills, with the exception of the H.R. 986, were reported favorably on roll call votes along partisan lines.

Upcoming Hearings and Meetings

April 9

Drug Pricing: The Senate Finance Committee will hold a hearing on “Drug Pricing in America: A Prescription for Change, Part III.”

NIH: The Information Technology and Innovation Foundation will hold an event on “The Critical Role of the NIH in Boosting Economic Competitiveness.”

April 10

Biologics: The Alliance for Patient Access’ National Physicians Biologics Working Group will host the 4th Annual National Policy and Advocacy Summit on Biologics and Biosimilars.

Insulin: The House Energy and Commerce Committee will hold a hearing on “Priced Out of a Lifesaving Drug: Getting Answers on the Rising Cost of Insulin.”

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

Trade Negotiations with China Continue

Key Points:

- *President Trump said expected a resolution on a trade deal with China to be reached within four weeks.*
- *Tariffs and enforcement remain sticking points in the negotiations.*

This week, U.S.-China trade talks continued, with Chinese Vice Premier Liu He visiting Washington. Liu met with President Trump on Thursday, after which Trump said he expects to know over the next four weeks whether a trade deal is possible. He stated “[w]e’ll probably know over the next four weeks. It may take two weeks after that to get it papered, but over the next fairly short period of time, we’re going to know — and it’s looking very good.”

Trump indicated that progress has been made in addressing the remaining issues, tariffs and enforcement: “[w]e’ve negotiated out some of the toughest — really, the tougher points. But we have some ways to go and I think we have a very good chance of getting there.” One remaining issue is the timing for the U.S. to lift the tariffs imposed on \$250 billion worth of Chinese goods. China has pushed for those tariffs to be lifted as soon as possible, while the U.S. prefers they remain in place as a means of ensuring enforcement.

National Economic Council Director Larry Kudlow has discussed an enforcement mechanism that would include multiple consultations backed up by tariffs. China may be unwilling to agree to such a mechanism while the \$250 billion in tariffs remain in place.

President Trump did not announce a date for a summit with Chinese President Xi Jinping.

President Trump Backs Off of Threat to Close the Border with Mexico

Key Point:

- *President Trump threatened to impose tariffs on Mexican automobiles if Mexico does not stop the flow of drugs into the U.S.*

After threatening late last week to close the Southern Border to stop the flow of drugs and migrants into the U.S., President Trump changed course, stating that he would give Mexico a “one-year warning” after which the U.S. would impose tariffs on Mexican automobiles. In an interview on April 4, Trump stated “[b]efore we close the border, we’ll put the tariffs on the cars. I don’t think we’ll ever have to close the border.” He added that “and if that doesn’t stop the drugs, we close the border.”

Senator Rob Portman (R-OH) and others raised concerns that imposing tariffs on automobiles entering the U.S. from Mexico would not comply with the U.S.-Mexico-Canada Agreement (USMCA). Senator Portman noted that “so much of our auto production is dependent on parts from Mexico.”

On April 5, President Trump tweeted “[h]owever, if for any reason Mexico stops apprehending and bringing the illegals back to where they came from, the U.S. will be forced to Tariff at 25% all cars made in Mexico and shipped over the Border to us. If that doesn’t work, which it will, I will close the Border.....
....This will supersede USMCA. Likewise I am looking at an economic penalty for the 500 Billion Dollars in illegal DRUGS that are shipped and smuggled through Mexico and

across our Southern Border. Over 100,00 Americans die each year, sooo many families destroyed!”

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

This Week in Congress was written by Alex Barcham.