

May 3, 2019

Washington Update

This Week in Congress

House – The House passed [H.R. 9](#), “**The Climate Action Now Act**,” which would direct the President not to withdraw from the Paris Climate Agreement.

Senate – The Senate failed to override the President’s veto of [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 Senate confirmed a number of nominations, including William Cooper, to be General Counsel of the Department of Energy; R. Clarke Cooper to be an Assistant Secretary of State; and Gordon Hartogensis to be Director of the Pension Benefit Guaranty Corporation.

Next Week in Congress

House – The House is expected to consider [H.R. 986](#), “**The Protecting Americans with Preexisting Conditions Act of 2019**.” The House may also consider [H.R. 1994](#), “**The Setting Every Community Up for Retirement Enhancement (SECURE) Act**,” as well as supplemental disaster relief appropriations legislation.

Senate – The Senate is expected to consider the nominations of Kimberly Reed to be President of the Export-Import Bank and Spencer Bachus and Judith DelZoppo Pryor to be Members of the Board of Directors of the Export-Import Bank.

TAX

Congressional Democrats and White House Discuss \$2 Trillion Infrastructure Package

Key Points:

- *Democrats and President Trump met this week and agreed to work together on a \$2 trillion infrastructure package.*
- *Ways to fund the legislation were not discussed in the meeting but proposals impacting the Tax Cuts and Jobs Act for the top earners are likely nonstarters for the White House and Congressional Republicans.*

- *House Democrats argued that any package would likely be paid for with a gas tax increase.*

This week, Congressional Democrats and President Trump met at the White House to discuss future infrastructure legislation. The two sides agreed to work together on a \$2 trillion package but have no preliminary plans for covering the cost of the legislation.

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Senate Minority Leader Schumer (D-NY) argued that the best way to pay for the package would be to start by eliminating the tax cuts for the top earners that were provided in the Tax Cuts and Jobs Act (TCJA). Senate Majority Leader McConnell (R-KY) responded by saying that any changes to the TCJA would not pass the Senate and the issue is simply a “non-starter.”

House members from both parties have resisted increasing the corporate tax rate to fund infrastructure and House Transportation and Infrastructure Committee Chairman DeFazio (D-OR) argued in March that any package would likely be paid for with a gas tax increase. By way of background, however, a gas tax alone will not come close to paying for a \$2 trillion package. Specifically, a Congressional Budget Office (CBO) [report](#) from last December estimates that a gas tax increase of 35 cents per gallon from the existing 18.4 cents per gallon would increase federal revenues by roughly \$500 billion from 2019 through 2028.

Treasury Urges Congress to Raise Federal Borrowing Limit

Key Points:

- *The Treasury Department sent a letter to Congress suggesting that the U.S. Government may not be able to pay its bills on time later this year unless the federal borrowing limit is increased.*
- *Treasury said the limit must be raised this summer or in early fall.*

On Wednesday, the Treasury Department sent a letter to Congress suggesting that the U.S. government may not be able to pay its bills on time later this year unless Congress acts to raise the federal borrowing limit. Brian Smith, Treasury’s deputy assistant secretary for federal finance said “[i]t is critical that Congress act to increase the nation’s borrowing authority, and

Treasury urges Congress to act promptly on this important matter.”

Treasury projections issued earlier this week indicate that the agency will end the third quarter with \$85 billion in cash – an amount much lower than it typically maintains. The agency added that it expects to issue \$30 billion in debt in the second quarter of 2019, and \$160 billion in the third quarter.

House Expected to Vote on SECURE Act and Military Families Tax Fix

Key Points:

- *The House is expected to vote on the Setting Every Community Up for Retirement Enhancement (SECURE) Act as soon as next week. The bill passed the Ways and Means Committee on April 2 on a voice vote without opposition.*
- *A bipartisan bill was introduced this week that would fix and shield the benefits received by children of deceased service members, and could also move through the House soon.*

House Majority Leader Hoyer (D-MD) said the House is expected to vote sometime next week on the Setting Every Community Up for Retirement Enhancement (SECURE) Act ([H.R. 1994](#)). The bipartisan bill was approved on April 2 by the Ways and Means Committee. The legislation would make a number of changes to qualified retirement plans and IRA’s, including modifying requirements regarding:

- automatic enrollment and non-elective contributions;
- tax credits for small employers that establish certain plans;
- plan loans;
- lifetime income options;

- the treatment of custodial accounts upon termination of section 403(b) plans;
- the eligibility rules for certain long-term, part-time employees;
- required minimum distributions;
- nondiscrimination rules; and
- minimum funding standards for community newspaper plans.

The bill also includes provisions that

- treat taxable non-tuition fellowship and stipend payments as compensation for the purpose of an IRA;
- repeal the maximum age for traditional IRA contributions;
- treat difficulty of care payments as compensation for determining contribution limits for retirement accounts;
- allow penalty-free withdrawals from retirement plans if a child is born or adopted;
- expand the purposes for which qualified tuition programs (commonly known as 529 plans) may be used;
- reinstate and increase the tax exclusion for certain benefits provided to volunteer firefighters and emergency medical responders;
- increase penalties for failing to file tax returns; and
- require the Internal Revenue Service to share tax information with U.S. Customs Border Protection to administer the heavy vehicle use tax.

On Thursday, another bipartisan bill was introduced that would protect the benefits received by children of deceased armed service members. The benefits are often transferred to the child and were taxed at 12 percent to 15 percent, but the rate increased to 37 percent under the TCJA because they were treated as

trusts. However, standalone tax changes usually require a broader legislative vehicle to be passed. This bill could be an exception given the unique politics of the issue. House Ways and Means Chairman Neal (D-MA) said he is also focused on extending expired tax breaks and will be holding a hearing on climate issues.

May 8

Paid Family and Medical Leave: On May 8, the House Ways and Means Committee will host a hearing entitled: “Paid Family and Medical Leave: Helping Workers and Employers Succeed.” The hearing will take place at 10:00 A.M. in 1100 Longworth House Office Building.

May 9

Tax Gap: On May 9, the House Ways and Means Committee will host a hearing entitled: “Understanding the Tax Gap and Taxpayer Noncompliance.” The hearing will take place at 10:00 A.M. in 1100 Longworth House 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

House Passes Three Financial Services Bills

Key Points:

- *The House passed resolutions to encourage financial planning and support efforts to combat financial fraud against seniors.*
- *They also passed a bill to create a taskforce at the SEC to address issues affecting seniors.*

On April 30, the House passed three financial services bills:

- H. Res. 327, a resolution to encourage financial planning efforts among students and young adults. The resolution was introduced by Representatives Bill Foster (D-IL) and French Hill (R-AR). The resolution passed by voice vote.
- H. Res 328, a resolution in support of efforts to combat financial fraud and scams against seniors. The resolution was introduced by Representatives Sean Casten (D-IL) and John Rose (R-TN). The resolution passed by a vote of 411-6.
- The Senior Security Act of 2019 (H.R. 1876), introduced by Representatives Josh Gottheimer (D-NY) and Trey Hollingsworth (R-IN), which would create a taskforce within the Securities and Exchange Commission (SEC) to address issues that affect senior investors. The bill passed by a vote of 392-20.

The Senate has not taken action on these bills.

Senate Banking Committee Holds Hearing on Bank Supervision

Key Point:

- *The hearing focused on the use of confidential supervision in the oversight of banks.*

On April 30, the Senate Banking Committee held a [hearing](#) entitled “Guidance, Supervisory Expectations, and the Rule of Law: How do the Banking Agencies Regulate and Supervise Institutions?” Chairman Mike Crapo (R-ID) said banks receive significant government support and benefits, and in exchange for these benefits, banking regulators expect banks to operate in a safe and sound manner. He said supervisory expectations are sometimes communicated in an informal or confidential manner. He stated that this can be appropriate, but at times regulators are not complying with rulemaking requirements. He said rulemaking authority derives from authorities delegated by Congress, so Congress should have authority to disapprove any regulatory rulemaking. Crapo said the Congressional Review Act (CRA) was created to implement an expedited manner for Congress to review rulemakings, but it also applies to actions beyond rulemakings, such as interpretive guidance. He suggested that regulators are too often circumventing the rulemaking process and the CRA. He said regulators argue that guidance is non-binding, but examiners treat it as binding. He noted that the Office of Management and Budget (OMB) recently issued a memorandum regarding compliance with the CRA across the executive branch, which he stated is a step in the right direction. He urged the regulators to comply with the CRA and submit all rulemakings to Congress.

Ranking Member Sherrod Brown (D-OH) stressed the importance of bank oversight. He stated that the industry frequently asks for guidance, and Congress should not make it

easier for banks to get around the rules. He stated that Republicans used the CRA to repeal the Consumer Financial Protection Bureau's (CFPB) guidance which made it harder to discriminate against people of color in auto lending. He raised concern with the recent action by the OMB to give the President greater influence over the rulemaking process at independent agencies.

House Financial Services Committee Holds Hearing on Payday Lending and the Small Dollar Credit Industry

Key Point:

- *Democrats emphasized the need to protect consumers from predatory practices, while Republicans expressed concern that overregulation of the small-dollar, short-term credit industry could have negative consequences.*

On April 30, the House Financial Services Committee's Subcommittee on Consumer Protection and Financial Institutions held a [hearing](#) entitled "Ending Debt Traps in the Payday and Small Dollar Credit Industry."

The Subcommittee examined two bills:

- [Draft legislation](#), the Protecting Consumers from Debt Traps and Unreasonable Rates Act, which would impose a 36 percent usury APR cap for all open-end and closed-end consumer credit transactions, including mortgages, car loans, overdraft loans, car title loans, and payday loans.
- The Improving Access to Traditional Banking Act of 2019 ([H.R. 1285](#)), introduced by Representative David Scott (D-GA), which would establish an Office for Under-Banked, Un-Banked, and Underserved Consumers within the Consumer Financial Protection Bureau (CFPB).

Chairman Gregory Meeks (D-NY) said that vulnerable people should not be targeted by predatory lenders. He said that Congress has a responsibility to protect Americans from harmful financial products. He said that the CFPB developed a rule that would curb the worst practices of the payday loan industry, but he expressed disappointment that the current CFPB leadership has delayed implementation of this rule.

Ranking Member Blaine Luetkemeyer (R-MO) said that the entire small-dollar lending industry has a "sullied" reputation because of a few bad actors. He expressed concern that overregulation of the small-dollar short-term loan industry could have negative consequences since there is a demand for these types of loans. He said that if these types of loans become unavailable then Americans will resort to more desperate measures to meet their financial needs by turning to "riskier and unregulated products". He said that regulations are important but that they should not stifle choice. Full Committee Ranking Member Patrick McHenry (R-NC) said that "misguided regulation" and "misguided law" have bad effects on consumers. He said it is in the national interest to help people save money. He said that people need short term lending for when they fall on hard times.

House Agriculture Subcommittee Holds Hearing on the State of the CFTC

Key Point:

- *The issues discussed in the hearing included cross-border derivatives regulation, emerging technology, swaps regulation, LIBOR, capital standards, and cryptocurrency.*

On May 1, the House Agriculture Committee's Subcommittee on Commodity Exchanges, Energy, and Credit held a hearing to discuss the state of the Commodity Futures Trading

Commission (CFTC). Chairman David Scott (D-GA), in a [statement](#), stated that Title VII of the Dodd-Frank Act (DFA) expanded the CFTC’s mission to include regulation of swaps, and included transparency requirements and mandatory clearing. He said the challenges facing the CFTC today include DFA implementation, cross-border issues, and new technologies such as automated trading and cryptocurrencies.

Ranking Member Austin Scott (R-GA) said Congress needs to reauthorize the CFTC, noting that the House had worked in a bipartisan manner to pass three CFTC reauthorization bills, but they were not taken up by the Senate. He commended CFTC Chairman Giancarlo’s work in the negotiations around cross-border derivatives issues, expressing interest in where this issue stands. He emphasized the importance of these negotiations to end-users.

CFTC Chairman J. Christopher Giancarlo stated that he has worked to make the CFTC more forward looking. He said his efforts at the CFTC included the creation of Project Keep It Simple Stupid (KISS), Lab CFTC, and the Market Intelligence Branch (MIB), as well as the hiring of a “world renowned” chief economist. He said they have worked with domestic and foreign regulators to improve capital requirements. He stated that they proposed a better regulatory framework for swaps trading and execution. Giancarlo said the CFTC has championed cross-border regulatory deference to competent overseas regulators, while resisting global regulatory overreach. He stated that during the remainder of his time at the CFTC he intends to maintain a “steady but brisk course” in advancing policy proposals on cross-border regulations and position limits, progressing rule harmonization with the Securities and Exchange Commission (SEC), implementing initial margin, and moving away

from the London Inter-bank Offered Rate (LIBOR).

Chairman David Scott (D-GA) said he is deeply concerned about a new EU law being considered: European Market Infrastructure Regulation (EMIR) 2.2. He said this law could have major effects on U.S. clearinghouses by setting up the EU as a primary regulator over American clearinghouses. He said U.S. clearinghouses could be required to fund the European Securities and Markets Authority (ESMA) through surcharges. He asked if these outcomes can be avoided. Chairman Giancarlo said EMIR 2.2 passed the European Parliament and the technical rules are being written. He said it assigns ESMA oversight of non-European clearinghouses, but he stated this is an unprecedented action. He said EMSA has no experience in regulating clearinghouses. He said EMIR 2.2 creates the prospect of the CFTC having to share oversight of domestic clearinghouses with a foreign regulator which is not competent to regulate its own clearinghouses. He said he and CFTC Chairman nominee Heath Tarbert have asserted that this will not happen and U.S. markets will remain under U.S. regulation.

Upcoming Hearings and Meetings

May 6

Small Business Roundtable: The Securities and Exchange Commission’s (SEC) Office of the Advocate for Small Business Capital Formation will host a roundtable to hear from small businesses and their investors.

Small Business Capital Formation Advisory Committee: The SEC will hold the first meeting of its Small Business Capital Formation Advisory Committee.

May 7

Data Privacy: The Senate Banking Committee will hold a hearing entitled “Privacy Rights and Data Collection in a Digital Economy.” The witnesses at the hearing will be Peter Chase, Senior Fellow, The German Marshall Fund of the United States; Jay Cline, Privacy and Consumer Protection Leader, PwC US; and Maciej Ceglowski, Founder, Pinboard.

May 8

Homeownership: The House Financial Services Committee’s Subcommittee on Housing, Community Development and Insurance will hold a hearing entitled “A Review of the State of and Barriers to Minority Homeownership.”

Debt Collection: The Consumer Financial Protection Bureau (CFPB) will hold a town hall meeting in Philadelphia regarding debt collection. CFPB Director Kathy Kraninger is scheduled to give remarks at the event.

SEC/CFTC: The Senate Appropriations Committee’s Subcommittee will hold a hearing to consider the Fiscal Year (FY) 2020 budget requests for the SEC and the CFTC.

May 8-9

Markup: The House Financial Services Committee will hold a markup. The agenda for the markup has not been announced.

May 9

SEC Open Meeting: The Securities and Exchange Commission (SEC) will hold an open meeting to consider whether to: (1) “propose new rule amendments to the accelerated filer and large accelerated filer definitions to promote capital formation for smaller reporting issuers by more appropriately tailoring the types of issuers that are included in the categories”; and (2) “propose a number of actions to address the cross-border application

of certain security-based swap requirements under the Securities Exchange Act of 1934 that were added by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.”

May 9-10

Middle Class: The Federal Reserve Board and the community development offices of the 12 Federal Reserve Banks will co-host a conference, “Renewing the Promise of the Middle Class,” in Washington, D.C. The conference will include remarks by Federal Reserve Chair Jerome Powell, Governor Lael Brainard and Federal Reserve Bank of Chicago President Charles Evans, among others, as well as research presentations.

May 10

Academic Research Council: The CFPB’s Academic Research Council will hold a conference call with CFPB staff regarding research, innovation, and a retrospective review of CFPB regulations.

May 15

Worker Rights: The House Financial Services Committee’s Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing entitled “Promoting Economic Growth: A Review of Proposals to Strengthen the Rights and Protections for Workers.”

Sanctions: The House Financial Services Committee’s Subcommittee on National Security, International Development and Monetary Policy will hold a hearing entitled “Assessing the Use of Sanctions in Addressing National Security and Foreign Policy Challenges.”

Financial Regulators: The Senate Banking Committee will hold a hearing entitled “Oversight of Financial Regulators.” The

witnesses at the hearing will be: The Honorable Joseph M. Otting, Comptroller, Office of the Comptroller of the Currency; The Honorable Randal K. Quarles, Vice Chairman for Supervision, Board of Governors of the Federal Reserve System; The Honorable Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation; and The Honorable Rodney E. Hood, Chairman, National Credit Union Administration.

May 16

Prudential Regulators: The House Financial Services Committee will hold a hearing entitled “Oversight of Prudential Regulators: Ensuring the Safety, Soundness and Accountability of Megabanks and Other Depository Institutions.”

May 21

HUD: The House Financial Services Committee will hold a hearing entitled “Housing in America: Oversight of the U.S. Department of Housing and Urban Development.”

May 31

Financial Technology: The Securities and Exchange Commission’s (SEC) Strategic Hub for Innovation and Financial Technology (FinHub) will hold its 2019 FinTech Forum to discuss distributed ledger technology and digital assets. The event will include panels on: (1) Capital Formation Considerations; (2) Trading and Markets Considerations; (3) Investment Management Considerations; and (4) Distributed Ledger Technology Innovations: Industry Trends and Specific Use Cases for Financial Markets.

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

ENERGY & ENVIRONMENT

Hearing Addresses Pipeline Security and Safety

Key Points:

- *The House Energy Subcommittee held a hearing on pipeline safety on Wednesday, which also focused on the Transportation Security Administration’s oversight of pipeline physical and cyber security.*
- *As in prior hearings held by the Senate Commerce Committee and the House Transportation and Infrastructure Committee, Pipeline and Hazardous Materials Safety Administration Administrator Skip Elliott fielded questions regarding the status of regulations mandated by Congress.*

On May 1, the House Energy and Commerce Committee’s Energy Subcommittee held a [hearing](#) on “The State of Pipeline Safety and Security in America”. The hearing included questions for Pipeline and Hazardous Materials Safety Administration (PHMSA) Administrator Skip Elliott regarding the status of pending rulemakings mandated by Congress. Members of both parties criticized the Transportation Security Administration (TSA) for not sending a witness to the hearing in response to the Committee’s invitation. Members raised pipeline incidents, including the 2018 Merrimack Valley, Massachusetts gas distribution system failure, the April 10, 2019 Durham, North Carolina natural gas explosion, the Aliso Canyon natural gas storage facility leak, the San Bruno, California natural gas pipeline explosion, and the 2010 Marshall, Michigan spill.

In his opening statement, Subcommittee Chairman Bobby Rush (D-IL) noted the issues identified in the Government Accountability Office (GAO) [report](#) on pipeline cybersecurity, including deficiencies in TSA oversight. He

declared that it is “unacceptable” that “TSA declined to send a witness”, adding that TSA “needs to answer the questions we have.” Rush also emphasized the need to provide local first responders and emergency response agencies with resources to deal with pipeline incidents, and raised questions regarding the role of pipeline operators in providing these resources.

In his [opening statement](#), Subcommittee Ranking Member Fred Upton (R-MI) recalled the 2010 Marshall, Michigan pipeline spill, noting that it led to provisions in the “Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011” ([P.L. 112-90](#)) shortening the time requirement for an operator to report an incident, and increasing penalties for pipeline safety violations. He also noted that Congress, in the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” ([P.L. 114-183](#)), enacted his proposal to require more frequent inspections of pipelines under water. Upton also said that he is “most disappointed...TSA officially declined to appear” at the hearing, and warned that “we’re going to remember that.” He discussed his legislation, the “Pipeline and LNG Facility Cybersecurity Preparedness Act” ([H.R. 370](#)), suggesting that it “would help address some of the vulnerabilities outlined in the GAO report.”

Full Committee Chairman Frank Pallone (D-NJ), in his [opening statement](#), asserted that PHMSA is “notorious for its inability to meet congressionally-mandated deadlines and carry out its mission in an efficient and effective way.” He described PHMSA’s failure to complete action on congressional mandates, including on: “the use of automatic or remote-controlled shut-off valves on newly constructed transmission pipelines to limit damage when a rupture occurs”; installation of “leak detection systems on hazardous liquid pipelines”; and “emergency order authority to address imminent, industry-wide safety hazards that

pose a threat to life or significant harm to property or the environment”. Pallone contended that delays in PHMSA rulemakings are due in part to a “prescriptive cost-benefit analysis required by the 1996 reauthorization”. He declared, “If we want PHMSA to finalize more rulemakings, we must remove or adjust this overly-burdensome requirement.” Pallone joined his colleagues in expressing disappointment that TSA refused to testify at the hearing.

Full Committee Ranking Member Greg Walden (R-OR), in his [opening statement](#), remarked that he is “pleased that we’re beginning this process on a bipartisan basis.” He emphasized that the “safe operation of our pipeline system is essential.” Walden said that in the reauthorization process he would “remain focused on protecting public safety and consumers.” He asked the Chairman for “a commitment to working together on the [legislative] drafting process.” Walden also stressed that “I am very disappointed that TSA refused to provide a witness for this hearing.”

In his questioning of Administrator Elliott, Chairman Rush noted that he would submit a written inquiry regarding the status of pending congressional mandates. Elliott told him that “I think we’ve made good progress”, and explained that PHMSA:

- Completed work on the Safety of Gas Transmission Pipelines final rule, which is now being reviewed by the Department of Transportation;
- Submitted the Safety of Hazardous Liquid Pipelines final rule to the Office of Management and Budget (OMB) about 50 days ago; and
- Completed drafting of the Valve Installation and Rupture Detection Standards Notice of Proposed Rulemaking (NPRM).

Ranking Member Upton asked about TSA’s capabilities to address cyber threats to energy infrastructure. William Russell, Acting Director, GAO, noted that nation states have the “capability to do harm” to pipelines. He said the GAO found that TSA “pipeline security officials did not necessarily have the requisite expertise and skills when it came to cybersecurity.”

Full Committee Chairman Pallone suggested that the GAO report “highlighted troubling weaknesses in the Transportation Security Administration’s pipeline security program.” He added that the report found that TSA “had not calculated relative risk among the top 100 pipeline systems.” Russell replied that the risk-ranking tool is critical because it determines which systems the TSA would prioritize.

House Passes Bill to Keep U.S. in Paris Climate Agreement

Key Points:

- *The House approved legislation to block the U.S. withdrawal from the Paris Climate Agreement.*
- *The Senate is not expected to vote on the bill, which would face a likely presidential veto.*

On Thursday, the House of Representatives approved the “Climate Action Now Act” ([H.R. 9](#)) by a [231-190 vote](#).

As described in a House Energy and Commerce 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.”

The Trump Administration issued a [Statement of Administration Policy \(SAP\)](#) that warned that the President’s “senior advisors would recommend that he veto the bill.” The SAP also declared that “H.R. 9 would also interfere with the President’s constitutional authority to conduct foreign relations, including the authority to withdraw from an executive agreement.”

Upcoming Hearings and Events

May 7

Budget: The House Appropriations Committee’s Subcommittee on Interior, Environment, and Related Agencies will hold a [hearing](#) on “FY20 Budget, Department of the Interior.”

May 8

Pending Legislation: The House Natural Resources Committee’s Subcommittee on Water, Oceans, and Wildlife will hold a hearing on pending legislation.

Defense: The Senate Armed Services Committee’s Subcommittee on Strategic Forces will hold a [hearing](#) on the “Department of Energy’s Atomic Defense Activities and Programs.”

May 9

Mining: The House Natural Resources Committee’s Subcommittee on Energy and Mineral Resources will hold a [hearing](#) on “The Long Overdue Need to Reform the Mining Law of 1872.”

Budget: The House Energy and Commerce Committee’s Subcommittee on Energy will hold a [hearing](#) on “The Fiscal Year 2020 DOE Budget.”

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

Energy and Commerce Examines Medicare Drug Pricing

Key Points:

- *The House Energy and Commerce Committee’s Health Subcommittee held a hearing to examine drug pricing policies in the Medicare program.*
- *Discussion focused on the ways Medicare could leverage its buying power, addressing the cost of innovative new drugs, and the Administration’s proposed rules to address drug prices.*

On April 30, the House Energy and Commerce Committee’s Health Subcommittee held a [hearing](#) entitled “Prescription Drug Coverage in the Medicare Program.” Topics discussed in the hearing included: (1) Catastrophic Level; (2)

Leveraging Buying Power; (3) Third-Party Vendors; (4) Formulary Strategies; (5) Single-Source Therapies; (6) Generic Drug Incentives; (7) Protected Classes of Drugs; (8) Innovative Drugs; (9) Value-Based Arrangements; (10) Prescription Drug Cost Transparency; (11) Step Therapy and Prior Authorization; (12) International Pricing Index; (13) Buy-and-Bill Program; (14) Part D Negotiating; and (15) Hospital Consolidation and Acquisition of Physician Practices.

Chairwoman Anna Eshoo (D-CA) said the rising costs of drugs are putting unsustainable pressure on Medicare and American families. She expressed concern about the impact on those who rely on specialty drugs since Medicare does not have an out-of-pocket cap. Representative Larry Bucshon (R-IN) asserted the Part D program has been wildly successful in holding down costs for taxpayers. He stressed any proposed changes to Part B or Part D must be carefully analyzed to understand the full impact on beneficiaries, providers, and taxpayers.

James E. Mathews, Ph.D., Executive Director, Medicare Payment Advisory Commission (MedPAC) noted MedPAC recommends giving clinicians an alternative to the buy-and-bill system for Part B drugs and provide them incentives to use this approach. He also recommended shifting liability in the catastrophic phase of the Part D benefit to plans in exchange for providing plans more tools and flexibility to manage utilization.

House Rules Holds First Hearing on Medicare for All

Key Points:

- *The House Rules Committee held a hearing titled “Medicare for All Act of 2019.”*
- *Questions focused on private insurance, patient costs, impacts on providers, and the cost of the legislation.*

On April 30, the House Rules Committee held a [hearing](#) entitled “Medicare for All Act of 2019.” Topics discussed in the hearing included, but were not limited to: (1) Patient Impacts; (2) Private Insurance; (3) Economic Analysis; (4) Provider Impacts; (5) State-Based Systems; (6) Transition/System Design; (7) Federal Costs; (8) Utilization of Services; (9) Benefits of a Universal System; (10) Medicare Advantage; and (11) Congressional Jurisdiction.

Committee Democrats championed the Medicare for All Act of 2019 (H.R. 1384), highlighting the need to create a health care system that ensures universal coverage. Chairman Jim McGovern (D-MA) criticized the current state of health care and contended the Affordable Care Act (ACA) was never intended to be the “last stop” for expansion of federal coverage. While there was general support for the concept of Medicare for All, some members did raise concerns about funding the legislation, particularly regarding the possibility of tax increases for their constituents. Representative Mary Gay Scanlon (D-PA) suggested a public buy-in option would be a beneficial intermediate step to address cost concerns and facilitate a transition from private insurance.

Republican members expressed general opposition to Medicare for All, while acknowledging the common goal of providing better health care. Particular concerns were raised about the cost of the legislation, the

elimination of employer-sponsored coverage, and the impact of lower reimbursements on provider consolidation. Several members also questioned why House Rules was the first committee to hold a hearing on the legislation. Ranking Member Tom Cole (R-OK) noted the Committee had jurisdiction over only one page of H.R. 1384, while three other House committees could claim wider jurisdiction.

Witnesses were split between support and opposition to Medicare for All. Supporting witnesses emphasized problems with the current system, including denial of claims by private insurers and high patient out-of-pocket costs, while downplaying the costs of the legislation. Specifically, they highlighted administrative efficiency as an offset to cost increases in other parts of the plan. Other witnesses pointed out the projected cost of the legislation and expressed concern about people being forced off private insurance they prefer. Additionally, some witnesses expressed skepticism that existing Medicare reimbursement rates could apply universally without creating provider consolidation or causing significant rationing of services.

After the hearing, the Congressional Budget Office (CBO) issued a [report](#) evaluating a single-payer health care system. The report did not include an analysis of H.R. 1384 or any other legislative proposals.

Upcoming Hearings and Meetings

May 7

Cures: The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Implementing the 21st Century Cures Act: Making Electronic Health Information Available to Patients and Providers, Part II.”

Pricing: The Senate Judiciary Committee will hold a hearing on “Intellectual Property and the Price of Prescription Drugs: Balancing Innovation and Competition.”

May 8

Medicare: The Atlantic will hold an event on “The State of Care: Future of Medicare.”

MACRA: The Senate Finance Committee will hold a hearing on “Medicare Physician Payment Reform After Two Years: Examining MACRA Implementation and the Road Ahead.”

Seniors: The Senate Aging Committee will hold a hearing on “The Older Americans Act: Protecting and Supporting Seniors as they Age.”

May 9

Prices: The House Energy and Commerce Committee will hold a hearing on “Lowering Prescription Drug Prices: Deconstructing the Drug Supply Chain.”

Opioid Crisis: The House Oversight and Reform Committee will hold a hearing on “The Trump Administration’s Response to the Drug Crisis, Part II.”

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

China Trade Deal Close to Finished

Key Points:

- *U.S.-China Trade Deal near completion, reports say it could be announced during or after next week’s visit.*

- *USTR to launch exclusion process for third tranche of Section 301 tariffs.*

On Wednesday, after a visit to Beijing, U.S. Trade Representative (USTR) Robert Lighthizer and Treasury Secretary Steven Mnuchin said the discussions with Chinese Vice Premier Liu He were “productive.” Reports indicate that the two sides have reached general agreement on a plan for the U.S. to immediately remove a 10 percent tariff on a portion of the \$200 billion worth of Chinese imports affected by the penalty and then phase in lifting the duties on the rest of the items. A 25 percent tariff the U.S. has imposed on roughly \$50 billion-worth of other Chinese goods would likely stay in place longer, possibly until after the 2020 election. Administration officials say expectations are high that the two sides could announce a deal by the end of next week, setting the stage for a summit between President Trump and Chinese President Xi Jinping to sign it in late May or early June.

USTR Lighthizer told Congress this week (in the form of a response to a question for the record) that the USTR will soon launch an exclusion process for a third set of Section 301 tariffs on Chinese goods. USTR Lighthizer had earlier this year said he would not establish an exclusion process for the 10 percent tariffs on \$200 billion worth of Chinese goods unless ongoing U.S.-China trade talks failed and the U.S. increased the tariffs to 25 percent, as the Trump Administration had initially planned to do. USTR has an exclusion process in place for 25 percent tariffs on two other tranches of goods worth \$50 billion, though there has been criticism that the process is cumbersome and slow.

USMCA Developments

Key points:

- *Speaker Pelosi claimed that House Democrats will pass the USMCA if enforcement, labor, environmental and prescription drug provisions are addressed.*
- *Senate Republican Finance Chairman Grassley (R-IA) declares USMCA dead if the 232 tariffs are not addressed.*
- *House Republicans want a vote, regardless of Section 232 tariffs on Mexico and Canada.*

House Speaker Pelosi (D-CA) announced Thursday that she and the House Democrats “would like to get to yes” on ratification of the U.S.-Mexico-Canada Agreement (USMCA). She said however, the agreement’s language must be altered to address their concerns over its enforcement, labor, environmental and prescription drug provisions. Speaker Pelosi was firm that stronger enforcement language needs to be part of the agreement, and she will not accept it as a “side letter, later legislation or anything like that.” On the other hand, the Trump Administration has suggested it would not open up the underlying agreement for changes, and negotiating partners have also raised some concerns. Although Democrats have expressed concern over labor and other concerns, Speaker Pelosi called enforcement the “overarching” issue that must be dealt with before Democrats will consider the USMCA.

House Minority Leader McCarthy (R-CA) pushed back against Senate Finance Committee Chairman Grassley’s (R-IA) assertion that unless the 232 duties with Mexico and Canada are lifted, the USMCA is dead. Minority Leader McCarthy said that the USMCA should be put to a vote in Congress even if tariffs on steel and aluminum imports are still in place. Leader McCarthy argued that House Republicans will support the agreement, and with the recently passed labor legislation in Mexico, Democrats

should now be ready to support the deal. However, Speaker Pelosi and AFL-CIO President Richard Trumka, continue to express doubts about the labor reforms and enforcement mechanisms. Continuing disagreements on tariffs, labor, and enforcement are likely to slow USMCA passage.

U.S.-Japan Wrap up Second Round of Talks

Key Points:

- *Discussions are progressing quickly, with both sides enthusiastic about completing a deal.*
- *Japanese elections may delay completion of a deal.*

Following a second round of high-level talks between USTR Lighthizer and Japanese Economy Minister Toshimitsu Motegi, in which the two sides discussed the scope of a potential bilateral deal, President Trump suggested Washington and Tokyo could complete a bilateral pact addressing agriculture and autos issues in as little as three months. President Trump is scheduled to visit Japan in late May to celebrate the installment of Japan’s new emperor, and reports indicate it is possible a deal could be finalized at that time.

Senate Finance Chairman Grassley (R-IA) expressed skepticism that a deal on agriculture can be accomplished before the Japanese election in July. He argued that to make a deal happen, Japan will have to make a major concession, which is unlikely to happen unless it is something that can be seen as a victory for Prime Minister Shinzo Abe.

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