

Washington Update

December 8, 2023

This Week In Washington

Senate – The Senate confirmed several nominations and voted to block a national security supplemental funding package based on Republican objections that the package does not include border policy changes – on which negotiations continue to happen.

House – The House passed [H. Res. 894](#), strongly condemning and denouncing the drastic rise of antisemitism in the United States and around the world, [H.J. Res. 88](#), providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to “Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program,” the Choice in Automobile Retail Sales Act ([H.R. 4468](#)), the DETERRENT Act ([H.R. 5933](#)), the One Seat Ride Act ([H.R. 1547](#)), and the Elizabeth Dole Home Care Act ([H.R. 542](#)).

Biden Administration – On December 8, the White House [announced](#) \$8.2 billion in new funding for 10 major passenger rail projects across the country.

Next Week In Washington

Senate – The Senate will reconvene on Monday, December 11, and may consider the National Defense Authorization Act for Fiscal Year 2024 ([H.R. 2670](#)) after House and Senate conferees produced a final version of the bill.

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TAX

Taxwriters Release SECURE 2.0 Technical Corrections Draft

Key Points

- *A bipartisan, bicameral package of SECURE 2.0 technical corrections was released this week.*
- *The package corrects errors made during the SECURE 2.0 drafting process that unintentionally remained in the final legislative text.*
- *Interested parties are invited to submit comments to the House Ways and Means Committee.*

This week, the chairs and ranking members of the House Ways and Means Committee, House Education and Workforce Committee, Senate Finance Committee, and Senate Health, Education, and Labor Committee released a [discussion draft](#) of the SECURE 2.0 Technical Corrections Act of 2023.

The draft seeks to update language in the original SECURE 2.0 legislation that led to erroneous interpretations of congressional intent, as well as addressing unclear or mistaken text. This includes provisions related to catch-up contribution allowances, the age required for minimum distributions to begin, and the new savers match.

Unintentional errors in SECURE 2.0 apparently would have prohibited all catch-up contributions after 2023, although the IRS released guidance administratively allowing the catch-up contributions to continue for plan participants aged 50 and older with the support of the key legislators and understanding the technical change would be made.

The House Ways and Means Committee has invited the public to comment on the discussion draft. Interested parties should send comments intended for Chairman Smith (R-MO) to payson.peabody@mail.house.gov and comments intended for Ranking Member Neal (D-MA) to kara.getz@mail.house.gov.

Tax Package Discussions Continue, Agreement Possible in Early 2024

Key Points

- *Senate Finance Ranking Member Crapo (R-ID) convened committee Republicans to discuss the package's future on December 5.*
- *No topline number has been agreed to as to how large of a package is possible.*

- *Tax package could be included in January or February spending bills, or move separately.*

This week, Senate Finance Ranking Member Crapo (R-ID) convened committee Republicans to discuss whether they should continue to negotiate a tax package and whether Republican-desired topline numbers are realistic.

According to Ranking Member Crapo, no topline number has been agreed to with Democrats, in part due to concerns about finding parity with an extension of the child tax credit. He said Democrats wish to match the size of the child tax credit to the cost of extending business tax provisions in the Tax Cuts and Jobs Act. Due to the cost of Republican tax priorities – including the restoration of full research and development expensing; extending net interest expensing; and the extension of bonus depreciation – it could make it harder to include full provisions on all of these provisions.

Given the lack of Senate action on a long-term FAA Reauthorization bill, it is increasingly unlikely a tax package would be adopted this year, regardless of the state of negotiations. More options could come as Congress approaches deadlines to pass large spending packages in January and February 2024.

House Ways and Means Committee Holds Hearing on Tax Policies to Expand Economic Growth

Key Points

- *Republicans discussed the benefits of Opportunity Zones and spoke to the need to extend expiring provisions of the TCJA.*
- *Democrats highlighted the benefits of the Child Tax Credit and asserted the TCJA principally benefits wealthy Americans.*
- *Witnesses emphasized the need to extend expiring TCJA provisions and discussed the merits of the FAIR Tax.*

On December 6, the House Ways and Means Tax Subcommittee held a [hearing](#) entitled, “Tax Policies to Expand Economic Growth and Increase Prosperity for American Families.”

Committee Republicans highlighted the successes of the Tax Cuts and Jobs Act (TCJA), asserting the law has helped to increase real median household income by \$5,000. Members highlighted the benefits of Opportunity Zones, a program created by the TCJA to invest in some of the country’s most economically distressed communities. Republicans also discussed the need to extend expiring provisions of the TCJA such as net interest expensing, bonus depreciation, and full research and development expensing.

Committee Democrats discussed the benefits of the Child Tax Credit, contrasting the provision with the TCJA, which members asserted principally benefits wealthy Americans. Members argued the law is projected to add over \$2 trillion to the deficit before any extensions are factored in.

Witnesses, including Grover Norquist, President of Americans for Tax Reform, discussed the benefits of extending expiring provisions from the TCJA, stating the law has reduced taxes for all Americans, regardless of income level. Witnesses also debated the merits of provisions such as the FAIR Tax, a policy proposing to replace the income tax with a 30 percent national sales tax.

Hunter Biden Charged with Additional Tax Felonies

Key Points

- *Hunter Biden was indicted on nine additional tax charges over \$1.4 million in unpaid taxes.*
- *House Ways and Means Chairman Smith (R-MO) said the indictment reaffirms the need for Congress to pursue an impeachment inquiry.*

On December 7, Hunter Biden, the son of President Biden, was charged with nine new tax crimes – three of which are felonies and six of which are misdemeanors. The charges are centered around the roughly \$1.4 million in taxes Hunter Biden failed to pay between 2016 and 2019, a period where he had struggled with addiction. Hunter Biden has since paid these taxes.

After the indictment was announced, House Ways and Means Committee Chairman Smith (R-MO) released a [statement](#) stating the charges “reaffirm the evidence released this week by the committee... and further confirm the need for Congress to move forward with an impeachment inquiry of Joe Biden.”

The House Ways and Means Committee has been engaged in efforts to investigate whether President Biden was aware of, benefited from, or assisted in his son’s alleged illegal activity; and has heard extensively from two IRS whistleblowers on the issue which has stoked partisan tensions on the Committee with Democrats.

Upcoming Hearings and Meetings

December 13

Tax-Exempt Sector and its Impact on the U.S. Political Landscape: On Wednesday, December 13, at 2:00 PM EST, the House Ways and Means Oversight Subcommittee will hold a hearing entitled, "Growth of the Tax-Exempt Sector and the Impact on the American Political Landscape." The hearing will be held at 1100 Longworth House Office Building and will be broadcast on the committee's [website](#).

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

FINANCIAL SERVICES

House Financial Services Subcommittee Holds Hearing with Regulators About Innovation

Key Points:

- *Lawmakers discussed the ways in which they think regulators should be encouraging innovation.*
- *Financial Technology Officials with the SEC, OCC, FDIC, CFPB, NCUA and Federal Reserve testified.*

On December 5, the House Financial Services Subcommittee on Digital Assets, Financial Technology, and Inclusion held a [hearing](#) entitled, "Fostering Financial Innovation: How Agencies Can Leverage Technology to Shape the Future of Financial Services." Chairman French Hill (R-AR) emphasized the importance of innovation in the financial services industry and stressed the need for Congress to work with regulators to facilitate innovation. He expressed concern that the regulatory offices dedicated to facilitating responsible innovation are stopping innovation. Ranking Member Stephen Lynch (D-MA) argued that under the Trump administration, several regulatory agencies created innovation offices as a vehicle for lowering regulatory standards. He argued that the Consumer Financial Protection Bureau has focused on improving competition and data protection through its data portability rulemaking, applauded the regulators for exploring and cautioning about the risks of digital assets, and noted that the Federal Reserve, Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency issued a joint statement that cautioned banks against investment in crypto assets, citing heightened volatility, liquidity, and fraud risk. He emphasized that the U.S. should be

encouraging federal agencies to help innovation into services that expand financial inclusion.

Senate Banking Committee Holds Hearing with G-SIB CEOs

Key Points:

- *Eight CEOs testified, all of whom expressed concern about the Basel III Endgame proposal's impact on lending.*
- *Chairman Brown expressed support for Basel III, while Ranking Member Scott expressed opposition.*

On December 6, the Senate Banking Committee held a [hearing](#) entitled, "Annual Oversight of Wall Street Firms." Chairman Sherrod Brown (D-OH) emphasized the need for strong capital requirements and called the Basel III Endgame proposal a "commonsense" rule. He argued that it ensures that banks can withstand losses from risky trading and derivatives activity. He said the eight banks have reduced lending to small businesses, veterans, and homebuyers for years and argued that nothing in Basel III would stop the banks from lending to small businesses and the American people. He called on the banks to cut prices for consumers, increase opportunity for their employees, increase diversity within their executive ranks, and support their workers' efforts to unionize. Ranking Member Tim Scott (R-SC) said Basel III requires more capital to be put on the "sidelines" and warned that it will decrease lending. He called Basel III a "nightmare proposal" and noted that he sent a letter to the Federal Reserve, Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to withdraw the Basel III proposal. He recalled that Federal Reserve Vice Chair Barr said the proposal will only impact 40 banks but emphasized that these 40 banks make up two-thirds of all processed loans, which totaled \$60 billion in small business loans in 2021. Several other Senators echoed Scott's concern about Basel III.

House Financial Services Subcommittee Holds Hearing on Housing Affordability

Key Point:

- *Lawmakers addressed the housing affordability crisis.*

On December 6, the House Financial Services Committee's Subcommittee on Housing and Insurance held a [hearing](#) entitled, "Housing Affordability: Governmental Barriers and Market-Based Solutions." Chairman Warren Davidson (R-OH) highlighted the rise in both home prices and rents and encouraged greater private sector investing and competition to fix the problem. He argued expansive efforts of the government have worsened the

situation rather than helping the problem and called President Biden's policy to raise mortgage rates on qualified borrowers "misguided." Full Committee Ranking Member Maxine Waters (D-CA) warned that slashing federal housing programs will only exacerbate the housing problem nationwide.

2023 OFR Annual Report Addresses Risks Associated with the U.S. Financial System

On December 7, the Office of Financial Research (OFR) delivered its [2023 Annual Report](#) to Congress. The report concluded that financial stability risks have increased since last year's report and remain elevated in 2023. The report noted that multiple indicators signal an upcoming economic slowdown, which would be potentially magnified by persistent inflation, ongoing geopolitical risks, and global conflicts.

The OFR report included discussion of several risks to financial stability, including but not limited to risks relating to inflation, interest rates, foreign economies, commercial and residential real estate, deterioration in household credit, financial markets (including short term funding market risks), digital assets, municipal debt market, financial institutions, and cybersecurity. The OFR explained that it continues to conduct financial risk research in a wide range of areas critical to financial stability, including digital assets, cybersecurity, wholesale funding and liquidity management, money market funds, central counterparties, and climate-related financial risks.

Upcoming Hearings and Meetings

December 11

CFTC MRAC: The Commodity Futures Trading Commission's Market Risk Advisory Committee (MRAC) will hold a meeting at which it will "address current topics including central counterparty risk and governance, market structure developments, climate-related risk, and innovative and emerging technologies affecting the derivatives and related financial markets."

December 12

National Security: The House Financial Services Committee's Subcommittee on National Security, Illicit Finance, and International Financial Institutions will hold a [hearing](#) entitled, "Restricting Rogue-State Revenue: Strengthening Energy Sanctions on Russia, Iran, and Venezuela"

Capital Markets: The House Financial Services Committee's Subcommittee on Capital Markets will hold a [hearing](#) entitled, "Examining the Agenda of Regulators, SROs, and Standards-Setters for Accounting, Auditing"

December 13

Oversight: The House Financial Services Committee's Subcommittee on Oversight and Investigations will hold a [hearing](#) entitled, "Moving the Money Part 2: Getting Answers from the Biden Administration on the Iranian Regime's Support of Terrorism."

Insurance: The Federal Advisory Committee on Insurance (FACI) will hold its next quarterly [meeting](#).

SEC Open Meeting: The Securities and Exchange Committee (SEC) will hold an open meeting to discuss two items: (1) Rules to Improve Risk Management in Clearance and Settlement and to Facilitate Additional Central Clearing for the U.S. Treasury Market and (2) The 2024 Final Budget and Accounting Support Fee for the Public Company Accounting Oversight Board.

CFTC Open Meeting: The Commodity Futures Trading Commission will hold an [open meeting](#) to consider the following proposed rules: Operational Resilience Framework for Futures Commission Merchants, Swap Dealers, and Major Swap Participants; Capital and Financial Reporting Requirements for Swap Dealers and Major Swap Participants; Protection of Clearing Member Funds Held by Derivatives Clearing Organizations; and Amendments to Swap Data Recordkeeping and Reporting Requirements. The Commission will also consider the "Amended Application of Bitnomial Clearinghouse, LLC for Registration as a Derivatives Clearing Organization."

December 14

CFTC AAC: The Commodity Futures Trading Commission's Agriculture Advisory Committee (AAC) will hold a public meeting to "discuss topics related to the agricultural economy, including geopolitical and sustainability issues, as well as recent developments in the agricultural derivatives markets."

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

ENERGY & ENVIRONMENT

EPA Releases Final Rule on Oil and Gas Industry Methane Emissions

Key Points:

- *On Saturday, the EPA released wide-ranging regulations to control methane emissions from the oil and natural gas industry.*
- *The agency has worked on the over 1600-page rule since 2021, which addresses the Biden Administration's goal of reducing U.S. methane emissions.*

On December 2, at the COP28 Summit in Dubai, the Environmental Protection Agency (EPA) released the [final rule](#) titled “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review”. The new rule imposes requirements for oil and natural gas operations to sharply reduce methane emissions. As described in a [fact sheet](#), the final rule “includes updated and strengthened standards for methane and other air pollutants from new, modified, and reconstructed sources, as well as Emissions Guidelines to assist states in developing plans to limit methane emissions from existing sources.” The final rule will:

- Phase-out routine natural gas flaring at new oil wells;
- Establish methane monitoring requirements for well sites and compressor stations;
- Set the “applicability date” as December 6, 2022, which subjects covered facilities and equipment installed on that date or later to the rule’s requirements for “new sources”;
- “[E]liminate or minimize emissions from common pieces of equipment used in oil and gas operations such as process controllers, pumps, and storage tanks”;
- Establish a program targeting “super emitting” sources of methane;
- Require plugging of closed wells; and
- Require states to submit plans for regulating existing oil and gas sector sources of methane within two years and implement those plans within three years.

The final regulations are the culmination of a two-year rulemaking process. On November 15, 2021, the EPA published a [Notice of Proposed Rulemaking \(NPRM\)](#) on oil and natural gas sector methane emissions. On December 6, 2022, the EPA published the [Supplemental Notice of Proposed Rulemaking \(SNPRM\)](#) that expanded the original NPRM.

House Transportation and Infrastructure Committee Approves Pipeline Safety Legislation

Key Points:

- *On December 6, the House Committee on Transportation and Infrastructure voted to advance a pipeline safety reauthorization bill.*
- *The bill includes provisions addressing geohazards, the transportation of hydrogen and carbon dioxide by pipeline, as well as other issues.*
- *The markup is a step in the legislative process that is expected to include consideration by the House Energy and Commerce Committee and the Senate Commerce, Science, and Transportation Committee.*

On Wednesday, the House Transportation and Infrastructure Committee held a markup of the “Promoting Innovation in Pipeline Efficiency and Safety (PIPES) Act of 2023” ([H.R. 6494](#)). The Committee reported the legislation, as amended, by a voice vote. The bipartisan bill would reauthorize the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) pipeline safety programs for four years, providing direction on regulations, oversight, and enforcement.

In his opening statement at the markup, Chairman Sam Graves (R-MO) declared that the legislation would ensure the U.S. remains competitive and a global leader in the production and export of new energy resources such as hydrogen. He noted the bill includes a voluntary information-sharing provision similar to the process used in aviation.

Ranking Member John Larsen (D-WA), in his opening remarks, said the bill ensures that PHMSA and state pipeline safety programs have the resources necessary to prepare for emerging pipeline infrastructure and improve transparency. He said states will receive additional money to improve safety inspection activities.

As described in a [section-by-section summary](#), the bill includes provisions:

- Requiring PHMSA “to review and update as necessary, every four years, incorporated industry safety standards that have been partially or fully adopted as part of the Federal pipeline safety regulatory program.”
- Directing “PHMSA to make a report on inspection and enforcement priorities of the Office of Pipeline Safety for fiscal year (FY) 2024 through FY 2027 publicly available and open for public comment.”
- Requiring PHMSA “to advance a notice of proposed rulemaking (NPRM) establishing safety requirements for idled pipelines within 180 days of enactment.”

- Directing the Government Accountability Office (GAO) to report “on Federal and state requirements relating to geohazards, including seismicity, land subsidence, erosion, and other potential natural hazards that could impact pipeline safety.”
- Requiring “that any terms placed on safety waivers (special permits) are specific to the pipeline safety regulation being waived and [setting] timelines for the consideration of special permit applications...[and mandating] a report to Congress on the status of safety waivers sought under the special permit program and direct[ing] the GAO to provide a report on PHMSA’s implementation of this provision.”
- Directing the National Academy of Sciences (NAS) to conduct a “study on the effectiveness of integrity management regulations and their impact on safety in high consequence areas.”
- Extending “existing criminal penalties to those who knowingly and willfully damage a pipe, pump, compressor, or valve under construction or disrupt the operation of a pipeline by the unauthorized turning of a valve.”
- Establishing “a working group of Federal agencies with regulatory jurisdiction and oversight of liquefied natural gas (LNG) facilities to assess each agency’s area of jurisdiction to ensure safety regulations are in the public interest, and to reduce or eliminate duplicative oversight of LNG facilities.”
- Directing PHMSA “to complete a rulemaking to establish minimum safety standards for the transportation and temporary storage incidental to transportation of carbon dioxide in a gaseous state.”

In the House, the Energy and Commerce Committee shares jurisdiction with the Transportation and Infrastructure Committee over pipeline safety legislation. On July 25, Energy and Commerce Committee Chair Cathy McMorris Rodgers (R-WA) and Energy, Climate, and Grid Security Subcommittee Chair Jeff Duncan (R-SC) released the text of the “Pipeline Safety, Modernization, and Expansion Act of 2023” ([H.R. 1](#)). The legislation would reauthorize pipeline safety programs through September 30, 2028, and includes provisions intended to support construction and maintenance of oil and natural gas pipeline infrastructure. Provisions of the bill would also set parameters for the regulation of carbon dioxide pipelines. In a September [letter](#) to Committee Chair Cathy McMorris Rodgers (R-WA) and Energy, Climate, and Grid Security Subcommittee Chair Jeff Duncan (R-SC), Committee Ranking Member Frank Pallone (D-NJ) and Subcommittee Ranking Member Diana DeGette (D-CO) criticized the draft bill as partisan, asserting that it includes “several poison pill provisions”.

In the Senate, the Commerce, Science, and Transportation Committee has jurisdiction over pipeline safety, but has yet to act on a reauthorization bill.

Upcoming Hearings and Events

November 30-December 12

COP 28: The United Arab Emirates is hosting the annual [United Nations Climate Change Conference](#).

December 12

National Petroleum Council: The National Petroleum Council (NPC) will hold its [annual meeting](#). The agenda includes “remarks from Energy Secretary Jennifer Granholm...[and] progress reports from the NPC Committees on Hydrogen Energy and GHG Emissions.”

Pending Legislation: The House Natural Resources Committee’s Energy and Mineral Resources Subcommittee will hold a [hearing](#) on pending legislation.

Mineral Supply Chain: The House Natural Resources Committee’s Oversight and Investigations Subcommittee will hold a [hearing](#) titled “The Mineral Supply Chain and the New Space Race”.

December 14

Pending Legislation: The Senate Energy and Natural Resources Committee will hold a [business meeting](#) to consider pending legislation.

December 19

FERC Meeting: The Federal Energy Regulatory Commission (FERC) will hold its monthly [open meeting](#).

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

HEALTH

Biden Administration Released Draft Guidance on March-In Rights

Key Points:

- *On December 7, the Biden Administration released the draft guidance framework for Considering the Exercise of March-In Rights for public comment.*
- *This framework would help agencies determine whether they have the authority to require the licensing of a patent developed with federal funding.*

On December 7, the Administration released the [draft guidance](#) framework for Considering the Exercise of March-In Rights for public comment. The draft guidance developed by the Department of Commerce and the Department of Health and Human Services (HHS) proposes new criteria for the government exercising march-in rights to require licensing of patents with federal funding. The Bayh-Dole Act gives federal agencies the right to “march-in” under circumstances concerning national health and safety and seize the patents of high-priced medications. The framework requires agencies to assess three questions to determine whether to invoke march-in rights: “1) whether the Bayh-Dole applies to the invention(s) at issue; 2) whether any of the statutory criteria for exercising march-in applies under the circumstances; and 3) whether the exercise of march-in rights would support the policy and objectives of Bayh-Dole.”

In a [press release](#) from the National Institute of Standards and Technology (NIST), HHS Secretary Xavier Becerra said, “March-in authority is one powerful tool to ensure that the American taxpayer is getting a fair return on their investment in research and development...Today’s call for comments is an opportunity to better understand how march-in authorities can impact price and better promote equitable access to prescription drugs.”

Senator Bill Cassidy (R-LA), Chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee, stated in a [press release](#) that “The Biden administration does not have the legal authority for this use of march-in rights. Prior administrations of both parties have all agreed on this point, as have the bipartisan senators who wrote the law.” Chairwoman of the House Energy and Commerce Committee, Cathy McMorris Rodgers (R-WA), Health Subcommittee Chair Brett Guthrie (R-KY), and Oversight and Investigations Subcommittee Chair Morgan Griffith (R-VA) also responded to the guidance in a [press release](#) stating “Patients battling cancer or other rare diseases will be among those harmed most by the Biden administration’s unprecedented action that doubles down on the IRA’s innovation-

killing drug price setting regime...He should abandon this plan immediately and stop taking hope for treatments and cures away from the patients most in need.”

Comments on the draft guidance are due February 6, 2024.

House Energy and Commerce Committee Holds Markup of PBM Bills

Key Points:

- *On December 5-6, the House Energy and Commerce Committee held a markup and advanced 19 bills to the House.*
- *Provisions in these bills address the role of pharmacy benefit managers (PBMs), lowering drug costs, increasing access to biosimilars, and improving the transparency of National Coverage Determinations.*

On December 5-6, the House Energy and Commerce Committee held a [markup](#) of 19 bills addressing the role of PBMs and Medicare Advantage (MA). The Committee advanced the following bills to the House:

- [H.R. 2365](#), National Plan to End Parkinson’s Act, as amended, by a vote of 47-0.
- [H.R. 5372](#), Expanding Seniors’ Access to Lower Cost Medicines Act of 2023, as amended, by a vote of 48-0.
- [H.R. 2880](#), Protecting Patients Against PBM Abuses Act, as amended, by a vote of 46-0.
- [H.R. 5393](#), To amend title XVIII of the Social Security Act to ensure fair assessment of pharmacy performance and quality under Medicare part D, and for other purposes by a vote of 44-0.
- [H.R. 5385](#), Medicare PBM Accountability Act, as amended, by a vote of 44-0.
- [H.R. 5386](#), Cutting Copays Act, as amended, by a vote of 41-1.
- [H.R. 4881](#), To amend title XVIII of the Social Security Act to limit cost sharing for drugs under the Medicare program, as amended, by a vote of 45-0.
- [H.R. 5389](#), National Coverage Determination Transparency Act, as amended, by a vote of 46-0
- [H.R. 133](#), Mandating Exclusive Review of Individual Treatments (MERIT) Act, as amended, by a vote of 42-0.
- [H.R. 5396](#), Coverage Determination Clarity Act of 2023, as amended, by a vote of 44-0.
- [H.R. 5371](#), Choices for Increased Mobility Act of 2023, as amended, by a vote of 41-0.
- [H.R. 5388](#), Supporting Innovation for Seniors Act, as amended, by a vote of 43-0.

- [H.R. 5380](#), To amend title XVIII of the Social Security Act to increase data transparency for supplemental benefits under Medicare Advantage, as amended, by a vote of 43-0
- [H.R. 3842](#), Expanding Access to Diabetes Self-Management Training Act of 2023, as amended, by a vote of 44-0
- [H.R. 5397](#), Joe Fiandra Access to Home Infusion Act of 2023, as amended, by a vote of 46-0
- [H.R. 5555](#), DMEPOS Relief Act of 2023, as amended, by a voice vote.
- [H.R. 6545](#), Physician Fee Schedule Update and Improvements Act, as amended, by a vote of 46-0
- [H.R. 6364](#), Medicare Telehealth Privacy Act of 2023, as amended, by a vote of 44-0
- [H.R. 1352](#), Increasing Access to Biosimilars Act of 2023, as amended, by a vote of 44-0

The bills that address PBM abuses include provisions to increase transparency, accountability, and de-link PBM compensation from the list price of a drug. Chairwoman Cathy McMorris Rodgers (R-WA) committed to working with members of the Committee on this legislation before it reaches the House floor. She also expressed interest in addressing reimbursement disparities between vertically integrated pharmacies and independent in-network pharmacies. Although he voted for the legislation, Representative Bill Johnson (R-OH) stressed that PBMs only account for six percent of drug costs and cautioned against inserting the federal government in Americans' health care decisions.

Legislation in this markup also included provisions to expand access to biosimilars, bring more transparency to direct and indirect remuneration pharmacy fees, and limit cost sharing for drugs under the Medicare program. Chair Rodgers referred to the Lower Costs, More Transparency Act ([H.R. 5378](#)) in her opening statement, which is on the House's schedule to be voted on under suspension of the rules next week.

Senate Finance Committee Hearing on Drug Shortages

Key Points:

- *On December 5, the Senate Finance Committee held a hearing on drug shortages.*
- *Senators discussed federal policies to bolster medical supply chain resilience, drug pricing, and PBMs.*

On December 5, the Senate Finance Committee held a [hearing](#) entitled "Drug Shortages: Examining Supply Challenges, Impacts, and Policy Solutions from a Federal Health Program Prospective." Topics discussed in the hearing included federal policies to bolster medical

supply chain resilience, drug pricing and PBMs, market solutions to improving medical supply chains, attention-deficit/hyperactivity disorder (ADHD) medication, and the Drug Enforcement Administration's (DEA's) manufacturing quotas.

Chairman Ron Wyden (D-OR) discussed the consequences of drug shortages and noted rural communities are particularly vulnerable. He said the Finance Committee plans to use the power of Medicare and Medicaid to deal with these shortages. Ranking Member Mike Crapo (R-ID) emphasized that 84 percent of shortages occur in generic drugs. He said reimbursement systems provide little incentive for drug manufacturers to compete on dimensions other than price, such as reliability and resiliency.

Upcoming Hearings and Events

December 12

SUPPORT Act: The Senate HELP Committee will hold a [markup](#) on the SCREENS for Cancer Act ([S. 1840](#)), the Advancing Research in Education Act ([S. 3392](#)), the SUPPORT Act ([S. 3393](#)), and the Modernizing Opioid Treatment Access Act ([S.644](#)).

December 13

AI in Health Care: The House Energy and Commerce Committee will hold a [hearing](#) entitled "Leveraging Agency Expertise to Foster American AI Leadership and Innovation."

December 14

Diabetes: The Senate HELP Committee will hold a [hearing](#) entitled "What is fueling the Diabetes Epidemic?"

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

CYBERSECURITY, PRIVACY, AND ARTIFICIAL INTELLIGENCE

New 23andMe Hack Exposes Millions of New User Records

Key Point:

- *23andMe was hacked again, which released millions more of new user genetic testing data.*

Two weeks ago, a hacker who goes by Golem leaked a large amount of genetic testing data from 23andMe. Now the same hacker just exposed millions more of new user genetic

testing data records on a cyber crime forum. The hacker claims the data includes information on those from Britain, including “the wealthiest people living in the U.S. and Western Europe.” 23andMe blamed the results of the incident on customers reusing passwords. This follows an incident in August where a hacker advertised user data on a cybercrime forum called Hydra. Some of the same data that was leaked during that hack matched some user records in this most recent hack ([Tech Crunch](#)). 23andMe provided an [overview](#) of their investigation into the data breach in their Securities and Exchange Commission filing.

The Cybersecurity and Infrastructure Security Agency (CISA) Posts Bulletin Warning About Known Adobe Vulnerability

Key Point:

- *CISA posted a bulletin warning about known Adobe software vulnerabilities that have been used to gain access to government systems.*

On December 5, CISA posted a [bulletin](#) outlining two incidents in June 2023 in which hackers exploited a known vulnerability in out-of-support versions of Adobe’s ColdFusion software. Most notably, this vulnerability was used to gain access to government servers.

The bulletin reads: “This vulnerability presents as an improper access control issue impacting Adobe ColdFusion versions 2018 Update 15 (and earlier) and 2021 Update 5 (and earlier). CVE-2023-26360 also affects ColdFusion 2016 and ColdFusion 11 installations; however, they are no longer supported since they reached end of life. Exploitation of this CVE can result in arbitrary code execution. Following the FCEB agency’s investigation, analysis of network logs confirmed the compromise of at least two public-facing servers within the environment between June and July 2023.”

Specifically, CISA noted that the hack was mainly a response effort to “map the broader network,” which could lead to increased future vulnerabilities. The agency also noted that it is unaware if the same hacker is behind both June 2023 cyberattacks.

Office of Management and Budget (OMB) Issues Requirements Regarding the Implementation of the Federal Information Security Modernization Act (FISMA)

Key Point:

- *OMB releases report detailing the need for continued cyber mitigation readiness as 20 federal agencies miss deadline or implementing cyber incident reporting requirements.*

OMB Director Shalanda Young [released](#) the agency's FY 2024 reporting guidance and deadlines in accordance with FISMA. The report details four key areas of focus including: measuring zero trust implementation, obtaining clear, actionable, and outcome-focused data, ensuring input from across the federal enterprise, and improving security-privacy coordination.

The report specifically mentions the Cybersecurity and Infrastructure Security Agency's (CISA) Continuous Diagnostics and Mitigation Program (CDM) as part of its goal to increase coordination with and visibility of continuous diagnostic mitigation capabilities. The report says: "The CDM program deploys commercial off-the-shelf CDM security tools to agencies for an initial two-year period, allowing those agencies and CISA to monitor vulnerabilities and threats to their systems in near real-time and to more effectively respond to cyber incidents. This increased situational awareness helps agencies prioritize actions to mitigate or accept cybersecurity risks."

The report goes on to highlight the necessity for a clear understanding of the devices connected within an organization's systems to gauge cybersecurity risk. This comes as 20 federal agencies missed their deadlines from implementing cyber incident reporting requirements. In a December 4 [performance audit](#), the Government Accountability Office (GAO) found that "many agencies have not met requirements for investigative and remediation (event logging) capabilities." 17 agencies did not comply past OMB's Tier 0 standards. The report stated: "Until the agencies implement all event logging requirements, the federal government's ability to fully detect, investigate and remediate cyber threats will be constrained."

Bipartisan Federal Cybersecurity Workforce Expansion Act Introduced in House

Key Point:

- *Bipartisan companion legislation to Senate's Federal Cybersecurity Workforce Expansion Act was introduced in the House by Representatives Chrissy Houlahan (D-PA) and Mike Gallagher (D-WI).*

On November 30, Representatives Chrissy Houlahan (D-PA) and Mike Gallagher (D-WI) introduced the [Federal Cybersecurity Workforce Expansion Act](#) which would establish a cybersecurity apprenticeship program in the Cybersecurity and Infrastructure Security Agency (CISA) and Department of Veterans' Affairs (VA). This bill follows companion legislation, [S.2256](#), introduced in the Senate in July.

In a statement, Rep. Houlihan said, “Reports of cyber attacks continue to rise, and we must respond accordingly to protect businesses, sensitive personal data, and ultimately our national security. Thankfully, our bipartisan, bicameral bill will help train veterans and other Americans to be the next generation of cyber defense professionals” ([Crissy Houlihan](#)).

In a statement, Rep. Gallagher said, “By creating programs that provide veterans with the skills they need to help protect this country in the cyber domain, this bill is an innovative way to bolster our nation’s cyber defenses and strengthen the federal cyber workforce while giving veterans an opportunity to continue serving their country” ([Mike Gallagher](#)).

Office of Financial Research (OFR) Release Report Detailing Risks to U.S. Financial Stability

Key Point:

- *The OFR released a report detailing several areas of cybersecurity vulnerabilities in the financial industry and urged more consideration of these risks.*

On December 6, the OFR published its 2023 [Annual Report to Congress](#) which found “Persistent and emerging risks are contributing to uncertainty within our financial system.” It cited high inflation, monetary policy tightening, Russia’s war in Ukraine threatening EU financial stability, credit risks, and increasing cybersecurity threats and contributors to its assessment. Specifically, the report made mention of cyber related risks that pose serious threats to U.S. financial security documenting a rise in cybersecurity threats: “financial institutions have faced cybersecurity threats from financially motivated groups. The percentage of organizations affected by ransomware has risen from 79% to 87% in 2023. This surge in ransomware attacks has resulted in the highest proportion of data breaches in the financial services industry since 2018.”

The report mentioned the risk to municipalities from cyber attacks, citing risks in protecting municipal debt and urging an increase in cybersecurity spending: “Cybersecurity poses an increasing threat to municipalities, as highlighted when the Federal Bureau of Investigation announced that local governments were the second-most victimized group. This suggests municipalities will need to increase their cybersecurity spending.” It went on to provide details on the cyber insurance industry, the need for agencies to update their cyber policy in accordance a proposed SEC rule aimed at broker-dealers, the Municipal Securities Rulemaking Board (MSRB), clearing agencies, major security-based swap participants, national securities associations, national securities exchanges, security-based swap data repositories, security-based swap dealers, and transfer agents, and the prioritization of zero trust cybersecurity capabilities.

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

TRADE

House Republicans Call for Reform of Export Controls Amid Disagreement About an Outbound Investment Scheme

Key Points:

- *House Foreign Affairs Chairman McCaul (R-TX), Chairman of the House Select CCP Committee Gallagher (R-WI), and Representative Stefanik (R-NY) have called on the Commerce Department to strengthen export controls.*
- *The letter comes after a request from Commerce Secretary Raimondo for additional congressional funding for the Department.*
- *The comments come amid disagreements between House GOP members about the ideal pathway to limit outbound investments into China.*

On December 8, House Select CCP Committee Chairman Gallagher (R-WI), House Foreign Affairs Chairman McCaul (R-TX), and Representative Stefanik (R-NY) issued a [joint statement](#) calling for the Department of Commerce to increase export control enforcement. The statement follows a request from Commerce Secretary Raimondo for additional funding for the Bureau of Industry and Security (BIS). The statement from the three House GOP members asserts the Commerce Department must “institute necessary reforms to keep U.S. technology from our adversaries” before they agree to provide additional resources to the BIS. Specifically, the release urges the Commerce Department to “demonstrate BIS is being reformed into a true national security agency that will do what needs to be done to counter China and other adversaries.” The release further calls on the Biden Administration to revoke licenses for Huawei products, provide full blocking sanctions for Chinese chipmaker SMIC, and place subsidiaries for BGI Research and Inspur Group on the Entity List.

Congress passed a continuing resolution in November 2023 providing the Commerce Department extended funding until February 2nd, 2024. Congressional contention around additional funding for BIS coincides with division amongst House GOP members about the implementation and scale of an outbound investment regime. House Financial Services Chairman McHenry (R-NC) publicly opposed the inclusion of an outbound investment amendment to the National Defense Authorization Act of 2024 ([S. 2226](#)) last week, stating

that an outbound investment regime should only target specific Chinese companies. He further asserted that a new outbound investment regime should bar any U.S. funding for the Chinese military-industrial complex while preserving the U.S.' strategic implementation of its capital markets in the country. Chairman McCaul and Chairman McHenry have begun negotiations on a hybrid system that would limit investments in certain sectors. Chairman McCaul, however, has indicated a willingness to put both proposed outbound investment regimes to a vote on the House floor separately if a compromise cannot be reached.

Senate Finance Chairman Wyden Calls for U.S. Consensus on Digital Trade Policy as USTR Defends Digital Trade Policy Withdrawal at WTO

Key Points:

- *USTR Tai has defended her office's decision to draw back support for previous digital trade priorities at the WTO.*
- *USTR Tai argues that rapid advancements in AI and other technologies mean that imposing untested priorities would be "policy suicide"*
- *Senate Finance Chairman Wyden (D-OR), a harsh critic of the action, has issued a letter calling for the Biden Administration to develop a consensus on future digital trade policies.*

U.S. Trade Representative (USTR) Tai has defended her office's withdrawal of support for trade priorities during digital trade negotiations at the World Trade Organization (WTO). While at the Aspen Security Forum, USTR Tai provided comments cautioning that rapid advancements in artificial intelligence and other technologies in the past half-decade have necessitated that the U.S. reconsider its positions on cross-border data flows and source code disclosures. The USTR's decision to withdraw digital trade priorities during WTO negotiations in late October faced sharp criticism from Senate Finance Chairman Wyden (D-OR), who issued a [press release](#) stating the action "directly contradicts its mission as delegated by Congress." He further asserted that the situation indicated that Congress should "reconsider the degree of that delegation going forward." Chairman Wyden met with White House officials in November to discuss his frustration about the USTR's decision. In addition, Chairman Wyden issued a [letter](#) to President Biden in late November asking him to "work with Congress and run a comprehensive consultation process – with other federal agencies, with the public, and with us – to reach a consensus U.S. position on these issues that promotes U.S. Competitiveness, innovation, and jobs."

Upcoming Hearings and Meetings

December 13

Export Controls Markup: On Wednesday, December 13, the House Foreign Affairs Committee will hold a markup on several measures, including [H.R. 6602](#), "To amend the Export Control Reform Act of 2018 relating to the review of the interagency dispute resolution process," [H.R. 6606](#) "To amend the Export Control Reform Act of 2018 relating to the statement of policy," [H.R. 6614](#) "To amend the Export Control Reform Act of 2018 relating to licensing transparency," and [H.R. 6416](#) the "Russian War Crimes in Ukraine Tax Act." The hearing will be held in HV 210 at 10:00 a.m., and [webcast](#) as well.

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