

**BGR** | GROUP

# Quarterly Outlook, May 2024

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Congress returns from a brief spring recess with a narrow window to advance legislation before election season truly takes over later this summer. The House and Senate have finally cleared last year's spending bills and a supplemental funding bill for Ukraine, Israel, and Taiwan. However, advancing these packages have imperiled the position of Speaker of the House Mike Johnson (R-LA) as he must manage a historically narrow majority and increasing consternation from his right flank.

In both the House and Senate, bipartisanship has become the name of the game as extremely tight margins and divided government make highly partisan initiatives non-starters. President Biden is fully focused on his rematch with former President Trump, who is fighting multiple legal battles. In the states, Governors are

taking action on major policy initiatives and preparing for the fall elections. What follows is an analysis from BGR's policy experts on key issues impacting Congressional, regulatory, and state agendas and the political environment overall.



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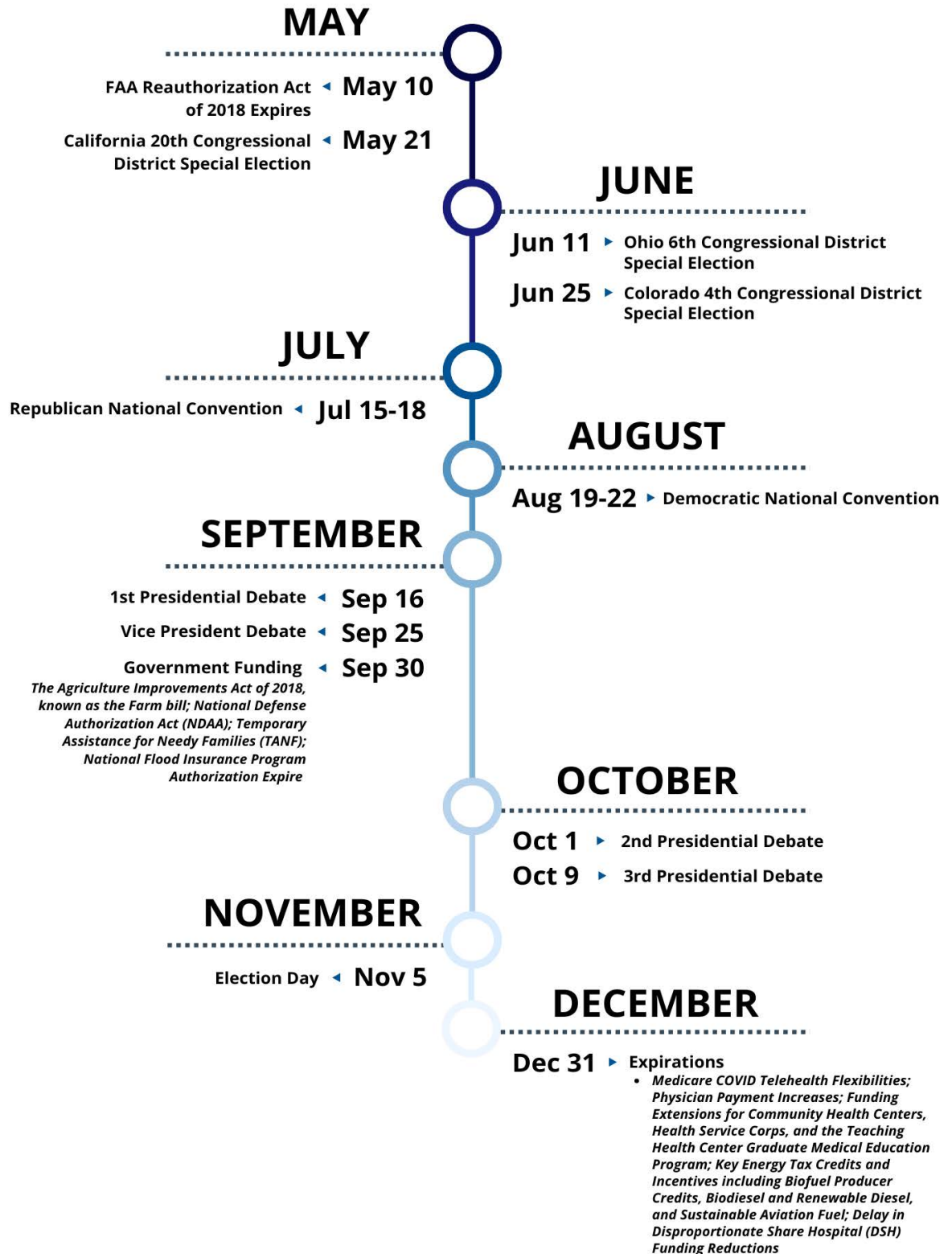
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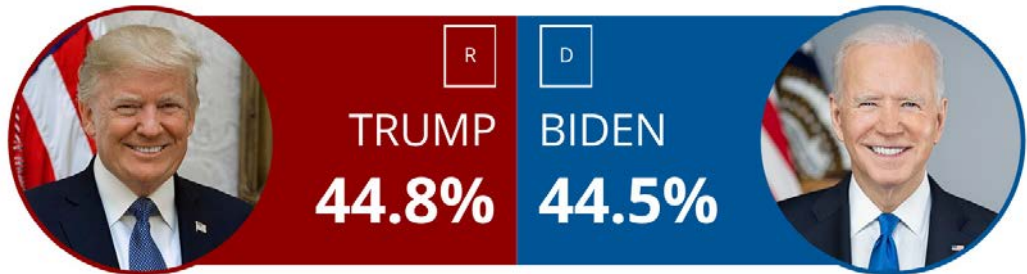
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# Political Preview

With exclusive analysis from THE TARRANCE GROUP

## PRESIDENTIAL POLLING

Six months out from election day, the 2020 rematch of President Biden versus former President Trump is essentially tied nationally and extremely close in key battleground states.



Source: RealClearPolitics as of 4/24



**B.J. Martino,**  
President and CEO, The  
Tarrance Group

“While individual polls vary, the national averages continue to show the Presidential race tied within a point. Of course, many agree that the race comes down to seven states, where third party candidates may play a huge role.

Currently, the averages generally give Donald Trump the edge in four states, with Michigan, Pennsylvania and Wisconsin the three most competitive.

If (BIG IF) that map holds, Donald Trump must win one of those three states to reach 270 electoral votes, while President Biden must win all three in order to hit 270 on the nose.

If Biden can put Arizona, North Carolina, or Georgia back into play, to cross 270 he must still win two of the three states with one of them having to be Pennsylvania.”

## KEY STATES TO WATCH





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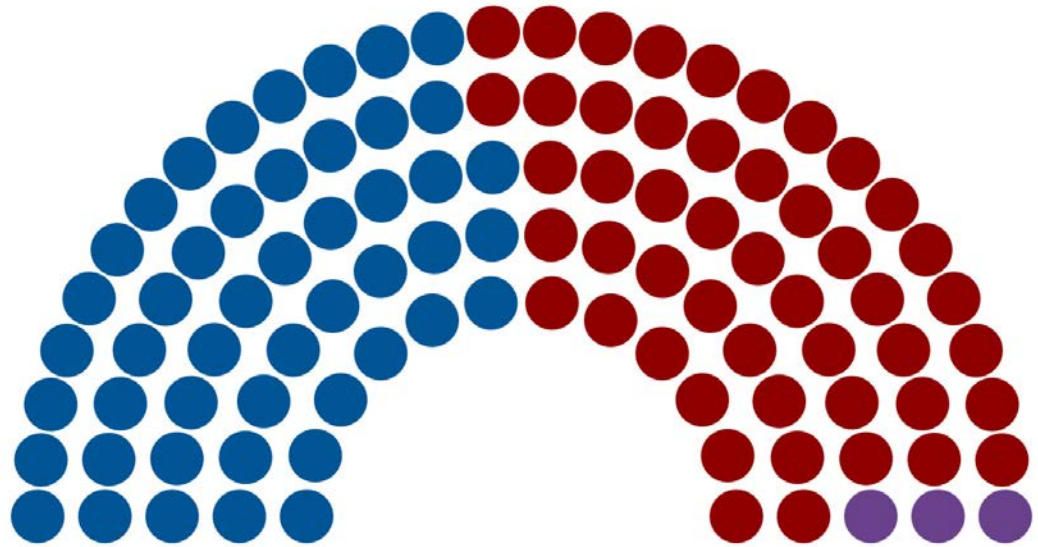
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# Political Preview

## SENATE LOOK AHEAD

Senate Democrats face a very tough map this fall and must counter two key retirements in West Virginia and Arizona. With Republicans on offense this cycle, they have a chance to retake the majority in the upper chamber.



Party	118th United States Congress
● Democrats	48
● Republicans	49
● Independents	3

## KEY STATES TO WATCH

**ARIZONA**  
 Krysten Sinema (Open)  
 2020 Results: Biden +0.3

**MONTANA**  
 Incumbent Jon Tester  
 2020 Results: Trump +16

**NEVADA**  
 Incumbent Jacky Rosen  
 2020 Results: Biden +2.4

**OHIO**  
 Incumbent Sherrod Brown  
 2020 Results: Trump +8

**WISCONSIN**  
 Incumbent Tammy Baldwin  
 2020 Results: Biden +0.63

**WEST VIRGINIA**  
 Joe Manchin (Open)  
 2020 Results: Biden +0.63

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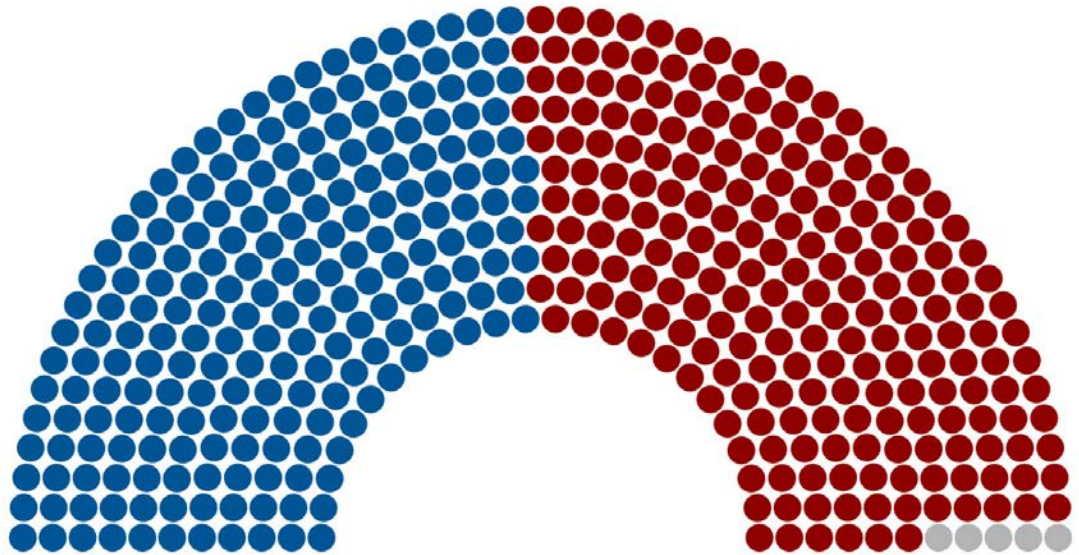
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# Political Preview

## HOUSE LOOK AHEAD

Control of the House of Representatives is up for grabs this fall. The margins have rarely been this tight, and retirements are at a historic high. Between vacancies and redistricting re-dos, the outcome could go either way.



Party	118th United States Congress
● Democrats	213
● Republicans	217
● Vacant	5

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# Procedural Primers

## PRIMER: CONGRESSIONAL REVIEW ACT

### A Tool to Overturn Biden Administration Regulations

#### Summary

The Congressional Review Act (CRA) requires agencies to report their rulemaking activities to Congress and provides Congress with a special set of procedures under which it can overturn those rules. These procedures are used as an oversight tool and are especially powerful in the first year after a change in the party of the President, when the new President's party controls Congress. Congressional Republicans used the CRA in the 115th Congress to overturn 16 of the Obama administration's regulations. Congressional Democrats used the CRA in the 117th Congress to overturn 3 of Trump administration regulations.



## PRIMER: BUDGET RECONCILIATION

### A Tool to Advance Fiscal Policy

#### Summary

Reconciliation is a very powerful tool for Congress to use, especially when a single party controls the House, the Senate and the White House. Reconciliation is particularly useful in the Senate because it is designed to overcome filibusters and limit the amount of debate time. Reconciliation was created in 1974 by the Congressional Budget Act to make it easier for Congress to alter revenue and spending to align with the annual budget resolution.

While reconciliation does not necessarily have to be partisan if both sides agree to an expedited process, in recent years it has been increasingly used for situations of one-party control in Washington, D.C.. Congress has sent 27 reconciliation bills to the President for signature and 23 of them became law.



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# Appropriations

## APPROPRIATIONS PROCESS MOVES FORWARD, STILL FRAUGHT WITH CONFLICT

Five months into Fiscal Year 2024 (FY24) and after several continuing resolutions, Congress finally [passed](#) the full-year appropriations topline at \$1.59 trillion for Fiscal Year (FY) 2024, slightly below the overall FY23 level in mid-March.

The Congress first cleared full-year appropriations for FY24 under a first “[minibus](#)” for six appropriations bills: Agriculture, Commerce-Justice-Science, Energy-Water, Interior-Environment, Military Construction-VA, and Transportation-HUD. The [second package](#) quickly followed on March 23, securing \$1.2 trillion in funding for the remaining bills on Defense, Financial Services-General Government, Homeland Security, Labor-HHS-Education, Legislative Branch, and State-Foreign Operations.

The appropriations bills included a record high of \$12.65 billion for more than 6,600 projects that members requested through the process often called community project funding (CPF) or congressionally directed spending (CDS), better known as earmarks. Find a detailed list of all projects that were requested, included, and funded in the FY24 appropriations bills here. Following the completion of FY24 appropriations bills, subcommittees of relevant jurisdictions have been driving the conversations and outlaying priorities for FY25 through budget hearings in both chambers. Congress has now approved \$95 billion in [foreign aid](#) for Ukraine, Israel, and other U.S. allies after months of negotiation and significant pushback from a majority of House Republicans.

*“With the November elections at the forefront of everyone’s minds, the budget cycle is sure to remain fraught and highly politicized.”*



**Bill Viney**

PRINCIPAL, APPROPRIATIONS PRACTICE

Looking ahead, the federal government has six months until the start of the next appropriations cycle. Congress is at the height of discussions for FY25, and most congressional offices have already begun considerations of CPF and CDS requests for the next round of appropriations bills. With the significant delay in settling current-year funding, House Appropriations Committee (HAC) Chairwoman Kay Granger (R-TX) relinquished her gavel early, giving way to the new Chairman, Tom Cole (R-OK), and his [senior staff](#). Chairman Cole recently [released](#) Committee [guidelines](#) for programmatic and language requests with May dead-

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lines for Community Project Funding (CPF) request submissions. See CPF guidance and details for each subcommittee [here](#). See the eligible accounts for CPF requests [here](#). See *the full list of the Chairman’s new subcommittee leadership and member roster* [here](#). As they make the quick transition to prepare for FY25, appropriators are faced with smaller windows and tighter deadlines to catch up to regularly scheduled programming.

Chairman Cole now faces the challenge of gaining support for future spending packages from his Republican colleagues, many of whom are still displeased from last month’s \$1.2 trillion spending deal and the Ukraine aid package. With the new leadership in place, Cole has already vowed to try to limit the number of “political”

projects following some controversies during the last cycle, specifically about earmarks. His colleague Rep. Robert Aderholt (R-AL) has also proposed ideas to require both subcommittee leaders, in both the House and Senate, to sign off on earmarks before they make it into funding bills. However, the final decision is of course up to Speaker Mike Johnson (R-LA), who still faces the possibility of losing his speakership. With the November elections at the forefront of everyone’s minds, the budget cycle is sure to remain fraught and highly politicized.

*Bill helps clients navigate the appropriations process through both legislation and agency advocacy.*

**APPROPRIATIONS PRACTICE HEAD**

**Bill Viney**

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# Health and Life Sciences

## CHANGE HEALTHCARE CYBER ATTACK A CAUTIONARY TALE

The issue of cybersecurity has garnered new interest in the health care field following a cyberattack on Change Healthcare.

Change Healthcare – a subsidiary of UnitedHealth Group (UHG) – is a clearinghouse for claims and payment in the medical field. Change Healthcare manages roughly 15 billion transactions annually.

Back in February, Change disclosed it had been impacted by a cyberattack. In the wake of the cyberattack, Change took their systems offline. A cyber criminal group – ALPHV/Blackcat – took responsibility for the breach.

Taking Change’s systems offline had a profound impact on the health care sector. Many providers – including pharmacies – lost the ability to process claims for services, and thus were left without access to revenue streams.

The Biden administration responded to the attack in early March, with a focus on improving providers’ access to revenue. The administration made advanced payments available through Medicare, in which providers could receive expected future claims in a lump sum payment to be paid back over time. The administration also held multiple meetings with commercial insurers urging them to do the same.

Not all stakeholders were pleased with the federal response. Health and Human Services (HHS) Secretary Xavier Becerra took pointed questions from both parties during Congressional testimony, with some Republicans criticizing the pace of HHS’ response.



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*“The Change Healthcare cyberattack has raised the issue of cybersecurity to the forefront of health policy discussions in the executive and legislative branches. Look for more policy activity in this space moving forward.”*



**Dan Farmer**  
PRINCIPAL

Congress has signaled a significant interest in further oversight of the cyberattack. Both the Senate Finance Committee and the House Energy and Commerce Committee have indicated UHG’s CEO will appear before their committees in coming weeks.

The cyberattack and its fallout have also opened larger policy questions for the Congress and the Administration. General preparedness, possible cybersecurity mandates on hospitals and health systems, and the impact of consolidation have all been a part of early discussions.

The House Energy and Commerce Committee held an initial hearing on the matter last week.

The Change Healthcare cyberattack has raised the issue of cybersecurity to the forefront of health policy discussions in the executive and legislative branches. Look for more policy activity in this space moving forward.

*Dan previously led federal advocacy efforts on behalf of Cleveland Clinic after serving in numerous roles at CMS (the Centers for Medicare & Medicaid Services) and Congress.*

**HEALTH AND LIFE SCIENCES PRACTICE CO-HEADS**

**Brent Del Monte**

**Remy Brim Mason, Ph.D.**

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# Commerce and Infrastructure

## PRIVACY MEASURES MOVING FORWARD WITH BIPARTISAN, BICAMERAL SUPPORT

Following the unveiling of the American Privacy Rights Act (APRA), a landmark draft data privacy proposal by House Energy and Commerce Chair Cathy McMorris Rogers (R-WA) and Senate Commerce Chair Maria Cantwell (D-WA), the outlook for legislative action on privacy in 2024 has become significantly more positive.

APRA marks the first time bicameral agreement has been reached on a comprehensive federal privacy bill by the respective chairs of each committee of jurisdiction.

The Innovation, Data and Commerce subcommittee of the House Energy & Commerce Committee recently held a legislative hearing focused on APRA, as well as newly-introduced House versions of the Kids Online Safety Act (KOSA), and the Children's Online Privacy Protection Act 2.0 (COPPA 2.0). The hearing was notable for its generally mild and supportive tone from witnesses as well as members of both parties. None of the committee members engaged in any overtly negative questioning, and no major dealbreakers were identified, while many of the members expressed outright support and hopes or predictions that the bill will move this year.

Members on both sides of the aisle also expressed support for KOSA and COPPA 2.0, although Ranking Member Frank Pallone's (D-NJ) questions focused on his preference

to include protections for children within the comprehensive privacy bill, rather than rely on separate bills focused on kids. In particular, he highlighted deficiencies of the COPPA 2.0 notice-and-consent regime and data minimi-

*“APRA marks the first time bicameral agreement has been reached on a comprehensive federal privacy bill by the respective chairs of each committee of jurisdiction.”*



**Robin Colwell**  
PRINCIPAL

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zation requirements vs. provisions that were included in ADPPA last Congress. He also wants a centralized mechanism for consumers to request deletion of their data, similar to that included last Congress in the American Data Privacy and Protection Act (ADPPA), to be included in APRA.

We expect that Chair Rodgers will work quickly to secure the support of Ranking Member Pallone, and move to Subcommittee, and perhaps full Committee, markups of APRA in May. Accordingly, it is critical for stakeholders to make their feedback clear to the Committee staff and seek any desired changes as soon as possible. It's unclear which of the other bills included in the hearing would be included in that Subcommittee markup, but with many of the Committee members referencing a "pack-

age" in their remarks at the hearing, it appears that the Committee will attempt to include as many of them as possible after receiving input from stakeholders.

Meanwhile, Chair Cantwell has not shared details of potential hearing plans on the Senate side, where the Senate Commerce Committee is expected to spend significant time in May working on Federal Aviation Administration reauthorization. However, we would expect her to turn her attention toward this landmark privacy proposal at some point during the summer.

*Robin is a Principal with BGR's Commerce and Infrastructure Practice and previously served at the National Economic Council as a senior advisor to Director Larry Kudlow and as Chief Counsel on the House Energy & Commerce Committee.*

**COMMERCE PRACTICE CO-HEADS**

[Justin Rzepka](#)

[Jonathan Mantz](#)

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# Financial Services

## IS A STABLECOIN/CANNIBAS DEAL IN THE OFFING?

Rumors of progress on a bipartisan, bicameral stablecoin/cannabis deal between House Financial Services Chairman Patrick McHenry (R-NC) and Senate Majority Leader Chuck Schumer (D-NY) continue to gain traction. Chairman McHenry remains highly focused on getting his stablecoin regulation bill across the finish line and reaching agreement with Ranking Member Maxine Waters (D-CA), while Schumer hopes to get the SAFER Banking Act finalized.

While the sides are rumored to be close, including agreement on the Federal Reserve custody language in the package, Senate Banking Chair Sherrod Brown (D-OH) signaled last week that he wants to include executive compensation clawback (in the form of the bipartisan RECOUP Act, which Senate Banking passed 21-2 last June) in a stablecoin/cannabis deal.

RECOUP and other possible provisions are entering the mix and could delay a deal, possibly to the lame duck session of Congress after the election, but timing remains very fluid, with key negotiators still aiming for mid-May and attaching a deal to an FAA reauthorization, which needs to be reauthorized by May 10. For many reasons, including the congressional calendar and the

limited availability of floor time, this kind of a deal is highly unlikely to pass as a standalone bill in the House or Senate, and would more likely be attached to a larger, must-pass bill. The entrance of new provisions like executive compensation clawback can be interpreted as a positive sign that Senators who are critical to a deal's passage (like Chairman Brown) are taking this possible deal seriously and trying to add their own priorities. If new provisions remain bipartisan and broadly supported, support for getting a deal done will likely grow.

While the bipartisan, bicameral support for a deal is a positive sign for stakeholders, real risks remain. On April 8, Senator Elizabeth Warren (D-MA) wrote to McHenry and Waters express-

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*“If new provisions remain bipartisan and broadly supported, support for getting a deal done will likely grow.”*



**Keaghan Ames**  
VICE PRESIDENT

ing “concerns about the risks that stablecoins pose to consumers, financial stability, and our national security.” Warren did not expressly oppose the rumored stablecoin deal but did stress the need for “strong rules that ensure safety and soundness, respect the bedrock principle of ‘same risk, same activity, same regulation,’ and mitigate risks to consumers, financial stability, and our national security.” It’s worth noting that Senator Warren has strong allies and former staffers in senior positions at the National Economic Council and at the Treasury Department, and her influence within the Biden administration could be a significant factor in any final deal language and future rule-makings that could follow enactment.

Finally, with regard to the Biden administration, Deputy Secretary Wally Adeyemo testified in the Senate Banking Committee on April 9 and urged the committee to give Treasury addi-

tional tools to combat illicit financial transactions involving cryptocurrency. Adeyemo asked the committee to pass: secondary sanctions language targeting foreign digital asset providers; modernized Bank Secrecy Act (BSA) language to cover virtual asset service providers (VASPs) and exchanges; and reforming current authorities to clarify that Treasury has extraterritorial jurisdiction “when digital asset entities harm our national security while taking advantage of our financial system.” Expect the administration to push for additional tools to combat illicit finance in any final deal, which will add another wrinkle to a complicated process.

*Keaghan previously worked at the Commodity Futures Trading Commission (CFTC) as Senior Policy Advisor and Counselor to Commissioner Caroline D. Pham.*

**FINANCIAL SERVICES PRACTICE HEAD**

**Andy Lewin**

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# Defense & Critical Technologies

## KEY AUTHORIZATION, FUNDING BATTLES AHEAD FOR DEFENSE PANELS

Lawmakers are seeking a robust topline increase to the administration's \$849.8 billion budget request for the Department of Defense (DOD). The FY 2025 topline, a roughly 1 increase from last year's request, is in line with the spending caps put in place by the Fiscal Responsibility Act (FRA) but falls well short of what the DOD needs to keep pace with China, lawmakers argue.

Senator Roger Wicker (R-MS), the top Republican on the Senate Armed Services Committee, slammed Biden's budget as "backward," and warned this level of spending will cause the U.S. to fall behind China, which is increasing its military budget by seven percent. House Appropriations Subcommittee on Defense Chairman Ken Calvert (R-CA) argued that DOD must increase its budget by at least 3% to 4% annually to keep pace with threats from China and Russia.

As the House Armed Services Committee (HASC) and Senate Armed Services Committee (SASC) panels mark up their versions of the National Defense Authorization Act (NDAA), lawmakers will push to increase authorized spending levels in artificial intelligence, munitions, shipbuilding, and aircraft procurement. The House NDAA will also include military quality-of-life legislation that will increase basic pay tables for junior enlisted troops by 15

percent, authorize an additional \$1.2 billion for military basic housing allowance, and broaden the eligibility for the military's basic needs allowance. HASC and SASC will also aim to modernize air defense systems as munitions expenditure rates continue to climb in the Middle East and shape the Replicator Program, which aims to quickly field thousands of all-domain, "attributable" autonomous systems. In addition to the work being done by the Armed Services Committees over the next several months, the NDAA will likely include several bill riders. As one of the only pieces of legislation likely to pass in a contentious election year, the NDAA could carry legislation advancing the implementation of AUKUS Pillar II with changes to International Traffic in Arms Regulations (ITAR) and export controls. Recommendations from the House Select Committee on the CCP (Chinese Communist Party) aimed at restricting the ability of Chinese companies

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*“As the defense panels write their legislation over the coming months, lawmakers will also have to navigate political posturing ahead of the November elections and a slim House Republican majority further fractured by the debate over national security supplemental spending.”*



**Dan Greenwood**  
PRACTICE HEAD

to operate in the U.S. are also expected to be considered with the NDAA.

The House and Senate Appropriations panels will likely markup the defense spending bills above the topline requested by the DOD but must alter the statutory caps mandated by the FY2024 Fiscal Responsibility Act (FRA) as part of the debt limit negotiations last summer. While the Armed Services Committees authorize defense spending, the funds are allocated by the Appropriations Committees, and will not likely flow until early next year. To increase defense spending above the statutory caps, appropriators will have to work with leadership in both chambers to amend the FRA, a process that will likely force Republicans to make concessions to increase the DOD’s budget. The Appropriations panels will aim to increase the R&D and procurement budget above the \$143.2 billion

and \$167.5 billion requested by the administration. These committees are expected to legislate increases to the shipbuilding, IT modernization, and artificial intelligence budget lines. Underperforming programs that have failed to produce systems, like the Long-Range Hypersonic Weapons program, could face cuts to offset the increases.

As the defense panels write their legislation over the coming months, lawmakers will also have to navigate political posturing ahead of the November elections and a slim House Republican majority further fractured by the debate over national security supplemental spending.

*A retired USMC Colonel, Dan previously served as Deputy Assistant to the President and Deputy Director of the White House Office of Legislative Affairs.*

**DEFENSE AND CRITICAL TECHNOLOGIES PRACTICE CO-HEADS**

**Amb. Doug Lute - Chair**

**Dan Greenwood - Head**



# International and Trade

## U.S. TRADE POLICY SHIFTING PROTECTIONIST, REGARDLESS OF ELECTION OUTCOME

Both President Biden and Former President Trump are increasingly willing to increase trade barriers as the U.S. adopts a more nationalistic, if not protectionist, approach to trade, though the candidates diverge on how they implement these barriers.

Regardless of the outcomes of the 2024 election, U.S. trade policy will increasingly turn hawkish. A second Biden administration will seek targeted tariffs and trade barriers, often in concert with allies and partners with the U.S. leading collectively, while a second Trump administration would seek a more unilateral approach, with the U.S. leading by example to build leverage for future engagements.

While the Biden administration has largely sought to lower trade barriers with partners and increase multilateral coordination through vehicles like the Indo-Pacific Economic Forum (IPEF), their experience crafting an economic response to Russia's invasion of Ukraine, combined with deep concerns in the administration over People's Republic of China (PRC) overcapacity in areas like electric vehicles, have increased the Biden trade team's willingness to

use coercive tools like tariffs to support American production.

In recent months and weeks, the Biden administration has announced a Committee on Foreign Investment in the U.S. (CFIUS) review of the acquisition of U.S. Steel by Japan's Nippon Steel, announced a Section 301 investigation of PRC shipbuilding to determine if tariffs should be applied, called for a tripling of tariffs on PRC steel and aluminum, and coordinated with the EU on investigations into PRC overcapacity in electric vehicles and green energy technology. Some of Biden's recent actions have been driven by Biden's strong embrace of U.S. unions – the United Steelworkers have prioritized addressing PRC shipbuilding, auto imports, and the sale of U.S. Steel, and Biden is counting on the support of unions like the USW in the November elections. Through much of the Biden adminis-

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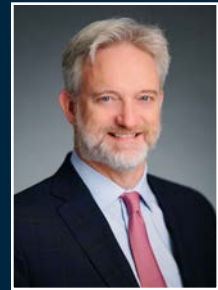
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*“Regardless of the outcomes of the 2024 election, U.S. trade policy will increasingly turn hawkish. A second Biden administration will seek targeted tariffs and trade barriers, often in concert with allies and partners with the U.S. leading collectively, while a second Trump administration would seek a more unilateral approach, with the U.S. leading by example to build leverage for future engagements.”*



**Lester Munson**  
PRACTICE CO-HEAD

tration’s actions, it has sought to engage allies and partners to build bilateral or multilateral approaches to trade. For example, in investigating PRC EVs, the Biden administration also significantly engaged with Mexico to prevent PRC automakers from accessing Mexican incentives and undermining the USMCA trade agreement and engaged with the EU through the U.S.-EU Trade and Technology Council (TTC) to build coordination across the Atlantic on EV overcapacity investigations.

While the Biden team has turned more hawkish on trade, there is no denying the Trump campaign’s opening proposal is significantly

more protectionist. Former President Trump has signaled his intentions to impose 60% tariffs on imports from China – far higher than the Section 301 tariffs currently in place – and a blanket 10% tariff for all other countries. While the Trump campaign team likely intends for this proposal to be the opening leverage for larger trade deals, the Campaign is increasingly open to leaving these high tariffs in place if a deal is not met.

*Lester previously served as Staff Director of the Senate Foreign Relations Committee and Chief of Staff for Senator Mark Kirk of Illinois.*

**INTERNATIONAL AND TRADE PRACTICE CO-HEADS**

**Maya Seiden**

**Lester Munson**

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# Public Relations

## COALITIONS GET THINGS DONE

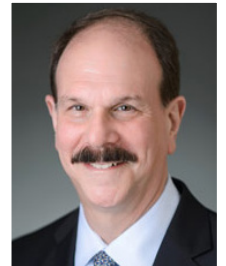
The new “it” word in Washington is coalition. That is what the House is moving toward to get anything of substance done this year. Coalition – as in a bipartisan coalition. A rolling group of Republicans and Democrats must cooperate to make the gears of government turn.

In truth, coalitions have always been the way to get things done in official Washington and not just among lawmakers. Coalitions of various kinds – especially coalitions of unlikely partners – are a fundamental public affairs strategy that has become even more essential because of how narrowly divided the political world is these days.

The U.S. is 50-50, evenly divided between voters who back Democrats and the GOP. The result is a closely divided Congress and a very tight race for the presidency this year, at least according to national polls.

To pass legislation, this means that interest groups and companies need to find allies on both sides of the aisle. Groups seeking to pass something into law must find odd bedfellows (to borrow a literary cliché) to join them in the fight.

*“Big legislative battles such as tax reform or immigration reform are natural for coalitions. The larger the coalition, the better the chance that advocates will be heard during these always loud legislative battles. The tighter the partisan divide in the nation and in Washington, the more lobbying needs coalitions to get things done.”*



**Jeff Birnbaum**  
BGR PR PRESIDENT

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The typical kind of coalition is to pair, say, labor and management to push for a policy outcome. But there are lots of types of unlikely groupings. Often, they come down to another cliché: putting white hat groups in front of black hat groups to give a controversial issue the best chance of success.

If the tactic sounds hard to create and control, you hear correctly. Keeping a variety of entities working together on matters as complex as legislation takes skill and patience. Coalition partners often are pulling apart rather than rowing in the same direction. Only the importance of a coalition’s unified goal can prevent dissolution.

Another key is to keep the coalition focused on its legislative goal – zeroing in on what the coalition members agree about rather than on their peripheral disagreements. Another

method to maintain unity is to give the public-spokesperson role to one or a handful of coalition members who care most about the issue allowing the other members to lay low and lend silent support.

Big legislative battles such as tax reform or immigration reform are natural for coalitions. The larger the coalition, the better the chance that advocates will be heard during these always loud legislative battles.

The tighter the partisan divide in the nation and in Washington, the more lobbying needs coalitions to get things done.

*Jeff previously served as a White House, congressional and tax reporter for the Wall Street Journal, a senior political correspondent for Time Magazine, Washington bureau chief for Fortune Magazine and a columnist for the Washington Post.*

**PUBLIC RELATIONS PRACTICE HEAD**  
**Jeff Birnbaum**

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# State and Local Advocacy

## STATES STEP-UP ON THE INTERNATIONAL STAGE: MARKET UNCERTAINTIES FOLLOW

State leaders are becoming increasingly active on international issues beyond traditional roles of courting trade relationships and foreign direct investment. A combination of international developments, local political dynamics, and the perceived failure of Washington to act on high profile issues have pushed many state and local officials from governors and attorneys general to legislators and mayors to weigh-in on a broader set of issues outside of their borders.

This dynamic is exacerbated in a presidential election year and compounded at the state level where lawmakers can move faster, especially when one party controls all three branches of government. An overarching impact has been to create an uncertain, and often fluctuating, legal and regulatory climate for multi-state companies across industries from tech to financial services to agriculture.

Front and center is the partisan debate over economic, social, and governance (ESG) investments, which began as a domestic political issue and has since evolved to encompass push-back against foreign adversaries. Many states – primarily those controlled by Republicans – are expanding existing measures that prohibit pension funds from doing business with countries like Iran or with parties that refuse to do business with Israel to include entities tied to Russia and China. This is significant as 42 states have at least one public pension that has made private equity/venture capital investments in mainland China or Hong Kong. States are also banning or seriously curtailing the use of certain China-affiliated technologies (see Tik Tok) and expanding laws limiting contracting with

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**William Crozer**  
PRACTICE CO-HEAD

foreign adversary-related entities to include those associated with Russia and China (see, for example, model legislation from the American

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Legislative Exchange Council (ALEC), [LD 877](#) in Maine, [LB 1300](#) in Nebraska, and [SB 264](#) in Florida). The impact could be significant across state procurement opportunities.

While many states have existing public investment laws on the books limiting engagement with defined foreign adversaries, a new trendline among state governments is imposing restrictions on certain foreign ownership of real estate, particularly agricultural land, behind policy justifications ranging from overarching security concerns to protecting trade secrets and supply chains. This movement has been championed by conservative organizations, like the [Heritage Foundation](#) and [America First Policy Institute](#), which carry significant weight with Republican lawmakers in state capitals across the country. Over the past year, at least 15 governors—all Republican—have signed bills or executive orders updating their laws in an effort to limit or bar foreign ownership of land.

The Biden administration’s focus on addressing climate change has also spurred state and local action, particularly in Democratically led states, with California at the forefront, and cities that are directly engaging in an effort to move faster than the federal government. Their efforts include committing to aggressive emis-

sions reductions targets, investing in renewable energy (turbo charged by the Inflation Reduction Act), and forging new partnerships, like the U.S. Climate Alliance, created in 2017 as a coalition of states committed to upholding the goals of the Paris Agreement, and U.S. Climate Mayors, a 500+ member city organization also committed to upholding the Paris Agreement. On the other side of the political spectrum, a number of Republican attorneys general have targeted international organizations, such as Climate Action 100 ([see here](#)), as well as signatory companies, by raising concerns that collaborations among firms to achieve ESG goals violate antitrust laws.

The takeaway from this collective activity? As November elections approach, the remainder of 2024 will remain challenging as businesses are forced to navigate the often conflicting political and policy priorities of red and blue state leaders.

*William is Co-Head of BGR’s State and Local Advocacy Practice. He previously served as a Special Assistant to the President and Deputy Director of the White House Office of Intergovernmental Affairs (IGA) in the Trump-Pence Administration.*

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