



Health Policy Briefing

February 26, 2024

Agencies Prepare for Partial Shutdown as March 1 Deadline Approaches

The House of Representatives will vote on four separate appropriations bills this week to avert a partial government shutdown as Congress' first funding deadline approaches on March 1. House Speaker Mike Johnson (R-La.) acknowledged on a call with the GOP conference Friday night that another stopgap spending bill may be necessary to provide lawmakers with additional time to pass the Agriculture-Food and Drug Administration, Military Construction-Veterans Affairs, Energy-Water, and Transportation-Housing and Urban Development spending bills. House members are not scheduled to return to session until Wednesday. Senate Majority Leader Chuck Schumer (D-N.Y.) sent a letter to lawmakers on Sunday reporting that "intense discussions" continue. Although appropriators continue to work toward a compromise on the spending bills, many note that partisan policy riders are presenting hurdles. The federal government once again formally initiated the process of preparing for a partial shutdown, with the Office of Management and Budget instructing agencies to review and update their shutdown plans and providing templates for notifying employees of the status of appropriations. Lawmakers face a March 8 deadline for the remaining eight appropriations bills, including funding for the U.S. Department of Health and Human Services.

Leadership Announces New Bipartisan AI Task Force

House Speaker Mike Johnson (R-La.) and Minority Leader Hakeem Jeffries (D-N.Y.) have launched a new task force on artificial intelligence. The 24-member task force will be chaired by Rep. Jay Obernolte (R-Calif.) and co-chaired by Rep. Ted Lieu (D-Calif.). Membership includes several lawmakers active in the health care policy space, including Reps. Anna Eshoo (D-Calif.), Neal Dunn, MD (R-Fla.), Michelle Steel (R-Calif.), Don Beyer (D-Va.), Ami Bera, MD (D-Calif.), Bill Foster (D-Ill.), Rich McCormick, MD (R-Ga.), and Sara Jacobs (D-Calif.). The group plans to release a report outlining bipartisan proposals for regulating AI technology and spurring investment in AI later this year.

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Coons, Tillis Spearhead Letters on March-In Rights, IP Protection

Sens. Chris Coons (D-Del.) and Thom Tillis (R-N.C.) are [urging](#) the Biden administration to reconsider its proposal to exercise march-in rights under the *Bayh-Dole Act* as a means to reduce the price of prescription drugs. The letter, which was signed by more than two dozen lawmakers, highlights the potential unintended consequences of including “reasonable pricing” as a factor in the draft framework for initiating the use of march-in rights. “Entrepreneurial startups and small companies across industries – from green technology and precision agriculture to advanced computing and semiconductors – would be subject to march-in petitions challenging their pricing decisions by rival businesses and even our foreign competitors and adversaries, who could use this tool to cast a cloud over the companies that drive our economy,” the lawmakers warn. They also outline the possible impact of the draft march-in framework on U.S. academic research institutions and efforts to revitalize American manufacturing and technological innovation.

The letter concerning the *Bayh-Dole Act* follows a [letter](#) sent by Sens. Coons and Tillis, along with Sens. Mazie Hirono (D-Hawaii) and James Lankford (R-Okla.), to National Security Adviser Jake Sullivan regarding the proposed global accord on pandemic prevention, preparedness, and response currently being negotiated by members of the World Health Organization. The lawmakers express concerns that the proposed agreement could undermine intellectual property (IP) laws “based on a faulty premise that IP rights impeded the global response to the COVID-19 crisis.” The letter asserts that many factors other than IP were responsible for barriers to treatment access, and that IP protection is “at the core of successful pandemic preparedness.”

Cassidy Releases White Paper on Health Data Privacy Protections

Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-La.) released a new [report](#) last week outlining proposals to improve Americans’ health data privacy. The paper reviews the existing health privacy framework and discusses health data in the Health Insurance Portability and Accountability Act (HIPAA) “gray area” as well as data that falls outside of HIPAA. The white paper follows a request for information issued by Cassidy last year on how to enhance health data privacy protections covered under HIPAA as well as protections for new sources of data. Cassidy argues that Congress “needs to create guardrails around how health data not covered by HIPAA is shared to ensure interoperability does not sacrifice patient privacy” and should “create a more sustainable framework for future information sharing.”

Alabama Supreme Court Issues Ruling on Frozen Embryos

The Alabama Supreme Court ruled last week that couples who lost frozen embryos in an accident at a storage facility can sue under the state’s wrongful death law. The decision reverses a lower court ruling which dismissed the wrongful death claim on the grounds that the embryos were not a person or child. Since the decision, at least three of the state’s in vitro fertilization clinics have announced that they were pausing IVF services as they work to determine the legal implications of the ruling.

Congressional Retirements and Resignations

A running list of members of Congress who are retiring or seeking other office can be found below.

SENATE	
Stabenow (D), MI	Braun (R), IN
Cardin (D), MD	Romney (R), UT
Carper (D), DE	
Butler (D), CA	
Manchin (D), WV	
HOUSE OF REPRESENTATIVES	
Porter (D), CA	Mooney (R), WV
Lee (D), CA	Banks (R), IN
Gallego (D), AZ	Bishop (R), NC
Schiff (D), CA	Lesko (R), AZ
Slotkin (D), MI	Granger (R), TX
Allred (D), TX	Buck (R), CO
Trone (D), MD	Burgess (R), TX
Blunt Rochester (D), DE	Wenstrup (R), OH
Napolitano (D), CA	McHenry (R), NC
Wexton (D), VA	McCarthy (R), CA (effective Dec. 31, 2023)
Kim, Andy (D), NJ	Johnson (R), OH (effective Jan. 21, 2024)
Jackson, Jeff (D), NC	Ferguson (R), GA
Sarbanes (D), MD	Curtis (R), UT
Blumenauer (D), OR	Luetkemeyer (R), MO
Kilmer (D), WA	Lamborn (R), CO
Spanberger (D), VA	Bucshon (R), IN
Kildee (D), MI	Pence (R), IN
Phillips (D), MN	Duncan (R), SC
Cardenas (D), CA	Armstrong (R), ND
Eshoo (D), CA	McMorris Rodgers (R), WA
Manning (D), NC	Gallagher (R), WI
Higgins (D), NY (effective Feb. 2, 2024)	Green (R), TN
Nickel (D), NC	
Ruppersberger (D), MD	
Sablan (D), MP	

Upcoming Congressional Hearings and Markups

Senate Budget Committee hearing “No Rights to Speak of: The Economic Harms of Restricting Reproductive Freedom;” 10:00 a.m.; February 28

Senate Armed Services Subcommittee on Personnel hearing to receive testimony on traumatic brain injury and blast exposure care; 3:00 p.m.; February 28

House Energy and Commerce Subcommittee on Health hearing “Legislative Proposals to Support Patients with Rare Diseases;” 10:00 a.m.; February 29

Recently Introduced Health Legislation

H.R.7406 — To amend the Public Health Service Act to authorize the Secretary of Health and Human Services to carry out a program of research, training, and investigation related to Down syndrome, and for other purposes. Sponsor: McMorris Rodgers, Cathy [Rep.-R-WA-5]; Committees: House - Energy and Commerce

H.R.7405 — To amend title 10, United States Code, to prohibit the exclusion of an individual from assignment to a medical personnel position of the Armed Forces on the basis of the amputation of the individual, and for other purposes. Sponsor: McMorris Rodgers, Cathy [Rep.-R-WA-5]; Committees: House - Armed Services

H.Res.1025 — Expressing support for the designation of April 5, 2024, as “Barth Syndrome Awareness Day”; Sponsor: Tonko, Paul [Rep.-D-NY-20]; Committees: House - Energy and Commerce

H.R.7418 — To amend the Internal Revenue Code of 1986 to exclude from gross income certain compensation to clinical trial participants; Sponsor: Kelly, Mike [Rep.-R-PA-16]; Committees: House - Ways and Means