

Contents

Chapter Title	Page
FY2026 spending	2
Second reconciliation bill?	4
Tax	7
Health care	11
Trade	15
Financial services	18

Overview

With the return of Congress from the August recess, there is a focus on extending government funding that expires after September 30 and on prospects for additional tax and health legislation. Additional legislation could take the form of another reconciliation bill that House Speaker Mike Johnson (R-LA) sees being completed "late in the fall" and/or a potential package of bipartisan priorities that could be attached to a year-end appropriations bill. Lawmakers are going to be busy during September focusing on the government funding deadline right around the corner on September 30, and that process could have implications for moving additional tax and health legislation. In the past, it has been common for government funding to be patched beyond September 30 and then extended through a long-term spending bill, close to year end, that provides a vehicle for tax, health and other items. There are tax and health items that expire at the end of 2025; the 90% limitation on gambling losses, which was enacted in the One Big Beautiful Bill Act and lawmakers want to reverse, takes effect in 2026; and many provisions that weren't addressed in the bill signed into law on July 4. All of these issues could be drivers for additional legislation this year.



Washington Council Ernst & Young (WCEY) is a group within Ernst & Young LLP that combines the power of a leading professional services organization with on-the-ground knowledge, personal relationships and attention to detail of a boutique policy firm. We provide our clients with timely, relevant Washington insight and legislative advisory services customized to their needs.

FY 2026 spending

Because the appropriations process is just getting off the ground, Congress will almost certainly need to enact a temporary continuing resolution (CR) to extend government funding beyond September 30. That will require the support of some Democrats because appropriations bills require 60 votes in the Senate. There has been a high level of distrust between the parties on appropriations following the July 24 rescissions package and the late August "pocket rescission" by President Trump of about \$5 billion in foreign aid funding. Democrats also say they can't rely on a bipartisan agreement if it may be rolled back later and are still concerned about Medicaid changes included in the OBBBA. However, the Senate was able to agree on a three-bill package before the August break, encompassing the Military Construction-Veterans Affairs, Agriculture (which includes the Food and Drug Administration), and Legislative Branch appropriations bills. The Senate Appropriations Committee has approved five more of the dozen annual bills. The House has passed the Military Construction-Veterans Affairs and Defense appropriations bills, and several others have been approved by or are under consideration by the House Appropriations Committee.

Senate Democrats have yet to publicly unify around a strategy for how to approach the government funding deadline of September 30. Some are open to risking a government shutdown while others want to proceed on a bipartisan basis following the template of the bills the Appropriations Committee has already cleared. "This could also help pit House Republicans against Senate Republicans over FY2026 spending. House GOP leaders have followed the White House's 'skinny' budget proposal, which calls for big cuts to social programs while boosting defense, border security and veterans' spending, infuriating Democrats," Punchbowl News reported August 22. "Meanwhile, Senate appropriators have proposed bipartisan bills with small spending increases across the board."

Bill	Senate	House
Agriculture, Rural Development, FDA	Passed	Appropriations Committee advanced
Military Construction, VA		Passed
Legislative branch		Appropriations Committee advanced
Transportation, HUD	Appropriations Committee advanced	Appropriations Committee advanced
Commerce, Justice, Science		Awaiting Committee action
Interior, Environment		Appropriations Committee advanced
Defense		Passed
Labor, HHS, Education		Early September consideration set in
Financial Services & General Govt	Awaiting Committee action	Appropriations Committee
Homeland Security		Appropriations Committee advanced
Energy and Water Development		Appropriations Committee advanced
State, Foreign Operations		Appropriations Committee advanced

Members like Senator Elizabeth Warren (D-MA) plan to oppose a spending bill unless OBBBA Medicaid cuts are reversed. And some Democrats, including Senator Jeanne Shaheen (D-NH), are pushing for an extension of the Affordable Care Act's enhanced Advanced Premium Tax Credits (APTC) as a condition of their support for a government funding bill.

Senators of both parties are concerned about the President's announcement that he is using his authority under the Impoundment Control Act to deploy a pocket rescission, cancelling \$5 billion in foreign aid and international organization funding. Senate Appropriations Committee Chair Susan Collins (R-ME) released a statement August 29 saying: "Given that this package was sent to Congress very close to the end of the fiscal year when the funds are scheduled to expire, this is an apparent attempt to rescind appropriated funds without congressional approval. GAO has concluded that this type of rescission is unlawful and not permitted by the Impoundment Control Act. Article I of the Constitution makes clear that Congress has the responsibility for the power of the purse. Any effort to rescind appropriated funds without congressional approval is a clear violation of the law."

The move is seen as heightening chances for a government shutdown, though press reports have noted the difficulties for Democrats, including that the party that forces the government to close typically shoulders the blame and it is unclear what concessions they could extract. Senate Democratic Leader Chuck Schumer (D-NY) said in an August 29 statement: "Today's announcement of the Administration's plan to advance an unlawful 'pocket rescission' package is further proof President Trump and Congressional Republicans are hellbent on rejecting bipartisanship and 'going it alone' this fall. As the country stares down next month's government funding deadline on September 30th, it is clear neither President Trump nor Congressional Republicans have any plan to avoid a painful and entirely unnecessary shutdown."



Another reconciliation bill will be available to Republicans in the fall because, with the enactment of OBBBA (using the FY25 budget resolution), they can now turn to the FY26 budget resolution as the vehicle for a second bill. In a July Bloomberg interview, Speaker Johnson said he hoped to pass a bill this fall that would address issues cut out of the OBBBA to meet reconciliation rules, without naming specific tax and health provisions. "There are some priorities that did not make it into 'reconciliation one' that are still priorities for people," Johnson said. "A couple of things that didn't survive the Byrd test, and we're looking at other ways, other angles maybe to try to include that."

The Republican Study Committee (RSC) group of conservatives chaired by Rep. August Pfluger (R-TX) launched a Reconciliation 2.0 Working Group and was reported to be meeting with conservative leaders during August and at least entertaining ideas for cutting entitlements and other health spending.

Tax

While tax provisions are unlikely to drive a second reconciliation bill the way they did for the first (further spending reductions being a bigger focus now), Congress is likely to include a tax title if another reconciliation bill is under consideration before the November 2026 Congressional mid-term elections.

Two initial questions are what additional tax relief might be included and whether additional tax relief would be offset by tax increases or spending cuts. As noted above, Speaker Johnson has suggested a reconciliation bill could include tax provisions that fell out of the OBBBA. Provisions that fell out due to the Byrd rule, like a third-party litigation reform proposal, could be rewritten to try to comply with Senate rules. Members and staff have talked publicly about increasing the Section 199A passthrough deduction to 23% as the House version of the OBBBA proposed. There are also many other proposals that were not considered in the OBBBA. Senate Finance Committee Chairman Mike Crapo (R-ID) famously said there were 200 different tax proposals brought to him during the first reconciliation bill.

If offsets are required, businesses and wealthy taxpayers may again be in the spotlight.

A key question is whether President Trump will throw his weight behind another reconciliation bill. He may have additional proposals he wants enacted. When asked July 22 about consideration of no tax on capital gains on home sales – in the wake of enactment of no tax on tips and overtime – the President said, "We're thinking about that, but we'd also unleash [the market] just by lowering the interest rates. If the Fed would lower the rates, we wouldn't even have to do that. But we are thinking about no tax on capital gains on houses..."

Currently, an individual taxpayer may exclude from gross income up to \$250,000 (\$500,000 joint) of gain realized on the sale or exchange of a principal residence, though it has been noted in the press that the amount is not indexed for inflation.

Finally, Republicans in Congress and the Administration will need to decide whether to try to address the expiration of the Affordable Care Act premium tax credits in a reconciliation bill (see below).

Health

In health care, some Republicans, including Senator Ron Johnson (R-WI), have eyed a second reconciliation bill to cut spending to the degree not possible in the OBBBA and to enact policies that fell out in the Byrd bath. For example, House Budget Committee Chairman Jodey Arrington (R-TX) on July 8 said this next effort is seen as likely to propose barring states from using their own funds to provide Medicaid to certain immigrants.

Other provisions that fell out include the Medicare drug price negotiation program's orphan drug exclusion, Medicaid eligibility restrictions for certain immigrants, cost-sharing reductions for exchange payers, banning pharmacy benefit managers from spread pricing in Medicaid, policies to expand health savings accounts, rural emergency hospital changes, rolling back the enhanced FMAP for the Medicaid expansion population, and more. It is possible Republicans could revisit and rework some of those provisions. Given the public polling related to OBBBA's Medicaid cuts it is unlikely lawmakers will soon revisit some of the more expansive proposals, such as implementing a Medicaid per capita cap or block grant payment system. While extending the ACA's enhanced Advanced Premium Tax Credits are likely not in play for a second reconciliation bill, an extension could be included in a government funding package that passes with Democrat support.

Republican priorities – reconciliation bill

- Items omitted from OBBBA:
 - Barring states from using their own funds to provide Medicaid to certain immigrants
 - Third-party litigation reform
 - Business Development Company (BDC) extension to 199A deduction
 - Health Savings Account (HSA) provisions
 - Rural Emergency Hospital definition changes
 - Increasing the Section 199A passthrough deduction to 23%
- No capital gains tax on home sales
 - Current exclusion: \$250,000 (\$500,000 joint)

Bipartisan priorities – could move in spending bill

- Extension of Affordable Care Act enhanced Premium Tax Credits expiring at end of 2025
- Cryptocurrency tax provisions
- Tax extenders
 - Work Opportunity Tax Credit (WOTC)
 - Section 181 special expensing rules for film, television, and live theatrical productions
 - Empowerment Zone incentives
- US-Taiwan tax relief
- Pharmacy benefit manager reforms
- SECURE 3.0 retirement provisions
 - Trade program extensions (AGOA)

Sen. Josh Hawley (R-MO) in July introduced a bill that would double the Rural Health Transformation Fund to \$100 billion over 10 years. However, fiscal conservatives in Congress are likely to demand any new investments be offset, requiring more pay-fors or program cuts to generate revenue.

Challenges

The motivation for Republicans behind the OBBBA was clear: to prevent a broad tax increase at the end of 2025, cut spending along the way, and increase the federal debt limit. The policy aim for a second reconciliation is largely undefined, including by the White House, aside from Republican leaders in Congress suggesting they have unfinished business. "Even if the White House floats some policy asks, it's not likely Republicans will feel as much pressure to advance a bill," Politico reported August 11. "With megabill 1.0, they had to avert a year-end expiration of Trump's 2017 tax cuts and head off a debt ceiling crisis." There is also the sense that while some Republicans want to cut spending further in a reconciliation, others would oppose that approach, especially as the midterm elections draw nearer.



Next year, some new provisions of the OBBBA take effect, including the deduction for 90% of gambling losses that members of both parties want to restore to 100% before then, meaning it could be a driver for action this year. Senator Catherine Cortez Masto (D-NV) on July 10 unsuccessfully sought unanimous consent for Senate passage of her bill with Senators Jacky Rosen (D-NV) and Ted Cruz (R-TX) to reinstate the prior rules (S. 2230), which she said is required because the OBBBA "changed the tax code to only allow a 90% deduction on gambling losses." Punchbowl cited Ways and Means Committee Chairman Jason Smith (R-MO) as saying the Senate change was a "bad decision" that he wants to reverse, possibly in a broader bipartisan package later this year. He said during a Ways and Means field hearing July 25: "That change was made by the United States Senate. That being said, for those of you concerned about this change, I can tell you that members on both sides of the aisle have heard you and I know that many members on both sides of the aisle are open to working to address it before it goes into effect on January 1."

Extenders, etc.

While the driving force behind the OBBBA was the expiration of the many TCJA provisions, the 2025 tax law also made permanent a handful of traditional tax extenders that are unrelated to TCJA. These include the CFC look-through rule, New Markets Tax Credit, and cover over of tax on distilled spirits. But other traditional extenders that are set to expire at the end of 2025 were not included, leaving them in limbo. Congress will need to decide whether to extend the Work Opportunity Tax Credit (WOTC), Empowerment Zone tax incentives, seven-year recovery period for motorsports entertainment complexes, and special expensing rules for certain film, television, and live theatrical productions under Section 181 before they expire at the end of the year. These provisions generally garner bipartisan support and could be added to another bill, like a possible year-end funding bill.

There is also bipartisan Taiwan tax relief legislation held over from the last Congress, as well as bipartisan interest in a SECURE 3.0 pension package.

Cryptocurrency

There is bipartisan interest in addressing tax questions around digital assets. Republicans in the Senate considered adding some of these provisions to the OBBBA but more time was needed to settle policy and technical questions. Republicans and Democrats on the Ways and Means Committee both want to take the lead on cryptocurrency tax issues; there is already a bill in the Senate; and issues addressed include a de minimis rule, staking, wash sales, etc. Following a July 16 Ways and Means Oversight hearing, Rep. Max Miller (R-OH) circulated a draft framework for a crypto tax bill that addresses those issues without specifying exact details.

	Sen. Cynthia Lummis (R-WY) June 30 bill, S. 2207	Rep. Max Miller (R-OH) July 24 discussion draft
De minimis	\$300 threshold for both transaction value and total gain with \$5,000 yearly total cap	Exclude small personal transactions from capital gains reporting
Lending	Digital asset lending agreements are generally not taxable events	Establish rules for loaned assets
Wash sales	30-day wash sale rule applies to digital assets	Modernizes the rule to include application for digital assets with clarity
Mark to market	Dealers: mandatory application like securities dealers Traders: optional election like securities traders	Optional mark-to-market accounting for qualified traders and institutions
Staking & mining income	Not recognized until sale/disposition of produced assets	Clarifies when income is realized and how it should be reported
Charitable contributions	Exempts actively traded digital assets from qualified appraisal requirements for charitable contributions	Updates rules for donating appreciated crypto to nonprofits

These same issues are targeted in the June 30 bill (S. 2207) introduced by Senator Cynthia Lummis (R-WY) that would set a \$300 de minimis threshold and \$5,000 yearly total de minimis cap, provide that digital asset lending agreements are generally not taxable events, revise the wash sale rules as they pertain to digital assets, provide that mining and staking income is not recognized until sale/disposition of produced assets, and exempt charitable contributions from appraisal requirements. The Joint Committee on Taxation estimates the Lummis bill could raise \$600 million over 10 years. And the White House is active on the issue, having released recommendations on tax issues and an executive order (EO) on crypto investments in 401(k) accounts.

Regulatory process

Energy tax credit rollbacks are a focus of the regulatory process. A July 7 EO called on Treasury to "strictly enforce the termination of the clean electricity production and investment tax credits under sections 45Y and 48E of the [IRC] for wind and solar facilities" and to ensure "beginning of construction" rules aren't circumvented. In Notice 2025-42, released on August 15, the IRS updated the rule for determining when wind and solar projects have begun construction for purposes of qualifying for Section 45Y (clean energy production) and 48E (clean electricity investment) tax credits. The "5% safe harbor" test is generally eliminated, leaving the "physical work" test as the means to establish a project has begun construction. https://taxnews.ey.com/news/2025-1709

In addition to energy, there could be significant Treasury guidance required to implement international tax provisions and President Trump's tax proposals like accelerated depreciation for factories, no-tax-on-tips, and no tax on overtime. There will likely be an emphasis on provisions that take effect sooner.

For the no-tax-on-tips proposal, for example, the law requires Treasury to publish within 90 days a list of occupations that customarily and regularly received tips by the end of last year and calls for "regulations or other guidance as may be necessary to prevent reclassification of income as qualified tips, including regulations or other guidance to prevent abuse of the deduction."

Treasury has posted a preliminary list of occupations that customarily and regularly received tips on or before December 31, 2024, for purposes of the "no tax on tips" provision, in categories such as food and beverage service, entertainment and events, hospitality, home services, personal services, personal appearance and wellness, recreation and instruction, and transportation and delivery.

https://home.treasury.gov/system/files/136/Tipped-Occupations-Detailed-8-27-2025.pdf

As the government seeks to provide new guidance, there have been leadership changes in IRS and Treasury. IRS Commissioner Billy Long exited the job after a short tenure, leaving Treasury Secretary Scott Bessent as Acting Commissioner. It took significant effort to have Long, a former House member, confirmed by the Senate, and the process will start all over again with a next, yet-to-be-named nominee. There is also the departure of Deputy Treasury Secretary Michael Faulkender, which was announced on August 22.

The President's deregulatory agenda is already underway, including with the Treasury and the IRS announcing they intend to remove the disregarded payment loss (DPL) rules, which were published in January 2025. On August 20, 2025, Treasury and the IRS announced in Notice 2025-44 their intent to issue proposed regulations that will withdraw the DPL rules, and the modifications recently made to the DCL "deemed ordering" rule. The Notice also extends transitional relief under which Pillar Two top-up taxes do not give rise to "foreign use" of dual consolidated losses (DCLs) in tax years beginning before January 1, 2028. The proposed regulations would extend the transitional relief regarding the interaction of the DCL rules with the GloBE Rules to tax years beginning before January 1, 2028.

https://taxnews.ey.com/news/2025-1756

Global tax

The Trump administration released an important statement with the G7 on June 28, calling for the US tax system to be treated as a side-by-side system that co-exists with Pillar 2, which would fully exclude US-parented groups from the Undertaxed Profits Rule (UTPR) and the Income Inclusion Rule (IIR) for both domestic and foreign profits. In exchange, Congress agreed to drop the proposed Section 899 retaliatory tax proposal from the OBBBA in the period between House and Senate consideration. Republicans in Congress and stakeholders in the business community are watching closely as negotiations continue through the fall to see the US-G7 agreement finalized by the OECD Inclusive Framework.

Ways and Means Committee member Rep. Ron Estes (R-KS) said during an international tax event in July that Congress will keep monitoring global tax issues after the June 28 G7 statement and pulling Section 899 out of the OBBBA with the expectation that G7 and other countries would pull back on some Pillar 2 language. More also needs to be done on digital services taxes (DSTs), he said.

Estes said policymakers need to "trust but verify" that other nations are complying. "We took the first step to pull out the 899 and now we've got to continue the process, follow through with the G7 and OECD countries..." he said. "And continue to work on the DST issue. Because that wasn't resolved and that wasn't as much a part of the agreement as the Pillar 2 piece."

Similarly, Chairman Smith has said tax-writers could revive the Section 899 retaliatory tax regime if other nations don't comply with the agreement or charge new levies that lawmakers deem too punitive.

A DST moratorium to which nations initially agreed in July 2021 as part of the global tax agreement ended last year, and there is renewed attention on the issue as parts of the agreement have stalled.

President Trump said on social media August 25, in part, "As the President of the United States, I will stand up to Countries that attack our incredible American Tech Companies. Digital Taxes, Digital Services Legislation, and Digital Markets Regulations are all designed to harm, or discriminate against, American Technology... I put all Countries with Digital Taxes, Legislation, Rules, or Regulations, on notice that unless these discriminatory actions are removed, I, as President of the United States, will impose substantial additional Tariffs on that Country's Exports to the U.S.A., and institute Export restrictions on our Highly Protected Technology and Chips."

The post follows an August 21 US-EU joint statement that said, "The United States and the European Union commit to address unjustified digital trade barriers. In that respect, The European Union confirms that it will not adopt or maintain network usage fees. The United States and the European Union will not impose customs duties on electronic transmissions."

The Bloomberg Daily Tax Report has reported on an OECD draft proposal that could exempt companies from the OECD-led global minimum tax agreement if their profits are already subject to robust taxation and lays out options for a "side-by-side" system separate from the global minimum tax framework. And some countries have criticized a side-by-side system as weakening the minimum tax and putting non-US companies at a disadvantage.



Health policy legislative deadlines

When lawmakers return from the August recess, they will have just 16 working days to come to an agreement on FY 2026 funding or risk a federal shutdown. For health care, the annual appropriations process has been complicated by President Trump's FY 2026 budget request and Department of Government Efficiency (DOGE) actions, which call for significant cuts to federal health programs, large-scale restructuring of HHS, and reducing the federal workforce to 2019 levels. While the budget request is not binding, the Administration has made clear it expects to move forward with its planned restructuring, has frozen, rescinded or capped grants and contracts, reduced workforce and included language that assumes the funding levels outlined would be enacted. The request has divided appropriators in the House and Senate, with the House Appropriations Committee advancing an FDA spending bill that aligns directly with President Trump's requested cuts and the Senate maintaining current funding levels. The Senate Appropriations Committee in July also advanced a bipartisan HHS funding bill that increases the Department's discretionary funding, rejecting President Trump's requested 26% funding cut.

Lawmakers also are discussing how to address a list of health care extenders set to expire at the end of the fiscal year on September 30, including community Health Center funding, the National Health Services Corps, Medicare telehealth flexibilities, several hospital programs including funding for Medicare Dependent Hospitals, and more.

Health policy expiration	n dates
September 30	 FY 2026 appropriations Community health centers Certified Community Behavioral Health Clinics National Health Service Corps Teaching Health Center Special Diabetes programs Medicare Work Geographic Index Floor; Conrad 30 waivers Children's Hospital GME Children's Hospital GME
December 31	ACA's enhanced Premium Tax CreditsClinical Laboratory Fee Schedule Cuts
Items already expired	 PAHPA (some provisions temporarily extended) PEPFAR Advanced Alternative Payment Model (APM) Bonus Payment

ACA exchange plans

Lawmakers also must decide whether to allow the Affordable Care Act's enhanced Advanced Premium Tax Credits (APTC) to expire at the end of the year. The enhanced tax credits removed a subsidy "cliff" at 400% of the federal poverty line (FPL) and increasing subsidies for those making 100%–400% of the FPL. This is a traditionally Democratic issue but there is some pressure to extend the credits from vulnerable Republicans, which could be a major issue in the midterm elections. If addressed, Republican leaders say they are likely to want some changes to curb the APTC's cost and impose income limits. For example, Senate HELP Committee Chair Bill Cassidy (R-LA) signaled an interest in ACA subsidy reform and examining policies to address the practice of "silverloading." Other ACA policies that could be explored this year include codifying the ACA Marketplace Integrity Rule and funding cost-sharing reduction payments.

"When it comes to these bipartisan packages, I say everything's on the table. But people are going to have to prove the viability of something like that. \$400 billion. No Republican has ever voted for it," Ways and Means Chairman Jason Smith said in a July 27 Punchbowl News report. The report said, "Still, Smith is pushing for a broader bipartisan tax, trade and health care package to pass by December."

Pharmacy benefit managers

Another issue that Republicans have raised as a possible legislative priority that was omitted from OBBA, but would require bipartisan action and leadership support, is pharmacy benefit manager (PBM) reform. Rep. Earl L. "Buddy" Carter (R-GA) led a group of 11 lawmakers to reintroduce the PBM Reform Act, which includes PBM policies that were left out of a December 2024 package, including those to ban spread pricing in Medicaid, delink PBM compensation from the cost of medications under Medicare Part D, and promote transparency in prescription drug plans for employers and patients through semi-annual reporting on drug spending. In addition, Sens. John Hickenlooper (D-CO) and Roger Marshall (R-KS) introduced the Patients Deserve Price Tags Act, which aims to increase transparency in health care by requiring all negotiated and cash prices between payers and providers be publicly accessible. The Senate HELP Committee also could attach their PBM priorities to the bill, which include rebate passthrough in the commercial market.

These policies generate savings that could be used to offset the costs of other policy priorities. As such, members may push to have these policies included in one of the legislative vehicles slated to move before the end of the year, including a continuing resolution for FY 2026 funding, a year-end bipartisan spending bill, or a second reconciliation bill.

Medicare payment policy

Congress also is considering policies to further control costs in Medicare. While member willingness to enact additional spending reductions in the Medicare and Medicaid space is limited coming out of the OBBBA Medicaid cuts, the Trump Administration's recent rulemaking, which would expand site-neutral payments for outpatient drug administration services, could provide the political cover for Congress to pass provisions within the Lower Costs, More Transparency Act.

Those provisions would codify the new rulemaking and increase transparency into hospital outpatient department billing. Congress may also examine hospitals' non-profit tax-exempt status, charity care spending, and rural/urban dual classification.

There also is a growing consensus among members of Congress that they will need to re-examine the 2015 Medicare Access and CHIP Reauthorization Act (MACRA) and look at physician payments to address the need for annual fixes to the Medicare Physician Fee Schedule. The latest fix, passed as part of the OBBBA, increased the Physician Fee Schedule conversion factor by 2.5%. While multiple bills have previously been introduced in the House to address problems with the Medicare physician fee schedule, currently there is little agreement on how to address the payment problem. This makes passage in 2025 unlikely, particularly as lawmakers grapple with federal funding levels, the HHS restructuring, and other pressing issues.

Medicare Advantage

The Improving Seniors' Timely Access to Care Act, which passed the House in September 2022 and in July 2023 advanced out of the House Ways and Means Committee, would streamline the Medicare Advantage (MA) prior authorization process. The bill has broad bipartisan support, and a revised version aims to improve the bill's pathway to full passage in light of new rules that will have the secondary effect of reducing the cost of the legislation. These changes could increase the likelihood of passage as part of a bipartisan year-end package or spending bill.

As part of OBBBA discussions, lawmakers also considered, but ultimately excluded, reforms to the MA benchmarks, risk-adjustment and coding practices, and more that could resurface as part of conversations around a second reconciliation bill or a bipartisan year-end health package.

340B Drug Pricing Program

The Senate 340B bipartisan working group in March announced new members and leadership, with Sen. Jerry Moran (R-KS) taking over the working group for Sen. John Thune (R-SD), who transitioned into the role of Senate Majority Leader. New members, replacing those who retired last session, include Sen. Tim Kaine (D-VA), Sen. Markwayne Mullin (R-OK), and Sen. John Hickenlooper (D-CO). While meaningful legislative action is not expected in Congress this year, the working group remains active, and HELP Committee Chair Cassidy has continued to raise concerns about abuse within the program. Congress is likely to closely monitor program updates coming from the Administration, including the recently announced rebate model pilot program, to identify ways to improve the program and ensure it aligns with Congress' original intent.

Alternative coverage arrangements

The Trump Administration and Republican-controlled Congress remain committed to expanding alternative coverage options, particularly amid policies projected to decrease enrollment in ACA exchange plans and Medicaid. The House version of the OBBBA included several policies to expand Health Savings Accounts (HSAs) and Individual Coverage Health Reimbursement Arrangements (ICHRAs), including policies that allow Medicare Part A enrollees to contribute to HSAs, allow HSA funds to be used for on-site employee clinics, gym memberships and other sport and fitness expenses, and more.

The House version also included a provision to allow certain employees to use ICHRA pre-tax dollars to pay for exchange plan premiums.

These proposals, and others to expand association health plans, may resurface in conversations around a second reconciliation bill or year-end health package, though Democrats in the past have been more critical of HSA and ICHRA expansions, making passage as part of a year-end bill more difficult.

Biosecure Act

Sen. Bill Hagerty (R-TN) has reintroduced an updated version of the Biosecure Act in the 119th Congress as an amendment to the Senate's National Defense Authorization Act (NDAA), which is expected to pass by December. A similar version in the House also has been reintroduced as an amendment to the House's NDAA by Rep. John Moolenaar (R-MI). The latest House and Senate versions make key changes intended to address lawmaker concerns that blocked the bill's passage in the last Congress. For example, the latest House and Senate versions remove the names of specific entities and instead relies on the U.S. Department of Defense's annual 1260H List to designate who qualifies as a "biotechnology company of concern." The bills also update grandfathering provisions, the definition of a biotechnology equipment or service, and add an exception for medical products or services procured in direct response to a public health emergency, among other things. The House and Senate committees are scheduled to continue work on their versions of the NDAA in early September.

Priorities within the Administration

With Congress focused on FY 2026 spending, NDAA, and other potential year-end health care items, the Trump Administration has been busy executing its proposed restructuring and refining programs to better align with Administration priorities. Moving forward, we expect to see continued emphasis on equalizing drug prices between the US and other nations; policies to address fraud, waste, and abuse within federal health care programs, including NIH grant funding and the 340B drug pricing program; and enhanced price transparency reporting. The Administration also will be moving forward with plans to bolster MA plan audits, advance interoperability, promote the use of Artificial Intelligence and digital health technology in both the public and private sectors, and more. In addition, HHS Secretary Robert F. Kennedy, Jr., is expected to continue his scrutiny of existing vaccines and issue additional reports from the Make America Healthy Again Commission to advance preventive measures to improve children's health.



The enactment of country-specific tariff rates has brought about new trade developments, and future negotiations with certain trading partners could result in additional activity. Prior to the enactment of these new tariffs, President Trump announced deals with a number of trading partners, including agreements to levy 15% tariffs on goods from Japan, Korea, and the European Union (EU).

The announced agreements are presented more as frameworks than detailed trade deals of the past, which typically reduced tariffs rather than increase them as the current agreements would. They include high-level parameters around trade cooperation to prevent even higher tariff rates, but most require significant negotiation to fill in details. There are many countries that did not reach an agreement with the United States over the summer and are subject to new rates enumerated in the July 31 Executive Order that imposed sweeping tariffs on nearly all trading partners.

An August 21 US-EU joint statement provided details of their agreement calling for 15% tariffs, including stating that originating goods of the EU subject to Section 232 actions on pharmaceuticals, semiconductors, and lumber will not exceed 15%. The statement calls for exempting from the 15% reciprocal tariffs all aircraft and aircraft parts, generic pharmaceuticals and their ingredients and chemical precursors, and that the US and EU agree to consider other sectors and products that are important for their economies and value chains for inclusion in the list of products for which 15% tariffs wouldn't apply. It said the EU intends to procure US liquified natural gas, oil, and nuclear energy products with an expected offtake valued at \$750 billion through 2028 and intends to purchase at least \$40 billion worth of US AI chips for its computing centers. As has been noted in the press, the statement is not legally binding, and the US and EU agreed to negotiate rules of origin to determine the products that qualify for lower tariffs.

There is a drive by the US to also require other nations to invest in the US. The Trump administration reached an export deal that allows some companies to sell artificial intelligence chips to other nations in exchange for the US receiving 15% of those sales. The announcement does not impact pharmaceuticals but reflects the same priorities President Trump outlined in recent letters to drug manufacturer CEOs, in which he directed manufacturers to reinvest revenues gleaned from raising drug prices internationally back into the US.

The trade agreement with Japan includes a pledge for a \$550 billion US investment fund, though there is some disparity over the details. "The Japanese agreement, which we're going to announce later this week, that's \$550 billion at the hand of Donald Trump, and he can go invest it to hit all these points, right?" Commerce Secretary Howard Lutnick said August 25.

The New York Times reported August 26, "But Japanese officials have stressed that the investments in the United States would be determined by whether they also benefit Japan. They also maintain that profits are to be allocated according to each side's committed risk and financial contribution."

An August 26 Reuters report cited a South Korean official as saying "that the U.S. and South Korea had decided to establish a non-binding agreement to define the operation and structure of \$350 billion in investment funds agreed as part of a July trade deal." The report said the financial package would be used to support "strategic industries such as key minerals, batteries, chips, pharmaceuticals, artificial intelligence and quantum computing" and that "up to \$150 billion had also been earmarked for shipbuilding."

The Administration's approach to tariffs is in flux given the August 29 ruling that five emergency orders President Trump has signed to impose tariffs were not authorized by the International Emergency Economic Powers Act (IEEPA). The U.S. Court of Appeals for the Federal Circuit affirmed a decision by the Court of International Trade but allowed tariffs to remain in place until mid-October to give the Administration time to appeal to the Supreme Court. The ruling said, "Because we agree that IEEPA's grant of presidential authority to "regulate" imports does not authorize the tariffs imposed by the Executive Orders, we affirm." https://www.cafc.uscourts.gov/opinions-orders/25-1812.0PINION.8-29-2025_2566151.pdf

The ruling addressed Executive Orders:

- 14193, Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border (Feb. 1, 2025) https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-flow-of-illicit-drugs-across-our-national-border/
- 14194, Imposing Duties to Address the Situation at Our Southern Border (Feb. 1. 2025), https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-situation-at-our-southern-border/
- 14195, Imposing Duties to Address the Synthetic Opioid Supply Chain (Feb. 1, 2025) https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china/
- 14257, Regulating Imports With a Reciprocal Tariff To Rectify Trade
 Practices That Contribute to Large and Persistent Annual United States
 Goods Trade Deficits (April 2, 2025)
 https://www.whitehouse.gov/presidential-actions/2025/04/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and-persistent-annual-united-states-goods-trade-deficits/"
- 14266, Modifying Reciprocal Tariff Rates To Reflect Trading Partner Retaliation and Alignment (Apr. 9, 2025) https://www.whitehouse.gov/presidential-actions/2025/04/modifying-reciprocal-tariff-rates-to-reflect-trading-partner-retaliation-and-alignment/

"If Trump's tariffs are annulled, the Trump administration has other ways to impose them, such as through the 1974 Trade Act. That particular law, however, restricts tariffs to 15 percent and 150 days, 'unless such period is extended by Act of Congress,'" said a story in the August 31 Washington Post. "A lower court will also reconsider part of the case on whether the government should refund tariffs to all companies that already paid them, or just the parties that sued the government."

The New York Times reported: "The adverse ruling still cast doubt on the centerpiece of Mr. Trump's trade strategy, which relies on a 1970s law to impose sweeping duties on dozens of the country's trading partners. Mr. Trump has harnessed that law – the International Emergency Economic Powers Act, or IEEPA – to raise revenue and to pressure other countries into brokering favorable deals. The law has typically been reserved for sanctions and embargoes against other nations."

President Trump posted on social media, "Today a Highly Partisan Appeals Court incorrectly said that our Tariffs should be removed, but they know the United States of America will win in the end. If these Tariffs ever went away, it would be a total disaster for the Country."



The Senate Banking Committee returns to some unfinished business on digital asset regulation, along with President Trump's nominee for an opening on the Federal Reserve Board to examine and move to the Senate floor. Meanwhile, the House Financial Services Committee has scheduled a full slate of hearings for September on topics such as FinCEN, shareholder proposals, "resolution plans" for larger banks, financial fraud threats facing families, the use of artificial intelligence (AI) in finance, and renewal of the Terrorism Risk Insurance Act (TRIA).

Crypto market structure

Shortly before the August recess, Senate Banking Committee Chairman Tim Scott (R-SC) and other Republicans cosponsors released a draft of the committee's "market structure" bill for cryptocurrency regulation, the Responsible Financial Innovation Act, and said the committee would mark up the bill in September. The Senate Agriculture Committee will also contribute to the bill, as it has jurisdiction over the Commodity Futures Trade Commission (CFTC). Chairman Scott included a request for information (RFI) from crypto stakeholders, whose deadline for comments was August 5. The bill will provide Senate Republicans' answer to the House Financial Services Committee's own crypto market structure bill, the CLARITY Act (HR 3633), which passed the House on July 17 by a vote of 294-134.

Market structure legislation is regarded as key for establishing a complete system for regulating digital assets in the U.S., since the now-enacted GENIUS Act (S. 1582), which the president signed on July 18, focuses only on stablecoins. The Senate's crypto bill is also regarded by many as a vehicle to reopen the stablecoins law, with House Republicans including a group of fixes in the CLARITY Act related to nonfinancial stablecoin issuers, commodity-backed stablecoins and accounting requirements for issuers. The American Bankers Association is also pushing to use the market structure bill to block all crypto companies from paying yield to customers who hold stablecoins, and to repeal a section of the GENIUS Act that the ABA says allows state-chartered uninsured depository institutions to operate nationwide without proper supervision, *Politico* reported.

At a conference in Wyoming during the August recess, Scott said that while Ranking Member Elizabeth Warren opposes the draft bill, "I believe that we'll have between 12 and 18 Democrats at least open to voting" for the market structure bill. "I'm looking for folks off the committee to help provide cover for those on the committee to vote for it." Warren listed her own priorities for crypto market structure at a hearing July 9.

Federal Reserve issues

The Senate Banking Committee is holding a hearing on Thursday, September 4, on Stephen Miran, the president's nominee to serve out the remaining months of the term of Federal Reserve Governor Adriana Kugler, a Biden appointee who announced on August 1 that she would step down before her term ends on January 31, 2026.

Chairman Scott has said he wants Miran, who currently chairs the White House Council of Economic Advisers, swiftly confirmed before the Fed's next ratesetting meeting on September 16-17. Miran's hearing is expected to feature a host of issues related to the Fed's independence, including President Trump's attacks on Fed Chair Jerome Powell's management of renovations to the Fed's headquarters buildings and Trump's decision to fire Fed Governor Lisa Cook, who in recent weeks was accused of designating two different homes as her "principal residence" on mortgage documents a year before she was appointed to the Fed Board in 2022. Cook has denied wrongdoing, has refused to step down, and on August 28 Cook filed a lawsuit in federal court to block the president's action. The House Financial Services Committee is also expected to investigate Cook's situation, with a spokesman for Chairman French Hill (R-AR) issuing a statement in August saying "Congress has a constitutional responsibility to provide oversight, and the Committee looks forward to examining the allegations" against Cook. Banking Committee Ranking Member Warren has called the move against Cook "an authoritarian power grab that blatantly violates the Federal Reserve Act and must be overturned in court."

The Trump administration is also vetting nominees to replace Powell, whose term as Fed chair expires in May 2026. White House National Economic Council Director Kevin Hassett said on CNBC August 25 that Treasury Secretary Scott Bessent is "running a thorough search process. There are a number of really excellent candidates being interviewed by him and the president." Hassett said the process would likely "run out for another few months before the president decides."

The administration is also reviewing options for exerting more influence over the Fed's 12 regional banks, *Bloomberg* reported on August 26, citing "people familiar with the matter." A key date next year is the Fed's once-every-five-years vote in February to choose the five regional Fed presidents who will serve on the Federal Open Market Committee (FOMC), which sets key interest rates. *Bloomberg* reported a source saying, "the administration's goal isn't to make the central more dovish [on interest rates], but to scrutinize how regional presidents are vetted and chosen since they are not Senate-confirmed."

September House hearings

The House Financial Services Committee has scheduled a full slate of hearings for September. On Tuesday, September 9, the committee will examine the Financial Crimes Enforcement Network (FinCEN), the Treasury agency that collects financial intelligence to combat money laundering and terrorist financing and hold another subcommittee hearing on capital rules and resolution plans for larger banks. The full committee will also meet on September 10 for a hearing on reforming the SEC's Rule 14a-8, which outlines the system for public companies' shareholders to offer proxy proposals. Conservative critics have suggested tightening rules that allow activist shareholders to offer proposals advancing social or environmental agendas.

The balance of September at the Financial Services Committee will include a September 17 hearing on renewing the Terrorism Risk Insurance Act (TRIA), a backstop program for property & casualty insurers, whose latest authorization is set to expire at the end of 2027. That day the committee will also hold a hearing on the Federal Reserve's independence.

On September 18, the committee will hold a hearing on financial fraud threats facing U.S. families, and an artificial-intelligence hearing on "Unlocking the Next Generation of AI in the U.S. Financial System." The committee has also scheduled a September 16 markup of bills that could include cryptocurrency legislation. Additional House hearings are likely later this fall on oversight of financial regulators like the CFPB and the SEC; housing issues; financial technology; capital markets reform and digital assets.

'Debanking' executive order and committee bills

On August 7, President Trump joined the effort to address allegations of "debanking," in which banks purportedly refuse services to disfavored customers, with an executive order "ensuring fair access to banking services for all Americans." The order requires banking regulators to eliminate concepts like "reputational risk"; requires the Treasury secretary to develop a strategy to combat debanking practices, possibly through legislative or regulatory solutions; and notably calls for a review of financial institutions' past and current policies, with potential remedial actions such as fines or consent decrees. Both the House and Senate had already advanced legislation addressing the same issue, however. The Senate Banking Committee approved S. 875, the Financial Integrity and Regulation Management Act (FIRM Act), in March, while the House Financial Services Committee approved its companion version, HR 2702, in May. The bills, which advanced with bipartisan support in both committees, would remove reputational risk as a criterion for evaluating customers of depository institutions. The bills could come to the floor of the House and Senate this fall.

Rulemaking on 'Trump Accounts,' 401(k)s

The One Big, Beautiful Bill Act signed by the president on July 4 included language in Section 70204 mandating the establishment of "Trump Accounts," a new type of tax-advantaged individual retirement account (IRA) that will be seeded with \$1,000 for all U.S. citizen children born between January 1, 2025, and December 31, 2028. Rules implementing these accounts, including standards for firms to provide custody of such assets, can be expected from Treasury and the IRS before the end of the year and will be of interest to the U.S. securities brokerage industry.

Rulemaking also could take place this fall as regulators act on the president's August 12 executive order "democratizing access to alternative assets for 401(k) investors," which directed the Department of Labor to reassess its previous guidance to ensure that assets including "alternative investments" (such as private equity, private credit, real estate holdings and other vehicles) are accessible to plan participants. Labor Secretary Lori Chavez-DeRemer has criticized the Employee Benefits Security Administration's (EBSA) prior guidance, which said such investments were generally too risky for retirement plans, as "government overreach" and has argued that fiduciaries should determine the best investment options for Americans. The order directs the DOL and the SEC within 180 days to reexamine guidance in this area and to clarify propose new rules or safe harbors allowing 401(k) plans to include such assets.

Fannie, Freddie stock offerings

While reform of the government-sponsored housing enterprises (GSEs), Fannie Mae and Freddie Mac, traditionally has begun with the banking committees, the huge scale, complexity and partisanship surrounding such legislation has usually led to paralysis in Congress. The first Trump administration featured executiveside efforts by Mark Calabria, then director of the Federal Housing Finance Administration (FHFA), to change the way the GSEs operated, with an eye toward eventually privatizing the companies in some form. The approach of working around Congress appeared to continue in May, when President Trump said he was giving "very serious consideration to bringing Fannie Mae and Freddie Mac public" after almost 17 years of government conservatorship. On July 31, Bloomberg reported that the president had asked the CEOs of major Wall Street banks to present proposals for how to monetize the two GSEs, which together support about 70% of the U.S. mortgage market, and how their banks might play a role in the process. On August 27, Treasury Secretary Scott Bessent told Fox Business that the banks that will manage the Fannie/Freddie stock offering will be chosen in September and October, and that all the "big" banks will be part of the transaction.



Parting thoughts

While an appropriations package provides a potential vehicle for tax, health and other legislation at year's end, the potential for contentious relations between Republicans and Democrats regarding temporary and long-term extensions of government funding may threaten goodwill that will be necessary for a bipartisan package of agreed-upon priorities on tax, health, trade, and potentially other issues. Republicans, meanwhile, would need to overcome interparty differences to come together on a second reconciliation bill that advances policies left out of the OBBBA and other priorities.



More from WCEY

Our publications include What to Expect in Washington, This Week in Tax Policy, and This Week in Health Policy. If you have questions, contact any member of the WCEY team.



Ray Beeman ray.beeman@ey.com



Ryan Abraham ryan.abraham@ey.com



Adam Francis adam.francis@ey.com



Heather Meade heather.meade@ey.com



Bob Schellhas bob.schellhas@ey.com



Tara Bradshaw



Wes Coulam wes.coulam@ey.com



Blake Harden blake.harden@ey.com



Bill Rys bill.rys@ey.com



Lisa Wolski Iisa.wolski@ey.com



Jessica Cameron jessica.e.cameron@ey.com



Laura Dillon laura.dillon@ey.com



Evan Giesemann evan.giesemann@ey.com



Taylor Hittle taylor.hittle@ey.com



Will Heyniger will.heyniger@ey.com



John Porter john.porter@ey.com



Kurt Ritterpusch kurt.ritterpusch@ey.com



Heather Bell heather.bell@ey.com



Tommy Brown tommy.brown@ey.com



Samantha Schwarz samantha.schwarz1@ey.com



EY | Building a better working world

EY is building a better working world by creating new value for clients, people, society and the planet, while building trust in capital markets.

Enabled by data, Al and advanced technology, EY teams help clients shape the future with confidence and develop answers for the most pressing issues of today and tomorrow.

EY teams work across a full spectrum of services in assurance, consulting, tax, strategy and transactions. Fueled by sector insights, a globally connected, multi-disciplinary network and diverse ecosystem partners, EY teams can provide services in more than 150 countries and territories.

All in to shape the future with confidence.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

© 2025 Ernst & Young LLP. All Rights Reserved.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com