



## The NEA Monthly Lobbyist Report for Members



# NEA July Federal Advocacy Report

Last Updated: August 01, 2024

### Work on the Hill

June was a busy month on Capitol Hill as Congress geared up for passage of the FY25 appropriations bills and preparations for the July work period.

The House vote on June 14th for the FY25 National Defense Authorization Act marked the start of Congress's months-long process of approving all appropriations bills for FY 2025. On June 27, in his first public testimony since stepping down from government office, Dr. Anthony Fauci testified before a contentious House Select Subcommittee on the Coronavirus Pandemic about the Covid pandemic. The hearing focused on lessons learned during the pandemic. Fauci addressed claims related to funding for virology research in China and the possibility of a lab leak.

On June 7th, the Department of Health and Human Services (HHS) reported significant gains in health insurance coverage, particularly among minority communities, since the implementation of the Affordable Care Act. Later in the month, on June 26th, HHS announced temporary cost reductions for specific drugs covered by Medicare Part B. These reductions aim to address recent drug price increases exceeding inflation and will be in effect from July 1st to September 30th, 2024.

As the legislative landscape takes shape, Lobbyit will continue to diligently work on Capitol Hill to ensure NEA's policy priorities are firmly established for the upcoming July work period.

On June 6th, Lobbyit shared Senator Bill Cassidy's request for information on ways to modernize federal laws to allow independent workers access to portable workplace benefits like retirement and healthcare.

### Senate takes procedural vote on tax package

— Laying the groundwork for the big 2025 tax debate: August will likely end with a whimper on tax policy. The Senate is set to take a much-anticipated vote Thursday on a bipartisan tax bill, which includes an expansion of the child tax credit and restored tax benefits for business.

It has been stuck in the chamber for months over the objections of Republicans and is expected to get shot down by the Senate GOP. But the vote will get GOP members on the record against the package, which Democrats will likely exploit in campaigns over the summer and beyond.

With the tax legislation in the rear-view mirror, expect tax writers on both sides of the aisle to start outlining their plans to address the 2025 expiration of the Trump tax cuts. House Majority Leader Steve Scalise (R-La.) says he wants to extend those tax cuts in the first 100 days of the next Congress, and GOP leaders have already begun bicameral discussions on how to use budget reconciliation if the party sweeps in November.

Likewise, we can expect more activity from House Ways & Means Chair Jason Smith (R-Mo.) tax teams, which focus on topics ranging from supply chains to manufacturing and have been hosting roundtables nationwide.

—Meanwhile, Trump has been emphatic about his "no tax on tips" idea off the ground.

We don't know as much about Harris' plans, except that she's sticking with Biden's plans to not raise taxes on those making less than \$400,000 a year.

Harris put out notable proposals on rent tax relief and bigger, refundable credits for low-income workers, so we'll be keeping our ears peeled for mention of those and any deviation by Harris from Biden's tax agenda.

— August for CHIPS: Coming up on Aug. 9 is the second anniversary of the CHIPS and Science Act, which funded billions of dollars in semiconductor subsidies and authorized applied research in a range of emerging technologies to stay competitive with China.

So far, the administration has announced 14 preliminary grants to companies, totaling more than \$30 billion in funding that all still need to be negotiated and contracted. The 2022 law initially handed Commerce \$39 billion for manufacturing grants to encourage new factory construction, but in a controversial move, appropriators siphoned off \$3.5 billion into a Pentagon project for defense chips. That leaves just a little more than \$5 billion remaining.

As with last year, expect the administration to tout its progress, while lawmakers and industry experts take a hard look at the implementation, especially as members with pending projects in their districts may call on the Commerce Department to hit the gas.

— Administration workforce policies meet Texas bandsaw: August is poised to be a pivotal month for independent federal agencies attempting to defend progressive Biden administration labor policies.

The National Labor Relations Board is facing an existential crisis after a pair of Texas judges in late July issued rulings declaring that the agency's set-up is fundamentally flawed and violates the Constitution's separation-of-powers doctrine.

So far the NLRB is blocked only from pursuing enforcement cases against SpaceX and a Texas energy company, the companies that brought the respective lawsuits. But it raises the possibility of a march on courthouses from businesses hoping to clip a perpetual thorn in their side.

The NLRB plans to ask the conservative-leaning 5th Circuit Court of Appeals to step in later this month, though the issue will likely end up at the Supreme Court at some point.

— Elsewhere in Texas, the Federal Trade Commission is awaiting a final ruling from Judge Ada Brown over the fate of its near-total ban on noncompete agreements. In early July, Brown, a Trump appointee, temporarily blocked the rule from taking effect in September and said she intends to resolve the case by Aug. 30.

Brown has indicated she believes the FTC lacks authority to enact such a sweeping policy, though a judge in Pennsylvania came to the opposite conclusion in a parallel challenge to the noncompete ban.

— Washington digests Pentagon budget clash: Lawmakers are gone until September, and both sides of Capitol Hill are leaving town with wildly different takes on the Pentagon budget.

At issue is whether to boost military spending beyond the \$895 billion that the White House requested, which is also the maximum amount allowed under last year's debt limit deal.

Lawmakers will begin to take stock of the chasm between the two chambers in August and September, as the House and Senate Armed Services panels begin preliminary work on reconciling their competing policy bills — while deciding whether a compromise bill should endorse more defense spending.

But an agreement on defense spending is unlikely to gain traction until after the November elections. And any deal that boosts the Pentagon will almost certainly hike domestic spending as well to win Democratic support.

## Chevron Deference Decision

In a 6-3 decision, the Supreme Court's conservative majority upended a 40-year administrative law precedent that gave agencies across the federal government leeway to interpret ambiguous laws through rulemaking.

Known as Chevron deference, the now-overturned legal doctrine instructed judges to defer to agencies in cases where the law is ambiguous. Now, judges will substitute their own best interpretation of the law, instead of deferring to the agencies — effectively making it easier to overturn regulations that govern wide-ranging aspects of American life. This includes rules governing toxic chemicals, drugs and medicine, climate change, artificial intelligence, cryptocurrency and more.

The move hands a major victory to conservative and anti-regulatory interests that have looked to eliminate the precedent as part of a broader attack on the growing size of the "administrative state." The Biden administration defended the precedent before the high court. It also effectively represents Justice Neil Gorsuch overturning a precedent that upheld rules issued under his own mother, who was the head of the Environmental Protection Agency in the Reagan administration. Gorsuch wrote a separate opinion calling Chevron a "judge-made fiction."

This opinion follows a series of Supreme Court decisions rolling back the powers of executive agencies. The case is not the first time the high court's conservative majority has clawed back federal agency power in recent years. It ruled in 2021 that agencies cannot rule on significant issues without "clear congressional authorization" — creating a higher legal bar for executive branch actions to clear.

Chevron itself dates back to 1984, when environmental advocates sought to challenge the Reagan administration's efforts to limit air pollution restrictions. The court defended the agency's action, arguing that its interpretation of the Clean Air Act should be upheld.

While the doctrine applies equally to both Democratic and Republican administrations in theory, in recent years, many conservatives have sought its demise, arguing that agency deference has allowed liberal administrations to enact sweeping regulatory regimes.

## National Employers Association (8)

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 2813	<b>Placed On The Union Calendar Calendar No 88 2023 06 20</b>	In House	None	None	14.8% 95.0%

**Title** Self-Insurance Protection Act **Introduction Date:** 2023-04-25

### Description

Self-Insurance Protection Act This bill specifies that stop-loss coverage is not health insurance coverage for purposes of regulation under the Employee Retirement Income Security Act of 1974. Stop-loss policies are generally obtained by self-insured health plans or sponsors of self-insured group health plans to reimburse the plan or sponsor for losses incurred in providing health benefits to plan participants in excess of a level set forth in the stop-loss policy. The bill also preempts state laws that prevent employers from obtaining stop-loss coverage.

### Primary Sponsors

Bob Good

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 2868	<b>Placed On The Union Calendar Calendar No 87 2023 06 14</b>	In House	None	None	16.5% 95.0%

**Title** Association Health Plans Act **Introduction Date:** 2023-04-25

### Description

Association Health Plans Act This bill provides statutory authority for the treatment of association health plans (AHPs) as single, large employer health plans for purposes of the Employee Retirement Income Security Act (ERISA). Under AHPs, groups of individuals or small employers join together to purchase health insurance coverage. AHPs were historically subject to the market requirements for individual and small group health plans. In 2018, the Department of Labor issued regulations that allowed an AHP to be considered a single, large employer under ERISA if certain conditions are met. The regulations have been subject to litigation, which is still ongoing. The bill provides that a group of employers is treated as a single, large employer for the purpose of establishing an AHP if the group, among other listed criteria (1) has been in existence for at least two years prior to establishing a group health insurance plan and was formed for a purpose other than offering health insurance, (2) meets any criteria set by Labor in a prior advisory opinion, or (3) meets any other criteria set by Labor through regulations. Additionally, the bill establishes rules for AHPs to set premium rates and prohibits AHPs from discriminating in coverage based on health status-related factors or denying coverage based on preexisting conditions.

### Primary Sponsors

Tim Walberg

**Title**  
CHOICE Arrangement Act

**Description**

This bill generally provides statutory authority for certain health reimbursement arrangements and other alternative health insurance options for employers. TITLE I--ASSOCIATION HEALTH PLANS ACT This title provides statutory authority for the treatment of association health plans (AHPs) as single, large employers for purposes of the Employee Retirement Income Security Act (ERISA). Under AHPs, groups of individuals or small employers join together to purchase health insurance coverage. AHPs were historically subject to the market requirements for individual and small group health plans. In 2018, the Department of Labor issued regulations that allowed an AHP to be considered a single, large employer under ERISA if certain conditions are met. The regulations have been subject to litigation, which is still ongoing. The title provides that an AHP qualifies as a single, large employer if it (1) among other listed criteria, has been in existence for at least two years before offering health insurance and was formed for a purpose other than offering health insurance; (2) meets any criteria set by Labor in a prior advisory opinion; or (3) meets any other criteria set by Labor through regulations. TITLE II--CHOICE ARRANGEMENT ACT This title provides statutory authority for regulations that allow employers to offer individual coverage health reimbursement arrangements (ICHRA). Under ICHRAs, employers agree to reimburse employees for incurred medical expenses up to a limit for a specified period (e.g., a calendar year), and employees obtain their own individual coverage that meets certain requirements of the Patient Protection and Affordable Care Act (coverage of preventive services and no annual or lifetime limits). Payments or reimbursements under an ICHRA are tax-exempt and may only be made for medical care provided when the employee was covered by a plan that meets the requirements. Employees may also pair ICHRAs with Medicare coverage. In 2019, the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services issued regulations that allow employers to offer employees ICHRAs if certain conditions are met: (1) the employer offers ICHRAs to all employees in the same class (e.g., all full-time employees) without the choice of an employer-sponsored group health plan, and (2) the employer offers the ICHRA to all employees within the class on the same terms (i.e., the amount of available funds and the terms and conditions of the benefits). The regulations also specify certain notice and verification requirements with respect to ICHRAs. The title provides statutory authority for these regulations and generally refers to ICHRAs as custom health option and individual care expense arrangements. TITLE III--SELF-INSURANCE PROT... (click bill link to see more).

**Bill Summary:** Last edited by Jacob Kohn at Jun 22, 2023, 1:42 PM  
The CHOICE Act makes several improvements, including: - Association Health Plans Act Would Allow Businesses to Pool Risk and Negotiate Lower Costs - Self-Insurance Protection Act Levels the Playing Field for Small Business - Custom Health Option and Individual Care Expense Arrangement Act Creates Certainty and Improves Individual Coverage HRAs (ICHRAs)

**Introduction Date:** 2023-06-05

**Primary Sponsors**

Kevin Hern

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 3800	Ordered To Be Reported In The Nature Of A Substitute Amended By The Yeas And Nays 34 6 2023 06 07	In House	None	None	13.4% 95.0%

**Title** **Introduction Date:** 2023-06-05  
Chronic Disease Flexible Coverage Act

**Description**  
Chronic Disease Flexible Coverage Act This bill provides statutory authority for certain guidance from the Internal Revenue Service (IRS) that expands the types of preventive care that may be offered under high deductible health plans (HDHPs) without a deductible. In 2019, the IRS issued guidance that allows HDHPs to cover certain items and services for individuals with chronic conditions without a deductible, including medications and monitoring devices for those with diabetes or heart conditions. The bill provides statutory authority for this guidance.

**Primary Sponsors**  
Brad Wenstrup

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 5687	Placed On The Union Calendar Calendar No 317 2024 02 13	In House	None	None	89.5% 95.0%

**Title** **Introduction Date:** 2023-09-26  
HSA Modernization Act of 2023

**Primary Sponsors**  
Beth Van Duyne

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 5688	Placed On The Union Calendar Calendar No 330 2024 02 26	In House	None	None	89.4% 95.0%

**Title** **Introduction Date:** 2023-09-26  
Bipartisan HSA Improvement Act of 2023

**Primary Sponsors**  
Lloyd Smucker

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 5737	Referred To The House Committee On Ways And Means 2023 09 26	In House	None	None	5.5% 95.0%

**Title** **Introduction Date:** 2023-09-26  
Elevating HSA Limits Act of 2023

**Primary Sponsors**  
Beth Van Duyne

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
<b>US</b>	<b>S 3224</b>	<b>Read Twice And Referred To The Committee On Finance 2023 11 02</b>	<b>In Senate</b>	<b>None</b>	<b>None</b>	<b>7.1%</b> <b>95.0%</b>

**Title**  
Chronic Disease Flexible Coverage Act

**Introduction Date:** 2023-11-02

**Primary Sponsors**  
John Thune

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