



## The NEA Monthly Lobbyist Report for Members



# NEA November Federal Advocacy Report

Last Updated: November 25, 2024

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### Work on the Hill

On Capitol Hill, November has brought a renewed focus as Congress reconvened on November 12, 2024, following its extended recess. With the legislative calendar now condensed, lawmakers have been addressing several critical issues in the final weeks of the year. Committees have ramped up their activities, and the overall pace of congressional action has accelerated as the year's end approaches.

As the 2024 elections are now behind us, Capitol Hill staffers are not only focused on wrapping up the immediate legislative agenda but also diligently preparing for the 119th Congress. The outcomes of the elections will play a pivotal role in shaping the legislative priorities of the next session. It remains crucial to maintain active engagement with lawmakers to ensure our priorities are front and center in these discussions.

Lobbyit remains focused on monitoring legislative developments and working with lawmakers to secure NEA's priorities. Our proactive engagement during this critical time helps set the stage for success in the upcoming Congress and beyond.

### Lame Duck Agenda

The must-pass items include the fiscal year (FY) 2025 National Defense Authorization Act (NDAA), supplemental disaster relief funding and legislation to fund the government beyond the expiration of the current continuing resolution (CR) of December 20, 2024. Other expiring programs, such as the Farm Bill, are more likely to be extended than reauthorized. The biggest question for Republicans is whether to (1) pass as many appropriations bills in the Lame Duck as possible to clear the decks or (2) pass a new CR to kick the bills into 2025 when Republicans will control the House, the Senate and White House. Ultimately, we expect House and Senate GOP Leaders to settle on an appropriations strategy with President Trump in very short order.

### FY 2025 Appropriations

Congress passed a CR to maintain government funding through December 20, 2024. The House and Senate are not expected to conference the FY 2025 appropriations bills, and depending on the election results, negotiations could be pushed into the next congress.

House Speaker Mike Johnson (R-LA) said not to expect a Christmas omnibus, adding that Congress is "not going to do any busses." The need for supplemental disaster relief funding in the wake of Hurricanes Helene and Milton could facilitate a year-end funding deal if Congress does not move a standalone supplemental bill. Ultimately, Congress is not likely to enact 12 individual appropriations bills, and may elect instead to move multiple "minibuses" in lieu of a large omnibus either before Christmas or in the first quarter of 2025.

## Farm Bill

Chairman of the House Committee on Agriculture Glenn “GT” Thompson (R-PA) and Chairwoman of the Senate Committee on Agriculture, Nutrition and Forestry Debbie Stabenow (D-MI) are deadlocked over competing priorities, hindering progress on a new Farm Bill, despite a looming economic crisis in farm country. Among other differences, Democrats want to protect funding for nutrition and conservation programs, while Republicans aim to redirect those funds to support row crops, such as through increased reference prices and improvements to crop insurance.

The chances of an agreement during the Lame Duck session are rising, as the two sides have stepped up negotiations. Still, for now, chances of a full reauthorization remain low. If a new Farm Bill is not finalized by December 20, 2024, we anticipate another extension, coupled with an ad hoc emergency relief bill to support falling farm incomes.

## Health Care & Life Sciences

The 118th Congress has had a high volume of activity on health care issues by the committees of jurisdiction in both the House and Senate. Yet, few health bills have passed both chambers and been signed into law resulting in a large number of health-related bills awaiting potential action during the Lame Duck session. It remains to be seen how Congress will address the outstanding health items.

The issues positioned to be in the mix for further action include the BIOSECURE Act, pharmacy benefit manager (PBM) reforms, various health extenders (i.e., a two-year extension of the pandemic-era Medicare telehealth waivers, and extending the delay in hospital disproportionate share hospital funding cuts expected to go into effect in January), a temporary increase for Medicare physician payments and numerous bipartisan public health bills, such as the Pandemic and All-Hazards Preparedness Act (PAHPA) and Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act reauthorizations.

## NDAA Reauthorization

In September 2024, Senate Armed Services Committee (SASC) leaders filed a manager’s package of 93 non-controversial amendments to the SASC-passed version (S. 4638) of the National Defense Authorization Act (NDAA), including annual authorization bills for the State Department, intelligence agencies and Coast Guard. Meanwhile, the House passed its version (H.R. 8070) of the NDAA in June.

As part of the conference negotiations with the House, the manager’s package and S. 4638 will be combined, and while informal talks have begun in earnest between the two chambers, negotiations will intensify during the lame duck session to reconcile their differences. Matters related to new rules on outbound investment and efforts to curtail competition with China, including a ban on Chinese-made drones and restrictions on Chinese-based biotech companies, remain at the top of the list of items up for negotiation.

## Tax Agenda

The lame duck outlook in the tax space is trending towards lame. While there are numerous expired tax provisions that could be addressed—items such as research expensing, bonus depreciation, and interest deductibility limitations—it is likely that with a GOP sweep, Republicans will wait until 2025 to tackle their extension.

The high-water mark for the lame duck period will likely be limited to potential disaster tax relief for areas hit by recent natural disasters and potentially a Taiwan double-tax relief measure contained in Chairman Jason Smith (R-MO) and Chairman Ron Wyden's (D-OR) Tax Relief for American Workers and Families Act.

## The First 100 Days

### Administrative Action

Most presidents spend the first days of their administration reversing the policies of their opposite party predecessor and laying the groundwork for their own policies with a series of executive orders. President Trump is now in the historically rare position of being able to reinstate and expand on his own policies from his first term as the first president since Grover Cleveland to win a non-sequential second term in office.

We expect that President Trump will focus the first 100 days on executive actions that advance his top campaign priorities related to immigration policy, tariffs and rolling back Biden administration policies and offices related to social (e.g., diversity, equity & inclusion (DEI)) policies and environmental issues. Similarly, President Trump likely will prioritize government-wide deregulatory reform, much like the first 100 days of his prior presidency. He is also likely to take action to reform the federal civil service, such as immediately establishing a Government Efficiency Commission.

Of notable contrast to President Trump's first term, the incoming administration is better prepared for the transition. Outside groups affiliated with the former President have stepped up efforts to develop lists of potential political appointees and inform early policymaking for the second Trump administration to implement on day one.

These preparations are intended to empower political appointees to hit the ground running in implementing President Trump's second-term agenda. While the nature and content of the executive orders in his first 100 days are expected to track the priorities that President Trump emphasized during his campaign, they actually may be less sweeping where such campaign promises require congressional action. These proactive actions also may drive a more successful first 100-day administrative action plan compared to President Trump's first 100 days in 2017.

**Immigration.** Since his first run for President almost a decade ago, President Trump has consistently campaigned on immigration. He has pledged in the first 100 days of his second administration to begin "the largest deportation operation in American history," to "end every open border policy of the Biden administration," and to "restore the Trump travel ban on immigration from terror-plagued countries." This builds on the first 100 days of his first term when President Trump issued executive orders to begin the family separation policy, end funding for so-called sanctuary jurisdictions, establish an office to support victims of crimes committed by undocumented immigrants and expedite the removal of undocumented immigrants, among other immigration policies. A new set of executive orders would revive and expand these policies, fulfilling his most prominent campaign promises.

**Trade.** President Trump is likely to move quickly in his first 100 days to fulfill his various campaign pledges to raise tariffs on goods from all sources, goods from China and goods from Mexico made with Chinese investment. Specifically, this may include invoking the International Emergency Economic Powers Act (IEEPA) or Section 122 of the Trade Act of 1974 to establish a "universal baseline tariff" on goods from all sources, increasing tariffs on imports from China under Section 301 of the Trade Act, suspending the agreements previously reached with the European Union (EU) regarding Section 232 "national security" tariffs on steel and aluminum and reimposing those tariffs on imports from the EU and/or starting new Section 232 or Section 301 investigations into sensitive strategic sectors like autos and/or electric vehicles. While in official campaign documents President Trump has proposed a 60 percent tariff on goods from China and a 10 percent tariff on goods from all sources, those figures have fluctuated and he also has said that a tariff can serve different purposes, either as leverage to force companies to relocate operations to the U.S. or simply collect revenue without changing behavior. As his first term in office demonstrated, tariffs also can serve as leverage in early negotiation stages to reach some kind of deal. Regardless of the ultimate end reached, President Trump is expected to launch his second term with a raft of new tariffs.

Focus on Social Issues. In his first 100 days, President Trump likely will take action on social issues, such as reinstating from his first term the Mexico City policy, which blocked federal funding for nongovernmental organization (NGO) abortion counseling and services. He also likely will seek to implement campaign promises on cutting federal funding for schools and for health care providers that offer gender-affirming care.

Reversing Other Biden Administration Policy. President Trump also likely will take early action to reverse Biden administration energy and environmental policies, such as the pause in liquefied natural gas (LNG) export licensing and to promote domestic oil & gas drilling and pipeline expansion. President Trump also is likely to seek through executive action to issue a freeze on Biden administration regulations, such as the artificial intelligence (AI) executive order, which President Trump says censors free speech. He also may seek federal workforce reforms, possibly reissuing an executive order from his first term to re-classify career civil servants as political appointees thereby expediting federal agency personnel hiring and firing. He may also seek to reinstate the executive order banning diversity training, which President Biden revoked on his first day in office.

## Legislative Outlook

Congress's ability to pursue legislative priorities in the first 100 days may be impacted by the progress made on FY 2025 appropriations and/or new deadlines set by another continuing resolution (the current one is set to expire December 20, 2024).

The first days of any new Congress, particularly if the same party as the President's controls the Senate and House majority, are typically focused on confirming the President's most important cabinet nominees. In President Trump's first term, a Republican-controlled Senate confirmed his entire cabinet within the first 100 days, and his Secretaries of Defense, Education, Health & Human Services, Homeland Security, State, Transportation and the Treasury within the first 25 days. These confirmations only require a simple majority and under a GOP-majority Senate, are expected to move rapidly through confirmation, with some possible timing variations based on the specific nominees the President puts forward.

Aside from nominations, a government under unified Republican control likely will spend the first 100 days on President Trump's top priorities, like developing and seeking to pass a restrictive border enforcement and funding bill akin to the Secure the Border Act (H.R. 2), which House Republicans advocated in the current Congress. Congressional Republicans also will lay the groundwork in committee and across their respective conferences for a comprehensive tax reform bill prior to the Tax Cuts and Jobs Act (TCJA) expiring at the end of 2025. A unified Republican government also may consider the budget reconciliation process for expediting tax reform.

## US Medicare issues updated rules for second round of drug negotiations

The U.S. government is adjusting its Medicare drug price negotiation process to allow for more negotiation time and opportunities for drugmakers to submit counter offers. The Centers for Medicare and Medicaid Services (CMS) will select the costliest medications by February 1, with reduced prices taking effect in 2027. Changes, prompted by feedback from patients and pharmaceutical companies, include earlier meetings between CMS and drugmakers and additional opportunities for counter offers. These negotiations will help establish Medicare prices for 15 drugs in the program's second round, which will have a shorter timeline, with final prices due by November 30, 2025. The first round, announced in August, is set to save Americans \$1.5 billion in out-of-pocket costs starting in January 2026.

## White House OMB is reviewing proposed cybersecurity updates to HIPAA

The Department of Health and Human Services (HHS) has proposed updates to the HIPAA Security Rule aimed at bolstering cybersecurity for electronic protected health information (ePHI). These changes, which await White House review before public comment, are intended to address rising cyber threats like ransomware and unauthorized access. The modifications come as healthcare data breaches have increased, and NIST recently updated its guidance to support HIPAA compliance.

The new rule highlights the need for stronger security standards and follows recent legal and regulatory changes. These include uncertainties over what constitutes ePHI after a recent ruling and privacy concerns related to reproductive healthcare following the Supreme Court's Dobbs decision. HHS recently mandated that healthcare organizations revise policies by December 23 to protect reproductive privacy. Experts suggest collaborating with electronic health record vendors and setting data-sharing guardrails to manage privacy risks without blocking necessary information exchange.

The proposed rule aims to improve healthcare cybersecurity through stronger measures to prevent, detect, and recover from cyber threats. The rule will likely be released in December 2024.

## Telehealth Is Just as Effective as In-person Care, Study Finds

A large clinical trial has shown that telehealth is as effective as in-person care for improving quality of life in palliative care patients. The study, involving 1,250 lung cancer patients, revealed that telehealth provides similar benefits to in-person visits, especially for patients with limited mobility or travel challenges. These findings, published in *JAMA*, support advocates' calls for Congress to extend telehealth waivers, which are set to expire in 2024 unless renewed.

Telehealth use soared during the COVID-19 pandemic due to relaxed Medicare rules, increasing access for millions of Americans. However, Congress is now debating whether to make these changes permanent, with concerns over cost, potential fraud, and quality of care. The study provides evidence to counter these concerns, showing that telehealth can maintain high-quality care across specialties.

Policymakers are considering whether to fully reimburse telehealth or set lower rates than in-person visits. Experts, like Dr. Lee Schwamm from Yale, suggest a phased reduction to allow health systems time to adapt and invest in telehealth infrastructure. Proponents argue that telehealth expansion is essential for ensuring accessible, high-quality care for patients with chronic or severe health issues, especially in underserved areas.

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## Bills by Issue

### National Employers Association (8)

State	Bill Number	Last Action	Status	Position	Priority	FN Outlook
US	HR 2813	<b>Placed On The Union Calendar Calendar</b> No 88 2023 06 20	In House	None	None	14.8% 12.4%

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

#### 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</b> No 87 2023 06 14	In House	None	None	16.5% 95.0%

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

#### 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 (ICHRAs). 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
<b>US</b>	<b>HR 3800</b>	<b>Received In The Senate And Read Twice And Referred To The Committee On Finance 2024 09 18</b>	<b>In Senate</b>	<b>None</b>	<b>None</b>	<b>33.0%</b> <b>31.6%</b>

**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
<b>US</b>	<b>HR 5687</b>	<b>Placed On The Union Calendar Calendar No 317 2024 02 13</b>	<b>In House</b>	<b>None</b>	<b>None</b>	<b>20.1%</b> <b>7.8%</b>

**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	10.3% 53.3%

**Title**  
Bipartisan HSA Improvement Act of 2023

**Introduction Date:** 2023-09-26

**Description**

Bipartisan HSA Improvement Act of 2023 This bill allows an individual to contribute to a health savings account (HSA), as part of a high deductible health plan (HDHP), while also participating in a primary care service arrangement, receiving qualified items or services at an employer-sponsored on-site clinic, or if covered under a spouse's flexible spending arrangement (FSA). Further, the bill allows individuals to rollover amounts in an FSA or health reimbursement arrangement (HRA) into an HSA. The bill defines a primary care service arrangement as one in which an individual is provided primary care services by a primary care practitioner for a periodic fixed fee of no more than \$150 a month for an individual (or no more than \$300 a month for an arrangement that covers more than one individual). Additionally, under the bill, qualified items or services received at an employer-sponsored, on-site clinic include physical exams, immunizations, nonprescription drugs or biologicals, treatment for injuries related to an individual's employment, preventative care for chronic conditions, and vision and hearing screenings. The bill allows an individual to contribute to an HSA, as part of an HDHP, even if covered by a spouse's FSA. However, amounts in the spouse's FSA must be used to reimburse the spouse's eligible medical expenses for the plan year before being rolled over into the individual's HSA. Finally, individuals may be able to rollover up to the annual FSA contribution limit from an FSA or HRA into an HSA upon enrolling in an HDHP.

**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**  
Elevating HSA Limits Act of 2023

**Introduction Date:** 2023-09-26

**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>	5.0% 53.3%

**Title**

Chronic Disease Flexible Coverage Act

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

**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**

John Thune