



MEMORANDUM

May 22, 2023

TO: Members of the Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: Full Committee Markup

I. INTRODUCTION

On Wednesday, May 24, 2023, at 10:00 a.m. (ET) the Committee on Energy and Commerce will meet in open markup session in 2123 Rayburn House Office Building to consider the following:

- **H.R. 1418**, the Animal Drug User Fee Amendments of 2023, as amended by the Subcommittee on Health (Reps. Greg Pence and Kim Schrier)
- **H.R. 2544**, the Securing the U.S. Organ Procurement and Transplantation Network Act (Reps. Larry Bucshon and Robin Kelly)
- **H.R. 3561**, the Promoting Access to Treatments and Increasing Extremely Needed Transparency (PATIENT) Act of 2023 (Reps. Cathy McMorris Rodgers and Frank Pallone Jr.)
- **H.R. 2666**, the Medicaid VBPs for Patients (MVP) Act, as amended by the Subcommittee on Health (Reps. Brett Guthrie and Anna Eshoo)
- **H.R. 3284**, the Providers and Payers COMPETE Act (Reps. Michael Burgess and Debbie Dingell)
- **H.R. 3290**, To amend title III of the Public Health Service Act to ensure transparency and oversight of the 340B drug discount program (Rep. Larry Bucshon)
- **H.R. 3285**, the Fairness for Patient Medications Act (Rep. Morgan Griffith)
- **H.R. 3309**, the Standard Fees to Expedite Evaluation and Streamlining Act or the Standard FEES Act (Reps. Gary Palmer and Patrick Ryan)
- **H.R. 3293**, the Expediting Federal Broadband Deployment Reviews Act (Reps. Jeff Duncan and Angie Craig)
- **H.R. 3299**, the Deploying Infrastructure with Greater Internet Transactions and Legacy Applications Act or DIGITAL Applications Act (Reps. Kat Cammack and Doris Matsui)
- **H.R. 3283**, the Facilitating the Deployment of Infrastructure with Greater Internet Transactions and Legacy Applications Act or Facilitating DIGITAL Applications Act (Reps. Mariannette Miller-Meeks and Debbie Dingell)

- **H.R. 3343**, the Federal Broadband Deployment Tracking Act (Reps. August Pfluger and Darren Soto)
- **H.R. 3565**, the Spectrum Auction Reauthorization Act of 2023 (Reps. Cathy McMorris Rodgers and Frank Pallone Jr.)
- **H.R. 3557**, the American Broadband Deployment Act of 2023 (Reps. Earl L. “Buddy” Carter, Nathaniel Moran, and Neal Dunn)
- **H.R. 1160**, the Critical Electric Infrastructure Cybersecurity Incident Reporting Act (Reps. Tim Walberg and Kim Schrier)
- **H.R. 3277**, the Energy Emergency Leadership Act (Reps. Tim Walberg and Lisa Blunt Rochester)
- **H.R. 1042**, the Prohibiting Russian Uranium Imports Act, as amended by the Subcommittee on Energy, Climate, and Grid Security (Rep. Cathy McMorris Rodgers)
- **H.R. 1640**, the Save Our Gas Stoves Act (Rep. Debbie Lesko)
- **H.R. 1615**, the Gas Stove Protection and Freedom Act (Rep. Kelly Armstrong)

In keeping with Chair Rodgers’ announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to EandCdocs@mail.house.gov. Any information with respect to an amendment’s parliamentary standing (e.g., its germaneness) should be submitted at this time.

II. LEGISLATION

A. H.R. 1418, the Animal Drug User Fee Amendments of 2023

H.R. 1418 was introduced by Representative Greg Pence (R-IN) on March 7, 2023. The bill would reauthorize the Food and Drug Administration’s (FDA) user fee programs for animal drugs and animal generic drugs through fiscal year 2028. This bill establishes transparency reporting requirements for FDA’s Center for Veterinary Medicine, allows for amendment to the ‘major species’ definition to better reflect current animal populations, and codifies reporting dates for CVM’s activities regarding its stewardship and development of antimicrobials.

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 1418, as amended by an amendment in the nature of a substitute to the full committee by a roll call vote of 29-0.

B. H.R. 2544, the Securing the U.S. Organ Procurement and Transplantation Network Act

H.R. 2544 was introduced by Representative Larry Bucshon (R-IN) on April 10, 2023. The bill would amend section 372 of the Public Health Service Act to allow for additional flexibilities within the Organ Procurement and Transplantation Network (OPTN).

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 2544, without amendment to the full committee by a roll call vote of 28-0.

C. H.R. 3561 the Promoting Access to Treatments and Increasing Extremely Needed Transparency (PATIENT) Act of 2023

H.R. 3561 was introduced by Representative Cathy McMorris Rodgers (R-WA) on May 22, 2023. The bill reflects the committee print of the amendment in the nature of a substitute to H.R. 3281. A section by section of summary of H.R. 3561 can be found [here](#).

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 3281, as amended by an amendment in the nature of a substitute to the full committee by a roll call vote of 27-0. The amended bill was reintroduced as H.R. 3561, the Promoting Access to Treatments and Increasing Extremely Needed Transparency (PATIENT) Act of 2023.

D. H.R. 2666, the Medicaid VBPs for Patients (MVP) Act

H.R. 2666 was introduced by Representative Brett Guthrie (R-KY) on April 18, 2023. The bill would permit states and pharmaceutical manufacturers to enter into value-based payment arrangements, as a means to offer alternatives for how to cover high-cost, one-time cell and gene therapies in the Medicaid program. In order to do so, the bill would amend allow for multiple reportings for a respective drug's best price, average manufacturer price, and average sales price.

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 2666, as amended by an amendment in the nature of a substitute to the full committee by a roll call vote of 16-11.

E. H.R. 3284, the Providers and Payers COMPETE Act

H.R. 3284 was introduced by Representative Michael Burgess (R-TX) on May 15, 2023. The bill would require the U.S. Department of Health and Human Services (HHS), during each of its annual hospital and other provider payment rules like those for inpatient and outpatient care, to consider the implications that its proposals may have on further consolidating the health care system by studying both horizontal and vertical consolidation among both providers and payers.

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 3284, without amendment to the full committee by a roll call vote of 27-0.

F. H.R. 3290, To amend title III of the Public Health Service Act to ensure transparency and oversight of the 340B drug discount program

H.R. 3290 was introduced by Representative Larry Bucshon (R-IN) on May 15, 2023. The bill would establish reporting requirements for hospitals participating in the 340B program. Specifically, participating hospitals would be required to report total 340B savings, the covered

entity's respective patient mix, total charity care, and payer shortfall, to the Health Resources and Services Administration on an annual basis.

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 3290, without amendment to the full committee by a roll call vote of 16-12.

G. H.R. 3285, the Fairness for Patient Medications Act

H.R. 3285 was introduced by Representative Morgan Griffith (R-VA) on May 15, 2023. The bill would establish cost-sharing limitations on highly rebated drugs. Specifically, cost-sharing would be capped at the price paid by the insurer for the drug in the previous year to ensure patients are never paying more than the cost of the drug.

On May 17, 2023, the Subcommittee on Health favorably forwarded H.R. 3285, without amendment to the full committee by voice vote.

H. H.R. 3309, the Standard Fees to Expedite Evaluation and Streamlining Act or the Standard FEES Act

H.R. 3309 was introduced by Representative Palmer (R-AL) on May 15, 2023. The bill would establish a common fee for processing applications to deploy communications facilities on federal property.

On May 17, 2023, the Subcommittee on Communications and Technology favorably forwarded H.R. 3309, as introduced to the full committee by a voice vote.

I. H.R. 3293, the Expediting Federal Broadband Deployment Act

H.R. 3293 was introduced by Representative Duncan (R-SC) on May 15, 2023. The bill would direct NTIA to lead an interagency strike force to help prioritize reviews for requests to deploy broadband on federal land.

On May 17, 2023, the Subcommittee on Communications and Technology favorably forwarded H.R. 3293, as introduced to the full committee by a voice vote.

J. H.R. 3299, the Deploying Infrastructure with Greater Internet Transactions and Legacy Applications Act or DIGITAL Applications Act

H.R. 3299 was introduced by Representative Cammack (R-FL) on May 15, 2023. The bill would establish an online portal to accept, process, and dispose of the common form application to deploy a communications facility on federal property.

On May 15, 2023, the Subcommittee on Communications and Technology favorably forwarded H.R. 3299, as introduced to the full committee by a voice vote.

K. H.R. 3283, the Facilitating the Deployment of Infrastructure with Greater Internet Transactions and Legacy Applications Act or Facilitating DIGITAL Applications Act

H.R. 3283 was introduced by Representative Miller-Meeks (R-IA) on March 15, 2023. The bill would require the NTIA to update Congress on whether the Departments of Interior and Agriculture have established an online portal for the acceptance, processing, and disposal of the common form application to deploy a communications facility on federal property.

On May 17, 2023, the Subcommittee on Communications and Technology favorably forwarded H.R. 3283, as introduced to the full committee by a voice vote.

L. H.R. 3343, the Federal Broadband Deployment Tracking Act

H.R. 3343 was introduced by Representative Pfluger (R-TX) on March 15, 2023. The bill would require NTIA to submit a plan to Congress on tracking the acceptance, processing, and disposal of requests for communications use authorizations on federal property.

On May 17, 2023, the Subcommittee on Communications and Technology favorably forwarded H.R. 3343, as amended by an amendment in the nature of a substitute to the full committee by a voice vote.

M. H.R. 3565, Spectrum Auction Reauthorization Act of 2023

H.R. 3565 was introduced by Chair Cathy McMorris Rodgers (R-WA) and Ranking Member Frank Pallone, Jr. (D-NJ) on May 22, 2023. The bill would reauthorize the Federal Communication's Commission authority to issue licenses for the use of electromagnetic spectrum and grant construction permits until December 31, 2026.

The bill would also add certainty to the process for identifying 350 megahertz (MHz) of spectrum between 3.1 GHz and 3.45 GHz for non-Federal use, shared Federal and non-Federal use, or a combination thereof. Additionally, the bill would use auction proceeds to fund the \$3.08 billion shortfall in the Secure and Trusted Communications Networks reimbursement program; establish a Next-Generation 9-1-1 grant program at the National Telecommunications and Information Administration (NTIA); and establish an incumbent informing capability at NTIA to help make available Federal spectrum for non-federal use. The bill would also direct NTIA to carry out an assessment on the feasibility of making frequencies between 4.4-4.94 GHz and 7.125-8.5 GHz available for non-Federal use, shared Federal and non-Federal use, or a combination thereof. Finally, the bill would establish federal spectrum coordination procedures that requires NTIA to provide notice to Federal agencies and the FCC regarding the views of the Executive Branch on potential spectrum actions.

The Subcommittee on Communications and Technology voted by voice to favorably forward a bill to the full committee to extend the FCC's auction authority until June 30, 2023.

N. H.R. 3557, the American Broadband Deployment Act of 2023

H.R. 3557 was introduced by Representatives Carter (R-GA), Moran (R-TX), and Dunn (R-FL) on May 22, 2023. The bill is identical to the committee print of the amendment in the nature of a substitute to H.R. 3291, which was adopted by the Subcommittee on Communications and Technology on May 17, 2023. The bill would streamline federal, state, and local permitting processes for broadband deployment by establishing shot clocks for state and local permitting reviews, deemed granted remedies for missed shot clocks, and exempt deployments over certain previously disturbed lands from National Environmental Protection Act (NEPA) and National Historic Preservation Act (NHPA) reviews

On May 17, 2023, the Subcommittee on Communications Technology favorably forwarded H.R. 3291, as amended by an amendment in the nature of a substitute to the full committee by a roll call vote of 16-12. H.R. 3557 is a reintroduced version of and identical to H.R. 3291, as amended.

O. H.R. 1160, the Critical Electric Infrastructure Cybersecurity Incident Reporting Act

H.R. 1160 was introduced by Representatives Walberg (R-MI) and Schrier (D-WA) on February 24, 2023. This legislation would amend the Federal Power Act (FPA) to authorize DOE to promulgate regulations to require critical electric infrastructure owners and operators to share information regarding cybersecurity incidents with DOE. The provisions within the FPA that would be amended by this legislation originated from authority DOE was granted in the Fixing America's Surface Transportation Act (FAST Act) that was signed into law in 2015. The FAST Act designated DOE as the "Sector-specific agency" for energy sector cybersecurity, granted DOE authority to address grid security emergencies, and granted FERC, in consultation with DOE, authority to protect, share, and designate critical electric infrastructure information.

On February 28, 2023, the Subcommittee on Energy, Climate, and Grid Security favorably forwarded H.R. 1160 to the full committee by a voice vote.

P. H.R. 3277, the Energy Emergency Leadership Act

H.R. 3277 was introduced by Representatives Walberg (R-MI) and Blunt Rochester (D-DE) on May 11, 2023. This bill would amend the Department of Energy Organization Act to include energy emergency and energy security among the functions that the Secretary of Energy shall assign to an Assistant Secretary. The legislation would provide that the functions to be assigned to an Assistant Secretary include responsibilities with respect to infrastructure, cybersecurity, emerging threats, supply and emergency planning, coordination, response, and restoration. It would also provide that these functions include the provision of technical assistance, support, and response capabilities with respect to energy sector threats, risks, and

incidents to State, local, and Tribal governments, and the energy sector. Finally, H.R. 3277 would require the Secretary of Energy to ensure that the departmental functions added by this legislation are performed in coordination with relevant Federal agencies.

On May 16, 2023, the Subcommittee on Energy, Climate, and Grid Security favorably forwarded H.R. 3277 to the full committee by a roll call vote of 30-0.

Q. H.R. 1042, the Prohibiting Russian Uranium Imports Act

H.R. 1042 was introduced by Representative McMorris Rodgers (R-WA) on February 14, 2023. This bill would amend the relevant sections of the USEC Privatization Act to prohibit the importation of unirradiated, low-enriched uranium that is produced in the Russian Federation. It would provide waiver authority until January 2028 to the Secretary of Energy to authorize the importation of such uranium, subject to certain limits, if no alternative, viable source of low-enriched uranium is available to sustain U.S. nuclear reactor or U.S. nuclear company operations or is determined to be in the national interest. This prohibition would not apply to imports of non-uranium isotopes or certain imports for national security or nonproliferation purposes. The legislation also would direct the Secretary of Energy to submit to Congress an evaluation of anticipated low-enriched uranium supplies to replace Russian supplies and proposed Department of Energy assistance, if determined necessary, to support expansion of domestic low-enriched uranium production capacity sufficient to meet domestic demand, accounting for market competition, supply diversity, and long-term fuel supply needs of the United States.

On May 16, 2023, the Subcommittee on Energy, Climate, and Grid Security favorably forwarded H.R. 1042, as amended, to the full committee by a roll call vote of 18-12.

R. H.R. 1640, the Save Our Gas Stoves Act

H.R. 1640 was introduced by Representative Lesko (R-AZ) on March 17, 2023. This legislation would amend Section 325(h) of the Energy Policy and Conservation Act so that an energy conservation standard under this section for kitchen ranges or ovens cannot be “economically justified” if it likely will result in the unavailability in the United States of a type (or class) of product based on what type of fuel the product consumes. H.R. 1640 also would prohibit the Secretary of Energy from finalizing, implementing, or enforcing the proposed energy conservation standard for consumer conventional cooking products, or any substantially similar rule.

On May 16, 2023, the Subcommittee on Energy, Climate, and Grid Security favorably forwarded H.R. 1640 to the full committee by a roll call vote of 20-10.

S. H.R. 1615, the Gas Stove Protection and Freedom Act

H.R. 1615 was introduced by Representative Armstrong (R-ND) on March, 17, 2023. The bill prohibits the Consumer Product Safety Commission from using federal funds to (1) regulate gas stoves as a banned hazardous product, or (2) issue or enforce a product safety standard that prohibits the use or sale of gas stoves or substantially increases their price.

V. STAFF CONTACTS

If you have any questions regarding Health legislation, please contact Grace Graham of the Committee staff. If you have questions regarding Communications and Technology legislation, please contact Kate O'Connor of the Committee Staff. If you have any questions regarding the Energy legislation, please contact Mary Martin of the Committee Staff. If you have questions regarding Innovation, Data, and Commerce legislation, please contact Tim Kurth of the Committee Staff. Committee Staff may be contacted at (202) 225-3641.