

# Window on Washington – May 9, 2022, Vol. 6, Issue 18

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## Outlook for This Week in the Nation's Capital

**Congress.** Both chambers are in session this week. Senate Democrats plan to vote on abortion rights legislation later this week, though the bill is fully expected to fail given the lack of support from all 50 Democrats and no support from Republicans. The House will hold a vote this week on a resolution that would allow House staffers to unionize, and they will also hold votes on numerous Science, Space, and Technology (SST), Financial Services, and Oversight and Reform bills this week as well. Congress is also working to finalize a supplemental measure with Ukraine aid and COVID-19 relief in one package. Additionally, Congress has officially launched the conference process for the Bipartisan Innovation Act. [Hearings](#) for the week include examining nominations, FY23 agency budget requests, the Shipyard Infrastructure Optimization Program, strategy to reduce veteran suicide, the reauthorization of the Justice and Mental Health Collaboration Program, workforce and innovation needs for the aerospace industry, and innovative care delivery at the VA.

**Budget and Appropriations.** The [Senate](#) Appropriations Committees will have a busy week holding numerous FY23 hearings, including on the Department of Housing and Urban Development (HUD), Department of Commerce (DOC), the Army, and the Department of Agriculture (USDA). The [House](#) Appropriations Committee will also hold various FY23 hearings, including on requests for the Department of Transportation (DOT), HUD, National Institutes of Health (NIH), Department of Defense (DOD), National Science Foundation (NSF), U.S. Customs and Border Protection (CBP), National Nuclear Security Administration (NNSA) and Environmental Management, DOC, Department of Energy (DOE) Science and Energy Programs, and Air Force and Space Force. The House Appropriations Committee will also hold hearings on health aging for elderly adults and the quality of life at Army installations.

**Russia-Ukraine.** First Lady Jill Biden made an unannounced visit to Ukraine yesterday and met with Ukraine's First Lady, Olena Zelenska. This was the first time since the war began that Zelenska has emerged in public. First Lady Biden's surprise visit comes a week after unannounced trips from Speaker of the House Nancy Pelosi's (D-CA) visit with a small delegation of House members and two weeks after Secretary of Defense Lloyd Austin's and Secretary of State Antony Blinken's visit.

**Biden Administration.** President Joe Biden plans to attend the IBEW International Convention in Chicago, Illinois on Wednesday. He will then host leaders of the Association of Southeast Asian Nations (ASEAN) in Washington, DC on Thursday and Friday. Separately, White House Press Secretary Jen Psaki is leaving the administration on Friday and will be replaced by her deputy, Karine Jean-Pierre.

## Last Week in the Nation's Capital

CONGRESS

## Budget & Appropriations

**School Nutrition Waiver Issue Emerges in Supplemental Talks:** Senate Agriculture Chairwoman Debbie Stabenow (D-MI) is pushing to extend pandemic waivers set to expire June 30 that allow schools to provide universal free meals to children, regardless of income, as part of a COVID-19 funding bill that could be combined with a separate Ukraine aid package. However, there is GOP resistance to including this provision. ([Roll Call](#))

## Health

**Senate GOP Faces Questions on Federal Abortion Bans:** Some Senate Republicans are dodging questions about whether they would seek restrictions or bans on abortion at the federal level if the Supreme Court overturns the Roe v. Wade decision and the GOP wins back congressional majorities. The strong possibility the GOP could get such a chance was signaled this week when Politico published a leaked draft ruling by five conservative Supreme Court justices. The draft overturned Roe, though Chief Justice John Roberts last Tuesday said it did not represent the final views of the court. ([The Hill](#)) Senate Republican Leader McConnell, however, in an interview with USA Today, said that such a ban was possible. ([USA Today](#))

## Banking & Housing

**Legal Debate over SEC's Authority Clouds Climate Rule Proposal:** Republican lawmakers and scholars are ratcheting up their arguments that the Securities and Exchange Commission lacks the statutory authority to require public companies to disclose climate-related financial risks. ([Roll Call](#))

**Senate Democrats Take Aim at Credit Card Fees amid Inflation:** Democrats' search for culprits and profiteers amid decades-high inflation turned to the credit card industry Wednesday with a hearing on transaction fees charged to merchants. In response to soaring inflation, Democrats have accused companies of raising prices disproportionately to increase profits amid demand and supply-chain bottlenecks. Visa Inc. and Mastercard Inc. came under fire at a Senate Judiciary Committee hearing for raising the transaction fees charged to merchants accepting their credit cards. ([Roll Call](#))

**Momentum Builds in Senate for Major Cannabis Bill:** Senators on both sides of the aisle are throwing support behind a proposal to tuck key marijuana banking legislation into a larger package aimed at boosting U.S. competitiveness, increasing the odds that a significant cannabis bill gets through the upper chamber this year. Sen. Patty Murray (D-WA), the No. 3 Senate Democrat, is leading a push to pass the SAFE Banking Act, which would enable cannabis firms to use banking services, as part of a sweeping package lawmakers are hashing out in both chambers that is intended to bolster the country's supply chains and manufacturing. ([The Hill](#))

## Space/NASA & NOAA

**Senate Rejects Effort to Strip NASA Lunar Lander Provision from Authorization Bill:** Senators overwhelmingly voted against a motion May 4 that would have dealt a setback in NASA's efforts to select a second company to develop an Artemis lunar lander. The motion, sponsored by Sen. Bernie Sanders (I-VT), would have instructed senators participating on a conference committee with the House on the United States Innovation and Competition Act (USICA) to remove a section authorizing funding for the Human Landing System (HLS) program and directing NASA to support at least two companies. The Senate passed the bill last June but must reconcile it with a House bill without any NASA authorization language. ([Space News](#))

**Space Force Leaders Questioned on Their Plans to Invest in Technology and Workforce:** Members of the Senate Armed Services Committee pressed Air Force Secretary Frank Kendall and Chief of Space Operations Gen. John "Jay" Raymond last week during a hearing on the Space Force's plans to acquire next-generation technologies and develop the future workforce. General Raymond testified that the Space Force is pivoting from 'very exquisite, very expensive satellites to an architecture that's more diversified'. ([Space News](#))

## Homeland Security & Immigration

**GOP Seeks Testimony from DHS Disinformation Board Head:** Republicans on the House Judiciary Committee are asking Nina Jankowicz, head of the new Disinformation Governance Board within the Department of Homeland Security (DHS), to brief the committee and provide documents and communications about the board, which they characterize as an Orwellian “Ministry of Truth.” ([The Hill](#))

**Federal Bill Seeks to End Race and Income Disparities in FEMA Aid after Disasters:** After natural disasters hit, white survivors and those with higher incomes are often more likely to receive help from the Federal Emergency Management Agency, studies and reports show. The disparities are the target of legislation introduced Thursday to make FEMA’s disaster response more equitable. The bill, sponsored by House Homeland Security Committee Chairman Bennie Thompson (D-MS) and Sen. Elizabeth Warren (D-MA), would require FEMA to center equity in its programs and change the way it collects data to flag and fix disparities. ([NBC News](#))

## Judiciary/Justice

**Panel Sends FEC Nominee Dara Lindenbaum to Senate Floor:** The Senate Rules and Administration panel approved the nomination of Dara Lindenbaum, a lawyer whose clients included the gubernatorial campaign of Georgia Democrat Stacey Abrams, to the Federal Election Commission. ([Roll Call](#))

**U.S. Senate Committee Passes Antitrust Bill Pressuring OPEC:** A U.S. Senate committee passed a bill last Thursday that could expose the Organization of the Petroleum Exporting Countries and partners to lawsuits for collusion on boosting crude oil prices. ([Reuters](#))

**Senate Democrats Move to Restore FTC’s Ability to Obtain Monetary Relief for Scam Victims:** The Federal Trade Commission (FTC) would regain its ability to obtain monetary relief for victims of illegal scams as part of a new bill introduced by Senate Democrats on Wednesday night. ([The Hill](#))

## Energy

**Bipartisan Climate Talks Pick Up Steam:** A group of about a dozen lawmakers is pushing for a bipartisan deal on climate change, meeting three times in two weeks to try to work out a deal that could get 60 votes in an evenly divided Senate. The talks, led by Sens. Joe Manchin (D-WV) and Lisa Murkowski (R-AK), appear to have gained momentum as work on a separate reconciliation package that would have included climate provisions sits on ice. ([The Hill](#))

## EXECUTIVE BRANCH

### Budget & Appropriations

**Pentagon to Work with Congress to Mitigate Inflation’s Budget Bite:** The Biden administration will seek supplemental defense funding if inflation cuts too much into Pentagon buying power in fiscal 2023, Deputy Defense Secretary Kathleen Hicks said last Friday. ([Roll Call](#))

### Health/HHS/NIH

**White House Warns of Covid Surges in The Winter:** Covid cases surged during the last two winters and are likely to again this year — unless the country can prepare and act, White House Covid-19 response coordinator Ashish Jha said Sunday morning. “If we don’t get ahead of this thing, we’ll have a lot of waning immunity, this virus continues to evolve and we may see a pretty sizable wave of infections, hospitalizations and deaths this fall and winter,” Jha said on ABC’s “This Week.” ([Politico](#))

**FDA Dramatically Narrows Use of Johnson & Johnson Covid-19 Vaccine:** The Food and Drug Administration (FDA) has restricted the use of the Johnson & Johnson Covid-19 vaccine to adults who are unable or unwilling to get the Pfizer-BioNTech or Moderna mRNA shots. The decision comes after the agency completed an updated risk analysis of developing thrombosis with thrombocytopenia syndrome, or TTS, a rare and possibly fatal combination of blood clots and low platelet counts one to two weeks after receiving the vaccine, the agency said last Thursday. ([Politico](#))

**CDC Still Unsure on Cause of Hepatitis Cases in Children, Issues New Guidance for Adenovirus Testing:** The Centers for Disease Control and Prevention (CDC) is issuing new guidance to clinicians on testing for adenovirus in children as the cause behind the recent cases of pediatric hepatitis around the world remains uncertain. During a press briefing last Friday, CDC Deputy Director for Infectious Diseases Jay Butler shared an update on the hepatitis cases that have been found in children in the U.S. According to the most recent data, 109 children across 25 states and territories have been found to have hepatitis due to an unknown cause. ([The Hill](#))

## Department of Education

**Biden Officials Prepare to Blow Up Trump's Rules on Sexual Misconduct in Schools:** A Biden administration plan to overhaul how schools respond to sexual misconduct complaints and extend federal protections to some of the most vulnerable students is coming as soon as this month — and partisan combat is certain to follow in its wake. Along with casting off many Trump-era guidelines Biden officials say are too arduous for assault victims, Education Secretary Miguel Cardona is expected to codify safeguards for transgender students for the first time, handling both issues in the same rule. ([Politico](#))

## Banking & Housing/HUD

**Biden Calls Out Republicans to Help Fight Inflation:** President Biden on Friday called on Republicans in Congress to help with efforts to combat inflation, following the April jobs report that showed job growth holding strong. “There’s more work to do. I encourage Congressional Republicans to join us in our efforts to lower prices for families across the country, by making more in America, strengthening our supply chains, and cutting the energy and prescription drug costs,” Biden said in a statement. ([The Hill](#))

**Regulators Seek Overhaul of Fair Housing, Redlining Law:** Federal bank regulators released a [proposal](#) Thursday that would overhaul a decades-old law meant to address systemic inequities in banking and prevent the practice of redlining — where banks won’t lend to lower-income, typically Black borrowers. The aim is to modernize the historic Community Reinvestment Act, which evaluates banks on how much lending they’re doing in the physical area situated around their branches. That’s far less relevant in an era of online banking. ([Axios](#))

**U.S. “Open Banking” Rule Bugged Down by Privacy Concerns:** A long-awaited U.S. “open banking” rule that could dramatically boost consumer finance competition and increase Americans’ access to financial services is being held up by privacy concerns, according to five people with knowledge of the matter. ([Reuters](#))

## Crypto/Blockchain

**Treasury Sanctions Cryptocurrency Tool Used by North Korea:** The U.S. Treasury Department announced sanctions Friday on online cryptocurrency tool Blender, which is used by North Korea to steal and launder virtual currencies, the department said. A North Korea cyber operations unit, known as the Lazarus Group, which had already been sanctioned by the U.S., carried out a \$620 million heist in March and used the Blender tool to launder more than \$20 million of the stolen funds, Treasury said. ([The Hill](#))

## Transportation/DOT

**Biden to Nominate Pecoske to Serve New Term as TSA Chief:** President Joe Biden intends to nominate David Pecoske to serve another term as head of the Transportation Security Administration (TSA), the White House said on Friday. Pecoske was first nominated by former President Donald Trump in 2017. Pecoske's five-year term as head of the TSA began in August 2017. ([Yahoo News](#))

**FAA Wants U.S. Airlines to Retrofit, Replace Radio Altimeters:** The Federal Aviation Administration (FAA) met last Wednesday with telecom and airline industry officials on a push to retrofit and ultimately replace some airplane radio altimeters that could face interference from C-Band 5G wireless service. ([Yahoo News](#))

## Trade

**How the Russia-Ukraine Conflict Boosts Biden's Trade Ambitions:** The flurry of activity reinforces a shift in the conventional wisdom in Washington — one emerging before Russia's invasion but accelerated by Vladimir Putin's aggression. Biden's State of the Union captured the mood. Outside of his declarations of support for Ukraine, the biggest applause line came when the president pledged to rebuild domestic manufacturing to decrease American reliance on China, Russia and other adversarial regimes. Whether Biden and Democrats can harness the momentum to change U.S. trade policy, however, is uncertain. The looming November elections mean that Biden and Democrats only have a few months to enact their trade agenda before a likely wave of opposition stalls it. But no matter the outcomes of the next few elections, trade veterans say there's no going back to the free-trading days before Trump and the pandemic. ([Politico](#))

## Space/NASA & NOAA

**Nelson Blasts Cost-Plus Contracts, Says Russia Not Leaving ISS:** At a Senate hearing last week, NASA Administrator Bill Nelson praised the agency's shift to public-private partnerships and fixed price contracts, calling cost-plus contracts a "plague" that increases program costs. He also reassured the committee that nothing has changed in the U.S.-Russian space station relationship despite "misleading headlines" in recent days that Russia will soon withdraw from the program. ([Space Policy Online](#))

## Science

**NSF Releases Competition to Stimulate Regional Economic Competitiveness.** Coinciding with its hearing before the Senate Appropriations Committee, the National Science Foundation released a broad agency announcement to create a series of Regional Innovation Engines. The program, known as "NSF Engines," is designed to create regional-scale technology driven innovation ecosystems through every region of the United States. Their goal is to accelerate emerging technologies while driving economic growth, address key societal challenges and bolster national competitiveness. ([National Science Foundation](#))

## Defense/DOD

**Pentagon to Work with Congress to Mitigate Inflation's Budget Bite:** The Biden administration will seek supplemental defense funding if inflation cuts too much into Pentagon buying power in fiscal 2023, Deputy Defense Secretary Kathleen Hicks said last Friday. Lawmakers of both parties, but particularly Republicans, have harshly criticized the Pentagon's budget request for the fiscal year starting in October of \$773 billion, which is 2.2 percent more than Congress appropriated for fiscal 2022, saying it's too small given high inflation. ([Roll Call](#))

**DARPA's Nuclear Space Propulsion Project Advances to Next Phase:** The Defense Advanced Research Projects Agency is kicking off the next phase of a program to demonstrate the feasibility of nuclear-powered propulsion systems operating between Earth and the moon in what's known as cislunar space. ([Defense News](#))

## DHS & Immigration

**DHS Restructures Controversial Border Patrol Investigations Teams:** The Department of Homeland Security is codifying the way its border enforcement agencies collect evidence and respond to incidents involving its officers, after criticism of so-called critical incident teams (CITs) boiled over earlier this year. ([The Hill](#))

## Judiciary/DOJ

**DOJ Announces New Office to Enforce Laws Around Climate Crisis, Toxic Pollution:** Attorney General Merrick Garland announced Thursday that the Justice Department is opening a new office aimed at addressing the department's environmental justice efforts. Low-income communities and communities of color face larger risks from pollution and the impacts of the climate crisis, scientists and health experts have reported. More than 40% of Americans live in areas with unhealthy air quality, according to the American Lung Association, and people of color are the most harmed by it. ([CNN](#))

**Biden Races to Achieve the Near-Impossible – A Permanent Point Man on Guns:** President Joe Biden wants the Senate to do something it's only done once in the past 16 years: confirm someone as the nation's top gun regulator. It's not going to be easy. After the White House yanked its initial pick to lead the Bureau of Alcohol, Tobacco, Firearms and Explosives in September, the Biden administration and gun safety advocates are pushing for the chamber to swiftly confirm Steve Dettelbach, a former U.S. attorney. And everyone involved knows time is not on Democrats' side: With control of the upper chamber in play this fall, Dettelbach may be Biden's best and final chance to have a Senate-confirmed ATF director during his presidency. ([Politico](#))

## Cyber

**Cryptocurrency Regulators are Scrambling to Catch Up with Hackers Who Are Swiping Billions:** Just four months in, 2022 has been a banner year for hackers and fraudsters targeting the industry have swindled more than \$1 billion from cryptocurrency investors, according to estimates. The rise in fraud has put U.S. regulators on the offensive. The U.S. Securities and Exchange Commission, which has positioned itself as the industry's main regulator and enforcer, announced on Tuesday that it was going to double its staff working to resources to combat the rise in fraud. ([Cyber Scoop](#))

**Cybersecurity and Individual Liability: 'U.S. v. Sullivan' and the Criminalization of a Cyber Attack Response:** To date, cybersecurity has generally been viewed as an organizational responsibility, and data breaches similarly have been treated as organizational weaknesses or failures. Organizations must now report incidents of data theft "expeditiously" and public companies are required to disclose information about data breaches when such information is material to investors. Against this backdrop of organizational responsibility, the Department of Justice has brought a noteworthy criminal case against an individual for his personal response to a corporate data breach. ([Law.com](#))

**Federal Agencies Likely to Get New Cybersecurity Guidance 'In Coming Weeks':** Policymakers have been working to codify efforts by NIST and other cybersecurity-focused pockets of government like the Cybersecurity and Infrastructure Security Agency, or CISA, to help agencies understand the provenance of software used on government networks and to hold vendors accountable for maintaining security over that code. ([Next Gov](#))

## Department of Energy

**Biden Administration Proposes New Commercial Water Heater Efficiency Rules:** The Department of Energy last Thursday announced new proposed energy efficiency rules for commercial hot water heaters that would require the use of condensation technology. The department projects that the proposed rules could save up to \$140 million in energy costs per year and up to \$2.4 billion over 30 years. They are also projected to reduce carbon emissions by the equivalent of 4.8 million homes and slash methane emission by 2.3 million cars' worth. Water heaters are a major driver of energy costs and most are a model that has not been meaningfully upgraded in about a century. ([The Hill](#))