



SENATE CHINA BILL STATE OF PLAY

May 4, 2021

OVERVIEW

The Senate is expected to spend May working to pass a comprehensive China package. The specifics and contours of the emerging China-focused bill continue to evolve. Senate Majority Leader Chuck Schumer (D-NY) and Senator Todd Young's (R-IN) Endless Frontier Act ([S. 1260](#)) is expected to serve as the base bill with the bipartisan Senate Foreign Relations Committee's Strategic Competition Act of 2021 ([S. 1169](#)) added in. We expect additional provisions to be added from the Homeland Security, Banking, Finance and HELP committees. Given the bipartisan support for addressing U.S.-China competition, it appears likely a number of Republican and Democratic provisions will be included in the final bill as well. Key provisions in the Endless Frontier Act and the Strategic Competition Act are outlined below, in addition to potential amendments.

POTENTIAL COMPONENTS OF THE PACKAGE

Endless Frontier Act

On April 20, 2021 Leader Schumer and Senator Young re-introduced the Endless Frontier Act. The bill was previously introduced in the 116th Congress, but the 2021 version makes key changes to the original text. Notably, it includes provisions to create a supply chain resiliency program, expand the Commerce Department's Manufacturing USA program, and require a technology commercialization review as well as a study of emerging science and technology challenges. Unlike the previous version, the new iteration of the legislation does not redesignate the National Science Foundation (NSF) as the National Science and Technology Foundation.

In addition, the bill would create a technology directorate within the NSF, focusing research efforts on 10 key critical technologies: artificial intelligence, semiconductors, quantum computing, robotics, natural and anthropogenic disaster prevention or mitigation, advanced communications technology, biotechnology, cybersecurity, advanced energy, and advanced material sciences.

While the legislation currently has six Republican cosponsors in addition to Senator Young, Republicans on the Senate Commerce, Science and Transportation Committee have voiced opposition to several aspects of the bill. Commerce Committee Ranking Member Roger Wicker (R-MS) asserted the legislation could result in inefficient and ineffective government spending, stating "it appears the intent of this legislation is to help America compete with China, but let me suggest that we will not beat China by copying its strategy." Ranking Member Wicker argued the bill could result in a "top-down program of applied research and investment along with subsidies for technology companies," similar to China's civil-military fusion practices.

The Commerce Committee was initially scheduled to hold a markup of the bill on April 27, though the markup was ultimately delayed due to the number of amendments proposed and the amount of interest in the bill. The Committee now intends to mark up the bill on May 12th once the Senate returns from recess.

Strategic Competition Act

On April 21, the Senate Foreign Relations Committee voted the bipartisan Strategic Competition Act out of Committee by a vote of 21-1. Chairman Bob Menendez (D-NJ) lauded the bipartisan vote and signaled it is the “first of what we hope will be a cascade of legislative activity for our nation to finally meet the China challenge across every dimension of power - political, diplomatic, economic, innovation, military, and even cultural.” Ranking Member James Risch (R-ID), who negotiated the compromise legislation with Chairman Menendez, touted the bill as “strong, actionable, and truly bipartisan.”

Among other priorities, key provisions of the bill include: calling for the U.S. to reassert its leadership within international organizations and other multilateral fora; prioritizing diplomatic and economic engagement and security assistance for the Indo-Pacific region; authorizing a broad range of human rights and civil society measures including supporting democracy in Hong Kong, autonomy for Tibet, and imposing sanctions with respect to forced labor, forced sterilization, and other abuses in Xinjiang; countering intellectual property violations and Chinese government subsidies, monitoring the use of Hong Kong to circumvent U.S. export controls; tracking the presence of Chinese companies in U.S. capital markets; and strengthening American competitiveness with investments in science and technology, global infrastructure development, and digital connectivity and cybersecurity partnerships.

Notably, the Committee approved a package of amendments to the bill, including Senator Jeanne Shaheen’s (D-NH) amendment that would help counter China’s influence in Africa and Latin America. Specifically, it resembles the Increasing American Jobs Through Exports to Africa Act, which would expand U.S. export promotion efforts to boost exports to Africa and Latin America by 200 percent in 10 years. Senator Shaheen argued China’s trade agenda “threatens to undermine decades of our investment in Latin America and Africa,” and her amendment aims to mitigate this threat. Senator Young praised this amendment and advocated for “as many of these trade agreements or investment agreements as possible.”

Other amendments approved by the Committee include: requiring the Departments of Defense and State to develop a Climate Resilience Strategy for the Indo-Pacific; establishing a five-year China Censorship Monitor Action Group; removing the sunset on Global Magnitsky Sanctions; requiring the State Department to issue a report on nuclear cooperation between China and Saudi Arabia; and requiring the State Department to begin negotiations on creating a parliamentary working group for legislators in the U.S., Australia, Japan and India.

Other Potential Provisions

In addition to the Endless Frontier Act and Strategic Competition Act, the Senate Committees on Finance, Health Education, Labor and Pensions (HELP), Banking, Housing, and Urban Affairs, and Homeland Security and Governmental Affairs are working on provisions within their respective jurisdictions for inclusion. While it is not yet clear what the HELP, Banking, and HSGAC pieces will include, Finance held a China hearing on April 22, in which members outlined their priorities for the package. Of the legislation that falls under the Finance Committee’s jurisdiction, the following bills are being considered for potential inclusion: Senators Rob Portman’s (R-OH) and Sherrod Brown’s (D-OH) [bill](#) to tighten trade remedy laws; Senator Chuck Grassley’s (R-IA) [bill](#) to promote communication between customs officials and intellectual property (IP) rights holders; Senator John Cornyn’s (R-TX) provisions on censorship and expansion of U.S. International Trade Commission authority to block imports of goods that infringe on IP rights; Senator Bob Casey’s outbound investment review mechanism to assess and address vulnerabilities and dependencies in critical supply chains; Senator Graham’s provisions related to theft of trade secrets; and Senator Pat Toomey’s (R-PA) reform of Section 232 of the 1962 Trade Expansion Act to require congressional approval of any Section 232 proposals from the president. It is unclear which provisions will ultimately be included.

In addition, there has been some discussion around including emergency funding to implement the CHIPS for America Act included as part of the FY21 NDAA, which aims to address the global semiconductor shortage. This is an area that has

garnered bipartisan focus in recent months, suggesting CHIPS funding likely will be included. Additionally, funding for the USA Telecom Act related to 5G grants is under consideration.

TIMELINE

Leader Schumer has suggested the Senate will take up its China package during the upcoming work period, with the goal of passing the bill by Memorial Day. The process by which the Senate takes up the bill has not yet been determined, though the Endless Frontier Act likely will serve as the base text, with the Strategic Competition Act and other elements incorporated as part of the Manager's Package.

Importantly, Senate Foreign Relations Committee Ranking Member Risch has expressed concern about combining the Strategic Competition Act with the Endless Frontier Act, urging Senate Democrats to "let this bill run by itself" and arguing the bills are "entirely different." On April 28, Ranking Member Risch issued a statement requesting support from President Biden and Senate Democrats to consider the former as a standalone item in May. He has also claimed the Strategic Competition on its own could garner 75 votes in the upper chamber.

Nevertheless, at this time, Leader Schumer plans to bring the larger package to the floor the week of May 17th though it is expected the bill will take at least two weeks to complete.

It remains to be seen whether the House ultimately takes up the Senate-passed legislation or looks to put its imprint on the package. There has been some discussion about the prospects of using the House Science Committee's [National Science Foundation \(NSF\) Reauthorization](#), a bipartisan bill introduced in March, as the vehicle by which to conference House and Senate China legislation. However, leadership has not yet made a decision on a path forward.