



TO: Legislative Committee
FROM: Brent R. Heberlee
DATE: August 9, 2017
RE: Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the August 14, 2017, Legislative Committee meeting.

A. FY2018 Budget/Appropriations

A key goal of House leaders upon return from the August recess is to adopt a FY2018 budget resolution. That would set the stage for a tax code overhaul using the reconciliation procedure that bypasses the need for a Senate supermajority. Before they can bring the budget plan to the floor, House Republican leaders must resolve differences among their members about how deep proposed cuts to entitlement programs should be and what should be in the tax package. The budget resolution passed in committee calls on 11 House committees to find \$200 billion in savings over 10 years from mandatory programs, the two largest of which are Medicare and Social Security. Many House conservatives are pressing for even deeper cuts to entitlement programs.

Senate leaders also want to use a new budget to speed a tax-code overhaul through the Senate this fall, and rather than waiting for the House to act, they plan to press forward writing their own budget blueprint in September. If House and Senate leaders cannot agree on a budget resolution, it will be nearly impossible for them to complete the FY2018 appropriations bills and tax reform legislation.

The last several months saw Congress procrastinate on budget and spending decisions while House and Senate Republicans pursued their unsuccessful effort to repeal Obamacare. While the House Appropriations Committee has reported all 12 spending bills, the full chamber has acted only on four of those measures rolled into a minibus appropriations bill that covers Defense, Military Construction-VA, Energy and Water Development and Legislative Branch. The House-passed minibus also includes \$1.6 billion to begin construction of President Trump's proposed border wall with Mexico. Because of the wall money, only five House Democrats voted for the bill. House leaders intend to bundle the remaining eight spending bills for floor consideration when they return. The Senate Appropriations Committee has approved just six spending bills, none of which has been taken up on the floor. It is likely that Congress will have to enact a short term continuing resolution to keep the government running beyond September 30th to allow time for completion of the FY2018 appropriations bills.

B. Legislative

1. Senate Affordable Care Act (ACA) Repeal/Replace Legislation

After the Republican effort to repeal the ACA failed in July, House and Senate leaders have said they want bipartisan legislation they can pass in mere weeks that will lower insurance premiums and increase competition in 2018. The chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee announced plans to hold hearings to design legislation to boost insurer participation in the individual health insurance market. HELP Committee Chairman Lamar Alexander (R-TN) has said he wants a one-year appropriation of Cost Sharing Reduction payments, which equates to billions of dollars for insurers who cover some of the poorest Americans. However, some conservative members see the payments as bailouts for the insurance industry and the Trump administration hasn't publicly announced plans to keep paying them. President Trump has repeatedly threatened to halt these insurer payments, which would prompt most insurers to raise premiums, in hopes of convincing Democrats to support an ACA repeal bill.

House leaders have discussed altering the ACA's employer mandate so that far fewer companies would be required to extend health benefits to their employees, lifting the impending tax on medical devices and creating a federal fund to help states reduce the cost of health services for people with expensive health conditions. It's possible they may try to write several small bills, some of which could move with a federal spending bill or funding for the Children's Health Insurance Program that must be reauthorized in September.

2. Cannabis Appropriations Riders

Congress is heading for a confrontation with Attorney General Jeff Sessions as he seeks to crack down on marijuana use. Amendments have been attached to must-pass appropriations bills in the Senate that would allow Veterans Affairs Department doctors to counsel patients on the use of medical marijuana, and to continue blocking the Justice Department from pursuing cases against people who use medical marijuana in states that have legalized it. The Veterans Administration measure, sponsored by Senators Steve Daines (R-MT) and Jeff Merkley (D-OR), was added to a bill approved by the Appropriations Committee on July 13. The measure preventing funds from being used to crack down on medical marijuana was sponsored by Senator Patrick Leahy (D-VT) and was approved by the Appropriations Committee on July 27.

The Republican-controlled Congress is already on record supporting medical marijuana. Since 2014, the Justice Department spending bill has included language that blocks funds from being used to enforce federal law relating to medical marijuana in states where the drug is legal. In the House, the amendment will have to be added on the floor, which has been the case for the last several years. It will be more challenging this year, however, because the Justice Department appropriations bill will be combined with seven other appropriations bills on the floor and the number of amendments made in order will be limited. The appropriations bill is expected to be on the House floor in early September, shortly after Congress returns from the August recess.

Some lawmakers are pushing to go even further. Senator Cory Booker (D-NJ) recently introduced legislation that would legalize marijuana at the federal level and Congressman Matt Gaetz (R-FL) proposed legislation that would change the federal classification of marijuana to allow research and a range of medical uses.

3. Senate Legal Immigration Legislation

On August 2nd, President Trump appeared with Senators Tom Cotton (R-AR) and David Perdue (R-GA) at the White House to unveil a modified version of a bill the senators first introduced in February to create a “merit-based” immigration system that would put a greater emphasis on the job skills of foreigners over their ties to family in the United States. The Reforming American Immigration for a Strong Economy (RAISE) Act (S. 1720) calls for reductions to family-based immigration programs, cutting off avenues for the siblings and adult children of U.S. citizens and legal permanent residents to apply for green cards. Minor children and spouses would still be able to apply. The legislation would reduce the annual distribution of green cards awarding permanent legal residence to just over 500,000 from more than 1 million.

The bill would create a point system based on factors such as English ability, education levels and job skills to rank applicants for the 140,000 employment-based green cards distributed annually. In addition, the senators propose to cap annual refugee admissions at 50,000 and to end a visa diversity lottery that has awarded 50,000 green cards a year, mostly to applicants from African nations.

In spite of the President’s support for the bill, it faces an uphill climb in the Senate to reach a filibuster-proof majority of 60 votes. Senator Feinstein released a statement strongly opposing the legislation.

4. Tax Reform

The Trump Administration and congressional Republicans are turning their focus to tax reform as their next major legislative initiative.

House and Senate Republican leaders have indicated they remain committed to using reconciliation for tax reform, saying that’s the only vehicle in which they anticipate getting a tax bill through Congress given widespread differences on the issue with Democrats. The reconciliation process would allow the Senate to pass a tax bill with only 51 Republican votes, instead of 60 votes that would require the support of eight Democrats under regular order.

The substance of tax reform legislation remains unclear at this stage. Members on the House and Senate tax committees are talking with the White House about a hybrid approach that would combine lasting tax code changes to deter offshore profit shifting by corporations with lower rates for a number of years. They are also discussing a kind of compromise that doesn’t add to the federal deficit -- mixing permanent revisions with temporary rate cuts for individuals and businesses.

Monterey County's focus in this debate continues to be protecting the tax exempt status of municipal bonds, which is a critical financing tool for local infrastructure projects. This issue is a top priority for NACo, and I am working closely with NACo staff on their advocacy efforts.

C. Executive Order on Review of National Marine Sanctuaries

President Trump issued an executive order titled "Implementing an America-First Offshore Energy Strategy" that directs the Secretary of Commerce to review National Marine Sanctuaries designated or expanded since April 28, 2007, and to submit a report on the results of the review by October 25, 2017. The review includes the Monterey Bay National Marine Sanctuary (MBNMS), which was expanded on November 20, 2008. The review is to include an analysis of the cost of managing the sanctuary, the adequacy of the consultation that occurred prior to the expansion, and the opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf.

I am drafting a public comment letter for the County to send to the Secretary of Commerce in support of the MBNMS and in opposition to any proposal to alter the size and scope of MBNMS to facilitate oil and gas development in the region.

Congressman Panetta recently joined several of his California colleagues in writing to the Secretary of Commerce to urge the Trump Administration to maintain the boundaries and designations of California's four National Marine Sanctuaries: Monterey Bay, the Channel Islands, Cordell Bank, and the Greater Farallones National Marine Sanctuaries. Congressman Panetta has also cosponsored two bills that would permanently ban offshore oil and gas drilling off the California coast – the California Clean Coast Act (H.R. 731) and the West Coast Ocean Protection Act of 2017 (H.R. 169).