FCA INTERNATIONAL LEGISLATIVE Update
Building a Better Future for Our Families

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Congressional Overview

The Senate continued debate on their proposed energy bill, and the House attempted to override President Obama's veto of legislation that would repeal the Affordable Care Act and defund Planned Parenthood. As expected, the House did not get enough votes to override the veto. The House also voted on legislation that prevented the U.S. from lifting sanctions on individuals involved with Iran's ballistic missile program.

Multiemployer Pension Reform Update

On Jan. 28, Senate Finance Committee Chairman Orrin Hatch (R-UT) said at a hearing on retirement that he would convene a separate hearing on multiemployer pension plans. Congress passed bipartisan legislation in 2014 allowing trustees in financially troubled multiemployer pension plans to cut vested benefits to prevent insolvency. The cuts are subject to Treasury Department approval and plan participants may vote on whether to go through with Treasury-approved cuts, but the Treasury Department may override the vote if it determines that a plan's insolvency would cost the Pension Benefit Guaranty Corporation more than $1 billion.

Sen. Ron Wyden (D-OR) reiterated his opposition to the 2014 changes during the hearing, and described the impending insolvency of many large multiemployer pension plans as a "genuine public policy emergency." He called on Congress to pass legislation "as soon as possible" to assist coal miners who face cuts to benefits "they earned over decades of backbreaking work." Senator Sherrod Brown (D-OH) opened his testimony by mentioning the dire condition of Central States Pension Fund and the fallout that would occur if it were to fail. He noted that both parties have introduced legislation that is well intentioned but will never pass Congress and stressed that he is willing to work with any colleague interested in putting together a bipartisan, comprehensive effort.

Finally, a New Jersey-based Teamsters Local 469 pension fund has become the third multiemployer pension plan known to apply for Treasury Department approval of benefit suspensions. In separate notices issued on Jan. 26, the Treasury Department indicated that the Teamsters Local 469 joined the Iron Workers Local 17 Pension Fund in Cleveland and the Central States, Southeast and Southwest Areas Pension Fund in seeking to use provisions of the 2014 federal law designed to help financially troubled multiemployer plans avert future insolvency by suspending the accrued benefits of plan participants. The fund had 39 employers contributing with 1,781 total participants (with only 128 active participants). Current assets were $122.6 million and liabilities were $279.9 million, the local reported.

Potential 2017 Funding Battle Over Sanctuary Cities

A new round of funding battles over immigration policy is already underway even before the President unveils his 2017 budget request. Rep. John Culberson (R-TX), Chair of the Commerce, Justice and Science (CJS) Subcommittee, is threatening to withhold money from the Justice Department unless the administration cracks down on so-called sanctuary cities. Almost 300 U.S. localities, including New York and Chicago, are considered "sanctuary cities" because of their refusal to share information about undocumented immigrants with the federal government.

In a letter to Attorney General Loretta Lynch, Rep. Culberson threatened to block funding unless she requires cities to certify they are cooperating with federal immigration enforcement efforts as a condition for receiving law enforcement grants. Per Rep. Culberson's letter, "I hope the attorney general will do the right thing here so that I am not compelled to object to relevant portions of the department's spending plan and reprogramming requests." There was no immediate comment from the Justice Department.

Policy Provisions that are Likely to Resurface in FY 17 Appropriations Bills

The most contentious policy provisions debated during the last spending cycle are likely to resurface when appropriators begin writing the FY 17 appropriations bills. The most problematic riders were dropped in December as negotiators cobbled together the omnibus bill. The following are six provisions that will likely be seen again this year:

- **Waters of the United States (WOTUS):** A provision blocking the administration from extending regulations on streams and wetlands pollution, known as Waters of the United States.
- **Gun Violence Research:** For the past 20 years, there has been a ban on funding at the Centers for Disease Control and Prevention to study gun violence. Democrats will likely ramp up efforts to strip that provision from the Labor-HHS-Education bill.
- **Retirement Advisers Rule:** The DOL will release a final "fiduciary rule" this spring setting higher standards for retirement investment advisers. Republicans will try and halt the rule again.
- **Campaign Finance:** Senate Majority Leader Mitch McConnell (R-KY) was not able to secure a campaign finance provision he authored in last year's omnibus, but he could try again this year to relax restrictions on financial coordination between political parties and candidates.
- **Immigration:** Provisions could return as a major obstacle for appropriators this year. A final ruling by the Supreme Court later this year on Obama's executive action could also spark another fight over DHS funding.
- **Dodd-Frank Regulations:** These regulations are among the most contentious areas in the Financial Services spending bill. Provisions for FY 17 could include raising the threshold for systemically-important financial institutions above its current $50 billion level and changes to the structure and funding stream of the Consumer Financial Protection Bureau.

Below is the House and Senate Appropriations Committees' posed deadlines for Members to submit their requests to the various subcommittees.

Updated House and Senate Subcommittee Deadlines

Committee	House Due Date	Senate Due Date
Agriculture	March 15	March 17
CJS	March 23	March 25
Defense		March 18
E & W	March 15	March 20
FS	March 17	
DHS	March 23	April 1
Interior	March 22	
LHHS	March 24	
Leg Branch	March 22	March 18
Mil Con	March 1	
SFOPS	March 22	March 18
THUD	March 17	March 15

President Obama's FY 17 Budget Proposal Includes $755 Million for Cancer Research

The President has proposed $1 billion over the next two years for cancer-related research. President Obama's FY 17 budget plan will include $755 million for cancer research at the National Institutes of Health and the Food and Drug Administration. Some unspecified smaller increases would be funneled through the Defense and Veterans Affairs departments. An additional $195 million was already made available this year through the omnibus bill.

On Monday, President Obama signed a memorandum creating a Federal task force to oversee the so-called "cancer moonshot" effort to be led by Vice President Biden. The plan is to significantly accelerate understanding and treatment of cancer through a large-scale effort involving the federal research agencies, universities, private industry and philanthropic organizations.

President Obama's FY 17 Budget Proposal Targets Opioid and Heroin Abuse Epidemic

President Obama's FY 17 budget proposes spending about $1 billion to address the opioid and heroin abuse epidemic, which is a $600 million increase over the FY 16 Budget. The bulk of the funding includes $460 million in mandatory funding in each of the next two years to expand states' access to medication-assisted treatment for opioid addiction; the funding would be provided to states by the Department of Health and Human Services (HHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA).

In comparison, the HHS has $127 million for FY 16 to spend on opioid abuse. The president also proposed approximately $500 million for the Department of Justice and the HHS to expand state-level overdose prevention strategies and improve access to the drug naloxone, which can block the effect of an opioid drug and help reverse overdoses. The $400 million in FY 16 included $70 million for CDC prevention activities and $25 million for the SAMHSA to expand drug abuse services for high-risk communities. Finally, it included $12 million for state grants to train first responders to treat overdoses.

The President's budget proposal will include Medicaid guidance to the states on best practices for addressing the epidemic. That guidance will focus on Medicaid pharmacy benefit management strategies to monitor the prescribing of opioid drugs. The number of fatal drug overdoses, particularly those involving opioids, has risen dramatically. Candidly, more people die of overdoses in the U.S. than in car crashes. Per the CDC, since 2000, the rate of opioid-related deaths has tripled, rising to 28,648 deaths in 2014.

OSHA Facing Rulemaking Deadlines for Silica, Record-Keeping Requirements and Beryllium

OSHA faces a series of rulemaking deadlines for silica, expanded record-keeping requirements and beryllium, which are to be in effect before Jan. 3, 2017 (the start of the 115th Congress). If OSHA does not have draft final rules to the White House's Office of Information and Regulatory Affairs (OIRA) by mid-June, OSHA faces an increasing likelihood that the rules could be overturned in 2017 by a Republican-controlled 115th Congress, and/or by a Republican president if sworn in on Jan. 20, 2017, using the Congressional Review Act (CRA).

Even if OSHA presents draft final rules to the OIRA by mid-June 2016, that could be too late should OIRA reviewers take longer than the 120 days allotted to complete their analyses and return the rules to OSHA. The draft final silica rule (expected to set stricter silica exposure limits) was submitted Dec. 21, 2015 and the proposed record-keeping rule (expected to require large employers to provide OSHA quarterly summaries of injury and illness reports enabling OSHA to post the results on its website and cite employers alleged to have discouraged workers from reporting injuries and illnesses) was delivered on Oct. 5, 2015.

In the regulatory agenda issued Nov. 19, OSHA predicted it will have the final silica rule completed in Feb. 2016. However, when OSHA announced the February goal, supporters and critics of the rulemaking were skeptical the mandatory OIRA review would be completed in time for OSHA to issue the rule in February. The comment phases of the two other rulemakings (limiting beryllium exposure and enabling OSHA to cite employers for record-keeping violations up to five years old) closed in the fall of 2015. OSHA is now analyzing the information. The Federal Register publication of a final rule signals the start of the 60-day time frame for Congress to review and potentially block the rule, as allowed by the 1996 CRA.

If the CRA's 60-day rule review window expires after the swearing in of the 115th Congress, then the new Congress has the opportunity to review the rule for another 60 days and the new president can sign or veto the joint resolution opposing the rule. If the CRA review period expires before the start of the 115th Congress, then President Barack Obama will review any joint resolution passed by the 114th Congress.

DOL Has $90 Million in New Apprenticeship Funds to Spend this Year

This year will mark the administration's final chance to advance the president's goal, announced at the 2014 State of the Union address, of doubling the number of American apprentices within five years. The 2015 omnibus gives the DOL leeway in determining exactly how to spend the $90 million in new apprenticeship funds, meaning the agency must still determine what will have "the greatest impact." The budget appropriates $90 million to ETA apprenticeship programs (available from April 1, 2016, to June 30, 2017) "to carry out activities through grants, cooperative agreements, contracts and other arrangements."

Union Membership Holds Steady in 2015

The rate of union membership in the U.S. held steady last year, with slight overall gains in union membership rosters outweighed by the rising ranks of nonunion workers. Per the Department of Labor, the share of U.S. workers in unions last year was unchanged at 11.1 percent. Unions collectively added new members in the private and public sectors, including in industries such as leisure, hospitality, retail, education and health services, while they saw declines in manufacturing, construction and transportation.

Membership in the private sector rose slightly to 6.7 percent from 6.6 percent in 2014 as unions added 195,000 more members there. The public sector had 23,000 more unionized workers in 2015 than it did the year before, but the membership rate fell to 35.2 percent from 35.7 percent over that period due to a larger increase in nonunion government workers. The overall number of government workers rose by 388,000.

DOL Expected to Issue New "Persuader Rule" in March

In March, the DOL is expected to issue a new rule (dubbed the "Persuader Rule") requiring companies to make the names of outside attorneys and consultants public that give them advice on unionization. These attorneys and consultants would also have to make all the other clients public that they help with union matters and how much they charge these clients. The DOL claims this persuader rule needs changing because the distinction between activities properly characterized as advice and those that go beyond advice has not been made clear.

Congressional Representatives Spending Less and Less Time in Washington, D.C.

Per Reuters' review of congressional records dating back 18 years, Members of the U.S. Congress have been spending fewer days working in Washington, D.C. with lawmakers increasingly cramming their legislative work into the middle of the week. Their absence from the capital reinforces the effects of a deepening partisan divide in recent years that has led to high-profile deadlocks over legislation previously seen as routine. Under pressure to spend more time in their home constituencies, often fund-raising for campaigns, Members have less time to attend debates and mingle with other lawmakers.

In 2015, the first year of a two-year Congress, the House of Representatives put in 130 working days, compared with the first years of recent Congresses, that number has declined steadily since 2007, when the House worked 153 days (the high since 1998). House members typically meet more in the first year of a Congress because in the second year they have to run for reelection.

This year, an election year, the House calendar foresees 111 working days in Washington, in line with the total in recent election years. This decline in working days in recent years has coincided with a slide in Americans' approval rating for the legislature as the reputation of a "do-nothing" Congress has taken hold. Per the Congressional Research Service (CRS), Congress has failed every year since FY 1997 to enact all of the government appropriations bills on time that are needed for a full federal budget.

Finally, in 2011 and 2013, the total number of bills passed by Congress dipped below triple figures to 90 and 72 respectively. Last year's Congress managed to enact 113; however, many bills were minor so the total number does not necessarily correspond to productivity.

Role of Political Parties

As we begin the process of electing a president, the roles of the Republican and Democratic Parties are undergoing fundamental shifts that are impacting their influence on elections and policy. In 2012, voter turnout for statewide primaries for president, governor and U.S. Senate plunged to its lowest level since the modern primary system became popular in 1972. Since the 1850s, the political parties dominated American politics and in the 1970s changes aimed at increasing voter participation such as primaries and caucuses have wound up allowing unprecedented polarization strangling party progress.

Per Gallup in 2015, just 29 percent called themselves Democrats and Republican loyalty increased by one percentage point above its recent low of 25 percent three years ago. In 2011, Independents reached 40 percent and stayed at or above that level ever since. Per the Pew Research Center, nearly half of the millennials identified themselves as independents in 2014, which was more than the combined total of those willing to be called either Democrats or Republicans. Additionally, millennials are typically guided by what piques their interest in a particular moment. Thereby, they often turn to Twitter, text messaging, and other forms of instant communication to satisfy their interests.