



*Week of 3-7-16
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Congressional Overview

The House was in recess this week. The Senate continued debate on the Comprehensive Addiction and Recovery Act (CARA) and tried to move forward on energy legislation. Off the floor, Senators kept an eye on the presidential campaign and continued discussions on criminal-justice reform and the Supreme Court vacancy.

Senate Passes Opioid Abuse Bill

Senate Majority Leader Mitch McConnell (R-KY) filed cloture last week on a Comprehensive Addiction and Recovery Act (CARA) substitute amendment from Senate Judiciary Committee Chairman Chuck Grassley (R-IA) as well as the underlying bill. An amendment that Democrats were pushing already came up for a vote, but it failed. After CARA unanimously passed in the Judiciary Committee, Democrats pushed hard for Sen. Jeanne Shaheen's (D-NH) \$600 million emergency supplemental to fight the opioid epidemic. A procedural vote to add the money went down on a 48-47 vote Wednesday, but that does not appear to hamper the bipartisan bill's trajectory towards passage.

Additionally, on Wednesday, the Senate approved an amendment addressing follow-up services to people who have received opioid overdose reversal drugs. On Thursday, the Senate passed the over CARA bill by a large margin, which would authorize grants to state and local entities for opioid abuse prevention and treatment programs. A House panel waits for action on a similar bill (HR 953) and next week, the Senate HELP committee plans to markup a different set of opioid response and prescription bills (including S 1455, S 2256, S 480).

Senate Budget Committee Postponing Action on FY 17 Budget in March

Senator Mike Enzi (R-WY), Chair of the Senate Budget Committee, announced on Monday the committee will postpone possible action on the FY 17 budget resolution this month, but he added that discussions will continue on the resolution. On Tuesday, top Senate Democrats said they're ready to cooperate with Republicans to pass appropriations bills in accordance with last year's budget deal, now that Senator Enzi stated that he will likely forego a budget resolution and stick to the discretionary spending levels provided by the two-year agreement.

Representatives Call for Investigation into Central States Pension Fund's Finances

Reps. Marcy Kaptur (D-OH) and Rick Nolan (D-NM) are calling for an investigation into Central States Pension Fund's finances. Rep. Kaptur stated that legislation is needed to authorize and fund an "independent forensic and financial audit" to determine how the Central States, Southeast and Southwest Areas Pension Fund came to need the Treasury Department's approval for severe cuts to the promised benefits of many of its retirees to avoid a projected insolvency by 2026.

Rep. Kaptur's call for an investigation comes about one month after Sen. Chuck Grassley (R-IA), Chairman of the Senate Judiciary Committee, asked the Government Accountability Office to look into the Department of Labor's oversight of the fund and its investments, which the agency is required to do under a 1982 consent decree between the fund and the DOL. The Treasury Department has until May 7 to review the fund's rescue plan and decide whether to reject the fund's request for benefit cuts. Many of these retirees have said they have been told their pension cuts will be as high as 70 percent of the amount they were promised.

Pressure is on House to Move Standalone Package of Mandatory Spending Cuts

Senate Republicans' decision not to consider the FY 17 budget resolution raises the stakes for the development of a House plan to move a standalone package of mandatory spending cuts as a way to win conservative support for a House budget resolution. The package of possible cuts now becomes more important. Without House and Senate agreement on a budget resolution, there is no way to use the expedited reconciliation process to pass the mandatory spending cuts that some conservatives are insisting on as the price for supporting a plan that adhered to levels in last year's budget deal.

When the House returns from recess next week, Budget Chairman Tom Price (R-GA) will decide if there is enough support to move to a budget resolution markup. Some of the spending cuts discussed could include: changes to the Supplemental Nutrition Assistance Program, formerly known as food stamps; repeal of the Public Health and Prevention Fund and other elements of the 2010 healthcare law; repealing the Social Services Block Grant; modifying the Dodd-Frank financial regulation reform law; targeting overpayments of health insurance subsidies under the healthcare law; and requiring taxpayers to include a Social Security number on their returns to claim the refundable portion of the child tax credit.

Congressional Republicans Drafting Legislation to Help Students with College Loans

Congressional Republicans formulating an agenda on education debt are weighing whether to prod universities with big endowments to apply some of their interest earnings toward helping defray tuition or help students pay down college loans. Draft legislation authored by Rep. Tom Reed (R-NY) would require some private schools to devote at least 25 percent of their annual endowment earnings to helping students with such costs. It would draw on financial data from 56 private universities and colleges requested by House Ways and Means Chairman Kevin Brady (R-TX) and Senate Finance Chairman Orrin Hatch (R-UT). That data is due to the Committees by April 1.

DOL Preparing to Implement Fair Pay and Safe Workplaces Executive Order

The Federal Acquisition Regulatory Council and the Labor Department are busy finalizing a regulation and guidance to implement the president's Fair Pay and Safe Workplaces Executive Order. The order requires businesses to disclose any violations of 14 federal labor and employment laws, as well as comparable state laws, for the previous three years to be eligible for contracts worth more than \$500,000. It allows agencies to deny contracts based on the information. Organizations representing federal contracting employers are preparing to attack the rule through litigation and by pushing for legislation. Meanwhile, the Center for American Progress and other progressive groups are asking the administration not to succumb to business-backed pressure to delay the release.

Federal Highway Administration Releasing Guidelines on Orphan Earmarks and Transportation Project Funding

The Federal Highway Administration is planning to release guidance soon that outlines how states and cities can redirect "orphan earmarks" to transportation projects. Language in a two-year budget deal allows state and local officials to use previously earmarked money for highway, freight, rail and multimodal projects, among other things. The term "orphan" refers to earmarks that have been sitting unused for 10 years or longer and most of them are highway or road-related, going "way back many, many years—going back maybe as many as 20 years." The FHWA plans to release a guidance statement that will include a complete list of earmarks by state, the type of project for which the money was originally authorized and when it was authorized. The funds can be re-appropriated to any project that's eligible under the federal Surface Transportation Program.

Federal Mediation and Conciliation Service Announces \$400,000 Available for Labor-Management Grants

On March 2, the Federal Mediation and Conciliation Service (FMCS) announced the availability of up to \$400,000 in grant money for labor-management committees and emphasized that participants can include parties other than unions and employers. The agency said it is "accepting grant applications and focusing and re-energizing the grants program on the 21st century economy and the evolving workplace." While the Agency will consider applications from

plant-level committees, the FMCS encourages applications from area-wide, industry or sectoral joint labor-management committees confronting specific, definable problems for which they have developed clear, innovative, and measurable long-term solutions. Proposals submitted can involve community organizations or nonunion employers, as long as at least one employer and one union representing its employees also are included. Grant applications are due May 31. More information is available on the FMCS's website at <http://src.bna.com/c1D>.

Representatives Announce Bipartisan Congressional Building Trades Caucus

Reps. Donald Norcross (D-NJ) and David McKinley (R-WV) announced a new bipartisan effort to better represent America's skilled trades workers in the halls of Congress. Both men come from trades backgrounds, with Norcross having been a union electrician in New Jersey and McKinley touting 50 years of experience in the construction field. The pair believes their experience gives them "the unique understanding of what America needs and where we need to go." As members of the newly minted Congressional Building Trades Caucus they hope to advance the agenda of tradesmen and women.

From their letter:

The 6.6 million Americans across our nation who work in construction need strong partners who are working on their behalf. In Congress, as we follow this new and united blueprint for the future, we're also tearing something down—the traditional labels associated with labor and business. Neither should be claimed as a value solely of the Republican or Democratic parties. These are core American issues. We know that. So now that we have our own foundation, we can build.

Reps. Norcross and McKinley laid out their vision for the Congressional Building Trades Caucus and how it will attempt to meet the future needs of the construction industry:

As always, an educated and skilled workforce is a critical component to our success. For us as lawmakers, that means "thinking outside" the traditional classroom setting to promote and support ideas like skilled apprenticeships which are the avenues to the very jobs that are the engine to our nation's success. Together, we will advocate for the building trades, a trusted and reliable source of labor for businesses, big and small. The trades represent diverse individuals from across the United States, our family and friends, who apply their talents using their hands and minds in a variety of fields—from carpenters and pipefitters, to electricians and ironworkers. The jobs they report to every day are what put America to work and keep America working.

DOL Announces Paid Sick Leave Rule

On Feb. 24, the DOL announced their rule that federal contractors would be required to provide workers with up to seven days of paid sick leave per year. Acting on an executive order signed in September, the DOL's Wage and Hour Division (WHD) proposed mandating that government contractors offer one hour of paid leave for every 30 hours of work. Employees could use the time to care for themselves or a family member and for absences resulting from sexual assault, domestic violence or stalking. The WHD estimated that the rule would extend paid sick leave to nearly 437,000 workers who currently don't receive it at all. The proposed rule would implement President Barack Obama's executive order by defining terms and specifying the types of contracts and employees that are covered. A paid leave requirement would apply to new or renewed contracts beginning in 2017.

While several of the key provisions were already defined by the president in the executive order, the proposed regulation provides that the leave mandate would apply to an expansive list of contractors. "The term contract broadly includes all contracts and any subcontracts of any tier thereunder, which includes four major categories of government contracts: construction contracts covered by the Davis-Bacon Act; service contracts under the McNamara-O'Hara Service Contract Act; concessions contracts; and contracts connected to federal property."

Republican Leaders to Obstruct Silica and Beryllium Regulations

Republican leaders such as Senate Health, Education, Labor and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN) are pledging to obstruct the silica and beryllium regulations. Their options include invoking the Congressional Review Act and using FY 17 appropriations legislation. The beryllium rule is less controversial because industry brokered the language alongside labor.

Chairman Alexander's pledge underscores the reality facing leadership in the remainder of this Congress: legislative regular order on occupational safety and health is likely to fall by the wayside over the coming months in place of creative mechanisms, such as appropriations language and riders, to implement or obstruct policy. Finally, the silica rule still is under review at the Office of Management and Budget, but OSHA is angling to release the final version of the new standard in the coming weeks.

Presidents Filling a Supreme Court Vacancy in Election Years

To date, 11 GOP members of the Senate Judiciary Committee signed onto a letter saying they will “withhold consent on any nominee to the Supreme Court submitted by this president to fill Justice Scalia’s vacancy.” However, a recent CNN/ORC poll showed that 58 percent of Americans would like to see President Obama nominate someone rather than leave it to his successor; 66 percent say that nominee should be afforded a hearing. Historically, the Senate has never taken more than 125 days to vote on a nominee from the time of nomination.

Currently, the President has 314 days left in office and several presidents have filled nominations in their final year including President Reagan with Anthony Kennedy’s confirmation, which was confirmed by Sens. Hatch and Grassley. Since 1900, a president has not failed to confirm a nominee in a presidential election year because of the impending election. Actually, during that time frame, six presidents (Taft, Wilson, Hoover, FDR, Eisenhower, and Reagan – he was the only one of the six not running for reelection) have had Supreme Court vacancies to fill during an election year. Four (Taft, Wilson, Hoover, and FDR) out of the six presidents nominated and confirmed their nominees during an election year.