

PAACC Federal Update

April 2018

Major Washington News

Mueller Protection, IRS, Farm Bill

Lawmakers will mark the tax-filing deadline by taking up a series of IRS-related bills. They will also try to resolve a disagreement over food stamps and advance legislation authorizing farm programs.

The Senate Judiciary Committee is getting ready to consider legislation to thwart any effort by President Donald Trump to fire Special Counsel Robert Mueller. On Thursday, April 19, the committee may mark up a bill (S. 2644) that would limit the ability of the president or Justice Department officials to fire Mueller. The measure reflects fears that Trump's anger after the FBI raided his lawyer's office may endanger the special counsel's probe into Russian interference in the 2016 election.

Appropriations

The new Senate Appropriations Committee chair says he wants to get through this election year with maximum bipartisanship, minimum drama, and no shutdowns.

"We're going to work, hopefully, to try to reestablish some kind of order where we will not lurch from crisis to crisis in government funding," said Sen. Richard Shelby (R-Ala.), who officially gained the gavel.

"Most likely with an election coming up we will probably have some kind of omnibus" after November, Shelby said as he mapped out his aspirations in a series of interviews. "The question is, can we pass one or two or three appropriations bills, say, before we recess in October? That would be a good sign."

Passing bills requires floor time. The Senate has 17 session weeks scheduled before the end of this fiscal year, so in theory there is time to do a few spending bills. Shelby's staff already is finalizing a markup schedule.

Omnibus Rescissions

Look for a potential legislative proposal to retroactively cut funds from the \$1.3 trillion fiscal 2018 omnibus spending law because Trump is committed to sending one up. Such a move may be symbolic: The Senate can pass a rescission resolution with simple majority, rather than the 60 votes usually needed for a motion to proceed on a bill. Even 51 votes may be hard to garner with GOP Sen. Susan Collins (Maine) having already criticized the idea. And Senate Appropriations Committee Chairman Richard Shelby (R-Ala.) said he warned Trump an attempt to claw back funds may not pass the chamber.

House Clears Bill That Makes It Easier to Soften Volcker Rule

The U.S. House passed legislation Friday, April 13, that would make the Federal Reserve the sole regulator in charge of the Volcker Rule, a change that Wall Street banks have sought for years because they believe it will make complying with the controversial provision less burdensome.

The Fed now shares oversight of the Volcker Rule with four other agencies, including the Securities and Exchange Commission and the Office of the Comptroller of the Currency. Banks argue the situation leads to duplicative oversight and makes it challenging to lobby for tweaks because five different regulators must agree on any revisions.

Named for former Fed Chairman Paul Volcker, the regulation has been controversial ever since its inclusion in the 2010 Dodd-Frank Act. Advocates say it reduces excessive risk-taking by restricting banks from trading with their own money and investing in hedge funds. But opponents argue it has made lenders too conservative, triggering a retrenchment from certain markets that has dried up liquidity.

The House bill, sponsored by Republican French Hill from Arkansas, was approved with bipartisan support, meaning it stands a decent chance of eventually being signed into law should the Senate pass a similar measure. House lawmakers could try to add it to broader legislation overhauling bank regulations that the Senate cleared earlier this year. Lawmakers might also seek to slip the Volcker Rule measure into a spending bill or other must-pass legislation later this year.

Labor Department's Expansion of Association Health Plans

The Labor Department's proposed rule to expand association health plans could be coming soon and with it, the potential for lawsuits.

Skeptics of the proposed rule say conflict with existing federal law could subject a final regulation to litigation. That finalization may come sooner rather than later. Sen. Rand Paul (R-Ky.), a major congressional proponent of the rule, recently said that people could expect to see a final rule within the next month.

The rule would expand access to the small employer group health plans by changing the DOL's definition of the term "employer" as it relates to federal employment law, allowing more people to access and form their own plans by geography or industry for health insurance. The comment period for the rule ended March 6.

Supporters of the rule, like former Health and Human Services Secretary Tom Price who recently said he was looking forward to the final regulation, say it would allow more small businesses and self-employed individuals access the same affordable health care available to large companies. Critics say the low-cost, potentially low-coverage plans offered by associations could lure young, healthy people from the individual marketplace of the Affordable Care Act, ultimately leaving behind an older, sicker population.

Outlook for Opioid Legislation

Lawmakers are pressing forward on plans to retool Medicaid and Medicare to tackle the increasingly deadly opioid epidemic.

A record 34 proposals under review by the House Energy & Commerce Committee's health panel take aim at the crisis with efforts to bolster reimbursement for treatment, encourage a more coordinated approach, and improve monitoring of painkiller prescriptions and at-risk beneficiaries.

Energy & Environment

Senators Eye Bipartisan Path for Carbon Capture Bill

A bill to boost research and deployment of carbon capture technologies could have legs in the Senate, as lawmakers pledge to keep it narrowly focused and avoid political roadblocks that often challenge environmental legislation.

The Senate is considering bipartisan legislation—introduced in March by Sens. John Barrasso (R-Wyo.), Shelley Moore Capito (R-W.Va.), Heidi Heitkamp (D-N.D.), and Sheldon Whitehouse (D-R.I.)—that could ease carbon capture project development.

The bill, S. 2602, aims to build on work from the same four senators extending and revising tax credits for carbon capture projects that was enacted as part of the February budget deal.

The tax credits legislation was just “one cog in the wheel,” Heitkamp said during an April 11 hearing of the Senate environment committee on the measure. “We know that we need to make sure we can commercialize the work that’s being done.”

Carbon capture prevents carbon dioxide produced from power plants and other sources from entering the atmosphere and causing global warming. The process is not yet commercially viable, largely because of cost.

Public Response Spurs EPA, Corps to Re-Propose Water Rule Repeal

The Trump administration, responding to public sentiment, will provide extra details about why it wants to replace an Obama-era rule on what bodies of water are subject to the nation’s water pollution regulations.

Waters and wetlands that fall under Clean Water Act authority are protected from pollution by federal discharge and dredge-and-fill permits, oil spill prevention requirements, and state water quality certifications, among other programs.

After receiving hundreds of thousands of comments, the Environmental Protection Agency and U.S. Army Corps of Engineers have decided not to issue a final rule yet, but instead have wrote another proposal (RIN:2040-AF74) to supplement the one they issued last June.

Chemical List from EPA to Help Companies Meet October Deadline

A list of chemicals that the EPA released April 12 should help paint, cleaning, and other companies that combine chemicals know if they need to notify the agency by Oct. 5 of the components of their mixtures.

The Toxic Substances Control Act amendments of 2016 require the EPA to divide its official inventory of chemicals into two parts: a list of chemicals that are active in commerce and a list of those that once were but are now dormant.

On April 12, the agency released information that will help companies that mix compounds comply with TSCA. The first registry is of interest to chemical processors—companies that make mixtures of chemicals such as cleaning products, car polish, and paint.

Defense

FY18 Omnibus Appropriation

The Pentagon received \$654.7b for fiscal year 2018, including significant boost for Lockheed Martin F-35 Joint Strike Fighter program and Boeing Co.'s Super Hornet aircraft.

The catch-all spending measure provides \$589.5b in regular Pentagon spending and \$65.2b for war funds, known as Overseas Contingency Operations funding

The bill also funds a 2.4% military pay increase and adds \$206m to address military pay increase

Additionally, the bill funds \$2.9b for 18 Boeing KC-46 tanker aircraft, or three more than requested.

Defense Appropriations, NDAA Hearings

House Armed Services Committee Chairman Mac Thornberry (R-Texas) and ranking member Adam Smith (D-Wash.) took the first legislative step beginning the process of crafting the FY 2019 National Defense Authorization Act (NDAA), by introducing H.R. 5515, the "by request" version, according to a committee press release.

The legislation does not reflect any substantive work by the committee. Rather, provisions contained in the bill reflect legislative proposals submitted by the Department of Defense. The HASC subcommittees are scheduled to hold markups starting April 26. When the full committee holds its markup on May 9, the bill's content will be replaced with subcommittee and full committee proposals.

Infrastructure

Self-Driving Car Tests Get Funding Boost

The omnibus spending bill carries \$100 million for research and demonstrations of self-driving vehicle technologies, just days after a deadly crash involving a self-driving car.

The fiscal 2018 bill's funds will help the Transportation Department gather more data on self-driving technology, as the agency continues its hands-off approach to regulation of the emerging technology being developed by companies such as Ford Motor Co., Alphabet Inc.'s Waymo LLC, Lyft Inc., and Uber Technologies Inc.

At least \$20 million from that pot will go to grants for cooperative agreements that proving ground pilot sites are eligible to apply for. DOT in 2017 designated 10 proving ground locations to encourage testing and information sharing around automated vehicle technologies, but no funds were set aside for them under that program.

The bulk of the funds are targeted at highly autonomous vehicle (HAV) technologies—capable of the Society of Automotive Engineers' Level 3, Level 4, or Level 5 automation. No more than 5 percent of the funding can be allocated to advanced driver-assistance systems (ADAS)—technologies capable of Level 1 or Level 2.

The office of the Secretary of Transportation is directed to use not less than \$60 million for grants and cooperative agreements to fund projects that demonstrate the feasibility and safety of HAV and ADAS deployments.

There is also language to ensure that no one state receives an outsized share of the funding. No single grantee can secure an award of more than \$10 million. No more than \$15 million can go to grantees within a single state.

Trump Infrastructure Legislation

The administration's proposal is for a \$200 billion federal investment spread across roads, airports, broadband, veterans' hospitals and more. The White House believes the small federal outlay over 10 years could be used to leverage private, state, and local funding that combined could total a \$1.5 trillion investment.

The administration would pay for the \$200 billion investment by cutting other transportation programs.

In comparison, the Federal Highway Administration states that the final 1991 estimate of the cost of the Interstate Highway System was \$128.9 billion, about \$238.4 billion in 2018 dollars. The federal government's share of the highway investment in the 1991 estimate was \$114.3 billion, about \$211.4 billion today. The system was 90 percent federally funded by bonds that were reimbursed by the federal fuel tax on gasoline and diesel, according to the agency.

The 2018 omnibus spending bill rejected transportation budget cuts, and congressional Republicans are not keen on new infrastructure spending or legislative activity beyond routine items like authorizing the Federal Aviation Administration.

"To get the big really robust package that the president is talking about, you have to come up with a significant source of revenues," Senate Commerce, Science, and Transportation Committee Chair John Thune said. "So far, those haven't been identified."

Aviation

Aviation Bill, Without Air Traffic Spinoff, Lands in House

Federal aviation programs would be authorized through 2023 at \$3.35 billion each year in a new House FAA bill introduced April 13. The Federal Aviation Administration reauthorization bill (H.R. 4) replaces H.R. 2997, which was introduced in 2017. The new bill would not spin off air traffic control from the FAA, but otherwise is nearly identical to H.R. 2997.

"I'm glad we finally had the opportunity to come together and introduce a bipartisan, long-term FAA reauthorization bill," the House Transportation and Infrastructure Committee's ranking member and a sponsor of the bill Peter DeFazio (D-Ore.) said in a statement. Committee Chairman Bill Shuster (R-Pa.) also sponsored the bill, as well as the leaders of all six subcommittees, including aviation subpanel chair Frank LoBiondo (R-N.J.) and aviation ranking member Rick Larsen (D-Wash.).

"This legislation ensures long-term investment and stability in aviation infrastructure for America's large, small, and rural communities, and it addresses issues to help maintain the safety of our system," Shuster said.

The House could take up the bill the week of April 23.

Airport Investments

The bill would not lift the \$4.50 cap on Passenger Facility Charges (PFCs)—per-segment ticket fees used for airport upgrades—as airport operators have long sought. The fiscal 2018 transportation

spending bill approved by Senate panel included an increase of airline passenger facility charges of up to \$8.50 from \$4.50. It was dropped from the omnibus spending bill passed in March

The FAA bill would, however, allow more airports to impose facility fees of \$4 or \$4.50. Under current law, smaller airports are limited to a \$3 fee, while larger airports can charge as much as \$4.50 for projects that cannot be covered by the Airport Improvement Program.

Contract Towers

The bill would make several changes to the contract tower program, which allows private firms to operate air traffic control towers, and accounts for almost half of the FAA's towers, according to the Congressional Research Service. If tower costs exceed their benefit as calculated by the FAA, airports or local governments can cover as much as 20 percent of the tower's cost to keep it open.

The bill would modify the calculation of contract towers' cost-benefit ratios and subsequent payments by requiring the department to calculate: The annual cost-benefit ratio of towers partly supported by airports or local governments. A cost-benefit ratio for towers that are not shared with an airport or local government, when airport traffic decreases 25 percent from the previous year, or 60 percent over three years.

Other Provisions

The proposal asks the FAA to clarify language that says passengers cannot be involuntarily bumped from a flight once they have boarded; airlines must offer compensation, not wait for passenger requests; and sets forth the current compensation rates listed in federal regulations as the minimum that can be given, among other clarifications.

Congressional Schedule

April

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9 Senate in Session	10 House & Senate in Session	11 House & Senate in Session	12 House & Senate in Session	13 House & Senate in Session	14
15	16 House & Senate in Session	17 House & Senate in Session	18 House & Senate in Session	19 House & Senate in Session	20 House & Senate in Session	21
22	23 Senate in Session	24 House & Senate in Session	25 House & Senate in Session	26 House & Senate in Session	27 House & Senate in Session	28
29	30					

May

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7 House & Senate in Session	8 House & Senate in Session	9 House & Senate in Session	10 House & Senate in Session	11 Senate in Session	12
13	14 Senate in Session	15 House & Senate in Session	16 House & Senate in Session	17 House & Senate in Session	18 House & Senate in Session	19
20	21 House & Senate in Session	22 House & Senate in Session	23 House & Senate in Session	24 House & Senate in Session	25 Senate in Session	26
27	28	29	30	31		

Out of Session



Both in Session



One Chamber in Session

