

# Gray & Oscar LLC

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**DT:** 3/12/2019  
**RE:** CONGRESSIONAL UPDATE

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***This Week in Congress:*** Congress returns this week following last week's congressional in-state work period with expected Senate votes on the nomination of Andrew Wheeler to serve as EPA Administrator, along with votes on executive and judicial nominations. Additionally, both chambers will be questioning Michael Cohen in a deposition style interview regarding his role with President Trump. Cohen, who has pleaded guilty to tax fraud and campaign violations, agreed to testify before Congress. Finally, the House on Tuesday voted on a joint resolution to disapprove of President Trump's border security national emergency declaration, along with voting on a bipartisan package of public lands bills that already passed the Senate.

## **HEARINGS:**

- Tuesday, February 26, 10:00 A.M.- House Energy & Commerce Subcommittee on Consumer Protection & Commerce hearing entitled "Protecting Consumer Privacy in the Era of Big Data."
- Tuesday, February 26, 10:30 A.M. – House Energy & Commerce Subcommittee on Oversight and Investigations hearing entitled "EPA's Enforcement Program: Taking the Environmental Cop Off the Beat."
- Wednesday, February 27, 10:00 A.M. – House Ways and Means Hearing on U.S.-China Trade. USTR Ambassador Lighthizer is the only scheduled witness.
- Wednesday, February 27, 10:00 A.M. – Senate Commerce, Science and Transportation Committee hearing on Policy Principles for a Federal Data Privacy Framework in the United States.
- Wednesday, February 27, 10:00 A.M. – Senate Labor, Health and Human Services, Education Committee Hearing on the Opioid Epidemic in America focusing on prevention, treatment, and recovery at the state and local level.

**NATIONAL EMERGENCY DESIGNATION:** On Tuesday, the House voted on a Democratic resolution that would overturn President Trump's declaration of a national emergency at the U.S.-Mexico border. The National Emergencies Act of 1976 allows lawmakers to nullify a presidentially-declared emergency with such a resolution. This the first time that Congress has taken up such a bill to overturn a national emergency declaration. The resolution is expected to pass the Democratic-controlled House. The Senate is required, by the 1976 law, to hold a vote on the resolution, but it is unclear if the resolution would have the votes to pass the Senate. Sens. Tillis (R-NC) and Collins (R-ME) have already said they will vote for the resolution and if two more Senate Republicans join them, the resolution would have enough votes to pass the Senate. President Trump would veto the resolution. Letters were sent from 58 former national security officials and 26 former Republican lawmakers urging members of Congress to vote against the national emergency.

**FY20 BUDGET APPROPRIATIONS:** The first portion of the budget is expected the week of March 11th with a more detailed explanation of the request expected the week of March 18<sup>th</sup>. The White House's top budget official confirmed plans to do use Overseas Contingency Operations (OCO) funds to boost the spending caps for defense. The plan also proposes to cut nondefense appropriations. The President's budget is expected to propose adding \$174 billion in OCO funding allowed outside the caps, on top of the statutorily required cap of \$576 billion for fiscal 2020. That would mean a total defense-related budget allocation of \$750 billion, or \$34 billion more than what Congress appropriated for FY19. Fiscal conservatives have long criticized OCO as a slush fund that allows more deficit spending with little consequence. The budget is also expected to propose a cut of 5 percent for nondefense programs.

**GOVERNMENT SHUTDOWN FUNDING PROPOSAL:** Yes, the government is operational again and President Trump did sign a compromise funding proposal that averted another government shutdown, and he did declare a national emergency to get additional funds for a border wall; however, beyond border funding, below is a deeper dive into the approved funding package.

- **Agriculture-FDA:** The Agriculture Department, FDA, and related agencies would receive \$23 billion in discretionary funds. It also includes mandatory funds for programs like nutrition assistance and crop insurance, for a total of about \$152.2 billion. It omits provisions on Food and Drug Administration regulation of e-cigarettes that were in the House Appropriations spending bill in the last Congress.
- **Commerce, Justice, Science:** The Commerce and Justice Departments, as well as major science programs, would receive \$71.8 billion in discretionary and mandatory funding. The discretionary total of \$71.5 billion reflects scorekeeping adjustments, including a \$3.35 billion cap on the amount DOJ can spend from the Crime Victims Fund, which contains criminal penalties and similar revenue.
- **Financial Services:** Federal civilian employees would get a 1.9 percent pay raise under this section of the package, which would also provide \$23.4 billion in discretionary funding to financial services programs. The package would also provide more than \$22 billion in mandatory funding, including for federal employee benefits.
- **Interior and Environment:** The Environmental Protection Agency, Interior Department, and related agencies would receive \$7.28 billion more than requested, and includes a provision that would allow Interior to collect and spend recreation fees at national parks and other federal lands for another year.
- **State and Foreign Operations:** The State Department and foreign aid programs would receive \$54.2 billion in discretionary funding, \$11.9 billion more than the administration requested. Of the total, \$8 billion would be designated as Overseas Contingency Operations and wouldn't count against discretionary caps under the Budget Control Act.
- **Transportation-HUD:** The departments of Transportation and Housing and Urban Development would be provided \$71.1 billion in discretionary funds. The measure would also provide \$60 billion from trust funds. The legislation would reject an administration proposal to eliminate HUD's Community Development Block Grant program.

Other provisions in the spending compromise include:

- **Exclusions on China Tariffs:** The spending deal would require the U.S. Trade Representative to create an exclusion process for the third round of Section 301 tariffs, which imposed a 10 percent tariff on \$200 billion worth of imports from China. Currently, exclusions can only be granted for first two rounds of tariffs on \$50 billion in imports. The duties are set to increase to 25 percent on March 2 if the U.S. and China can't reach an agreement.
- **Futuristic Train Funds:** The deal would include a \$10 million down payment for a high-speed, magnetic levitation train between Washington and Baltimore that could eventually extend to New York City. The floating train, being pushed by Central Japan Railway Co. and its U.S. affiliate Baltimore Washington Rapid Rail, would travel at 311 miles per hour and potentially shave travel time between New York and Washington to an hour.
- **Request for Lab-Grown Meat Rules:** A regulatory plan for oversight of meat grown in petri dishes needs to be written soon, appropriators told the USDA and FDA, in a provision in the funding deal. The bill carries language that would require Agriculture Secretary Sonny Perdue and FDA Commissioner Scott Gottlieb to "enter into a formal agreement delineating the responsibilities of the two agencies" for regulating cell-cultured food products.
- **Chemical Safety Board Funds:** Federal chemical safety investigators would see their first funding increase in years under the spending agreement. The bill boosts funding for the U.S. Chemical Safety and Hazard Investigation Board to \$12 million, its largest appropriation since it began operation in 1998. The agency has had its funding frozen at \$11 million since fiscal 2014. Greater funding could help it launch more investigations of accidents and fires at facilities and complete them faster.
- **Guestworker Visas Boost:** The Homeland Security Department again would be handed authority to increase seasonal worker visas under the deal. The language mirrors that included in government funding measures for the prior two fiscal years. The department would be permitted to increase H-2B visa numbers for fiscal 2019 up to the maximum allocated in laws allowing businesses to hire guestworkers who previously participated in the program.

**NORTH AMERICAN SHALE GAS EXPLORATION: *U.S. Shale Production Upsetting Global Markets*** - Per February 24<sup>th</sup>'s Bloomberg News, "more oil supertankers are sailing across the seas carrying only seawater for stability as the U.S. shale boom, coupled with OPEC production curbs and U.S. sanctions on Iran and Venezuela, makes it more difficult for shippers to find oil cargoes to carry in both directions." The trend is likely to continue for the foreseeable future, but ship owners hope that rising U.S. crude exports will provide some support to the tanker market.