

Memorandum

TO: Miami-Dade County

FROM: Greenberg Traurig

DATE: May 31st, 2023

RE: May 2023 Monthly Report

Below please find a summary of Greenberg Traurig's efforts on behalf of Miami-Dade County and the latest news stories and updates in Washington from the month of May. If you have any questions, or if we can be of any further assistance, please let us know.

Overview

Throughout the month of May, GT has kept Miami-Dade County staff up-to-date on the latest breaking news and developments in Washington with an on the ground presence in the nation's capital. GT has also helped County staff navigate the Congressional Budget and Appropriations process. Our team continues to work with the Delegation and Congressional leadership to advocate for funding and support for programs that are important to the County. GT's efforts on behalf of the County have focused on issues such as Public Health related to the COVID-19 pandemic, Economic Development, Justice, WRDA, Housing, Broadband/5G, Appropriations/Budget, Immigration, Infrastructure, and Transportation issues among many others.

Our team features former Congressional and White House staff whose strong connections in Washington can enable Miami-Dade County staff to maximize their opportunities to discuss specific high-level priorities with the top decision-makers in the Federal government. Through these connections, GT has also provided County staff with relevant "Dear Colleague" letters, draft versions of legislation, legislative analysis, and other insights not available through public means. GT continued to cultivate these relationships in the Federal government this month and maintains an open dialogue with Members of the Florida delegation, Congressional leadership, and key contacts within the Administration.

Debt Limit Negotiations

After months of fierce debate, the House has passed a bill to suspend the debt limit past the 2024 elections, sending to the Senate a bipartisan package designed to avert a financial crisis when borrowing authority runs out in early June.

On a bipartisan 314-117 vote, the House endorsed legislation negotiated by Speaker Kevin McCarthy, R-CA., and President Biden that would couple debt limit relief with caps on discretionary spending that Republicans said would serve as a down payment on deficit reduction efforts. The bill won support from majorities of both parties, though more Democrats voted for it than Republicans. Republicans voted 149-71 for the bill, while Democrats voted 165-46. The vote marked a victory for McCarthy, who beat back months of Democratic insistence on a "clean" debt

limit increase without the spending cuts and other conservative policies Republicans demanded. "Over the past four months, we worked hard to change how Washington works," McCarthy said in floor debate. "We stopped the Democrats from writing a blank check for spending after the largest spending binge in American history brought us the worst inflation the nation has ever known."

The bill (HR 3746) now headed to the Senate is a far cry from the initial GOP-backed legislation (HR 2811) the House passed last month, which included more dramatic cuts that promised \$4.8 trillion in deficit savings through fiscal 2033. The new compromise, which would hold domestic spending relatively flat and allow defense and veterans spending to increase, would likely save at most \$2.1 trillion, the Congressional Budget Office estimated. Hard-line conservatives opposed the bill because it contains just a fraction of the deficit reduction that would have been required under the earlier House GOP debt limit bill. Left-leaning House Democrats opposed the bill over its expansion of work requirements for welfare programs and modifications made to the environmental review process for federal projects, among other complaints.

Democratic leaders rallied behind the compromise, saying it offered the best hope in a divided government to avoid the financial chaos that could be triggered by a debt limit breach. "President Biden protected the American people from the types of devastating cuts proposed by right-wing extremists that would have hurt millions of everyday Americans," said House Minority Leader Hakeem Jeffries, D-N.Y., who urged his conference to support the bill.

Budget & Appropriations

The House Appropriations ranking member Rosa DeLauro, D-Conn., expressed opposition to the House-passed debt limit bill, arguing the measure's side agreement to boost nondefense spending may not materialize while military budget boosts are locked in. "I can live with a painful compromise, but I cannot accept one so lopsided," DeLauro said in a statement.

Senate Appropriations Chair Patty Murray, D-Wash., hasn't commented publicly on the legislation since it was released. But according to Senate Majority Whip Richard J. Durbin, D-Ill., Murray told her colleagues at the caucus lunch that it could make the appropriations process more difficult.

The bill would provide for automatic cuts to discretionary spending if Congress does not appropriate below the limits in fiscal 2024 and fiscal 2025. Spending caps continue from 2026 to 2029 but they are enforced only by budget rules, which lawmakers could waive by majority vote.

Another key provision in the bill — championed by Rep. Thomas Massie, R-Ky. — would automatically cut discretionary spending by 1 percent if Congress does not pass all 12 appropriations bills for fiscal 2024 by Jan. 1, 2024. That was a key selling point for Massie, typically a staunch fiscal conservative, to support the debt limit measure, as well as other outspoken conservatives like Rep. Marjorie Taylor Greene, R-Ga.

Farm Bill

Lawmakers writing the 2023 farm bill say the debt limit package, particularly food stamp provisions, will likely ease their work on the nutrition title that often stirs

contentious fights between Democrats and Republicans. The lawmakers, however, were unable to quantify the impact the deal reached by House Speaker Kevin McCarthy, R-CA., and President Biden will have on their reauthorization of the 2018 farm bill (PL 115-334) that expires Sept. 30. The deal includes an expansion of work requirements for thousands of adults in the Supplemental Nutrition Assistance Program, formerly known as the food stamp program. The House passed the debt ceiling bill (HR 3746) and has now sent the measure to the Senate.

"I feel pretty positive. I look at this as an enhancement to the program. I think there are some bipartisan things we can work on in the nutrition title," House Agriculture Chairman Glenn "GT" Thompson said, noting that he doesn't know of any agreements among debt negotiators about the impact on the farm bill and hasn't received any guarantees. Thompson, R-Pa., said he supports the debt deal provision that by fiscal 2025 able-bodied adults under 55 without dependents will have to meet work requirements to avoid time limits on food stamps. The current law puts the age at 50, and limits recipients to three months of food aid every 36 months if they can't document 80 hours of work per month or participation in work training. The debt agreement also would bar states from carrying over unused exemptions from the work requirements. A state would be limited to applying those exemptions to 8 percent of the population of able-bodied adults without dependents, down from the current 12 percent.

At a House Republican press conference Thompson challenged the Congressional Budget Office's estimate that \$6.5 billion in savings for fiscal 2023 through 2033 from expanding the number of people under the time limits would be offset by \$6.8 billion in additional spending during the same period for the three categories of individuals excluded from the requirements. With additional increases in direct spending of \$1.8 billion, CBO said the provisions would cost \$2.1 billion over the 10-year scoring window. "Quite frankly, CBO got the numbers wrong. They scored this as a \$2 billion cost, which is completely false and not the first error CBO has done," Thompson said. He said the Agriculture Committee is still collecting recommendations and ideas about the 12 titles under the farm bill. The full committee will hold a hearing on the nutrition title on June 7. "It's reauthorization, so we look to see how we can improve all the titles. There's a whole lot more to the nutrition title than SNAP," Thompson said. The title also includes the emergency food assistance program, commodity supplemental food program, commodity food projects, senior farmers' market assistance program and food insecurity nutrition grants.

House Agriculture ranking member David Scott, D-Ga., said he was pleased that Biden had gotten veterans excluded from the time limited benefits tied to meeting work requirements. "I've been preaching about the veterans and he provided leadership on that," Scott said, recalling a May 11 meeting Biden had with Scott, Thompson and Senate Agriculture Chairwoman Debbie Stabenow, D-Mich., and ranking member John Boozman, R-Ark. Addressing the work requirements in the debt bill means the Agriculture Committee can focus on nutrition for low-income people 55 and older, Scott said. "We've got to do something to help them with their food problems. That's a challenge," Scott said. Stabenow said she disagrees with the SNAP provisions, but plans to vote for the debt bill to keep the U.S. from defaulting and causing deep economic

harm. "I don't have a disappointment with the administration. I have a disappointment with House Republicans for insisting on this and not understanding we already have work requirements. I think what was negotiated really mitigated the harm to people when you look at the totality of it," Stabenow said. "In one way, it takes the issue of SNAP work requirements off the table. That's just one less issue we're going to have to negotiate. We have a lot of other important things to do in the farm bill, but we're not revisiting this issue," Stabenow said.

Boozman said he doesn't think there will be an appetite in the Senate to pursue further changes to SNAP in the farm bill. "I think it's fair to say that based on the discussions that we've had so far based on the debt ceiling, it would be difficult to get any further cuts, any further movement on SNAP in the farm bill," Boozman said, adding that he couldn't speak for House Republicans.

Broadband

On May 30th, the Federal Communications Commission (FCC) released an update to its [National Broadband Map](#) that includes corrections made through the agency's challenge process. Initially released last November, the map is a comprehensive, location-by-location view of high-speed Internet availability across the nation. It provides a more detailed and precise reflection of the availability of fixed and mobile broadband services in all 3,069 counties, parishes and boroughs.

The FCC's National Broadband Map will be instrumental in determining how federal funds will be allocated at the state level for the National Telecommunication and Information Administration's (NTIA) [Broadband, Equity, Access and Deployment \(BEAD\) program](#), which is funded by Bipartisan Infrastructure Law (BIL). In total, the BEAD program will provide over \$42 billion to high-speed internet access by funding planning, infrastructure deployment and adoption programs in all 50 states and Washington D.C. NTIA has required states to conduct local coordination in order to receive these funds, and NACo encourages counties to continue coordinating with their state broadband office on the broadband accessibility needs in our communities.

NTIA has stated that this iteration of the map will be used to determine state BEAD allocations, and the agency is on track to announce these allocations by June 30. The FCC, however, will continue to accept challenges to the map on a rolling basis and update its data regularly.

WOTUS Supreme Court Ruling

The Supreme Court's May ruling defining which wetlands can be protected under the Clean Water Act will require the Biden administration to rewrite bedrock regulations of what is protected as "waters of the U.S." The court unanimously ruled that the EPA and U.S. Army Corps of Engineers wrongfully claimed oversight of wetlands on the property of Idaho couple Chantell and Michael Sackett. However, the justices were divided 5-4 when determining a new test to replace ones put forward in 2006 by Justices Anthony Kennedy and Antonin Scalia in the 4-1-4 ruling on *Rapanos v. United States*. While Kennedy's test had allowed for bodies of

water with a "significant nexus" to navigable waters to be protected, Justice Samuel A. Alito Jr. wrote for the majority that "CWA extends to only those 'wetlands with a continuous surface connection to bodies that are 'waters of the United States' in their own right,' so that they are 'indistinguishable' from those waters." The Bush and Obama administrations had relied upon the significant nexus test — which holds that wetlands that could affect protected waters should be covered by the act. In December the corps and the EPA finalized a rule that relied on that test.

In the wake of the ruling, EPA Administrator Michael S. Regan said he was "deeply disappointed that the court is taking away the EPA's ability that has been standing for 50 years," while President Joe Biden said it "will take our country backwards." "It puts our Nation's wetlands – and the rivers, streams, lakes, and ponds connected to them – at risk of pollution and destruction, jeopardizing the sources of clean water that millions of American families, farmers, and businesses rely on," Biden said in a statement. The EPA and the corps finalized the rule after the Supreme Court announced it would hear the Sacketts' case. However, in hearings on the EPA's fiscal 2024 budget proposal this spring, Regan defended the decision to move ahead with the rule-making and said that any ruling in the case would ultimately affect only a portion of the final rule.

House Transportation and Infrastructure Chairman Sam Graves, R-Mo., said after the ruling the next step should be for the administration to withdraw the "ill-advised rule." Earlier this year he and Senate Environment and Public Works ranking member Shelley Moore Capito, R-W.Va., attempted to vacate the rule through a Congressional Review Act joint resolution (H J Res 27), which was ultimately vetoed by Biden. While the joint resolution passed both chambers largely along party lines, some Democrats, including House Agriculture ranking member David Scott, D-Ga., and Senate Energy and Natural Resources Chairman Joe Manchin III, D-W.Va., joined Republicans in support of the measure.

Groups including the National Mining Association and the American Farm Bureau Federation similarly celebrated the ruling and called for a new rule to be finalized. Charles Yates, an attorney with the Pacific Legal Foundation, which represented the Sacketts, said it was a "significant win for property rights and the separation of powers" and that the Supreme Court has set forth a "clear test" for the agency to follow. "It's really significant for that Biden rule because the Biden rule is simply unworkable in light of this ruling," said Yates. "It relies on the significant nexus test to regulate wetlands and other features under the Clean Water Act and the significant nexus test has now been decisively rejected." Regan said that the agency was still reviewing the court's ruling and considering its impacts. However, any rule the EPA can finalize may ultimately bear some similarities to the rule finalized by the Trump administration in 2020. In that rule the Trump administration cited the test put forward by Scalia in the Rapanos case which said only bodies of water with "a continuous surface connection" to a navigable water qualify for protections.

Criminal Justice – Fentanyl Restrictions

The House has passed legislation that would permanently classify fentanyl analogs as controlled substances, but the measure faces slim odds in the Senate because of Democrats' criminal justice concerns. Fentanyl, which is responsible for the majority of U.S. drug-related deaths, is already permanently classified as a Schedule II drug — meaning it has a high risk for abuse but is also used in medical settings. The Food and Drug Administration has authorized fentanyl to be used

for pain relief and as an anesthetic. Fentanyl-related substances, or FRS, refer to chemically similar drugs that are distinct from fentanyl. Illicit drugmakers may make analogs of a drug to avoid prosecution targeted at a specific chemical. The Trump administration classified FRS as Schedule I drugs in 2018 on an emergency basis. Since then, FRS scheduling has been added to spending bills as an extender while lawmakers seek a bipartisan solution. Most recently, the omnibus spending law (PL 117-328) extended emergency scheduling of fentanyl analogs through Dec. 31, 2024.

The bill (HR 467), passed as amended, by a vote of 289-133, with 74 Democrats joining Republicans. It would classify all fentanyl analogs as Schedule I, meaning they have a high potential for abuse and no known medical use. The bill would also ease restrictions on government-funded research of these substances. If enacted, users, sellers or those possessing the drugs could face penalties under a 1970 law known as the Controlled Substances Act. The White House issued a vague statement of administration policy on the bill, which prompted Democrats to call for the administration to rebuff the policy. The statement says the bill would schedule all FRS and increase research into these substances, calling them “critical components” of the Biden administration's recommendations to Congress. But the statement stopped short of promising to sign or veto the bill. “The Administration’s 2021 recommendations to Congress included additional provisions to improve public safety. The Administration calls on Congress to pass all of these critical measures to improve public safety and save lives,” the statement reads.

Non-Governmental Partners and Coalitions

Throughout May, GT continued to work with organizations like NACo, the Large Urban County Caucus, the National League of Cities, and the United States Conference of Mayors to push for additional state/local aid that would benefit Miami-Dade County and their residents.

GT staff have attended many meetings and been on regular calls with the organizations mentioned above and others this month on the County’s behalf. Partnering with these and other organization allows Miami-Dade County officials the opportunity to amplify their voices and help attain County policy priorities at the federal level.

Media Updates

GT continues to send daily media updates on legislative and political issues to the County in order to ensure that the Commission and staff remain up-to-date on developments within the Beltway. We conduct careful daily monitoring of the federal legislative calendar, executive orders, and other policy directives from the White House, action by the federal regulatory agencies, and key decisions issued by the federal courts. We will continue to monitor the issues most relevant to the County and provide timely and accurate information in order to make certain that the County is aware of any developments which may provide an opportunity to accomplish established goals.