

Memorandum

TO: Miami-Dade County
FROM: Greenberg Traurig
DATE: August 31, 2018
RE: August Monthly Report

Below please find a summary of Greenberg Traurig's efforts on behalf of Miami-Dade County in August. If you have any questions, or if we can be of any further assistance, please let us know.

Both chambers took a recess in August. The Senate returned on August 15th and the House will return after Labor Day.

Budget & Appropriations

Following the August recess, the pressure will be on for appropriators to work out the differences on as many as nine fiscal 2019 spending bills totaling more than \$1 trillion before the fiscal year ends Sept. 30. To start, appropriators must shuffle money between the 12 bills to account for differences between the House and Senate versions without exceeding the \$1.244 trillion discretionary spending cap set in the budget law. House leadership must decide how it wants to handle the Agriculture, Labor-HHS-Education and Transportation-HUD spending bills, which have passed the Senate and are being pre-conferenced, despite not having come to the House floor. And last, but certainly not least, President Donald Trump must sign the bills into law — or risk a Republican Congress overriding his veto to stave off a partial government shutdown just weeks before the midterm elections. First out of the gate in September will likely be the three-bill spending package (HR 5895) that includes the Energy-Water, Legislative Branch and Military Construction-VA bills. That conference report could be approved as early as the first week of August. GT has kept Miami-Dade County up-to-date on the FY 2018 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.

Opioids

The Food and Drug Administration issued new draft recommendations during the first week of August intended to encourage development of medication-assisted treatment drugs for the treatment of opioid use disorder. The news comes as Senate continues to work toward passing an opioids package this year. Medication-assisted treatment, or MAT, uses pharmaceuticals like buprenorphine, methadone and naltrexone to block opioid's euphoric effects and reduce an individual's craving for opioids. A person using MAT cuts their risk for death from opioids in half, according to the Substance Abuse and Mental Health Services Administration. "This work at HHS

includes placing a special priority on ensuring access to a full range of safe and effective options for medication-assisted treatment,” said Health and Human Services Secretary Alex Azar. “The FDA’s new guidances have the potential to bring new medications to market that are more closely tailored to patient needs and help give Americans facing addiction a better chance at recovery.” Meanwhile, Congress continues its own work at addressing the opioid epidemic. The House passed its legislative package (HR 6) in June by 396-14, while the Senate is still finalizing parts of its own, different package before it votes later this year. Senate Health, Education, Labor, and Pensions Committee Chairman Lamar Alexander, R-Tenn., has said that the Senate is using its bill (S 2680) as the base, and that it will include many provisions similar to the House package. The two chambers are likely to go to conference following the Senate vote to hammer out any differences. GT continues to work with the County’s congressional delegation to advance legislation that tackles mental health reform and the nation’s opioid addiction crisis, and has kept Miami-Dade updated on the status and outlook for these pieces of legislation. Our team has also been sending a weekly “Opioid Update” to County officials keeping them up to date on the latest actions taken by Washington on the opioid crisis.

Flood Insurance

The Senate cleared legislation in last month that will extend the National Flood Insurance Program through Nov. 30, preventing the program from lapsing in the middle of the Atlantic hurricane season. Senators voted 86-12 to concur in a House amendment to a bill (S 1182) to extend the program’s current authorization for four months just hours before the program was set to expire. President Donald Trump signed it into law soon after. The extension is the seventh short-term NFIP extension passed by Congress since last September. While the House passed a full five-year reauthorization bill (HR 2874) in November, the Senate has not acted on it or on any other full NFIP reauthorization legislation. Our team has provided analysis of National Flood Insurance program reform legislation, and has continued to track related bills on behalf of the County.

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. Our team has continued to send those interested individuals information regarding issues such as tax reform, health care, and appropriations, among others. 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.

(Below is an example of one of GT’s Washington Updates, which are sent to County officials everyday.)

Good Morning,

Below is a look at today's news and events in DC. If you have any questions or need anything, please let us know.

Thanks,
Katie

Today at a Glance: August 27, 2018

Top Stories for the Day

- Remembering John McCain. The week will be filled with tributes to the Arizona senator, who died Saturday.
- The Senate could consider a number of the president's picks this week.
- The spending bill passed by the Senate last week includes \$1 million for the Trump administration to craft new regulations that would force pharmaceutical companies to include prices in prescription drug advertisements.
- Senators pushing for a bipartisan criminal justice overhaul measure expressed optimism that it could get a Senate floor vote after the November elections, but lingering opposition could still derail the bill.
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House: Not in session. Returns in September.

Senate: Convenes at 4 p.m. to resume consideration of Lynn A. Johnson to be a Health and Human Services assistant secretary. A 5:30 p.m. cloture vote is expected on Johnson's nomination. Note that events to remember McCain's life may affect floor and committee activity this week.

McCain Remembered as He Wished: One Who Served Honorably

In September 2017, Sen. John McCain was asked how he would be like to be remembered.

He said he wanted to be remembered as someone who served his country. "I hope we could add, 'honorably,'" he told CNN at the time.

And that is precisely how he was remembered by friends and former foes after news broke that the longtime Arizona Republican senator had died Saturday.

Following the news, members of both parties praised McCain — a Vietnam War combat veteran and prisoner of war, and his party's 2008 presidential nominee — as a true patriot.

While President Donald Trump, who had a tense history with McCain, issued a short statement on Twitter, other lawmakers and former presidents issued lengthy statements praising the late senator for his service. All, including the GOP leaders in Congress, applauded his lifetime of service to the United States.

"In an era filled with cynicism about national unity and public service, John McCain's life shone as a bright example," said Senate Majority Leader Mitch McConnell, R-Ky. "He showed us that boundless patriotism and self-sacrifice are not outdated concepts or clichés, but the building blocks of an extraordinary American life."

Speaker Paul D. Ryan in a statement called McCain "a giant of our time."

Personal Stories

A flood of statements poured in from senators. McCain, who was first elected to the Senate in 1986, left a lasting impression on the institution.

GOP Sen. Jeff Flake, Arizona's junior senator, remembered his colleague in an op-ed in The Washington Post. He said McCain taught him "the value of standing alone to do what is right."

Flake recalled an instance when he was serving in the House and taking heat from local officials and columnists.

McCain approached him. "He stuck his finger in my chest and demanded: 'Don't. Back. Down! You're in the right, they'll come around,'" Flake wrote. "It was all that I needed."

South Carolina GOP Sen. Lindsey Graham, one of McCain's closest friends in the Senate, tweeted, "America and Freedom have lost one of her greatest champions . . . And I've lost one of my dearest friends and mentors."

Graham, McCain and Connecticut Democrat-turned-independent Joseph I. Lieberman were known as the "three amigos" during their time together in the Senate. And they traveled the world together.

Sen. Ben Sasse remembered his own trips abroad with the late Armed Services chairman in a tweet Saturday night.

"I've been in multiple war zones with this man, and I never ceased to be amazed & moved at young servicemen/women delaying their promotion ceremonies until John McCain arrived to preside over their formal oath-takings," the Nebraska Republican tweeted.

Sen. Chris Coons also recalled traveling to a dozen countries with McCain, including to the building in Hanoi where McCain was tortured as a POW. The Delaware Democrat tweeted that those travels "taught me about America's roles and responsibilities in the world."

Sen. Christopher S. Murphy recalled on Twitter how McCain detailed his time as a POW to the entire Senate "in spellbinding detail." Murphy said McCain detailed how he developed a way to communicate with fellow prisoners by tapping, since they would be tortured if they spoke to one another.

Murphy recalled California Democratic Sen. Dianne Feinstein asking McCain if he remembered the tapping system.

"He just started a rhythmic, staccato tapping on the podium," Murphy said. "'I just tapped out, 'Yes, Diane, I still can,' [McCain] whispered into the mic."

Sen. James M. Inhofe, who is in line to succeed McCain as Armed Service chairman, remembered how the late senator was there for him when Inhofe first ran for the Senate. The Oklahoma Republican has been managing many of the committee's activities under McCain's direction since the Arizonan's cancer diagnosis.

"I'll never forget how he was one of three senators [who] came to campaign for me in 1994 when no one else thought I had a chance of getting elected," Inhofe said.

Final Conversations

Other colleagues recalled conversations with McCain shortly before his death.

Harry Reid, the former Senate majority leader, said in a statement that he had recently spoken with McCain.

"John and I both ended our final call a few weeks ago by telling each other, 'I love you,' and that was how we felt about one another," the Nevada Democrat said. "There will never be another John McCain."

Sen. Amy Klobuchar said she and her husband had visited McCain in the past month.

"He pointed to a sentence in his new book and told me, 'That's all that matters.'" the Minnesota Democrat recalled Saturday. "The sentence was this: 'Nothing in life is more liberating than to fight for a cause larger than yourself.'"

Flake also recalled spending an hour or two with McCain a few months ago, reminiscing about the past and discussing the future.

Flake said McCain remarked to him as Flake got up to leave: "The doctors tell me I'm halfway there. The more I see this end coming, the more I am grateful for what I have."

Bipartisan Praise

McCain was his party's standard bearer in 2008, but he was also known for working across the aisle. One of his final actions in the Senate included breaking with his party to cast a "no" vote on the Republican effort to repeal much of the 2010 health care law.

Democrats — even those who had faced off against him — joined in remembering McCain's service.

Former President Barack Obama, who defeated McCain in 2008, said in a statement that he and the late senator "saw our political battles, even, as a privilege, something noble, an opportunity to serve as stewards of those high ideals at home, and to advance them around the world."

"We saw this country as a place where anything is possible — and citizenship as our patriotic obligation to ensure it forever remains that way," Obama said.

Former Vice President Joseph R. Biden Jr. lost his son Beau to the same form of brain cancer that afflicted McCain.

“America will miss John McCain. The world will miss John McCain. And I will miss him dearly,” Biden said in a statement.

HHS, Fed Nominees Could See Senate Action

It was expected to be a week of nominations work for senators, but floor activity could be curtailed due to McCain's death.

Majority Leader Mitch McConnell, R-Ky., has filed cloture motions on 17 nominations, including 12 picks for district courts. But first in line is the nomination of Lynn A. Johnson to be assistant secretary for family support at the Health and Human Services Department. Next up would be Richard Clarida, President Donald Trump's pick to sit on the Federal Reserve Board and to be vice chairman of it — technically two separate nominations among the 17 in the queue.

The big question is how long it will take for senators to dispense with all these nominations, particularly the judicial picks. Under current rules and precedents, processing all 12 judicial nominations could take weeks, with allowances for 30 hours of floor debate after invoking cloture on each one.

Eventually (again, given McCain's passing, this week's schedule remains a question mark) senators may try to reach an agreement to lessen the debate time or confirm some nominees without roll call votes. If they can't, Republicans could try to take another approach: changing Senate rules on debate time.

Path Forward Unclear After Senate Calls for Drug Prices in Ads

A spending bill passed by the Senate last week includes \$1 million for the Trump administration to craft new regulations that would force pharmaceutical companies to include prices in prescription drug advertisements.

But there are plenty of questions about how such regulations would work and whether the Department of Health and Human Services has the legal authority to make drug companies disclose prices in TV, radio and other ads to consumers.

Trade groups representing makers of name brand drugs are opposed to the proposal, saying it could cause confusion for consumers, since patients typically pay only a portion of a drug's list price after negotiations by insurers, rebates and other variables are factored in. Such a move would also raise legal questions, drug companies argue.

Daniel Seaton, a spokesman for BIO, a trade group representing biotechnology firms, said that consumers would have greater transparency if insurance companies and other middlemen had to disclose their impacts on prescription drug pricing.

Meanwhile, the middlemen that drugmakers point to as complicating the prices paid say they support providing more information in ads — if the disclosures specifically focus on the original list price.

Matt Eyles, the president of America's Health Insurance Plans, favors the proposal, writing in a letter last week that it "recognizes that greater transparency is a crucial ingredient of the broad-based strategy" to lower drug prices.

"We urge you to recognize that the entire pricing process is driven entirely by the original list price of a branded drug — which is determined solely by the drug company, not by the market or any other participant in the pharmaceutical supply chain," he wrote.

That fundamental tension between the trade groups speaks directly to the challenges HHS will face in developing a policy that is actually meaningful for consumers, whose out of pocket costs are generally less than list prices.

Michael Strazzella, a health care lobbyist at the firm Buchanan, Ingersoll and Rooney PC, asked what kind of caveats drugmakers would be allowed to include when communicating prices.

"Are they going to allow the pharma companies to build in some type of disclaimer that 'this price may vary due to insurance'?" he said.

HHS Secretary Alex Azar told a Senate panel earlier this year that making such a move without additional congressional action would likely lead to litigation.

"I would always appreciate congressional authority to back me up on that because I undoubtedly will be sued," Azar said, adding: "It's an important piece of information that consumers are entitled to, along with cost-benefit."

Still, it appears HHS could be on track to release a regulation even prior to congressional action to clarify its authorities. A proposed rule related to drug pricing transparency is pending review at the Office of Management and Budget as of Tuesday, though the text of the proposal is not yet available.

Uncertainty Remains

The funds included in the Senate bill (HR 6157) mark Congress' latest small step to address drug costs after the administration laid out its blueprint to lower pharmaceutical prices earlier this year.

But it's uncertain whether the proposal will move forward and ultimately become law. The House hasn't yet voted on its measure (HR 6470) to fund HHS for fiscal 2019, which doesn't include language on advertisements.

One prominent lawmaker who ultimately supported the Senate language still has some concerns as well. A press secretary for Senate Finance Committee Chairman Orrin G. Hatch, R-Utah, said that he "looks forward to continuing to discuss other potential modifications to avoid unintended consequences."

It's unclear what further changes Hatch and other pharmaceutical industry allies may seek. The amendment adopted on Thursday had already undergone significant changes from the first time the issue was raised in the Senate.

In July, when the chamber was considering another spending bill (HR 6147) that included funding for the Food and Drug Administration, Sens. Charles E. Grassley, R-Iowa, and Richard J. Durbin, D-Ill., offered a similar amendment. (The FDA, even though it is part of HHS, has its discretionary funding provided in the bill that funds the Agriculture Department).

That proposal would have clarified that the HHS secretary's authorities to regulate direct-to-consumer advertising of prescription drugs should "include the authority to require" that ads include "an appropriate disclosure of pricing information."

But the pharmaceutical industry, and by proxy the lawmakers who fight for it, had an easy argument to fall back on for why that amendment wouldn't pass muster: it was authorizing language on an appropriations bill. Given the fact that this year's appropriations process in the Senate has been marked by bipartisan cooperation and a lack of policy riders, controversial or not, it was easy to paint this as a tough sell.

When Grassley and Durbin tried again for the broader HHS package, the amendment they filed was about providing funding instead of granting authority. It stated that "in furtherance of the existing statutory authority" of HHS to issue a regulation requiring pricing information in prescription drug ads, Congress would provide \$1 million.

But the version of the amendment that was ultimately adopted last week eschewed any reference to authority whatsoever. It simply said that \$1 million should be used by HHS to issue the regulation — without weighing in on whether the department actually has the authority to do so, or granting such power. A Democratic Senate aide said that even though not all senators were completely comfortable with the amendment on Thursday, "no Republican Senator wanted to publicly oppose it."

Legal Questions

It's unclear whether providing the funding would be enough to shield HHS from legal challenges. But Strazzella, the health care lobbyist, thinks that if Congress provides them with funding to carry out the regulations, it's as good as giving them the authority to do it.

"I think this helps empower their case," he said.

He also noted that prices in advertising could change the calculation for the generic drug industry, where companies don't typically spend any money marketing their products. But that might change if the prices were going in the ads, he said.

For its part, the Association for Accessible Medicines, the trade group representing generic drugmakers, hasn't issued a public statement on the issue of prices in advertising. A spokesperson told CQ that the group supported the proposal, but would not speak for member companies on how it might affect their marketing decisions.

Trump Stirs Talk of Criminal Justice Bill but Outlook Unclear

Senators pushing for a bipartisan criminal justice overhaul measure expressed optimism that it could get a Senate floor vote after the November elections, but lingering opposition could still derail the bill.

After discussions on the issue Thursday, Senate Judiciary Committee Chairman Charles E. Grassley of Iowa said President Donald Trump would make it a priority soon after the mid-terms and that Majority Leader Mitch McConnell of Kentucky was open to bringing it to the floor this year.

“And I’m confident with the president’s continued backing, we’ll have more than enough votes to pass a bill overwhelmingly,” Grassley said in a news release.

Trump backed a prison overhaul measure (HR 5682) the House easily passed in May, which aims to prepare federal prisoners for release so they are less likely to commit another crime. Trump does not yet back the broader bipartisan legislation (S 1917) championed by Grassley that also includes changes to some federal sentencing laws, but still wants to see a bill passed, a White House official said.

Negotiations on the bill continue and no final proposal is on the table, Sen. Orrin G. Hatch, R-Utah, a member of the Judiciary Committee, said on the floor Thursday.

While Grassley has said a bill that lacks sentencing changes would not pass the Senate, a Justice Department spokeswoman on Thursday indicated that Trump had not agreed to it. Attorney General Jeff Sessions opposed such sentencing provisions as a Republican senator representing Alabama.

“We’re pleased the President agreed we shouldn’t support criminal justice reform that would reduce sentences, put drug traffickers back on streets, and undermine our law enforcement who are working night and day to reduce violent crime and drug trafficking in the middle of an opioid crisis,” spokeswoman Sarah Isgur Flores said in a statement.

Hatch, of Utah, Tom Cotton of Arkansas and John Kennedy of Louisiana are among Republicans who have voiced concerns with the Senate’s criminal justice bill.

Cotton, a vocal opponent of previous versions, wrote an op-ed in the Wall Street Journal that said Congress should not cut mandatory minimum sentences for serious crimes or give judges more discretion to reduce sentences, two parts of the Senate bipartisan compromise bill.

Hatch on Thursday aired concerns that negotiations did not include provisions from a bill (S 3118) he introduced with Grassley this year that would clarify that prosecutors are required to prove someone’s intent to violate federal criminal laws.

While Hatch and other Republicans say the changes are needed to combat what they say is growth in the number of federal regulatory crimes, Democrats oppose such a measure because they say it would harm prosecutions stemming from violations of those regulations, such as environmental crimes.