

U.S. Office of Public Policy

# Washington Weekly

Under the Dome: The Week in Review

10 March 2017



**This week:** The **House** passed several measures to reform the legal tort system and a bill to fund the Department of Defense for the remainder of the current fiscal year (through October 1). The **Senate** approved the nomination of Seema Verma to serve as Administrator of the Centers for Medicare and Medicaid Services and voted to repeal an Obama-era rule commonly referred to as the “blacklisting rule” that requires federal contractors to disclose workplace violations before contracting with the federal government.

**Next Week:** The **House** will address legislation relating to health care for veterans and employment practices at the Department of Veterans Affairs. The **Senate** will take a break from voting on President Trump’s cabinet and sub-cabinet nominations and address various regulatory issues.

## Financial Services Issues

**Regulatory Reform Slow Walk.** House and Senate committees this week approved a few minor financial services regulatory relief bills as efforts to advance a more comprehensive set of financial reforms move down a much slower track. The House Financial Services Committee has yet to release its latest version of the CHOICE Act and is not expected to pass this bill until late spring. The CHOICE Act, which would overhaul major pieces of Dodd-Frank, has no chance of passage in the Senate, where the 60-vote threshold needed to advance most legislation will make it difficult to pass even a far more modest bill. Meanwhile, pursuant to a White House executive order from last month, the Treasury Department is undertaking a review of the existing financial regulatory system to identify potential changes. However, this review will only set the table for regulatory reform. Actual regulatory revisions will need to be justified through formal notice and comment processes. *With nominees*

*yet to be even named for the vast majority of key financial services regulatory positions, we are still a long way off from the start of that activity.*

## Other Issues in Play

**Obamacare Replacement, Finally.** House Republicans have unveiled legislation to repeal Obamacare and replace it with a package of new policies and initiatives. As we have noted in the past, the most significant changes to Obamacare most directly affect lower-income individuals and families who face difficulty affording insurance, individuals who would prefer not to buy health insurance and workers who are not offered insurance plans from their employers. Most other people are affected by the law in much less direct ways. We don’t have the space here to summarize the complex plan, but here are a few noteworthy provisions that will likely affect our readers. *And, remember that this is the first part of a broader plan to replace Obamacare, with other parts occurring later in the year through executive action and subsequent legislation.*

- **Obamacare Taxes.** The bill would eliminate taxes put in place in the 2010 law to fund a significant expansion of health care coverage for many individuals. Most notably for investors, the bill would repeal the 3.8% net investment income tax and the additional 0.9% payroll Medicare surtax that hit married couples earning more than \$250,000. *The elimination of these two taxes is expected to save high-income earners an estimated \$275 billion in additional taxes. Additionally, the bill would eliminate other Obamacare taxes, including ones on medical device sales, health insurers and pharmaceutical company sales.*
- **No Mandates to Buy/Offer Insurance.** The new bill repeals the Obamacare mandate for individuals to purchase health insurance and for larger employers to offer health insurance to employees. Individuals who opt not to buy insurance would face higher insurance premiums if they waited to buy insurance only after they needed it to pay for pending care. *That incentive replaces the mandate.*
- **No Drug Pricing Provisions.** The replacement bill does not affect drug prices in a meaningful manner. President Trump will try to affect drug pricing separately, most likely through executive action and the bully pulpit. *Chances of a bill moving through Congress to control pricing are very low.*
- **Outlook.** Republicans have been talking about replacing Obamacare for years. Now that they are in charge in Washington, they *have to* act on a replacement package.

The bill put together is probably as balanced as one can be to appeal to most of the different Republican Party factions. It represents the party's best chance to repeal Obamacare and replace it with policies that most in the party (in Congress) believes are better. The House and Senate votes on this bill will be very, very close, although only a simple majority of votes is needed for passage in the Senate (not 60 votes).

*It's too early in the process to make a reliable prediction of whether this plan will pass or not, but much will depend on how effective President Trump will be in influencing skeptical Republican members (see below).*

**Debt Ceiling Milestone.** Next week (March 16), the federal government will reach the debt ceiling. Technically, this is the day the government has reached its maximum debt limit and is not able to continue to issue new debt to meet its obligations. However, the Treasury Department can employ maneuvers, known as "extraordinary measures," that allow it to reduce temporarily the debt level below the debt ceiling limit in order to give Congress additional time to come to an agreement. So, while there will be news around the debt ceiling next week, the federal government won't actually breach the limit anytime soon. The real deadline is months away—likely sometime in October or November on a date Treasury Secretary Steve Mnuchin has yet to project. *While we expect the debt ceiling to be raised in the fall, it will likely feature the typical partisan battle over deficit reduction that has made the debt ceiling fight a market risk and a poster child for Washington dysfunction.*

**All Quiet on the Gorsuch Front.** Things have been fairly quiet regarding the Senate's consideration of Neil Gorsuch to serve on the Supreme Court, which is a positive signal for his likely confirmation. The Senate Judiciary Committee will begin its hearings on his nomination the week of March 20, which will tee up a vote in the full Senate the week of April 3. Gorsuch's credentials and personal meetings with senators have been compelling enough that we believe he will easily attract the 60 votes necessary to win confirmation. Absent any unexpected controversy on his record or background, we expect Senate Democrats to forgo a full-court opposition and focus instead on the next Supreme Court vacancy whenever it will occur. They may have more credibility for opposing the next nominee if they have shown flexibility in supporting or at least not

strongly opposing President Trump's first nominee, particularly if that nominee is not as stellar as Gorsuch. *Gorsuch has done well in mustering the support he needs to win confirmation, and we expect a pretty smooth round of hearings for him later this month and then a comfortable vote for his confirmation in early April.*

**Carbon Tax Revisited.** Many lawmakers are contemplating "next steps" if the controversial border adjustment tax and its more than trillion dollars in revenue are removed from any comprehensive tax bill that moves forward this year. Republicans will then have to look for alternative ways to offset the cost of tax reform (mostly rate reductions) and/or scale back the level of reform. In that light, we have been asked by many people about a proposal from past Republican leaders, including former Secretary of State and Treasury James Baker, who recently called for a carbon tax. While Secretary Baker and his allies still hold some gravitas in the party, that influence will not translate to the enactment of a carbon tax. *There may be some noise around a carbon tax in the coming months as a potential major revenue raiser to be used in the tax reform battle, but it will be just that—noise.*

#### Final Word

**Lobbyist Donald Trump.** As noted above, President Trump's involvement in the House and Senate debates over health care will be pivotal to their outcomes. The President this week signaled his support for the House bill while also saying he could support certain changes to it as long as the bill's overall structure and major provisions remained in place. In particular, President Trump will have to lobby the most conservative Republicans who, among other things, are skeptical of the bill's tax credit provisions (to offset the cost for certain individuals to buy health insurance). Given that voter support underpins a strong political position, presidents with high approval ratings generally are better lobbyists than those with low approval ratings. While Trump's approval rating is not high nationally among all voters (average is 44.5%), it is high among Republicans (91% in most recent poll) and this is what will count the most in the current debate. *Whether Trump is successful or not as a lobbyist will go a long way in determining whether Republicans in Congress can pass a replacement to Obamacare.*

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