

LEGISLATIVE DIVISION UPDATE

Congress

GOVERNMENT MAY SHUTDOWN

The fourth continuing resolution (CR) for FY18 is a real nail biter. After a day of debate and acrimony, the House managed to pass the CR Thursday evening by a largely party-line vote of 230 to 197, less than 30 hours before the current one expires. The new CR would keep the government operating through February 16.

The CR also extends the Children's Health Insurance Program (CHIP) for six years and delays implementation of several Affordable Care Act (ACA) taxes, including the "Cadillac tax" on high benefit insurance plans and the medical device tax. In a gift to defense hawks, there is also some additional funding for DoD's ballistic missile programs.

The Freedom Caucus did not sign onto the CR until late Thursday. Apparently, House Republican leaders have promised to bring legislation on both defense spending and immigration reform to the floor in return for those votes. The defense appropriations bill could return to the House floor in two weeks, after next week's Congressional recess. Reportedly, the appropriations legislation will increase the defense spending cap by about \$80 billion (which is what the House did several months ago, before the start of the current fiscal year).

The House's efforts may all be for naught, since it appears that the measure may not have enough votes in the Senate. As of Thursday evening, all Senate Democrats had announced their intention to oppose the measure since it does nothing to protect Dreamers' immigration status. Negotiations are sure to continue through Thursday night.

In the hours leading up to the CR vote, House Speaker Paul Ryan (WI) spoke at a think tank about the importance of funding the military, which he called the federal government's first and most important priority. In the past few years, the military's readiness and equipment have both been allowed to degrade. During the speech and several press releases during the day, Ryan emphasized the importance of rebuilding the force. In an appearance at the Pentagon, the President echoed these arguments.

Agencies shutdown

The Department of Veterans Affairs (VA) says that 86% of its discretionary budget is covered by advance appropriations. This means that they already have their FY18 funding. Thus, should the government shut down over the budget negotiations, 95.5% of employees would continue to report to work. These people are either already fully funded or they perform functions exempted from a shutdown. That means that only 15,858 VA employees would be expected to stay home.

Within the Department of Defense (DoD), all uniformed service members will be expected to report to work. Managers will be notifying their civilian workers who are essential enough to have to come to work. What none of this takes into account is how much uniformed servicemembers rely upon what their civilian colleagues do on a daily basis.

Of course, none of those employees reporting to work would receive a paycheck until after the shutdown ends. In addition, the Congress would need to pass special language paying for federal employees who do not report to work for that period.

Many government contractors will not be paid by their companies for this period of time.

Cerner electronic health record (EHR) system

Both DoD and the VA are intending to implement Cerner's commercial off-the-shelf (COTS) EHR system. DoD has already started rolling out the system in the Northwest; the VA has been intending to follow in their footsteps to implement the system in VA medical facilities. However, the entire project has hit snags with both Departments.

VA Secretary Shulkin has delayed signing the Cerner contract until he is assured that the system can be interoperable with all medical providers, and not just DoD.

In DoD, physicians are reportedly expressing discontent with the system's workflows. The department has halted the rollout, delaying implementation in additional facilities until the problems are resolved. Clinicians say that the workflows were designed for one DoD facility with the expectation that they could be used in all facilities, which is apparently not the case.

Medical Cannabis and the VA

Democrats on the House Veterans' Affairs Committee this week took issue with the VA's apparent refusal to even consider conducting research on the medical benefits of cannabis for treating post-traumatic stress Disorder (PTSD) and chronic pain. The lawmakers sent a letter to Secretary Shulkin asking him to reconsider his position on the issue.

In the wake of the media firestorm that ensued, the Secretary seemed to walk back his letters during his testimony before the Senate Veterans' Affairs Committee. During a hearing on Wednesday, Secretary Shulkin claimed that VA researchers are already engaged in those studies, but face tough barriers due to the federal government's classification of marijuana as a controlled substance.

Update on Flag Amendment Bill

The American Legion is continuing its efforts to protect the American flag in the 115th Congress. As he did in the previous Congress, Rep. Steve Womack (AR) re-introduced a flag protection constitutional amendment, **House Joint Resolution (H.J. Res.) 61**. The measure currently boasts 25 co-sponsors.

On Flag Day, Sen. Steve Daines (MT) introduced a Senate companion measure, **Senate Joint Resolution (S.J. Res.) 46**, in that chamber. The amendment is co-sponsored by Sens. John Cornyn (TX), Johnny Isakson (GA), Mike Crapo (ID), Lindsey Graham (SC), Dean Heller (NV), Chuck Grassley (IA) and Orrin Hatch (UT). You can read Sen. Daines' press release here: <https://www.daines.senate.gov/news/press-releases/on-flag-day-daines-introduces-constitutional-amendment-to-prohibit-flag-burning>

The American Legion issued the following congratulatory response here: <https://www.legion.org/commander/237811/american-legion-national-commander-salutes-senate-bill-flag-day>

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