

FEDERAL POLICY UPDATE



**AMERICAN
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Living Longer Better

July 6, 2016

» **ZIKA, GUNS AND SPENDING BILLS ON AGENDA BEFORE CONGRESSIONAL RECESS**

Congress is working to wrap up a few remaining loose ends as it prepares to shut down for a seven-week break starting on July 15th. Although there has been some progress on individual appropriations bills, none are expected to be sent to the President's desk before September (and even then it remains more likely that Congress will cobble together a single large spending bill to fund the federal government for the fiscal year starting on October 1st).

Policymakers did manage to pass legislation to help Puerto Rico address its ongoing fiscal crisis, sending the measure to the President just two days before the territory was set to default on debt payments. But another piece of emergency legislation, the funding package to combat spread of the Zika virus, has stalled in the Senate over unrelated provisions opposed by Democrats.

Congress also recently moved to consideration of one of ASHA's priority issues. As discussed in depth in a recent ASHA Special Federal Policy Update, ASHA-supported bills that would extend the current law 7.5% medical expense deduction for seniors have made progress in both the House and Senate. ASHA will work to advance these measures before the year-end expiration.

At the same time, work on some big picture initiatives has progressed in Congress. Most notably, as House Speaker Paul Ryan (R-WI) promised, House Republicans will be heading into the Republican convention with a six-part policy agenda that Members can run on in November. The Speaker's policy agenda, entitled "A Better Way," includes Blueprints for future legislative action on tax reform, health care reform, and regulatory reform (each of which is discussed in more detail below- full report attached [here](#)).

» **HEALTH**

ASHA Submits Comments to the Senate Aging Committee on Models of Care for Individuals with Serious Illnesses

On June 23rd, the Senate Special Committee on Aging held a hearing to explore ways the health care system can help individuals with serious illnesses take greater control over their own health care. The hearing, "The Right Care at the Right Time: Ensuring Person Centered Care For Individuals with Serious Illness" featured witnesses who discussed the importance of palliative care and called for legislation to expand palliative care research and improve training for providers who specialize in such care.

ASHA submitted a [statement](#) for the hearing record that highlighted the "Where You Live Matters" educational tool; the ongoing work of the Center for Excellence in Assisted Living (CEAL) of which ASHA is a board member; the importance of being prepared to meet the needs of the rapidly increasing number of older Americans; and the unique importance of the medical expense deduction for seniors.

Congress Places Seniors Medical Expense Deduction on Agenda

On Wednesday, June 15, the House Ways and Means Committee approved H.R. 3590, the "Halt Tax Increases on the Middle Class and Seniors Act," a bill introduced by Rep. Martha McSally (R-AZ). This bill repeals the increased income threshold for purposes of the medical expense deduction for all taxpayers, including those under the age of 65. While broader in scope and likely more problematic to get to the finish line given the budget implications, ASHA sent a letter of support ([letter attached](#))

A more targeted approach was taken by the Senate when on June 29, 2016 Senator Rob Portman (R-OH) and Senator Sherrod Brown (D-OH) introduced the "Seniors Tax Hike Prevention Act of 2016," a bill to delay the approaching sched-

uled tax increase on seniors 65 and older. ASHA sent a letter to thank Senator Portman and Senator Brown for their leadership for introducing legislation to address this important and necessary issue and will work to advance passage. ([copy of ASHA letter](#)). We also shared with the Senators the ASHA sponsored study, [The Importance of the Seniors' Medical Expense Deduction for the Oldest and Sickest Americans: Why Congress Should Not Let it Expire](#), assessing the impact of the scheduled increase. The House is anticipated to introduce similar legislation in the near term.

Alzheimer's Research Continues to Receive Bipartisan Support

ASHA has long supported efforts that help accelerate progress toward better treatments and ultimately a cure for Alzheimer's disease, and this continues to be one of the few issues on which Republicans and Democrats can agree. Members from both parties have recently come together to work on the following:

Senate Appropriations Committee Approves Bill Increasing Funding for Alzheimer's Research: On June 9th, the Senate Appropriations Committee approved a Fiscal Year 2017 Labor, Health and Human Services, and Education spending bill by a vote of 29-1. The Committee bill would increase funding for the National Institutes of Health (NIH) to \$34 billion, an increase of \$2 billion over last year's funding level. The funding includes a \$400 million increase for Alzheimer's disease research (\$1.39 billion) and a \$100 million increase for the BRAIN initiative to map the human brain (\$250 million). The House will markup their bill early July.

Alzheimer's Breakthrough Sunshine Act Introduced in House: A bipartisan bill intended to incentivize pharmaceutical breakthroughs for Alzheimer's disease has been introduced by Representatives Patrick Murphy (D-FL) and Michael Fitzpatrick (R-PA). H.R. 5366, the Alzheimer's Breakthrough Sunshine Act, would exclude from gross income for seven years amounts received from the sale of certain breakthrough drugs for treating Alzheimer's disease and related dementia.

» HOUSE REPUBLICANS UNVEIL "A BETTER WAY" POLICY AGENDA

The six task forces that House Speaker Paul Ryan (R-WI) formed in February have completed their work and House Republicans have released an election-year policy agenda that includes plans on tax reform, health care, reducing regulatory burdens, restoring constitutional authority, national security, and poverty reduction. The plans, released in the form of Blueprints, are often lacking in detail, but they do provide an outline of what House Republicans hope to accomplish next year. Some of the key recommendations that will be of interest to ASHA members are summarized below.

Tax Reform Task Force

The House Republican tax reform Blueprint is being billed as a way to transform the U.S. individual, corporate, and international tax systems and boost economic growth. Major elements include:

- **Individual Income Tax Rates.** There would be three tax rates: 12% (replacing the 10% and 15% rates); 25% (replacing the 25% and 28% rates); and 33% (replacing the 33%, 35%, and 39.6% rates).
- **Corporate Tax Rate.** Lowers to a flat rate of 20%.
- **Taxation of Sole Proprietors, Partners, and Other Owners of Pass-Through Entities.** Business income for such pass-through entities would be taxed at 25%. However, business owners would be deemed to receive "reasonable compensation" taxable at the individual tax rates.
- **Taxation of Net Capital Gains, Dividends, and Interest.** Half of these amounts would be deductible, so that the net tax rates would be half the individual rates, i.e., 6%, 12.5%, and 16.5%. [This favorable treatment would, unlike current law, also apply to interest.]
- **Alternative Minimum Tax.** The individual and corporate AMTs would be repealed.
- **Expensing and Depreciation.** Businesses would be able to fully and immediately expense the cost of investments. This system of immediate cost recovery would apply to both investments in tangible property (such as equipment and buildings) and intangible assets (such as intellectual property). It will not apply to land. Net operating losses (NOLs) would be allowed to be carried forward indefinitely and would be increased by an interest factor that compensates for inflation and a real return on capital to maintain the value of amounts that are carried forward.
- **Interest Expenses.** The Blueprint would allow businesses to deduct interest expenses against any interest income, but no current deduction would be allowed for net interest expenses. The Blueprint highlights the need to develop special rules with respect to interest expenses for financial services companies, such as insurance, but there is no mention of the implications of these changes for real estate investment.
- **Real Estate-Related Rules.** The Blueprint indicates special-interest deductions and credits would be eliminated. However, a research and development credit is specifically retained. There is no specific discussion of the low-income housing tax credit (LIHTC) or the like-kind exchange provisions. However, this does not mean these provisions and programs are expressly retained.

Specifically, stakeholders must remain vigilant to ensure continuation and expansion of the LIHTC program.

- **Itemized Deductions for Individuals.** The Blueprint would eliminate all itemized deductions except the mortgage interest deduction and the charitable contribution deduction. Thus, the deductions for medical expenses, state and local income, sales, and property taxes, and casualty losses (among others) would be repealed. Further changes in the mortgage interest deduction will be evaluated, but all existing mortgages and refinancing of those mortgages would be protected.
- **Estate Taxes.** The estate tax and the generation-skipping transfer tax would be repealed.

These sweeping changes, especially the expensing and interest deductibility changes, would have major implications for traditional real estate investment structures. ASHA has begun working with others in the real estate community to analyze the potential long-term and transitional implications and interactions of the proposed tax changes. Your input would, as always, be greatly appreciated.

Health Care Reform Task Force

The health care reform Blueprint would repeal President Obama's Affordable Care Act (ACA), replacing it with proposals that follow traditional Republican health care policy principles. The plan is missing many important details, but it provides the most extensive description to date of a possible Republican health care alternative to the ACA. Highlights of the Blueprint include:

- **All Obamacare Taxes Would be Repealed.** This includes the Cadillac tax on high-cost plans, the individual and employer shared responsibility provisions (i.e., the mandates), the Net Investment Income Tax, HSA and FSA changes, and the 10% floor on the medical expense deduction. The ACA health insurance subsidies would be replaced by an alternative structure for low-income individuals not eligible for Medicaid.
- **Cap on Tax Exclusion.** As a replacement for the Cadillac tax, the Blueprint would "cap the exclusion at a level that would ensure job-based coverage continues unchanged for the vast majority of health insurance plans."
- **Health Savings Account Expansion.** The maximum annual deductible HSA contribution would be almost doubled.
- **Medical Liability Reform.** The Blueprint includes liability reforms that would cap non-economic damage awards.
- **Medicare Reform.** The Blueprint proposes structural reforms in Medicare (including raising the eligibility age to match the Social Security retirement age, Medigap re-

form, increasing transparency, and combining Medicare Parts A and B under a single deductible), and ultimately moving to a fully competitive market-based "premium support" model.

- **Medicaid Reform.** The Blueprint states that Medicaid should be reformed by capping federal funding and turning control of the program over to states. It proposes to maximize state flexibility by providing states a choice of either a per capita allotment or a block grant.
- **21st Century Cures Act.** The Blueprint includes support for this House-passed proposal to accelerate the discovery, development, and delivery of new treatments and cures.

Proposals from Other Task Forces

Arguing that President Obama's administration has "impeded economic recovery by flooding businesses with new rules," the House Republican Blueprints also take aim at specific regulatory policies enacted under the President's tenure, including:

- **Modernizing Regulatory Programs.** The Blueprints call for allowing adequate public comment for complex rules and a yearly regulatory budget which would limit the regulations that could be imposed in a given year. There are also proposals to end judicial deference to executive branch agencies, to require full disclosure of regulations in development, and to mandate that all major regulations be approved by Congress.
- **Housing Finance Reform.** The Blueprints include only one reference to housing finance reform, which would entail the creation of a sustainable housing finance system that includes winding down Fannie Mae and Freddie Mac.
- **Promoting Responsible Policies for the Workplace.** The Blueprints propose to "hold the rogue National Labor Relations Board accountable to workers and employers [by continuing] to conduct aggressive oversight of the NLRB's attempts to implement policies and regulations skewed in favor of special-interest union supporters."

» LABOR

Judge Blocks Department of Labor's Persuader Rule

On June 27th, a U.S. District Court in Texas issued a nationwide preliminary injunction preventing implementation of the Department of Labor's (DOL) new persuader regulation that was scheduled to take effect on July 1st. As we previously reported, that DOL regulation requires employers to disclose agreements with the consultants they hire to develop and implement their messages in union organizing campaigns. The Court determined that the challenge to the legality of the regulation would likely succeed and that the regulation likely infringes upon



employers' rights to secure legal advice about union organization. However, it is important to note that this ruling is preliminary and is not a final determination about the enforceability of the persuader regulation.

Court Upholds National Labor Relations Board's (NLRB) "Ambush Election" Rules

On June 10th, the U.S. Court of Appeals for the Fifth Circuit rejected a challenge by construction trade groups to the NLRB's controversial rules streamlining the union election process. The rules, which took effect in April 2015, considerably shorten the period between a union filing a petition to represent workers and an election, and they postpone certain eligibility disputes and other appeals until after the election takes place. The court rejected the challengers' arguments that the NLRB overstepped its authority in adopting the rules.

ASHA has consistently opposed the NLRB's election and persuader rules and will continue to work with the Coalition for a Democratic Workplace (CDW) and others to support efforts to overturn the rules.

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