

# Legislative Update

AAPM SPRING CLINICAL

APRIL 9, 2018

LAS VEGAS, NV

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MATT REITER

CAPITOL ASSOCIATES, INC.

## What We Will Cover

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- Congressional Landscape (and how it might change).
- What has happened so far in 2018.
- What is on tap for the rest of the year.

## Congressional Landscape

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Both the House and Senate are still controlled by the Republican Party.

### Senate

- Democrats have gained one seat (Doug Jones-D-GA) since the 2016 election.
- Senate is now 51 – 49
- Leadership from both parties is unchanged and is not expected to change

### House

- Republicans still enjoy a comfortable majority.
- Rumors of Republican Leadership change after 2018.
  - Will Speaker of the House Paul Ryan (R-WI) seek reelection?
  - Will House Majority Leader Kevin McCarthy (R-CA) move to the White House?
- Rumblings for Leadership change within House Democrats as well.
  - Should Democrats retake the House, will Minority Leader (and former Speaker) Nancy Pelosi become speaker again?

## All Eyes are on the Midterms

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Midterm elections greatly influence what issues are addressed by Congress and what issues are shelved.

- The Economy/Tax Reform
- ACA Repeal/Replace/Reform
  - CSRs/Stabilization
  - Individual Mandate Repeal
- Opioids
- Infrastructure
- Trade

There will be less time to get work done since Congress will be campaigning for most of August and most of October.

What happens if there is a Lame Duck session after midterms?

## Polling indicates an appetite for change.

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According to Real Clear Politics (a polling aggregator website):

Direction of the Country:

- Right Direction: 36.3 percent
- **Wrong Direction: 56.6 percent**

Congressional Job Approval:

- Approve: 14.2 percent
- **Disapprove: 73.4 percent**

Generic Congressional Candidate (Republican vs. Democrat):

- **Democrat: 46.3 percent**
- Republican: 38.8 percent

\*All numbers are the RCP Average as of 4/6/2018

[https://www.realclearpolitics.com/epolls/latest\\_polls/](https://www.realclearpolitics.com/epolls/latest_polls/)

## One way or another, change is coming.

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Midterms are traditionally unfriendly to the party in power.

Will the House flip?

“A switch in House control is well within Democratic reach. The party needs a net gain of 24 seats and the party holding the White House has averaged a net loss of 26 in midterm elections since the end of World War II.” – BGOV John McCormick - March 15, 2018

Rep. Conor Lamb (D-PA-18) defeated PA Rep. Rick Saccone in a special election for a district President Trump won by 20 points. Is this a sign of things to come or is this an isolated result?

In the Senate, Democrats are defending many more seats than Republicans. Many of these seats are in red states.

# One way or another, change is coming.

## 2018 Senate Election Map

### Blue States Trump Won (nine)

MT, ND, WI, MO, MI, IN, OH, PA, WV

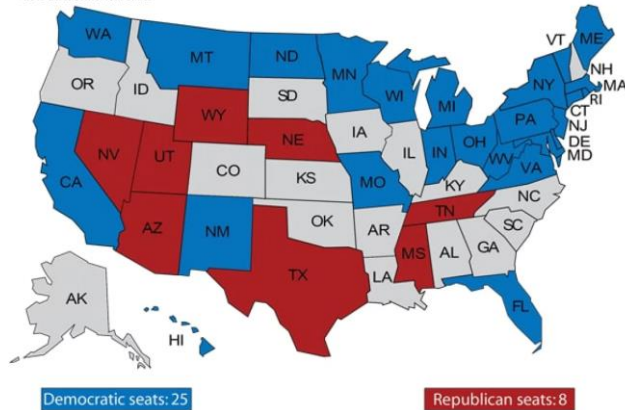
### Red States Trump Did Not Win (one)

NV

\*VT and ME are shaded blue but are represented by Independent Senators who choose to caucus with the Democrats.

\*\* Map does not include special elections.

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# One way or another, change is coming.

To summarize:

Will the House of Representatives or Senate flip? It is certainly possible but definitely not certain.

Democrats are gaining momentum in many races.

This does not change who controls the White House. Even if either or both Chambers switch to Democratic control, they will still have to work with a Republican President who is unpopular among their base.

Senate filibuster has prevented much of Republican legislative agenda anyway.

## One way or another, change is coming.

Assuming Republicans maintain control of both Chambers, many Committee Chairs are not running for reelection meaning there will be a lot of reshuffling and new faces controlling powerful committees.

### Retiring House Committee Chairs (nine)

- Lamar Smith (TX) – Science, Space and Technology
- Diane Black (TN) – Budget
- Rodney Frelinghuysen (NJ) – Appropriations
- Bob Goodlatte (VA) – Judiciary
- Trey Gowdy (SC) – Oversight and Gov. Reform
- Gregg Harper (MS) – Administration
- Jeb Hensarling (TX) – Financial Services
- Ed Royce (CA) – Foreign Affairs
- Bill Shuster (PA) – Transportation and Infrastructure

### Retiring Senate Committee Chairs (three)

- Thad Cochran (MS) – Appropriations
- Orrin Hatch (UT) – Finance
- Bob Corker (TN) – Foreign Relations

## Why does this matter?

- Leadership sets the legislative agenda and makes sure the agenda is executed.
  - A change in leadership for a Chamber or a Committee means a change in agenda.
- If one or both Chambers flip, it makes compromise more necessary to pass legislation.
  - This could lead to more bipartisanship. It could also result in more gridlock.
- Just because Republicans control both Chambers of Congress does not mean Republicans can do anything they want.
  - Filibuster creates need for super majority (60 votes) in Senate to pass most bills.
  - Although the Senate rules have been changed by both parties for Federal Judge (Democrats) and Supreme Court (Republicans) confirmations, Senate Majority Leader Mitch McConnell is opposed to filibuster reform (elimination) for legislation.
  - Would a different Senate Majority Leader be willing to change the rules?

# Legislation

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Congress generally passes three types of bills:

1. Appropriations (Government Funding).
2. Reauthorization of federal programs (e.g. the Children's Health Insurance Program and the National Defense Authorization Act).
3. New laws/policy (e.g. Tax Reform).

Often times, Congress will combine some or all of these types into a single piece of legislation.

Also, new laws/policies are passed by attaching them to must-pass bills such as government funding or reauthorization bills. These are often referred to as "policy riders."

It is important to keep an eye on all must-pass bills to see what riders gets attached.

# Legislation

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The 115<sup>th</sup> Congress has already passed a number of important bills.

## Budget/Appropriations

- FY 2019 and 2020 Budget Caps – Passed into law.
- FY 2018 Omnibus Appropriations bill – Passed into law.
- Work has also begun on the FY 2019 spending bill.

## Reauthorization of federal programs

- Children's Health Insurance Program was reauthorized for ten years.
- National Defense Authorization Act of 2018 – passed into law.

## New laws/policy

- Tax Reform

# H.R. 4675, the Low-Dose Radiation Research Act

On February 13, 2018, The House of Representatives **passed** H.R. 4675, the Low-Dose Radiation Research Act by unanimous consent.

AAPM provided a letter of support to the House Science, Space and Technology (SST) Committee. This letter was featured on the Committee's website.

AAPM's support was publicly acknowledged by the Committee during the bill's Committee Markup.

This bill is very similar to H.R. 35, Low-Dose Radiation Research Act of 2015 which AAPM supported. H.R. 35 passed the House but was never advanced in the Senate.

H.R.589 - Department of Energy Research and Innovation Act contains a provision that is similar to H.R. 4675 but is more broad. H.R. 589 also has passed the House.

## "Low Dose Radiation Research Act of 2017"

**Date:** Wednesday, January 10, 2018 - 10:00am

**Location:** 2318 Rayburn House Office Building

**Markup of:**

**H.R. 4675, the "Low Dose Radiation Research Act of 2017," approved by voice vote**

Amendment 074, offered by Mr. Foster, approved by voice vote

Amendment 072, offered by Mr. Foster, withdrawn



**Opening Statements:**

Full Committee Chairman Lamar Smith (R-Texas)

Rep. Roger Marshall (R-Kan.)

**Letters of Support for H.R. 4675, the Low Dose Radiation Research Act of 2017**

The Health Physics Society

The American Association of Physicists in Medicine

The National Council on Radiation Protection and Measurements

Dr. Gayle Woloschak at Northwestern University

Dr. David Brenner at Columbia University



# H.R. 4675, the Low-Dose Radiation Research Act

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“Low-dose radiation” means a radiation dose of less than 100 millisieverts.

The Department of Energy shall carry out a basic research program on low-dose radiation to—

“(1) enhance the scientific understanding of, and reduce uncertainties associated with, the effects of exposure to low-dose radiation; and

“(2) inform improved risk-assessment and risk-management methods with respect to such radiation.

Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a 4-year research plan that identifies and prioritizes basic research needs relating to low-dose radiation.

# H.R. 4675, the Low-Dose Radiation Research Act

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The key difference between the 2017 version and the 2015 version is that the latest version authorizes funding.

Authorizes Spending:

- \$20,000,000 for fiscal year 2018;
- \$20,000,000 for fiscal year 2019;
- \$30,000,000 for fiscal year 2020; and
- \$30,000,000 for fiscal year 2021.

Congressional Appropriations Committees must still appropriate the money each FY.

The ball is in the Senate’s court.



# H.R. 589, the Department of Energy Research and Innovation Act

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## LOW-DOSE RADIATION RESEARCH PROGRAM.—

(1) IN GENERAL.—The Director shall carry out a research program on low-dose radiation.

(2) PURPOSE.—The purpose of the program is to enhance the scientific understanding of, and reduce uncertainties associated with, the effects of exposure to low-dose radiation to inform improved risk-management methods.

- Passed by the House of Representatives on January 24<sup>th</sup>.
- Pending before the Senate Energy and Natural Resources Committee.
- The Senate prefers this bill over H.R. 4675 because it is less prescriptive.

# Source Security Legislation

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AAPM continues to track legislative efforts to regulate the use of source material and gauge whether or not these bills would over-regulate the use of source material to the point where patient access to medical services is threatened.

10 CFR Part 37 regulations on Category 1 and 2 Source Materials recently were implemented and according to the NRC these regulations are working.

In the past, Congress has sought to shift regulation of Category 1 and 2 materials from NRC to NNSA, which AAPM opposes.

In the past, Congress has considered expanding the National Source Tracking System to Category 3 materials.

## Source Security Legislation

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In the past, source security language has been attached (or attempted to be attached) to a must-pass appropriations bill. This did not happen in the most recent appropriations bill.

AAPM is aware of a draft piece legislation that would phase out the use of Cesium-137 blood irradiators by creating a voluntary replacement program.

This bill has not been formally introduced.

AAPM has utilized its position on the Steering Committee of the Source Security Working Group (SSWG) to meet with Congressional staff, NNSA and GAO to discuss this proposal.

## Source Security Legislation

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The best strategy to prevent legislation that would limit access to care (and other beneficial uses) of sources is to proactively educate legislators and the public about the many beneficial uses of sources in society.

To help educate legislators and the public about the many beneficial uses of radiation, a goal of the SSWG is to encourage key Congressional Committees to hold a Congressional hearing on the beneficial uses of radiation in society.

Emphasizing the medical uses of isotopes (and lack of effective alternatives) will be an essential part of this message and will be a featured topic in a Congressional hearing.

## What do these things have in common?



## Mo-99 Supply Chain

- Three Congressional offices have taken an interest in Mo-99/Tc-99 supply chain issues.
  - Rep. Pete Visclosky (IN-01)
  - Rep. Chuck Fleishmann (R-TN)
  - Rep. Jeff Fortenberry (R-NE)
- AAPM was invited to meet with these offices to provide background on how radiopharmaceutical production and supply chain issues can affect patient care.
- Richard Martin, Matt Reiter and Dr. Fred Fahey represented AAPM at this meeting.
- These offices are not taking any immediate action on Mo-99/Tc-99 issues and no future action is planned as far as we know.

## H.R. 1, the Tax Reform and Jobs Act (Public Law 115-97)

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Despite initially proposing to eliminate or drastically change certain tax emptions, the final tax reform bill did not change or eliminate tax deductions for:

- Interest on education loans and for qualified tuition and related expenses
- Qualified Tuition Waivers (QTW).
  - Difference between QTW and Scholarships.
  - QTW requires the recipient to work at the institution as a condition of the tuition benefit. This would have impacted scientists pursuing graduate and post-graduate level degrees. It would also impact institutions' ability to attract and retain scientists/graduate students.
  - Tuition benefit/income from teaching or research jobs would have been taxable income. Scholarships are unconditional and would not have been affected.

AAPM signed onto letters opposing the elimination of these tax deductions.

The tax bill eliminated the individual mandate penalty created under the Affordable Care Act (ACA). The individual mandate was not repealed. It still exists as law. However, the penalty is \$0 beginning with the 2019 plan year. The bill did not change the employer mandate.

## ACA Stabilization?

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Is the ACA repealed? – NO!

**The ACA is still the law of the land! The only significant statutory change that has been made to the ACA is the elimination of the individual mandate penalty beginning with the 2019 plan year.**

The Administration has taken action to provide alternatives to the ACA to consumers looking for coverage in the individual or small business markets.

- Association Health Plans
- Short-Term Limited Duration Plans
- Increased waiver authority to states

The Administration also stopped making Cost Sharing Reduction (CSR) payments to plans. The Administration does not believe it has the authority to make these payments because Congress never appropriated the money. The courts have agreed but an appeal is ongoing.

## ACA Stabilization?

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Congress has been considering several bipartisan legislative proposals to “stabilize” the ACA markets for at least the 2019, 2020 and 2021 plan years. These proposals include:

- Appropriating CSR funding.
- Funding high risk pools.
- Increase waiver authority.

These bills have more support in the Senate than they do in the House. It is unclear when or if either Chamber will act.

It is also unclear whether stabilization would have the desired effect. The CBO estimates a proposal sponsored by Sen. Lamar Alexander (R-TN) and Sen. Susan Collins (R-ME) would reduce premiums by an average of 10 percent in 2019 and 40 percent over three years. Total cost of this proposal would be about \$10 billion. It is not clear when or if this bill will be considered by either Chamber.

## Omnibus Spending Bill

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On March 23<sup>rd</sup>, Congress passed an FY 2018 Omnibus Appropriations bill that funds the Government through September 30<sup>th</sup>, 2018. President Trump signed this bill into law on the same day.

### NIH

- Received a \$3 billion Increase.
- National Cancer Institute - \$5.664 billion (+ \$13 million)
- National Institute of Biomedical Imaging and Bioengineering – \$377.8 million (+ \$22 million)

# Potential Healthcare Issues Addressed in Future Legislation This Year

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- Price Transparency
- Pharmaceutical Price Reform
- Opioid Crisis
- ACA Repeal/Replace/Reform
- MIPS Changes – Probably Not



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Matt Reiter

Capitol Associates, Inc.

202-544-1880

[reiterm@capitolassociates.com](mailto:reiterm@capitolassociates.com)