



FINISHING CONTRACTORS ASSOCIATION

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Memorandum

To: FCA Affiliate Executives
From: Michael Oscar / Robert Gray
Subject: LEGISLATIVE UPDATE: The week of October 24
Date: November 7, 2011

Repeal of the Three Percent Withholding Tax: On Thursday, October 27, 2011, the House is set to vote on repealing a law now set for implementation in January 2013 that requires governments at the federal, state, and local levels to withhold 3 percent of what they would pay contractors until those vendors have fully paid their taxes. Last week, the Senate Democrats prevented similar legislation from reaching the floor for a vote there, objecting to the way the repeal would be paid for, and some House Democrats are opposed to using a fix to the 2010 health care law that would tighten Medicaid eligibility requirements. The Obama administration has backed the bill, although the Office of Management and Budget has also said the administration would be willing to work with Congress to identify acceptable offsets for the repeal's budgetary costs.

Transportation Bill: On Monday, October 24, 2011, the House pitched a six year transportation plan as a major jobs bill that could win bipartisan approval before next year's election. While prospects for enacting President Obama's jobs plan have dimmed, Republicans say support has grown for a long-term transportation bill to boost employment. Transportation and road-building industries, especially the beleaguered construction industry, are also pressuring lawmakers to make a multiyear commitment of federal funds. Without that, states and private investors will have trouble financing large infrastructure projects.

The most significant obstacle to passing the bill was eliminated when GOP leaders recently agreed to keep spending on highway programs at current levels even though gas tax revenues are declining. The legislation would spend about \$285 billion over the six years, but would spur far greater investment in roads, bridges, and transit systems through federal loans and loan guarantees. However, unclear is where Congress will determine the funds to correct the \$100 billion shortfall between gas tax and other transportation tax revenues and what they are proposing to spend. One suggestion was offered by House Speaker Boehner, who stated that "royalties from expanding oil and gas development might be one way to find the money." The target for passing the bill is March 31, 2012, when current authority for highway programs expires.

NLRB: On Wednesday, October 26, 2011, the House Education and Workforce Committee marked up Rep. John Kline (MN)'s legislation, which would reverse some of the NLRB's actions earlier this year, such as a proposed regulation to increase the speed of union elections. A full House vote is expected to occur later this year.

House Appropriations (Funding) Bills: On Wednesday, October 26, 2011 House Appropriation Subcommittee Chairs met with Chairman Rogers, who advised them to get ready for a House-Senate conference action on some of their 2012 appropriations bills. The House is anticipating Senate action as soon as next week on a so-called "minibus" bundling three or so of the less-controversial of the 12 annual spending bills that were due officially on Oct. 1, 2011. The subcommittee chairs meeting is the latest sign that House Republicans are on board with the idea of proceeding with at least some of the overdue spending bills in bundles. But it remains uncertain if all of them will get done before a current temporary spending measure expires on Nov. 18, 2011, which could force another stop-gap spending bill.

The 2010 Healthcare Law: The House voted this week on a fix to the 2010 health reform law that would have allowed over a million additional seniors to qualify for Medicaid. That's because the law changed Medicaid policy by stating

Social Security income would not be counted when determining eligibility. The president included the \$14 billion fix in his latest deficit reduction package.

In the Senate: This week, the Senate is in pro forma session this week, as it has been in every recess since May and leadership aides predict it will be in every recess until 2013. The fleeting sessions, in which one member gavel the chamber into and out of session, keep the Senate from recessing for more than three days. Both the Administration and senators agree this prohibits recess appointments despite counter arguments. Republican Senators have continued to object to once-routine motions to adjourn, and House Republicans refuse to provide necessary approval for more than three days, as they once routinely did.

The Senate's Vote on the Three Percent Withholding Tax: Last Thursday, October 20, 2011, Sen. McConnell offered his legislation regarding the three percent withholding tax, but unfortunately it failed. Per the congressional record, please review the recorded vote: (The yeas 57, the nays 43).

YEAS—57		NAYS—43	
Alexander	Moran	Akaka	Webb
Ayotte	Murkowski	Baucus	Whitehouse
Barrasso	Nelson (NE)	Begich	
Bennet	Nelson (FL)	Bingaman	
Blunt	Paul	Blumenthal	
Boozman	Portman	Boxer	
Brown (MA)	Risch	Brown (OH)	
Burr	Roberts	Cantwell	
Chambliss	Rubio	Cardin	
Coats	Sessions	Carper	
Coburn	Shelby	Casey	
Cochran	Snowe	Conrad	
Collins	Tester	Coons	
Corker	Thune	Durbin	
Cornyn	Toomey	Feinstein	
Crapo	Vitter	Gillibrand	
DeMint	Wicker	Harkin	
Enzi		Inouye	
Franken		Johnson (SD)	
Graham		Kerry	
Grassley		Kohl	
Hagan		Landrieu	
Hatch		Lautenberg	
Heller		Leahy	
Hoeven		Levin	
Hutchison		Lieberman	
Inhofe		Merkley	
Isakson		Mikulski	
Johanns		Murray	
Johnson (WI)		Pryor	
Kirk		Reed	
Klobuchar		Reid	
Kyl		Rockefeller	
Lee		Sanders	
Lugar		Schumer	
Manchin		Shaheen	
McCain		Stabenow	
McCaskill		Udall (CO)	
McConnell		Udall (NM)	
Menendez		Warner	

Prescription Drugs From Canada: On Thursday, October 20, 2011, voting 45-55, the Senate refused to allow American consumers to buy U.S. made pharmaceuticals from Canada vendors over the internet, by mail-order, or in person.

On Immigration: Record Number of Deportations

From October 1, 2010, to September 31, 2011, federal Immigration and Customs Enforcement Officials expelled 396,906 illegal immigrants, the largest number in the agency's history. Since 1996, annual deportations have increased 400 percent. Of the 396,906 people deported last year, 55 percent were convicted of felonies, misdemeanors and the remaining 45 percent committed civil infractions; overstating a visa, but had not violated criminal statutes.

North America Shale Gas Exploration (Marcellus Shale): More than 600,000 Americans already explore, produce, store, and transport natural gas. In Texas, the Barnett Shale created 100,000 jobs since 1994 and the Eagle Ford Shale is expected to create 68,000 jobs by 2020. Additionally, 2.2 million jobs nationwide are sustained indirectly by the incomes of natural gas workers or in companies that service the industry.

Currently, 15 states now produce shale gas and the largest shale area and still emerging is the Marcellus Shale, which supports 140,000 jobs in Pennsylvania. Per the Department of Energy, North America has an estimated 100 year supply of natural gas.