

# 2018 Legislative Update: Grading the Administration and Congress

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# ANTITRUST POLICY STATEMENT FOR SPRAY POLYURETHANE FOAM ALLIANCE MEETINGS

- ▶ It is and shall remain the policy of the Spray Polyurethane Foam Alliance ("SPFA"), and it is the continuing responsibility of every SPFA member company, SPFA meeting or event participant, as well as SPFA staff and leadership to comply in all respects with federal and state antitrust laws. No activity or discussion at any SPFA meeting or other function may be engaged in for the purpose of bringing about any understanding or agreement among members to (1) raise, lower or stabilize prices; (2) regulate production; (3) allocate markets; (4) encourage boycotts; (5) foster unfair or deceptive trade practices; (6) assist in monopolization; or (7) in any way violate or give the appearance of violating federal or state antitrust laws.
- ▶ Any concerns or questions regarding the meaning or applicability of this policy, as well as any concerns regarding activities or discussions at SPFA meetings should be promptly brought to the attention of SPFA's Executive Director and/or its legal counsel.



# 2016 Election Results & 2017 Special Elections

## U.S. Senate – Republican

- Was 54 – 46 Republican Majority
- Now 51 – 49 Republican Majority

## U.S. House – Republican

- Was 247 – 188 Republican Majority
- Now 239 – 193 Republican Majority

## White House – Republican

2008 2010 2011



# Halfway Point Report Card per 2-Year Cycle

- ▶ Spending Bills – D
- ▶ Repealing/Replacing Obamacare – D
- ▶ Tax Reform – A+
- ▶ Cutting Regulations and Agency Budgets – A
- ▶ Workforce Issues – Incomplete



# Budget & Spending Bills 2017-2018

- ▶ Continuing Resolution passed Dec. 2016 thru May 2017
- ▶ “Glorified” CR passed May 2017 = Dem Victory
  - ▶ 160 Republican policy “riders” blocked
  - ▶ Stymied Trump priorities (the “Wall” etc.)
- ▶ Another CR + Debt Limit Increase Passed Sept. 2017
  - ▶ Trump deal with Schumer and Pelosi
- ▶ Fourth CR Passed in Dec. thru Jan. 19, 2018
- ▶ Fifth CR Passed in Jan. thru Feb. 8, 2018



# Repeal Obamacare and Enact Tax Reform using “Reconciliation”

- ▶ To repeal Obamacare and Enact Tax Reform:
  - ▶ Republicans must pass budgets first
- ▶ Passing a budget allows a procedure called reconciliation
  - ▶ Permits the Senate to bypass the 60-vote filibuster threshold
- ▶ Budget must include a line item that:
  - ▶ Instructs committees to change law to reconcile with budget
- ▶ Had to pass two budgets
  - ▶ FY17 for Obamacare; FY18 for Tax Reform







- ▶ House passed American Health Care Act on May 4, 2017
  - ▶ Repealed tax penalties tied to individual/employer mandates
  - ▶ Replaced ACA's subsidies with new tax credits
  - ▶ Eliminated ACA's tax increases
  - ▶ Created state waiver program for essential benefits
  - ▶ **Restructured the Medicaid program saving \$900b**
- ▶ Medicaid savings is why healthcare preceded tax reform
- ▶ Senate failed to pass bill by Oct. 1 reconciliation deadline



# Trump Healthcare EO & Decision to Suspend CSRs to Insurance Companies

- ▶ Trump signs healthcare EO on Oct. 12, 2017
  - ▶ “Promote Healthcare Choice and Competition Across the U.S.”
  - ▶ EO seeks to allow the sale of health insurance across state lines by:
    - ▶ Allowing employers to form Association Health Plans under ERISA
    - ▶ DOL (Treasury and HHS) draft regs issued Jan. 4, 2018
- ▶ Trump EO on healthcare also seeks to:
  - ▶ Reverse restrictions on Short-Term, Limited Duration Insurance
  - ▶ Expand Health Reimbursement Arrangements (HRAs)
- ▶ Trump opts not to approve CSR payments in Oct. 2017
  - ▶ Cost Sharing Reduction payments to insurance companies





# Tax Reform: Tax Cuts & Jobs Act, H.R. 1

Corporate tax rate	21% in 2018
Business income pass-through tax rate (S Corps, etc.)	20% deduction below \$315,000 joint income
Taxation of future foreign earnings	Changes to Territorial system, 100% exemption for dividends paid from foreign subsidiaries (no more dual taxation)
Taxation of accumulated foreign earnings	12% for cash/cash equivalents, 5% otherwise
State & Local Taxes	Limited to \$10,000 for individuals
Cost recovery	100% Sec. 179 expensing up to \$1m (phased-out at \$2.5m)
Ends ACA health ins. mandate	Individual mandate zeroed out in 2019
Corporate tax preferences	Generally eliminated, except for R&D credit/LIFO
Individual tax rates	0%, 10%, 12%, 22%, 24%, 32%, and 37%
AMT/Estate Tax	Eliminates corp. AMT; More generous individual exemptions
Individual deductions	Eliminated except for <u>mortgage interest</u> , charitable contributions; <u>standard deduction doubled (\$12,000/\$24,000)</u>
Opens ANWR	Allows oil/gas drilling in part of Arctic Natural Wildlife Refuge



# Extinguishing the Regulatory Fire: Cutting Regs and Agency Budgets

- ▶ White House + Congress = Multiple Options
  - ▶ Rescind Executive Orders/Issue Executive Orders
    - ▶ EO 13771 & 13777
  - ▶ Fill Vacant “Scalia Seat” on Supreme Court
    - ▶ Fill seats on the 12 Federal Circuit Courts (the Appeals Courts)
  - ▶ Select Pro-Business Nominees for Agencies
    - ▶ Fill vacancies at the NLRB and independent agencies
  - ▶ Use spending bills to defund certain regs for a year
  - ▶ Use the Congressional Review Act to repeal regs



# Sampling of Regs in Various Stages of being Rolled Back

- ▶ Department of Labor
  - ▶ OSHA's Electronic Reporting of Injuries and Illnesses Rule
    - ▶ Anti-Retaliation Provision
  - ▶ OSHA's Letter of Interpretation (LOI) on Walk-Around Rights
  - ▶ DOL's Overtime Regulations
- ▶ EPA's New Rule for Ozone Levels
  - ▶ Clean Power Plan (& GHG rules)
- ▶ NLRB now has 3-2 Republican majority
  - ▶ Joint Employer Decision (Browning Ferris Industries)
  - ▶ Ambush Election Rule
  - ▶ Micro Union Decision (Specialty Health Care)



# Administration Whiffs on OSHA Silica Rule

- ▶ OSHA's Occupational Exposure to Crystalline Silica Rule
  - ▶ June 23, 2017 enforcement date for construction
  - ▶ June 23, 2018 enforcement date for manufacturing
- ▶ OSHA delayed construction date to Sept. 23
  - ▶ Construction Industry Safety Coalition sought settlement negotiations
  - ▶ Rebuffed by DOL/OSHA with 30-day de facto enforcement moratorium
- ▶ Oral arguments Sept. 26 before DC Federal Appeals Court
  - ▶ 30 industry plaintiffs including Nat'l Assn of Manufacturers
- ▶ Scott Mugno nominated for OSHA on Oct. 24, 2017



# Workforce Issues

- ▶ With unemployment currently at 4.1%:
  - ▶ Administration will push a \$1 trillion infrastructure program;
  - ▶ But NAHB says there are 200,000 unfilled construction jobs now!
  - ▶ Exacerbated by Hurricanes Harvey and Irma
- ▶ President Trump issues EO 13801 on June 15, 2017
  - ▶ “Expanding Apprenticeships in America”
  - ▶ Task Force on Apprenticeship Expansion named Oct. 16
- ▶ But a lesser-skilled guest-worker program will be needed
  - ▶ Sen. Ron Johnson (R-WI) introduces the State Sponsored Visa Pilot Program Act of 2017 (S. 1040)



# Senate & House Immigration Bills in the 113<sup>th</sup> Congress & DACA

- ▶ Senate passed S. 744, the Border Security, Economic Opportunity and Immigration Reform Act, 6/27/13.
  - ▶ New W-Visa guest worker program was too small.
- ▶ House Opted for Series of Smaller Bills
  - ▶ Judiciary Committee passed bills that addressed:
    - ▶ High-skilled workers
    - ▶ Ag workers
    - ▶ State (interior) enforcement
    - ▶ E-Verify Program (Legal Workforce Act, H.R. 1772)
  - ▶ Homeland Security Committee passed border-security bill
- ▶ Will DACA renewal lead to broader reform in 2018?





# Final Grades to be given Nov. 6, 2018

- ▶ All 435 House seats
- ▶ 34 seats in the U.S. Senate
  - ▶ 25 seats held by Democrats
  - ▶ 9 seats held by Republicans



# Questions?

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