

November 17, 2006

**MEMORANDUM**

TO: Board of Directors

FR: Kevin J. Burke  
Director, Division of Government Relations

CC: Doug Henley  
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RE: Legislative Update (for the week of Nov 13)

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Congress reconvened for a week-long lame duck session to assess the results of the mid-term elections and to choose leadership teams for the House and Senate Republicans and Democrats. In the midst of the gloating and the recriminations, little actual legislative work was accomplished. The House will reconvene during the week of December 4 with the intention of finishing must-pass appropriations bills by Friday, December 8; the Senate will remain in pro-forma session to allow the Armed Services Committee to hold hearings on the nomination of Robert Gates to succeed Secretary Rumsfeld.

**Medicare Physician Payment**

Leaders of health care committees began to consider how to prevent the scheduled 5-percent cut in Medicare payments to physicians. Unless Congress acts, CMS will reduce payments beginning January 1. While legislators want to prevent this cut, they find daunting the price tag. The Congressional Budget Office has estimated that it would cost the federal government \$12.7 billion to hold payments at current levels (zero percent increase).

AAFP staff have participated in dozens of meetings with legislators and staff to discuss the need for a positive Medicare payment update for 2007, and we have learned that the necessary legislation will probably be attached to the last appropriations bill that will be considered in the waning hours of the 109<sup>th</sup> Congress. However, it is also possible that legislators will not be able to agree on a final appropriations bill and will have to resort to a longer-term continuing resolution to fund the government at current levels for a set period of time, probably six months.

The grassroots efforts are focused on the legislators who serve on the subcommittees or committees that have jurisdiction over this issue: House Energy and Commerce Subcommittee on Health, House Ways and Means

Subcommittee on Health and the Senate Finance Committee. In addition, we are requesting that the Key Contacts for the House and Senate leaders contact their legislators before December 4 to urge them to act. The message to these groups is that Congress should prevent the 5-percent cut from becoming effective on January 1.

Finally, we hope to reach several of the legislators who are most concerned about budget deficits, like Senators Coeburn (R-OK), Gregg (R-NH) and DeMint (F-SC), to assure them that a positive update is an appropriate expenditure.

### **Expanded Health Care Coverage**

On Monday, November 13, the America's Health Insurance Plans (AHIP) released a proposal for wider coverage of the uninsured. The AHIP proposal, seeks to extend health insurance to all children within three years and 95 percent of adults within 10 years. The plan would cost the federal government about \$300 billion over a 10-year period and it has received some support from consumer advocacy groups. However, Rep. Pete Stark (D-CA) criticized the proposal as "self-serving," adding, "I wouldn't trust the [health insurance] industry under any circumstances, except to make a profit for themselves and rake beneficiaries over the coals."

Key elements of the AHIP proposal include:

- Expanding the State Children's Health Insurance Program (SCHIP) to make eligible all uninsured children from families with incomes under 200 percent of the Federal Poverty Level (FPL)
- Expanding Medicaid to make eligible all uninsured adults, including single adults, with incomes under 100 percent FPL
- Establishing a Universal Health Account (UHA) to allow anyone to purchase any type of health care coverage and pay for qualified medical expenses with pre-tax dollars, with federal matching grants for contributions made by working families to the UHA
- Establishing a health tax credit of up to \$500 for low-income families who secure health insurance for their children
- Establishing a new \$50 billion Federal Performance Grant to assist states in expanding access to coverage.

### **Leadership in the 110<sup>th</sup> Congress**

The real reason that legislators came to Washington this week was to orient those who will enter office next year and to conduct their leadership elections. The results of those elections are:

#### *Senate*

Democrats essentially re-elected their current leadership team: Senator Harry Reid (D-NV) will serve as Majority Leader and Senator Dick Durbin (D-IL) will serve again as Democratic Whip. The Republicans had one surprise. While they re-elected Sen. Mitch McConnell (R-KY) as Republican Leader, they chose Sen.

Trent Lott (R-MS) over Sen. Lamar Alexander (R-TN) as Republican Whip. Sen. Lott represents a more fiscally conservative group of Senators and his return to the leadership team suggests the increasing strength of those Republicans who are most concerned about budget deficits.

#### *House of Representatives*

The House Democrats unanimously chose Rep. Nancy Pelosi (D-CA) as the next Speaker of the House, the first woman to hold that position. In a contentious, but lopsided, contest with Rep. John Murtha (D-PA), Rep. Steny Hoyer (D-MD) won election as Majority Leader. Rep. James Clyburn (D-SC) will become Democratic Whip. The House Republicans stayed with their current leadership, electing Rep. John Boehner (R-OH) as Republican Leader and Rep. Roy Blunt (R-MO) as Republican Whip. This represents something of a rejection of the wing of the Party that is focused on federal deficits.

#### **Prospects for the 110<sup>th</sup> Congress**

Senator Edward Kennedy (D-MA) outlined his health care agenda as incoming chair of the Senate Health, Education, Labor and Pensions Committee. He said he will focus on moving toward universal coverage, with expansion of SCHIP the first step toward that goal. Another major agenda item is a proposal called "Medicare for All," which would gradually expand Medicare coverage to U.S. residents younger than age 65. The proposal, which is co-sponsored by Rep. John Dingell (D-MI), who will chair the House Energy and Commerce Committee, would provide access to total Medicare coverage, including prescription drug benefits. According to a summary from the Senator's office, the plan is projected to cost \$600 billion annually and to generate savings of \$380 billion annually.

#### **FamMedPAC**

Of the 37 Democratic campaigns to which the PAC contributed, 3 included non-incumbents who won their races: Gabrielle Giffords in Arizona, Ed Perlmutter in Colorado and Michael Arcuri in New York. Among the 50 GOP campaigns to which the PAC contributed, 5 incumbents lost: Rep. J. D. Hayworth in Arizona, Rep. Clay Shaw in Florida, Rep. Joe Shwarz, MD, of Michigan who lost his primary race, Rep. Sue Kelley of New York and Rep. Don Sherwood of Pennsylvania.

#### **State Government Relations**

##### *Election 2006: State Legislatures*

Ten chambers changed control on Election Day, nine going to the Democrats. The remaining change is the Oklahoma Senate, which is now tied. The nine that switched hands are:

1. **Indiana House**
2. **Iowa House**
3. **Iowa Senate**
4. **Minnesota House**
5. **Michigan House**

6. **New Hampshire** House
7. **New Hampshire** Senate
8. **Oregon** House
9. **Wisconsin** Senate

Two chambers remain in limbo pending recounts: the **Montana** House and the **Pennsylvania** House. One race in each state will determine who holds the chamber. In Pennsylvania, a Republican victory will preserve their control of the chamber. (Republicans and Democrats have begun organizing as the majority and minority parties, respectively, indicating a strong likelihood of Republican retention of that chamber.) Likewise, a victory in Montana will preserve Democrats' control of the Legislature.

Full control of legislature:

- 24 Democrat
- 16 Republican
- 9 split
- 1 nonpartisan (the **Nebraska** Legislature is officially nonpartisan)

Net gains of legislative seats:

- 321 Democrat
  - East: 148 Democrat
  - Midwest: 107 Democrat
  - South: 21 Democrat
  - West: 73 Democrat

Since 1942, mid-term elections have cost the party of the president an average of 324 state legislative seats, placing the 2006 election right at par in the cumulative total. However, the election does move the Democrats further along in the total chambers and full control categories, effectively ending the relative parity in total chambers and control the two parties have shared since 1994. Additionally, the 2006 election marked the end of consistent Democratic losses in the South since 1984 with a gain of 21 seats.

Perhaps the most interesting and unexpected change of the election was the marked shift of **New Hampshire** from Republican to Democrat. Democrats retained the Governor's Mansion behind popular incumbent John Lynch, picked up both Congressional seats and shocked themselves by picking up 89 seats in the House and 6 seats in the Senate. The legislative victories give Democrats full control of the Legislature for the first time since before the Civil War, while accounting for nearly two-thirds of all Democratic pick-ups in the eastern states.

#### *Election 2006: Governors*

Heading into the election, Republicans held the Governor's Office in 28 states, leaving Democrats in the other 22. Democrats made a gain of six seats in the 2006 election, flipping the number for next year to 28 Democrat and 22 GOP

governors. All incumbent Democrat governors were re-elected, while 2 Republican incumbents lost (**Alaska** Governor Frank Murkowski in the primary and **Maryland** Governor Bob Ehrlich in the General Election). In total, eleven new governors will take up the reigns in their states next year.

As with the legislatures, all six offices switching party in 2006 were to the Democrats' favor. The following offices have changed hands, with Republicans leaving and Democrats entering.

1. **Arkansas** (Attorney General Mike Beebe defeated former Congressman, DEA chief, and Assistant Secretary of Homeland Security Asa Hutchinson)
2. **Colorado** (former state attorney Bill Ritter defeated U.S. Rep. Bob Beauprez)
3. **Maryland** (Baltimore Mayor Martin O'Malley defeated incumbent Governor Bob Ehrlich)
4. **Massachusetts** (former US Deputy Attorney General Deval Patrick defeated Lieutenant Governor Kerry Healey)
5. **New York** (Attorney General Elliot Spitzer defeated Nassau County Executive John Faso)
6. **Ohio** (U.S. Rep. Ted Strickland defeated Secretary of State Ken Blackwell)

The remaining five freshman governors—each of whom maintained their party's control in that state—are:

1. **Alaska** Governor-Elect Sarah Palin (**Republican**; former Mayor of Wasilla)
2. **Iowa** Governor-Elect Chet Culver (**Democrat**; Secretary of State)
3. **Florida** Governor-Elect Charlie Crist (**Republican**; Attorney General)
4. **Idaho** Governor-Elect Butch Otter (**Republican**; Congressman)
5. **Nevada** Governor-Elect Jim Gibbons (**Republican**; Congressman)

Total control (legislature and governor):

- 16 Democrat
- 10 Republican
- 23 divided
- 1 nonpartisan

#### *Election 2006: Ballot Measures*

In addition to state legislative, gubernatorial and Congressional elections, voters set policy on a host of issues. The ballot measures include:

- Minimum wage hikes passed in all six states where it was on the ballot—**Arizona, Colorado, Missouri, Montana, Nevada** and **Ohio**.
  - There is some concern that, while helpful overall, a minimum wage hike could in absence of an upward adjustment of the Federal

Poverty Level cause some to lose Medicaid and/or SCHIP eligibility.

- **Maine, Nebraska and Oregon** rejected tax and spending limits.
  - These measures were modeled on **Colorado's** Taxpayers' Bill of Rights (TABOR).
- Abortion restrictions failed in **California, Oregon and South Dakota.**
- Efforts to legalize marijuana failed in all three states, **Colorado, Nevada and South Dakota.**
- Measures to restrict immigration were approved in **Arizona and Colorado.**
- Tobacco tax increases were approved in **Arizona and South Dakota** and rejected in **California and Missouri.**
- In three states—**Arizona, Nevada and Ohio**—there were competing smoking bans. In all three the stricter ban passed and the looser ban failed.
- An amendment to approve stem cell research passed in **Missouri.**
- Expansion of **Oregon's** prescription drug program passed.

*Election 2006: Of Note*

With a few races yet undecided, it appears that nearly 270 members of the United States House and Senate—or just over 50 percent of the 110<sup>th</sup> Congress—will have served as state legislators. This number keeps the 110<sup>th</sup> on par with the previous four Congresses.

*National Association of State Medicaid Directors*

AAFP exhibited at the Annual Meeting of the National Association of State Medicaid Directors. Staff provided a copy of the AAFP Community Care of North Carolina case study to several Medicaid and SCHIP directors at the meeting.

The meeting included two educational sessions: the first addressed next year's anticipated reauthorization of SCHIP. The panel included SCHIP directors from Georgia and Rhode Island alongside the health policy advisors to Senator Charles S. Grassley (R-IA) and John D. Rockefeller, IV (D-WV). The issues discussed included: level versus increased funding for care, increased funding of outreach and enrollment, and whether or not to allow states to use SCHIP's enhanced FMAP to cover parents and other uninsured adults.

The second session staff attended addressed the medical home concept. Medicaid directors from Alabama, Louisiana, Mississippi, Missouri and West Virginia shared their visions of the concept and how they are implementing it in their states. Of note, an Alabama Medicaid two-CD-ROM set on the medical home and health literacy was distributed to attendees. This CD-ROM qualifies for AAFP CME and Alabama Medicaid received technical and editorial assistance on it from Alabama Chapter Executive Holley Midgley. AAFP and TrasforMed were mentioned at several points in the discussion and both are referenced in handouts.