

From: POLITICO Pro Energy
To: megan_bloomgren@ios.doi.gov
Subject: Afternoon Energy, presented by ExxonMobil: Trump's monumental move — Tonko questions Yucca and storage site link — Corps left out of WOTUS process
Date: Wednesday, April 26, 2017 3:31:52 PM

By Kelsey Tamborrino | 04/26/2017 04:21 PM EDT

With help from Alex Guillén and Eric Wolff

MONUMENT MEN: President Donald Trump today signed an [executive order](#) kicking off a review of two dozen national monuments, tasking his Interior Department with recommending whether to shrink or eliminate those monuments that have placed millions of acres of land off limits to development, Esther Whieldon [reports](#). The president signed the order at the Interior Department alongside Vice President Mike Pence, Interior Secretary Ryan Zinke and several lawmakers and governors.

States are 'back in charge': The order also asks the secretary to come up with possible legislative fixes to the 1906 Antiquities Act, which gives presidents wide power in establishing national monuments on federal lands. Trump said the act "does not give the federal government unlimited power to lock up" millions of acres of land and water. He also criticized former President Barack Obama for what he called an "egregious use of power." Today, he said, "we are putting the states back in charge."

Zinke's tall order: Zinke told the crowd ahead of the signing that "somewhere along the way, the act became the tool of political advocacy rather than public interest, and it is easy to see why some designations are viewed negatively by those most impacted." Zinke has 45 days to come back with an interim report, and 120 days for a final report. Esther notes, however, that any actions Trump takes as a result are likely to face legal challenges, especially if he tries to revoke previous designations.

The weight of it: The president also [took the time](#) to point out Maine Gov. Paul LePage's recent weight loss as he signed the executive order. "Gov. LePage of Maine, who, by the way, has lost a lot of weight," Trump said. "I knew him when he was heavy and now I know him when he was thin and I like him both ways, OK?" LePage [said Monday](#) that he will testify before the House Natural Resources Committee next week against Obama's designation of the Katahdin Woods and Waters National Monument in Maine.

UTAH HERE HE COMES: Zinke says he'll head to Utah in early May as part of his review of Bears Ears National Monument, and he did not rule out revoking its monument status, Esther [reports](#). "I'm not going to prejudge, I'm going to look at it," Zinke said. And he suggested that some areas may deserve protection. "I'm going in with the supposition that, having not seen it, that there are areas that are absolutely in the bounds of being protected. So I'm going to look over every rock and make the determination based on law, based on what the intent of what the Antiquities Act did," he said.

Welcome to Afternoon Energy and welcome to Wednesday! I'm your host Kelsey Tamborrino, giving you your [daily dose](#) of Zinke's dog Ragnar. Send your thoughts, news and tips to ktamborrino@politico.com, mdaily@politico.com and njuliano@politico.com, and keep up with us on Twitter at [@kelseytam](#), [@dailym1](#), [@nickjuliano](#), [@Morning_Energy](#) and [@POLITICOPro](#).

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TONKO TRUCKS THROUGH YUCCA: New York Rep. [Paul Tonko](#) said [this morning](#) the House Energy and Commerce subcommittee's focus on Yucca Mountain could hamper efforts to open interim storage sites. Tonko, who is the top Democrat on the environment subcommittee, said at a hearing on a draft bill to update the Nuclear Waste Policy Act that he is "not sure that the continued strong linkage between Yucca and an interim solution is the best option to limit further taxpayer liability."

Tonko added, however: "I understand the urgency of this issue, and I understand the chair's genuine desire to help communities dealing with waste and protect taxpayers from any further need to make payments from the Treasury." The [legislation](#) in question would require the Nuclear Regulatory Commission to decide whether to license Yucca Mountain before permitting the federal government to pursue storage sites. Rep. [John Shimkus](#) (R-Ill.) is expected to formally introduce the bill in the coming weeks.

CORPS LEFT OUT OF WOTUS PROCESS: The former head of the Army Corps of Engineers says his organization was "completely disregarded" in the final Waters of the U.S. rule. In testimony from retired Maj. Gen. John Peabody, the top general who oversaw the Corps at the time says it was "marginalized from substantive participation" for roughly six months as the Obama administration finalized the contentious rule. Peabody's testimony was delivered this morning at a Senate Environment and Public Works Committee hearing examining the technical details and regulatory process around the 2015 rule. Read more [here](#) and read Peabody's testimony [here](#).

PORTMAN, HEITKAMP RELEASE REG OVERHAUL BILL: Sens. [Rob Portman](#) (R-Ohio) and [Heidi Heitkamp](#) (D-N.D.) introduced a [bill](#) today designed to overhaul the federal regulatory system. The bill, which the two [contrasted](#) with a much [broader bill](#) passed by the House earlier in the year, would require a cost-benefit analysis for every new regulation, open the most costly rules to judicial review and create a 10-year review period for every new rule.

SENATORS PUSH FOR MORE MONEY FOR BIODIESEL: A bipartisan group of 16 senators introduced a bill today to convert a biodiesel blenders tax credit to a producers credit. The bill would create a \$1-per-gallon credit for three years, and add an extra 10 cents per gallon for small producers. The bill was introduced by Sens. [Chuck Grassley](#) (R-Iowa) and [Maria Cantwell](#) (D-Wash.), and co-sponsored by Sens. [Pat Roberts](#) (R-Kan.), [Heidi Heitkamp](#) (D-N.D.), [John Thune](#) (R-S.D.), [Sheldon Whitehouse](#) (D-R.I.), [Martin Heinrich](#) (D-N.M.), [Joni Ernst](#) (R-Neb.), [Joe Donnelly](#) (D-Ind.), [Roy Blunt](#) (R-Mo.), [Mazie Hirono](#) (D-Hawaii), [Al Franken](#) (D-Minn.), [Patty Murray](#) (D-Wash.), [Amy Klobuchar](#) (D-Minn.), [Tom Udall](#) (D-N.M.) and [Jeanne Shaheen](#) (D-N.H.).

AGS WRITE SUPPORT OF OZONE ACT: A group of Democratic attorneys general today [wrote](#) to congressional Republicans to voice opposition to H.R. 806, the Ozone Standards Implementation Act. The bill would delay implementation of the 2015 ozone standard, extend the review process for key air quality standards and make other changes the AGs don't like. "Ozone pollution remains a serious and persistent problem for our nation, posing a particular risk to the health of children, the elderly and the sick, as well as individuals who spend time

outdoors," the group wrote. "Because H.R. 806 would represent a significant step backward in combating ozone and other dangerous criteria pollutants, we urge you to oppose the bill."

TRUMP'S TAX PLAN RELEASED: Trump today also [released](#) a plan to radically remake the tax code, cut the corporate tax rate and boost the standard deduction for individual taxpayers. The plan would also repeal the Alternative Minimum Tax for individuals and institute a one-time tax on corporate earnings held overseas, Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn said during a briefing at the White House.

GREENS ASK EPA TO RESPOND: A coalition of environmental groups has [asked](#) EPA to respond to petitions from three states seeking more pollution controls at upwind power plants. Various petitions over the past year from Connecticut, Delaware and Maryland have said emissions from specific sources are hurting their air quality, and asked EPA to do something about it. The groups say EPA should take action quickly. "Taking the common-sense and easily-implemented step of requiring the specified power plants to turn on their existing pollution controls and run them effectively every day during ozone season will help keep the millions of people in these communities from being subjected to dangerous smog levels," the groups write.

CLINTON AIDE TAKES ON HOGAN: Hillary Clinton's aide Alec Ross [announced today](#) he is running for governor of Maryland to replace Larry Hogan. Ross, who is also a former State Department official, said in an [announcement video](#), "We must press for innovation and stand up to Larry Hogan, who's allowing Donald Trump to bring his agenda to Maryland and just hopes nobody will notice." Ross cited, in particular, the sitting Republican governor's environmental policies. More [here](#).

MAIL CALL — STAY IN PARIS: U.S. companies today urged Trump to keep the U.S. in the Paris climate agreement. In a letter to the president, 13 companies said U.S. participation in the agreement is helpful for them to manage rising climate risks and compete in growing global clean energy markets. "By committing all countries to action, the agreement expands markets for innovative clean technologies, generating jobs and economic growth," the letter, organized by the Center for Climate and Energy Solutions, says. "U.S. companies are well positioned to lead, and lack of U.S. participation could put their access to these growing markets at risk." Read it [here](#).

QUICK HITS:

- Trump to order oil drilling, study off California coast, sources say, [Bloomberg](#).
- Spills on aging Enbridge Pipeline have topped 1 million gallons, report says, [InsideClimate News](#).
- FirstEnergy must pay rail firms for breaking coal contract, [Pittsburgh Post-Gazette](#).
- Scientists keep upping their projections for how much the oceans will rise this century, [The Washington Post](#).

WIDE WORLD OF POLITICS:

- Instead of launching tax reform, [Trump could ground it](#)

— Moderates chafe at Republican [health care compromise](#)

— Mulvaney and Pelosi feud over [Obamacare funds](#)

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To view online:

<https://www.politicopro.com/tipsheets/afternoon-energy/2017/04/trumps-monumental-move-022549>

Stories from POLITICO Pro

Trump orders Interior to launch national monument reviews [Back](#)

By Esther Whieldon | 04/26/2017 11:48 AM EDT

President Donald Trump today ordered his administration to consider whether to shrink or eliminate national monuments that have placed millions of acres of federal land off limits to development.

Trump signed an executive order directing Interior Secretary Ryan Zinke to review two dozen monuments that were created since the Clinton administration. The president also asked Zinke to come up with possible legislative fixes to the 1906 Antiquities Act, which gives presidents wide latitude to establish national monuments on federal lands.

At the signing at the Interior Department, Trump said former President Barack Obama had abused the Act to implement a land grab that placed 265 million acres under the control of the federal government.

"Today we are putting the states back in charge," Trump said

Conservation groups [worry](#) Trump and Zinke could weaken the underlying law that has been a conservation tool for 16 past presidents and potentially open up sensitive areas to fossil fuel development. Legal experts say it is unclear whether Trump could fully revoke previous monument designations, but he may be able to shrink the size of protected areas. Congress would have to implement any changes to the Antiquities Act itself.

Ahead of the signing, Zinke said "somewhere along the way, the Act became the tool of political advocacy rather than public interest, and it is easy to see why some designations are viewed negatively by those most impacted."

WHAT'S NEXT: Zinke is directed to come back with an interim report within 45 days and a final report in 120 days, and any actions Trump takes as a result are likely to face legal challenges, especially if he tries to revoke previous designations.

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Trump: Gov. LePage 'has lost a lot of weight' [Back](#)

By Aidan Quigley | 04/26/2017 12:12 PM EDT

President Donald Trump pointed out Maine Governor Paul LePage's recent weight loss on Wednesday, as he signed an executive order to review of tens of millions of acres of land and water set aside as national monuments by the past three presidents.

"Governor LePage of Maine, who, by the way, has lost a lot of weight," Trump said. "I knew him when he was heavy and now I know him when he was thin and I like him both ways, okay?"

LePage lost at least 50 pounds during the last few months of 2016 after he underwent bariatric surgery in September. He lost the weight after his doctor warned him he was at risk for diabetes if he didn't.

This wasn't Trump's first time commenting on the weight of a northeastern governor. During the campaign, he told early endorser and New Jersey Gov. Chris Christie, "no more Oreos."

"I'm not eating Oreos anymore, you know that — but neither is Chris," Trump said. "You're not eating Oreos anymore. No more Oreos. For either of us, Chris. Don't feel bad."

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Zinke to visit Utah in early May, says monument revocation still an option [Back](#)

By Esther Whieldon | 04/26/2017 01:34 PM EDT

Interior Secretary Ryan Zinke says he will visit Utah in early May as part of his review of Bears Ears National Monument, and he did not rule out revoking its monument status.

"I'm not going to prejudge, I'm going to look at it," Zinke said after President Donald Trump [signed](#) an executive order directing a 120-day review of two dozen monument designations, particularly Bears Ears and the Grand Staircase-Escalante National Monument.

Zinke suggested that some areas may deserve protection. "I'm going in with the supposition that, having not seen it, that there are areas that are absolutely in the bounds of being protected. So I'm going to look over every rock and make the determination based on law, based on what the intent of what the Antiquities Act did."

While past presidents have at times reduced the size of national monuments, none have revoked a predecessor's monument designations, and the president's authority to do so has never been tested in court.

Zinke took a more tempered tone than Trump, who criticized President Barack Obama's use of the Antiquities Act to implement a "massive federal land grab." Bears Ears, however, was under federal control before Obama created the monument and would remain so even if the designation is revoked.

WHAT'S NEXT: Zinke will meet with state, tribal and legislative officials in Utah, and is expected to come back with a preliminary recommendation within 45 days on whether any actions should be taken specifically on Bears Ears.

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Tonko questions linkage between Yucca and storage site [Back](#)

By Darius Dixon | 04/26/2017 11:36 AM EDT

The top Democrat on the House Energy and Commerce subcommittee tackling new nuclear waste legislation says its focus on Yucca Mountain could hamper efforts to open interim storage sites.

"I am not sure that the continued strong linkage between Yucca and an interim solution is the best option to limit further taxpayer liability," New York Rep. [Paul Tonko](#) said this morning at hearing on a [draft bill](#) to update the Nuclear Waste Policy Act.

But, he added: "I understand the urgency of this issue, and I understand the chair's genuine desire to help communities dealing with waste and protect taxpayers from any further need to make payments from the Treasury."

The Energy Department [estimates](#) that at least \$29 billion will be paid through 2071 to reimbursed power company for storing waste on-site.

The draft legislation from Rep. [John Shimkus](#) (R-Ill.) would require the Nuclear Regulatory Commission to decide whether to license Yucca Mountain before permitting the federal government to pursue storage sites.

"We know there are companies interested in pursuing interim storage, but this link may create unnecessary uncertainty to their financing and business model," Tonko said. "It would be possible for us to consider the merits of interim storage and a long-term repository on separate but parallel tracks."

Tonko also questioned language on water rights.

"This bill would declare the construction of a nuclear waste repository a beneficial use of water. I find this troubling," Tonko said. "It is not an issue we need to consider at this time."

WHAT'S NEXT: Shimkus is expected to formally introduce his bill in the coming weeks, although it remains to be seen whether it will make it to the House floor. A Senate companion has not yet been introduced.

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Former chief: Army Corps 'completely disregarded' in final WOTUS rule [Back](#)

By Annie Snider | 04/26/2017 09:30 AM EDT

The Army Corps of Engineers was "marginalized from substantive participation" for roughly six months as the Obama administration finalized its contentious Waters of the U.S. rule, a top general who oversaw the Corps at the time will tell senators this morning.

The [testimony](#), from retired Maj. Gen. John Peabody, is scheduled to be delivered this morning at a Senate Environment and Public Works Committee hearing examining the technical details and regulatory process around the 2015 rule.

Peabody initially detailed his concerns about the process in internal memos to his political boss at the Army that were leaked shortly after the rule was finalized in 2015 and became political fuel for critics of the regulation. The Army Corps makes the vast majority of on-the-ground calls about which streams and wetlands are subject to Clean Water Act regulation.

In today's testimony, Peabody argues he was less concerned about the fact of the Corps' exclusion from the process than the fact that it "caused Corps expertise, concerns and related recommendations — founded on serious and significant concerns with the viability of the rule from a factual, scientific, technical and legal basis — to be so completely disregarded."

Peabody only briefly mentions in his testimony an argument made repeatedly in the 2015 memos: that changes made in the final version of the rule could result in a significant loss of protections and required an in-depth environmental review.

WHAT'S NEXT: Today's Environment and Public Works Committee hearing is aimed at helping lay the groundwork for the repeal and rewriting of the Waters of the U.S. rule, a process that EPA has asked for comments on by June 19.

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Goodlatte: Congress coordinating with Trump team on regulation changes [Back](#)

By Eric Wolff | 01/06/2017 12:11 PM EDT

The House Judiciary Committee is in close coordination with President-elect Donald Trump's transition team on its legislation to enact sweeping new restrictions on regulations, Chairman [Bob Goodlatte](#) (R-Va.) told reporters today.

"We have worked very, very closely with members of the Trump transition, and people that we expect will be in positions related to this in the new administration," he said, adding they want "to make sure we are as much as possible on the same page."

The House passed the REINS Act last night and the Midnight Rules Relief act on Wednesday. Goodlatte also introduced the Regulatory Accountability Act on Tuesday, a package of bills passed in the 114th Congress that would eliminate judicial deference to agencies and increase notification and reporting around rules.

Goodlatte said RAA, REINS, and Midnight Rules are the "triple crown" of regulatory change legislation, and that other bills passed in the House during the last Congress will be forthcoming. A spokeswoman for Rep. [Doug Collins](#) (R-Ga.) said his bill to make it more difficult for government agencies to reach settlement deals with outside groups would be introduced next week.

Collins, who sponsored the REINS Act, told reporters that Trump had promised to sign the bill if it reached his desk. However, Trump made that promise in 2015, [according to USA Today](#).

All of the bills face an uphill climb in the Senate, where Democrats are likely to filibuster.

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Trump tax plan heavy on promises, light on details [Back](#)

President Donald Trump's eagerly awaited tax reform plan arrived Wednesday as a one-page sheet of mostly general principles, largely repackaging ideas from his presidential campaign with a promise to deliver the nation's biggest tax cut ever.

The rollout was hastily arranged after Trump took Treasury Secretary Steven Mnuchin and other White House officials by surprise last week when he promised a "big announcement" on tax reform would be coming this Wednesday. But what Mnuchin and top economic adviser Gary Cohn presented at a White House briefing will do little, if anything, to move the ball forward on tax reform.

Instead, it seemed intended to give Trump another thing he could point to as the traditional 100-day mark for measuring presidential achievements looms and some of Trump's top priorities — including repealing and replacing Obamacare — remain undone.

The announcement included a big cut in tax rates for businesses, to 15 percent; fewer tax brackets for individuals; doubling the standard deduction; and providing tax relief to help pay for child and dependent care expenses.

At the same time, the plan would get rid of some taxes that mostly hit the wealthy, including the estate tax and the alternative minimum tax, while promising to "Eliminate targeted tax breaks that mainly benefit the wealthiest taxpayers."

The plan would retain deductions for mortgage interest and charitable donations but get rid of all others, including for state and local taxes they pay and health insurance they get from employers — both controversial ideas.

"What this is about is creating jobs and creating economic growth," Mnuchin said at the White House. "And that's why massive tax cuts and massive tax reform and simplifying the system is what we're going to do."

Throughout the week, officials put out conflicting statements about what would be in the tax package, and one official told POLITICO that the plan hadn't been written by late Tuesday afternoon.

As reporters peppered Mnuchin and Cohn with questions about the finer points, Cohn said, "We'll get back to you with definitive answers on all these details," National Economic Council Director Gary Cohn told reporters at the White House.

The rollout is likely to underwhelm, or frustrate, House Republicans who have been working on their own tax reform for months and waiting for clarity on where Trump stands on crucial details. That includes a controversial "border adjustment" tax on imports that lawmakers are counting on to generate more than \$1 trillion to offset the cost of tax cuts.

Cohn and Mnuchin said they'd be in constant dialogue with lawmakers to remake U.S. tax laws based on four principles: reduced rates, simplification, middle-class tax cuts and getting American businesses with foreign earnings to bring home that international income.

Doubling the standard deduction would raise it to \$12,600 for single filers and \$25,200 for married couples filing jointly. Though mortgage and charitable deductions would remain in

place, those higher thresholds for the standard deduction have caused worries in the real estate and charitable communities because fewer individuals would itemize.

For high-income individuals, the plan would get rid of the 3.8 percent tax on investment income that helps pay for Obamacare.

It proposes three individual tax brackets of 12 percent, 25 percent and 35 percent, the latter being slightly higher than 33 percent called for in the House Republican plan.

Trump's plan has also broken with House Republicans on other areas, in large measure over how and whether to offset the cost of the tax cuts.

"This will pay for itself with growth and with reduced, reduction of different deductions and closing loopholes," Mnuchin said.

The 15 percent tax rate for all businesses seems mathematically impossible without deeply slashing other tax benefits, which is politically difficult, and cutting spending, which is also politically difficult.

Tax reform needs to adhere to congressional budget rules, House Speaker [Paul Ryan](#) said Wednesday.

Trump's low proposed rate for non-corporate companies, down from Ryan's 25 percent proposal, has also been criticized as potentially ripe for fraud and abuse.

On taxing U.S. companies income earned abroad, Trump is pushing to harmonize the U.S. with most of the world, where income is only taxed where it's earned, not when also brought into the U.S. That marks a shift from Trump's campaign ideas on this issue, but the change doesn't include details that would minimize abuse going forward.

Also on international income, the Trump plan would require a one-time tax on the estimated \$2.6 billion in earnings that corporations have kept abroad under the current system, but doesn't include a rate. That kind of detail will require continued conversation with Congress, Mnuchin said, promising a competitive rate.

"We are moving as quickly as we can," he said.

But what's not mentioned — Ryan's import tax idea known as border adjustments - is notable. Ryan signaled he wants to salvage the idea in some form.

"We all agree that in its present form it needs to be modified," he said.

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Clinton tech adviser Alec Ross running for Maryland governor [Back](#)

By Nancy Scola | 04/26/2017 10:37 AM EDT

Former State Department official and Hillary Clinton aide Alec Ross is running to be governor of Maryland, [he announced today](#).

"We must press for innovation and stand up to Larry Hogan, who's allowing Donald Trump to

bring his agenda to Maryland and just hopes nobody will notice," [Ross said in an announcement video](#), citing the sitting Republican governor's environmental and education policies.

Ross, who lives in Baltimore, served as then-Secretary of State Hillary Clinton's senior adviser for innovation from 2009 to 2013, and in 2016 authored the book "The Industries of the Future."

He was an adviser to both Clinton's 2016 presidential run and Barack Obama's 2008 campaign.

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Instead of launching tax reform, Trump could ground it [Back](#)

By Ben White and Nancy Cook | 04/25/2017 10:55 PM EDT

President Donald Trump on Wednesday will release a plan to radically overhaul the American tax code that many Republicans say is unrealistic and could end up hurting the chances of getting anything done on the issue, long one of the party's top priorities.

Driven by a president eager to show momentum heading into the close of his first 100 days in office, the hastily written plan could wind up alienating critical Hill Republicans while offering little or nothing to entice Democrats. It could also be widely dismissed by outside observers as an over-hyped rehash of promises the president already made during the campaign.

"So far at least, the contours of this are starting to look a lot like what happened with Trump and Congress on health care," said Lanhee Chen, a top adviser to Mitt Romney's 2012 campaign and now a professor at Stanford. "On health care you had irreconcilable differences on the scope of government. And in the same way here, whether or not you pay for a tax cut is a fundamental difference Republicans have. And what we could see Wednesday is that there isn't even as much middle ground on taxes as there was on health care."

The main problem, political analysts and tax experts say, is that Republicans are caught between two irreconcilable models for enacting major tax changes.

The president is likely to release a plan that repeats his campaign call for slashing the top corporate rate from 35 percent to 15 percent and reducing and simplifying individual rates, while doing little or nothing to replace the trillions of dollars in lost revenue from such cuts beyond relying on rosy forecasts for faster growth.

The White House confirmed that the plan will include a boost in the standard deduction for individual taxpayers. The housing and charitable sectors fear that will hurt their bottom lines by making the mortgage interest and charitable deductions less attractive to taxpayers.

The non-partisan Tax Policy Center estimates that reducing the corporate tax rate to 15 percent would cost the federal government \$215 billion in 2018 alone and become a more expensive proposition as each year passes, according to the center's analysis of Trump's campaign plan.

Many congressional Republicans, led by House Speaker Paul Ryan, prefer a radically different approach that would employ a new border tax to generate over \$1 trillion in revenue over 10

years to pay for a cut in the top corporate rate to 20 percent from 35 percent. People close to Ryan are dismissive of Trump's approach to unfunded tax cuts as a "magic unicorn" that will never clear the House.

By releasing his plan without the border tax, as widely expected, Trump will be setting himself up in direct opposition to Ryan, whose help the president will need to get any major tax bill passed.

"The fundamental disagreement here is basically over which kind of Reagan-style tax change that Trump is going to embrace," said Jeffrey Birnbaum, a former journalist and author of a book on the epic 1986 tax reform fight. "Will it be 1986-style reform, which neither raised nor lowered the budget deficit or will it be 1981-style, which was just a reduction in rates and was eventually viewed by both Democrats and Republicans as too deep a cut. It's clear Trump wants to echo Reagan but we don't know which version of Reagan it will be."

For the moment, Republicans on the Hill are trying to stress the areas where they agree with Trump, including a desire to lower and simplify both corporate and individual rates to spur what the party hopes will be much faster economic growth that creates millions of new jobs and lifts wages. But many are signaling that significant differences remain that could prove insurmountable.

"We all agree on the benefits of tax reform and the place we want to land, and the question is how you reach that place," said AshLee Strong, a spokeswoman for Ryan. "We continue to have productive discussions with the administration about all ideas on the table."

But Ryan's office also cited guidance from the Joint Committee on Taxation on Tuesday suggesting it would be impossible to pass a big corporate rate cut through the reconciliation process — which would avoid a Democratic filibuster in the Senate — without paying for it.

The guidance held that even letting the cuts lapse after three years would still increase the deficit beyond ten years, which would violate the reconciliation process. "We project a nonnegligible revenue loss in the tax years immediately following the budget window," the Joint Committee said.

Pointing to this report is House Republicans' way of saying that Trump's current approach to the tax issue simply won't work.

On the Senate side, Finance Committee Chairman Orrin Hatch (R-Utah), who has been dismissive of the 15 percent target as unattainable, also tried to sound positive on Tuesday.

"Every administration has had its own ideas, I've never seen one that hasn't," Hatch said. "They're working with us and we're interested in whatever they come up with. Even if it's really expensive, I'm going to be interested in whatever they come up with. That doesn't mean I'm necessarily going to follow it, but I want to support the administration if I can."

Democrats, meanwhile, stand ready to savage the plan as a giveaway to big corporations that would balloon the deficit. "I'm very skeptical. I've seen no plan in the past that could get to that [15 percent] level without adding to the deficit," said Sen. Debbie Stabenow (D-Mich.), a member of the Finance Committee.

Democrats are likely to also blast the proposal if, as expected, Trump repeats his campaign

pledge to extend the 15 percent rate to so-called "pass-through" companies, which are often owner-operated businesses, like Trump's own real-estate and branding empire. The argument Democrats will make is that if the proposal became law, it would give the president himself a giant tax cut.

"In trying to slash taxes for 'pass-through' business entities, Trump is seeking to dramatically reduce his own tax bill," said Frank Clemente, executive director of Americans for Tax Fairness.

The 15 percent tax on pass-through income would also be far lower than the 25 percent top rate proposed by Ryan and House Ways and Means Chairman Kevin Brady (R-Texas).

Privately, Democrats say they relish the thought of Republicans battling each other on how to rewrite the tax code. One Democratic aide predicted "a lot of Republican-on-Republican violence this week."

Others say it appears that Trump is simply pushing for a giant tax cut under the guise of more politically palatable "tax reform."

"Is it just tax cuts, or truly tax reform? I think the administration sometimes has confused the issue by calling everything tax reform when it is not," said Mark Mazur, the former assistant secretary for tax policy at the Treasury Department under the Obama administration and now director of the non-partisan Urban-Brookings Tax Policy Center. "If you're going to do tax reform, you need to be thinking about making the system simpler and more efficient."

Trump himself is personally invested in an overhaul of the tax code, far more than he was in any machinations of the health care legislation, according to one source familiar with the White House's internal tax deliberations. The lone tax policy staffer on the National Economic Council, former Hill staffer Shahira Knight, has personally briefed the president on tax questions, say two sources.

The president has a much stronger attachment and understanding of the tax code than, say, health insurance because the real estate industry relies so heavily on tax breaks such as the mortgage interest deduction for homeowners or the interest deduction for businesses. In this area, Trump's proposal to increase the standard deduction could actually harm his beloved real estate industry by making the mortgage deduction less attractive for tax filers.

Inside the administration, Trump's pledge to produce a new tax reform document this week took officials by surprise. And not all were thrilled to have to produce something this early in the process with major policy decisions still up in the air and meetings with congressional leadership still in their early phases.

"This was all about doing something in the first 100 days and really it's doing the process backwards," one senior White House official said this week. "I'm not sure how helpful it is."

The rushed nature of the effort was reflected in conflicting statements from administration officials about what the package to be released Wednesday would include. Initially, several administration officials said it would probably include some kind of infrastructure investment to appeal to Democrats. Several Democrats support the idea of using some funds generated by the taxation of repatriated foreign earnings to pay for infrastructure projects such as rebuilding decaying roads and bridges.

But as of late Tuesday afternoon, officials said the plan to be released Wednesday would probably not include infrastructure spending but instead just focus on individual and corporate rates.

"The reason your head is spinning on this is that the plan isn't even written yet," one White House official said ahead of a planned meeting Tuesday evening between the administration and top Capitol Hill leaders.

That meeting, which lasted about 45 minutes, appeared to be perfunctory.

"This is just a preliminary meeting," Hatch said afterward. "They went into some suggestions that were mere suggestions and we'll go from there."

Aaron Lorenzo, Elana Schor, Burgess Everett and Brian Faler contributed to this report.

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Moderates chafe at Republican health care compromise [Back](#)

By Kyle Cheney, Rachael Bade and Katie Jennings | 04/26/2017 05:14 AM EDT

If the White House manages to resuscitate its flat-lining effort to replace Obamacare, President Donald Trump may owe it to a moderate New Jersey Republican and multimillionaire who only reluctantly backed his candidacy for president.

Rep. Tom MacArthur has singlehandedly kept the embers of the failed repeal-and-replace effort burning, huddling with the hard-line conservative Freedom Caucus to try to forge a deal. The negotiations have allowed the White House and GOP congressional leaders to insist that despite their embarrassing failure to pass health care legislation last month, they're still making progress.

But the MacArthur-as-Republican health care savior narrative has bothered some GOP moderates, who say the New Jersey lawmaker is flying solo in negotiations with the Freedom Caucus. Though he's one of three co-chairs of the Tuesday Group — a 50-member bloc of House Republican moderates — MacArthur has negotiated without the group's blessing in his quest to keep the health care talks alive, other Tuesday Group members say.

And many others say they've seen no details about the compromises the second-term lawmaker is offering or whether he's getting enough concessions from conservatives.

Some in the group "are pretty hot about this thing right now," said a Tuesday Group member. "MacArthur is kind of on his own."

MacArthur acknowledged as much in an [interview](#) with The Hill, suggesting his effort to find compromise was not on behalf of the Tuesday Group.

As a result, it's not clear that any deal MacArthur strikes can actually deliver the votes of moderates that President Donald Trump and House Speaker Paul Ryan need to get their legislation, dubbed the American Health Care Act, across the finish line. That's a dangerous dynamic that could sink the revived health care discussion just as Freedom Caucus members are warming to the bill.

So far, House moderates have [remained quiet](#) about reports of progress between MacArthur and the Freedom Caucus, chaired by North Carolina Rep. Mark Meadows. The two were seen huddling daily in the back of the House chamber before lawmakers departed for their two-week Easter recess. But other Tuesday Group members have been wary of working with the Freedom Caucus, which came under fire from Trump and mainstream Republicans last month for rejecting the first iteration of the GOP health care plan.

At the time, Rep. Chris Collins, a Tuesday Group member and Trump ally, accused the Freedom Caucus of proposing negotiations simply to deflect blame for scuttling the first bill.

"The Tuesday Group will never meet with the Freedom Caucus. Capital N-E-V-E-R," Collins said in late March.

As reports of a deal surfaced during the recess, moderates remained silent. Even MacArthur's Tuesday Group co-chairs — Reps. Charlie Dent and Elise Stefanik of New York — said they weren't yet sold on the negotiations.

Dent suggested the talks seemed aimed mostly at securing a win for Trump, or at least showing progress, ahead of his 100th day in office.

Stefanik told constituents she had yet to see legislative language and would reserve judgment until she could read the details. "I believe my constituents deserve a representative who knows what that final bill is," Stefanik told a hometown crowd on Monday, [according to the Albany Times Union](#).

Indeed, it's unclear whether MacArthur's efforts have moved any moderates closer to "yes" on the stalled health care bill. POLITICO reached out to the offices of more than two dozen moderate Republicans who had either signaled their opposition to the AHCA or hadn't yet taken a position. Though many declined to respond, none said they had been swayed by the negotiations.

"The amendment doesn't address the things that I had concerns about — the things I think are detrimental to the people I represent," said Rep. Dan Donovan, a centrist, who added that he learned about the proposal when details [leaked](#) to the press Friday.

Other New Jersey Republicans, including moderates like Leonard Lance and Frank LoBiondo, say they don't have much insight into changes to the health care legislation that MacArthur is negotiating.

"I ran in support of a plan that lowers premiums, increases access and lowers health care costs across the board," Lance said in a statement to POLITICO on Tuesday. "Until I see a Congressional Budget Office score that says the revised bill achieves those goals I remain a 'no' vote."

LoBiondo [tweeted](#) Friday that he hadn't seen the draft text of the amendment, but was "still a NO" because it didn't address his "serious concerns."

The highest ranking Republican in the New Jersey delegation, Rep. Rodney Frelinghuysen, who serves as chairman of the House Appropriations Committee, hasn't signaled his views of the amendment yet. But the MacArthur-negotiated changes leave intact the AHCA's rollback of Medicaid expansion, which Frelinghuysen [said he would oppose](#).

At the heart of the negotiations is a trade-off. Conservatives are seeking a proposal that would let states opt out of Obamacare's regulatory framework, including provisions intended to keep costs down for people with pre-existing conditions. In exchange, MacArthur negotiated to reinstate Obamacare's minimum coverage requirements and to require that any state choosing to opt out of the Obamacare regulations must set up a high-risk pool intended to help cover sick patients whose premiums might surge.

Freedom Caucus sources indicated these changes could win over at least some of their holdouts, putting the AHCA tantalizingly close to passage. House leaders are hopeful they can nudge just enough moderates to back the bill to send it to the Senate. With no Democrats expected to support the bill, Republicans must secure support from 216 members of the 238-member caucus to pass it.

Since talks collapsed last month, House leaders and President Donald Trump have indicated they were heartened by continued negotiations among lawmakers. Vice President Mike Pence and White House Budget Director Mick Mulvaney continued shuttling to and from Capitol Hill in search of votes. Then, as Trump's 100-day mark in office approached, the White House began indicated it expected a vote on an amended health care package as soon as this week.

The Meadows-MacArthur talks were at the heart of it.

For MacArthur, the impromptu talks aren't just risky for the Republican agenda, they could imperil his own political future. He represents one of a few dozen swing districts. Though his district narrowly voted for Trump in November, it backed Barack Obama in 2008 and 2012. MacArthur's role in salvaging a health care plan that energized protesters on the left and drew poor marks across the political spectrum has only enhanced the target on his back for Democrats.

MacArthur's efforts have also put him on the president's radar. Trump personally thanked MacArthur, a former insurance executive, the day before leaders pulled the legislation for lack of support.

But during the presidential campaign, MacArthur, 56, kept his distance from Trump, endorsing the GOP standard-bearer after his primary rivals quit the race. MacArthur survived his reelection campaign despite relentless efforts by Democrats to tie him to Trump.

In recent weeks, conservative and liberal activists squeezed MacArthur with attack ads in his district for his role in AHCA talks. But the conservative Club for Growth may help provide him some cover.

"We applaud the fact that Rep. MacArthur has negotiated with Rep. Meadows," said the group's spokesman, Doug Sachtleben.

MacArthur himself shrugs off the politics of his role.

"I am not thinking about this in political terms," MacArthur said when asked whether his position made him vulnerable to a primary or general election challenge at a news conference earlier this month. "I am simply not going to evaluate the right thing to do based on whether people want to run ads against me."

Adam Cancryn contributed to this report.

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White House to continue Obamacare payments, removing shutdown threat [Back](#)

By Burgess Everett, Heather Caygle and Josh Dawsey | 04/26/2017 10:43 AM EDT

The White House is telling lawmakers that it will continue paying Affordable Care Act cost-sharing subsidies, potentially defusing a bruising conflict between Democrats and Trump administration officials that had sparked a new round of shutdown fears in Washington Wednesday.

House Minority Leader Nancy Pelosi (D-Calif.) confirmed the news Wednesday afternoon after word started spreading around the Capitol. It was not immediately clear how long the White House planned to keep the money flowing.

"Our major concerns in these negotiations have been about funding for the wall and uncertainty about the CSR payments crucial to the stability of the marketplaces under the Affordable Care Act," Pelosi said in a statement after two phone calls with White House Chief of Staff Reince Priebus. "We've now made progress on both of these fronts."

With Congress closing in on a deal, lawmakers were expected to buy another week to finish the deal as a Friday evening shutdown deadline loomed, two sources said. Leaders are leaning toward passing a one-week extension of funding at current levels.

"More progress needs to be made on some of our priorities, and we continue to be concerned about poison pill riders that are still in this legislation," Pelosi said.

On Tuesday evening, Pelosi and President Donald Trump's budget director clashed in a phone call over the Obamacare subsidies threatening delicate bipartisan negotiations to fund the government, according to sources familiar with the matter. The solution to the row appears to be the status quo: Paying for the subsidies outside of the congressional spending process. That would give Trump some future leverage over Obamacare while allowing Democrats to say they've protected the law, if only temporarily.

And it allows Republicans to avoid blame for causing chaos and confusion in the insurance markets.

"If we pull the subsidies ... I think there would be nobody with a health insurance plan next year." said Rep. Phil Roe (R-Tenn.).

The movement was unlocked after the Tuesday call between Pelosi (D-Calif.) and Office of Management and Budget Director Mick Mulvaney. Pelosi told Mulvaney that she could not support a spending bill that didn't include a commitment to continuing the subsidies for Americans with low incomes, according to a high-ranking Republican source briefed on the conversation. Mulvaney responded that Trump would not sign a bill to fund the government through September that includes those payments, called cost-sharing reductions, the source said.

"She's giving him back some of his own medicine," the source said, referring to Mulvaney's hard-edged tactics during the 2013 shutdown, which Mulvaney supported as a conservative House member. But Mulvaney "delivered [the] message that Trump would not sign a bill with

CSRs."

A Democratic aide confirmed the call, but said the Trump administration didn't commit to continue paying for crucial Obamacare subsidies starting next month, which could upend the insurance market.

"Mulaney indicated that, while the Trump administration had continued the CSR payments, they had not yet decided whether they would make the May payment. Mulvaney made clear that, absent congressional action, the judge's order would stand and the administration would cease making payments," the Democratic aide said. The GOP-led House filed a lawsuit against the Obama administration last year arguing the subsidy payments were unconstitutional. Republicans won an initial ruling in the courts, but the decision was put on hold pending appeal.

Mulaney, through a spokesman, said the Democratic assertion that he said the administration would stop making the subsidies next month is "false."

"Let me be clear: the only thing standing in the way of a landmark defense and border security bill is a handful of Democrats who are insisting on an 11th-hour bailout of Obamacare. We can get this deal done today. There is no excuse not to," Mulvaney said. "This administration has made CSR payments in the past, and the only reason some are raising this now is to hold the government hostage and find an excuse to oppose a bipartisan agreement."

The confrontation threatened once again to halt bipartisan talks on a broad spending deal and force Congress to adopt a stopgap to give lawmakers more time to negotiate. A government shutdown appeared unlikely after Trump dropped his demands for border wall funding — a nonstarter for Democrats — but the latest battle over Obamacare subsidies is proving to be a major roadblock to a final deal.

Pelosi was demanding the spending bill include language providing for permanent funding for the subsidies, which reimburse insurance companies for costs related to low-income enrollees. It's not clear how united the party is on the issues, although the House Democratic aide insisted that Pelosi and Senate Minority Leader Chuck Schumer are locking arms in the fight.

Senate Democratic leaders seem less dug in and leaders have said that as long as the payments continue, they are less concerned about whether it's the administration or Congress making them.

"She's been the hardest driver on this," said a Senate Democratic source of Pelosi.

House Speaker Paul Ryan suggested Wednesday morning that the bill would not include the Obamacare payments.

"CSRs, we're not doing that," Ryan said during a news conference. "That is not in an appropriation bill, that's something separate that the administration does."

Currently the payments are made through the executive branch, but that's subject to a lawsuit that could disrupt the approximately \$7 billion in yearly payments. If Democrats could insert legislative language to maintain Obamacare's cost-sharing reductions into the spending bill, it would do far more to preserve the insurance subsidies.

Republicans are resisting the demand and the latest GOP offer sent to Democrats Tuesday did

not include the subsidy language. If the administration cut off the subsidies, which Trump has threatened to do in recent weeks, observers warn the insurance market could be thrown into chaos. Insurers could flee the market or jack up premiums to make up the difference.

As Pelosi argued that making the subsidies permanent would stabilize the insurance market by curbing Trump's ability to threaten to yank the funding at a moment's notice, other Democrats like House Minority Whip Steny Hoyer of Maryland argued the administration should commit to funding the subsidies without congressional action.






Lawmakers were also finalizing language to extend insurance benefits for coal miners and aid Puerto Rico's ailing Medicaid system. Negotiators on both sides privately concede a short-term extension is likely in order to hammer out the final details of a government funding deal.

"I think we're very close," said Senate Majority Whip John Cornyn (R-Texas).

John Bresnahan, Seung Min Kim and Rachana Pradhan contributed to this story.

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