

**CITY COUNCIL STUDY SESSION**

Federal Legislative Update

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**DIRECTION NEEDED FROM COUNCIL****INFORMATION  
ONLY**

No formal action is required; this is an informational briefing. Congress, the Administration, and Federal agencies each year approve actions that impact the City in a broad range of areas. Staff may recommend, and/or Council may wish to direct, communication to the City's congressional delegation on a range of issues throughout the year.

**RECOMMENDATION**

NA

**BACKGROUND & ANALYSIS****DC Big Picture**

Infrastructure, the federal budget and response to the Coronavirus dominated the attention of lawmakers in the nation's capital over the last month. Congress now shifts its attention to completing a legislative agenda focused on several must-do items—the FY 2021 budget and infrastructure and health care programs that are set to expire. In a presidential election year, the political stakes are particularly high but the legislative calendar is also particularly tight. Leaders in DC will be managing competing priorities of wanting to spend as much time as possible in their home states/districts campaigning and trying to achieve legislative wins in DC for their constituencies. This means that while there will be a lot of political discussions and interesting proposals floated (things such as tax cut proposals, climate change legislation and Medicare-for-All proposals), the reality is that only proposals that are truly “must-do” and, therefore, “must-compromise” on will likely get the votes necessary to get through the legislative process between now and the November election.

Supplemental budget items and emergency legislation (disaster aid funding, supplemental funding for responding to the Coronavirus, etc.) are the only other items that have a high likelihood of moving in the constrained time frame.

**BUDGET & APPROPRIATIONS****President's FY 2021 Budget Proposal**

On February 10, President Trump officially kicked-off the annual federal budget cycle with the release of his \$4.8 trillion proposed budget for Fiscal Year (FY) 2021. Similar to last year's budget proposal, the President once is again seeking reductions in almost all nondefense federal programs and an increase in defense spending. It calls for \$590 billion in budget authority, down from \$622 billion in FY 2020. This is a departure from the budget caps agreements approved last year by the White House

and Congress. Presidential budget proposals, however, are typically viewed as 'suggestions' by congressional appropriators who will actually write the appropriations laws.

Congress now begins its annual appropriations process. Already House and Senate leaders have confirmed that despite the President's budget proposal they intend to stick with the two-year budget caps agreement that was approved last summer. This means there should be a slight increase in nondefense budget authority and spending for FY 2021 versus a reduction as proposed by the President.

The bi-partisan budget caps agreement was approved at the end of July 2019 and lays the foundation for federal spending through FY 2021. The agreement raised the FY 2019 budget caps by \$320 billion over two years. The agreement was necessary to avoid the significant budget cuts (sequestration) mandated under the Budget Control Act of 2011 and to avoid a default on federal government debt.

### **Supplemental Appropriations**

In addition to the annual appropriations bills, Congress and the Administration are also considering a couple of supplemental funding measures. The House passed a bill to provide additional funding to Puerto Rico, which the President has already announced he would veto, and Congress and the Administration are looking to boost spending to the Health and Human Services (HHS) department in response to the Coronavirus.

HHS officials announced they may shift as much as \$136 million from other accounts to help fund the response to the Coronavirus. The department informed lawmakers it would move as much as \$75 million to the Centers for Disease Control and Prevention, \$52 million to the HHS Office of the Assistant Secretary for Preparedness and Response, and \$8 million to the Office of Global Affairs. HHS officials did not identify what accounts they are transferring funding from, but HHS can shift the funds 15 days after it notifies Congress of its intentions.

Senator Patty Murray (D-WA), a senior member of the Senate Appropriations Committee and the Ranking Democrat on the Senate Health Committee, would like to see more resources made available for Coronavirus response. Recently, Senator Murray and 25 other Senate Democrats sent a letter to the Administration expressing concern that the Administration has not requested additional, supplemental funds from Congress.

### **INFRASTRUCTURE**

For several years, the White House and congressional leaders have discussed how to fund much-needed infrastructure projects. Passing an infrastructure package is a top legislative priority for congressional leaders of both parties and one of President Trump's campaign promises. The challenge remains how to pay for it. In addition to figuring out how to pay for new infrastructure investments, the Highway Trust Fund needs additional resources simply to stay solvent.

This year is the year that Congress and the Administration needs to act to consider the future of billions of dollars' worth of federal infrastructure programs. The FAST Act, which authorizes funding for federal

transit and roads projects, is set to expire September 30. The Water Resources Development Act (WRDA), which provides authorization to the US Army Corp of Engineers and for federal water projects around the country, is also set to expire. There is an urgent need for funding for these projects that will require Congress and the Administration to reauthorize funding billions of dollars for federal transit, roads and Corp of Engineers projects.

### **Surface Transportation Reauthorization Bill**

Last July, the Senate Environment and Public Works Committee passed out of committee a five-year, bi-partisan surface transportation reauthorization bill, “America’s Transportation Infrastructure Act of 2019” (S. 2302). The Senate bill provides \$287 billion in contract authority from the highway account of the Highway Trust Fund for highway and roads transportation programs under the FAST Act that are set to expire. Among other provisions, the bill includes the first climate change title in a highway bill and provides an increase to the Transportation Alternatives program (TAP), which helps to fund bike and pedestrian projects.

It’s expected that the Senate bill could come to the Senate floor for a vote very soon. The Senate Finance Committee is thought to be close to completing a package that will allow Senate Majority Leader Mitch McConnell (R-KY) to bring the transportation bill up for a vote.

An outline of the long-awaited House transportation reauthorization package was released at the end of January. The House package is a broad \$760 billion infrastructure package that combines reauthorization of roads and transit programs under FAST Act, reauthorization of WRDA, reauthorization of some Federal Aviation Administration (FAA) programs, broadband proposals, etc. House Transportation & Infrastructure Chairman Peter DeFazio’s (D-OR) has been saying for over a year that he wants to put forward a broader infrastructure plan that includes broadband and support of other emerging smart transportation technologies. The House Ways & Means Committee has been meeting to consider how to pay for the proposal but House leaders have indicated that they want the Administration to lead on how to pay for the proposals.

The White House did include an infrastructure plan in its FY 2021 budget proposal. The Administration’s budget proposal includes approximately \$1 trillion for infrastructure - \$810 billion over 10 years for the nation’s highways, rail, and transit systems, and another \$190 billion for other infrastructure issues, such as coordinating megaprojects and delivering broadband to rural communities.

The Administration’s infrastructure budget request is a combination of the bipartisan Senate highway bill proposal that is likely to be considered on the Senate floor soon, plus a \$200 billion fund for “nationally significant projects.” The White House is proposing that the remainder of the funding would be secured through public-private partnerships and state and local spending. This is similar to the infrastructure funding proposal offered by the Administration a couple years ago. That proposal was considered “dead on arrival” in Congress because of the significant burden of costs it would place on state and local governments to fund infrastructure projects. The White House is proposing to replenish the depleted Highway Trust Fund through cost savings in other areas of the budget.

## **HEALTHCARE**

The FY 2020 budget temporarily extended several healthcare programs until May 22, 2020. These included several Medicare and community health programs such as the Temporary Assistance for Needy Families Program (TANF), Health Profession Opportunity Grants, funding for community health centers, National Health Service Corps, the Teaching Health Center Graduate Medical Education Program and Medicare programs that provide state health insurance assistance, among others. A scheduled \$4 billion reduction in fiscal 2020 Medicaid funding for disproportionate share hospitals (DSH) was also delayed until May 23, 2020. The Affordable Care Act (ACA) scheduled cuts to federal DSH payments starting in 2014 to account for anticipated increases in coverage, but Congress has since delayed the start of those reductions and other health care taxes.

All of these programs will receive attention by Congress in the coming months and the bill(s) to extend the programs are likely to become vehicles for other healthcare-related measures. Most likely there will be efforts by Congress and the White House to try to reach a compromise and move bills to address surprise medical billing and the cost of prescription drugs.

Additional efforts and programs to address the Coronavirus and strengthen antimicrobial resistance in general will receive heightened consideration. Last week, Health and Human Services Secretary Alex Azar speaking before the Senate Finance Committee expressed concern about the lack of effort to develop rarely-used antibiotics. Congressional Democrats have already begun pressing the Administration to step up efforts and funding for Coronavirus response.

The future of the ACA may also see legislative action this year if the courts uphold the December decision by the US Court of Appeals for the 5th Circuit. The Circuit Court ruled the ACA's individual mandate is unconstitutional. The court stated that the government cannot force most consumers to buy health insurance because Congress eliminated the tax penalty used to enforce the requirement in 2017. The panel sent the case back to a federal district court to decide whether other parts of the law can be saved without the so-called individual mandate.

States such as California and Democratic lawmakers had asked the US Supreme Court to quickly rule on the matter to end the uncertainty over the law's future. In late January, the US Supreme Court refused take up the matter on a fast-track basis, leaving the issue at the federal district court level to decide. If the ACA is determined to be unconstitutional beyond the individual mandate, there will be a scramble in Congress to preserve the Act's most popular provisions such as protections for people with preexisting conditions.

## **HOUSING**

Senator Maria Cantwell (D-WA) and Representative Susan DelBene (D-WA) continue their efforts to make permanent an expansion of the Low-Income Housing Tax Credit (LIHTC). Representative DelBene's bill, the Affordable Housing Tax Credit Improvement Act (HR 3077), and Senator Cantwell's Senate companion bill (S. 1703) were introduced last year.

Recently, Senator Cantwell pressed the issue of affordable housing and support for expansion of the LIHTC when she questioned Treasury Secretary Steve Mnuchin during a Senate Finance Committee hearing. Senator Cantwell is the ranking member of the Senate Finance Committee and is in a strong position to help move the bill.

According to Representative DelBene's office, the legislation will:

- **Increase the amount of credits allocated to each state by 50%** over current levels, resulting in the production of more than 384,000 more affordable homes in the next 10 years than would otherwise be created; and,
- **Stabilize the value of the 4% Affordable Housing Tax Credit** which is used for new construction that uses additional subsidies or the acquisition cost of existing buildings. This will help create more certainty for ongoing and new projects and increase affordable housing production by more than 66,000 units.
- **Expand and reform "recycling" of multifamily housing bonds**, allowing states to maximize the available resources of private activity bonds by recycling multifamily bonds for affordable housing, resulting in 100,000 additional affordable housing units.

In addition to expanding the number of affordable homes built in the US, the legislation makes a number of key reforms to strengthen the Affordable Housing Tax Credit. These reforms will:

- **Create veteran-specific housing options.** The legislation stipulates that the Affordable Housing Tax Credit can be used to support housing for veterans.
- **Better target extremely low-income populations.** The legislation increases the amount of credits available to developments serving extremely low-income populations or those with special needs, such as formerly homeless veterans by 50 percent.
- **Boost affordable housing in Indian Country.** The legislation classifies projects in Indian Country as Difficult to Develop Area, increasing the amount of credits available to affordable housing projects in these areas. The legislation also requires states to consider the needs of their Native American communities by establishing new selection criteria for projects.
- **Boost affordable housing to rural communities.** The legislation gives states the ability to increase the amount of credits available to projects in rural areas.
- **Protect victims of domestic violence and stalking.** The legislation will bring all properties built using the Affordable Housing Tax Credit in line with Violence Against Women Act (VAWA) standards to better protect victims of domestic violence, dating violence, sexual assault, and stalking.
- **Opens affordable housing properties to more low-income students.** The legislation simplifies current rules to ensure non-traditional students, such as single parents, veterans, formerly homeless youth, and domestic violence survivors, have access to affordable housing properties. Previously the rule was overly complex and differed from other HUD-finance housing rules.

## **POLICY & FISCAL IMPACTS**

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## **OPTIONS**

N/A

## **ATTACHMENTS & AVAILABLE DOCUMENTS**

N/A

## **AVAILABLE IN COUNCIL LIBRARY**

N/A