

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Federal Legislative Update

STAFF CONTACTS

Joyce Nichols, Intergovernmental Relations Director, 452-4225
City Manager's Office

POLICY ISSUES

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.

ACTION

DIRECTION

INFORMATION ONLY

No formal action is required; this is an informational briefing.

Council may wish to provide direction to staff regarding legislative proposals.

BACKGROUND/ANALYSIS

The second session of the 115th Congress is underway, and the clock is ticking again to get to agreement on FY18 appropriations. The current stopgap measure extends through Friday, January 19. At the time of this writing there was not agreement on a path forward. Without a compromise, a partial government shutdown would begin at midnight Saturday, January 20. Complicating the negotiations is the absence of an agreement on spending levels, several outstanding program reauthorizations, and the looming end of the Deferred Action for Childhood Arrivals (DACA) program. Also adding to the uncertainty, Alabama's new senator, Democrat Doug Jones has now been sworn in, narrowing the Republican majority in the Senate to just one vote and there is also uncertainty resulting from health problems for two other Senate Republicans.

FY18 Spending and Budget Control Act Caps

Congress concluded calendar year 2017 by passing another continuing resolution (CR) to keep the government funded through January 19, 2018. Since the start of FY2018 on October 1, 2017, Congress has passed three CR's to extend funding in the absence of an agreement on spending caps and appropriations. The most recent CR largely held spending constant at FY2017 levels. The CR also included \$2.1 billion for the Veterans Choice Program, over \$4 billion for Defense Department programs, and a temporary extension of the Foreign Intelligence Surveillance Act.

Congressional leaders and appropriators have their work cut out for them to reach agreement to raise spending caps and pass a fiscal year 2018 omnibus bill, and with such a short window before the expiration of the current CR, another stopgap measure is expected. Ultimately, a compromise on spending caps will be necessary to raise the statutory caps set in the 2011 Budget Control Act and avoid the across-the-board cuts of sequestration. Republicans and Democrats agree that the caps must be lifted.

Republicans are seeking a larger increase in defense spending while Democrats are seeking equal increases in defense and non-defense discretionary spending (called “parity”).

At the end of 2017, work toward an agreement to raise the caps was consuming as much time as work to pass the tax bill. With the tax bill passed, work on the spending caps is moving quickly. An agreement to raise the spending caps would pave the way for appropriators to set topline spending numbers and reach a final deal on fiscal 2018 appropriations.

The House passed an omnibus spending bill along party lines in September. That bill will provide the foundation for its negotiating position in talks with the Senate. The House bill includes a number of “poison pill” policy riders that would make it difficult to pass in the Senate where Democratic votes are required to overcome the threat of a filibuster.

In the Senate, the Appropriations Committee has worked through a handful of its spending bills and released proposed text for the rest. While the Senate has not passed any spending bills on the floor, these proposals give an idea of what Senate appropriators will be pushing for in the omnibus. Some specifics on federal funding for local programs follows is included below and Bellevue staff will be investigating eligibility and suitability of these programs to see if there is a good fit with City interests and priorities.

- ***BYRNE/Justice Assistance Grant (JAG) Program*** – The President’s FY18 budget request significantly cut the JAG program from FY17 levels. The House and Senate both rejected those drastic cuts with the Senate providing \$404.5 million for the program and the House providing \$500 million for a consolidated JAG and COPS Program.
- ***Community Oriented Policing Services (COPS) Hiring Grants*** – The House rolled the COPS program into the JAG program. The Senate and the White House both propose to fund COPS as a separate program, at \$207.5 million and \$207 million respectively.
- ***Emergency Management Performance Grant*** – The House and Senate both propose to fund the grant at \$350 million.
- ***Urban Area Security Initiative*** – The House proposes \$630 million for the Urban Area Security Initiative, including an increase of \$25 million for the Nonprofit Security Grant Program. The Senate proposes \$600 million, including \$20 million for Nonprofit Security Grants.
- ***TIGER Grants*** – TIGER was funded at \$500 million in FY17. The President’s FY18 budget proposal and the House Transportation, Housing and Urban Development appropriations bill zero out the program. The Senate funds it at \$550 million.

Tax Reform

Tax Cuts and Jobs Act – The President signed the \$1.5 trillion tax bill into law on Friday, December 22, 2017. The measure lowers the tax rate for corporations from 35% to 21%, lowers the rate for pass-through businesses, lowers the individual tax rate in the seven income brackets, nearly doubles the standard deduction, and eliminates many other deductions in a bid to simplify the code. Republicans expect that the bill’s price tag will be offset by economic growth while Democrats are skeptical that it will have the desired impact.

For local governments, there was bad news and good news. Changes to the State and Local Tax (SALT) deduction are one major impact. The final bill capped the SALT deduction at \$10,000 for property and sales tax. The cap will result in a higher federal tax burden for many local residents. Advanced

refunding bonds, which allow a one-time refinancing to achieve lower rates and cost savings, are eliminated. Proposed changes to Private Activity Bonds and the Low Income Housing Tax Credit 4% bonds were not included in the final bill, and the tax deductible status of interest earned on municipal bonds was not changed.

Online Sales Tax –This spring, the Supreme Court will hear arguments in a case challenging the 26-year old *Quill* decision which found that a retailer can only be forced to collect sales tax in a state where the company has a physical presence. The new case under consideration by the Court, *South Dakota v. Wayfair*, was set in motion when the state passed a law imposing a sales tax on online retailers with annual in-state sales in excess of \$100,000. The Court’s decision is expected at the end of its current term in June.

According to the Government Accountability Office, states and local governments could have collected up to \$13 billion in additional revenue in 2017 were it not for *Quill*’s implications for e-commerce. In the absence of Congressional action on the online sales tax issue, the Court’s decision to hear South Dakota’s case provides some hope for state and local governments awaiting action on the issue. A favorable decision would allow state and local governments to collect sales tax on transactions regardless of the physical presence of the retailer. Online sales tax legislation, including the Marketplace Fairness Act and the Remote Transactions Parity Act, have not been considered in the 115th Congress.

Health Care

Repeal of Individual Mandate – The final tax bill included language to repeal the Affordable Care Act’s (ACA) requirement that individuals purchase health insurance. Elimination of the individual mandate was favored by many Republicans who were frustrated by the failure of efforts to repeal and replace the ACA earlier in 2017 and as a way to offset the costs of the tax bill by decreasing the number of people receiving ACA subsidies, paid by the federal government. The non-partisan Congressional Budget Office estimated that eliminating the individual mandate will result in thirteen million fewer people insured. The move also further destabilizes the insurance marketplace for individuals, because it removes the penalty for healthy individuals who opt out of coverage.

The Affordable Care Act (ACA) Individual Market Stabilization – The prospects are dim for the Murray-Alexander proposal to stabilize the individual health insurance marketplace by continuing the cost-sharing reductions (CSR’s) and giving more flexibility to states to administer the ACA. In exchange for her “yes” vote on the tax bill, Senator Susan Collins (R-ME) secured a commitment from Senate Majority Leader Mitch McConnell (R-KY) to hold a vote on the Murray-Alexander bill and another health care stabilization measure. However, a Senate vote has yet to be scheduled, and the measure would face widespread opposition in the House.

Program Authorizations – The authorization for the Children’s Health Insurance Program (CHIP), which provides insurance coverage for low-income children who do not qualify for Medicaid, and for the Community Health Centers fund were extended in the CR that expires January 20. Negotiations are occurring to reach a compromise on the programs’ authorization, and CHIP, in particular, has momentum behind it following the release of a Congressional Budget Office report finding that the program will cost substantially less than previously estimated. Uncertainty around the CHIP program is presenting a major challenge for Washington state legislators, who are trying to make budget decisions without solid information on how much funding the state will receive from the federal government for CHIP.

Transportation & Infrastructure

Infrastructure Package – The White House is expected to release its long-awaited infrastructure plan shortly before or after the State of the Union address on January 30. The plan is expected to be structured with \$200 billion in federal funds invested to leverage \$800 billion in new state and local funds for infrastructure projects to reach a total of \$1 trillion. That funding mix of 20% federal dollars and 80% state and local dollars would be a major shift from past federal investment and would likely place a strain on state and local government budgets. The Administration has been meeting with members of Congress to discuss pieces of the plan, but no specific details have been released to date.

Waters of the U.S. Rule – The Supreme Court has agreed to consider a jurisdictional question in the ongoing legal battle over the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers over the Waters of the U.S. rule (WOTUS). The rule was released during the Obama Administration, and many state and local governments have raised concerns that the rule is overly broad and would negatively impact permitting requirements. The Court will consider whether federal appeals courts or federal district courts have jurisdiction over the issue. In the meantime, the EPA has delayed the effective date of the rule to allow more time for the agency to rewrite it.

National Flood Insurance Program – Authorization for the National Flood Insurance Program (NFIP), which is responsible for providing flood insurance where the private market will not, for improving floodplain management, and for mapping flood hazard zones, was extended through January 19, 2018, as part of the most recent CR. While there is broad agreement that the program needs to be reformed, the consensus ends there with little agreement around long-term solutions that would stabilize the program. It is unlikely that those differences will be resolved before the stopgap reauthorization expires, and another short-term extension will likely be necessary.

Immigration

Immigration is closely tied to the ongoing budget and spending negotiations as Democrats continue to push to link a Deferred Action for Childhood Arrivals (DACA) fix to negotiations on the CR. The Trump Administration's decision last fall to end the DACA program in March created the need for a must-pass legislative solution before the program is set to expire. A resolution on DACA has long been expected to be paired with some funding for border security. In more recent discussions, changes to the visa lottery and family-based migration programs have also been added to the mix. A bipartisan group of senators reached an immigration deal late last week, but it was rejected by the White House. The path forward on this issue is not clear at this point.

ALTERNATIVES

NA

RECOMMENDATION

NA

ATTACHMENT(S)

NA

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

NA