

February 22, 2016

## **CITY COUNCIL STUDY SESSION ITEM**

### **SUBJECT**

Federal Legislative Update

### **STAFF CONTACT**

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.

### **DIRECTION NEEDED FROM COUNCIL**

☐ Action  
☐ Discussion  
☒ Information

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

### **BACKGROUND/ANALYSIS**

#### **DC Big Picture Update**

When the House and Senate return from the President's Day recess next week, it will likely be to an even more contentious atmosphere. The death of Supreme Court Justice Antonin Scalia has already sparked fierce disagreements among Senate leaders, the President and 2016 presidential candidates. With President Obama saying that he will nominate someone to replace Scalia and Senate Majority Leader Mitch McConnell (R-KY) committing to block any nominee Obama advances, the path forward is unclear and could result in gridlock in the Senate.

In addition to the brewing Supreme Court appointment battle, there is also disagreement in the budget process. President Obama rolled out his proposed fiscal 2017 budget on Tuesday, February 9. His budget generally adhered to the spending caps set in the Bipartisan Budget Act (BBA) that was passed last year. However, the budget also features new mandatory funding for programs that have historically received discretionary dollars. That means that, while the proposed budget sticks to the caps nominally, the administration's budget actually includes spending increases that have been shifted out of the discretionary spending bucket controlled by Congress. Budget and appropriations leaders say this approach is taking an end run around the traditional process and Congressional oversight of spending. The budget proposal is an aspirational document from the Obama Administration for his final year in office and is unlikely to have much influence on the House and Senate budget proposals.

Meanwhile, the chairman of the House Budget Committee, Congressman Tom Price (R-GA), is hoping to thread the needle with a proposed budget resolution. Many House conservatives opposed the BBA and would like to see the topline numbers in the budget reduced. The disagreement over topline

numbers could derail efforts to pass a budget resolution in the House even though Price and House Speaker Paul Ryan (R-WI) have repeatedly voiced their hope that “regular order” can be preserved in the budget and appropriations process. In all likelihood, changes to the spending levels in the House would result in Senate Democrats blocking all of the twelve appropriations bills and an eventual continuing resolution or omnibus bill just as we have seen in recent years.

Even without clarity on a budget resolution, appropriators are gearing up to begin their process. Leadership in both chambers remains resolute in working to allow enough committee and floor time to pass appropriations bills. Bill language and hearings are likely to come early this year to allow plenty of time for consideration in a year truncated by the presidential election. As usual, it’s likely that familiar policy riders on issues such as net neutrality, waters of the US, Planned Parenthood funding, immigration, etc. will return as part of the process.

## **Transportation & Infrastructure**

### ***President’s Budget Proposal***

The President’s transportation budget allocates \$98.1 billion in total budgetary resources for FY2017, a substantial increase from \$76 billion in FY16. It closely adheres to the FAST Act surface transportation legislation passed late last year and proposes to direct \$20 billion to the Federal Transit Administration (FTA) and \$51.5 billion to the Federal Highway Administration (FHNA). It is a prime example of the shift from discretionary to mandatory funding for some programs, including shifting TIGER grant money and new start money away from the purview of appropriators. As in recent years, the proposal seeks to make a substantial increase in TIGER grants; last year the program received \$500 million, but this year, the President is seeking \$.13 billion. Like the rest of the administration’s proposal, the transportation proposal’s prospects for passing Congress are dim.

### ***Highway Trust Fund (HTF)***

A Congressional Budget Office report on the HTF reflects the ongoing challenges faced by the fund. The FAST Act included a transfer of \$70 billion from the general fund to support authorized spending levels. However, by the time the FAST Act expires, the HTF will again be zeroed out and another transfer will be needed to continue investments in surface transportation.

### ***Water Resources Development Act (WRDA) of 2016***

Congress is expected to pass another WRDA bill this year that would outline water infrastructure and flood prevention projects for the US Army Corps of Engineers. The WRDA bill provides another avenue for investment in infrastructure.

## **Taxation & Finance**

### ***Online Sales Tax***

Senate Majority Leader Mitch McConnell (R-KY) has committed to holding a vote on the Marketplace Fairness Act. His commitment came as supporters of online sales tax legislation agreed not to block approval of a customs enforcement bill conference report that included language to permanently extend the ban on internet access taxes. Supporters of the Marketplace Fairness Act had been targeting the internet access tax bill as a possible vehicle for online sales tax language and didn’t want to lose the opportunity to link the measures. With McConnell’s promise of floor time for the Marketplace Fairness Act sometime later this year, there is a path forward in the Senate. However, it remains unclear whether

the House will take action given the opposition of Congressman Bob Goodlatte (R-VA), chairman of the House Judiciary Committee which has jurisdiction over this issue.

## **Technology**

### ***Net neutrality***

Supporters and opponents alike are still waiting for a federal appeals court decision on a lawsuit challenging the net neutrality rules issued by the Federal Communications Commission (FCC) last year. The FCC rules are designed to prevent internet service providers from discriminating between content creators. In the meantime, the House Energy and Commerce Subcommittee on Communications and Technology has approved a bill that would limit the FCC's regulatory authority under the new rules should the agency prevail in court. Most notably, the committee would prevent the FCC from regulating the rates charged for broadband internet. Despite opposition from subcommittee Democrats, the measure will move to the full committee for consideration.

## **Energy & Environment**

### ***Waters of the US Rule***

Attempts to block the controversial Waters of the US (WOTUS) rule from the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers were stymied at the end of last year when efforts to add a policy rider blocking to the FY16 spending omnibus bill failed. This year, the fight over the WOTUS rule, which is opposed by business, agriculture and municipal groups as regulatory overreach, is likely to be part of the appropriations process again. As in recent years, a WOTUS policy rider could derail the usually bipartisan Energy-Water funding measure. A court challenge to the rule is also ongoing.

### ***Land and Water Conservation Fund***

A three-year extension of the Land and Water Conservation Fund, which provides funding to the Washington state Recreation and Conservation Office for parks, trails and wildlife lands, was included in the final FY16 spending deal. A permanent extension is part of the Senate's broad energy policy bill which is in limbo following efforts to include funding to address the water crisis in Flint, Michigan, in the measure.

## **ALTERNATIVES**

NA

## **RECOMMENDATION**

NA

## **ATTACHMENT(S)**

NA