

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Federal Legislative Update

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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 particular legislative proposals.

BACKGROUND/ANALYSIS

Big Picture Update

The House began its summer recess on July 27. When House members return after Labor Day, they will have just 14 legislative days to complete work on appropriations before the start of the new fiscal year on October 1. In the Senate, Majority Leader Mitch McConnell (R-KY) announced that the August recess would be significantly shortened from five weeks to one (August 6-10). While there is a chance that the Senate will not be in session for the balance of the month of August, Senators are planning to be in DC for all but that week at this point. On the agenda for August, the Senate will continue working through judicial nominations, most notably to fill the vacant seat on the U.S. Supreme Court, as well as appropriations bills, possible responses to the recently imposed tariffs, and program reauthorizations for the National Flood Insurance Program and the Federal Aviation Administration.

As the midterm elections on November 6 approach, attention will shift toward the elections and away from legislative action, so the September work period, once the House is back in session, will be a critical window to clear appropriations and other priority items.

Appropriations and Budget

Congress is working through appropriations bills ahead of the start of the new fiscal year on October 1. In hopes of breaking the cycle of continuing resolutions and spending omnibus spending bills over the past few years, appropriators are packaging spending bills into minibuses to ease their passage. This approach allows for faster consideration and less floor time while also complying with President Trump's request that Congress not send a 12-bill appropriations omnibus to his desk like the one he signed for FY18. All 12 appropriations bills have passed out of their respective House and Senate Appropriations Committees and are either being discussed in conference committee or queued up for floor votes.

The first of the minibus bills to move through the process packages the Military Construction-Veterans Affairs spending bill with the Energy-Water spending bill and the Legislative Branch spending bill. The House and Senate have both passed the measure, and it is now in conference committee to iron out the differences between the two chambers' versions. A conference agreement was delayed while congressional leadership debated the best path to fund the newly-passed \$1.7 billion Veterans Choice bill. Congress is likely to shift the \$1.7 billion in new VA spending from the Department of Homeland Security (DHS) appropriations bill. The move could make bipartisan spending negotiations later in the year tougher as lawmakers fight over funding for the border wall and other immigration provisions in the DHS bill.

In late July, the Senate turned its attention to acting on the second minibus. This bill includes Interior-Environment, Financial Services, Agriculture-Food and Drug Administration (FDA) and Transportation-Housing and Urban Development (THUD) funds. This package likely will attract bipartisan support if senators avoid disagreements over controversial amendments. The House previously passed a minibus that included the Interior-Environment and Financial Services spending bills to which the Senate added the THUD and Agriculture proposals. The White House has indicated concerns about the funding levels in the minibus, which come in approximately \$38 billion higher than the Administration's total budget request for the agencies included in the bill.

Senate appropriators have indicated that the next minibus will combine the funding bills for the Departments of Defense, Labor, and Health and Human Services (Labor-HHS), and that it will be taken up in August. Together, the two spending bills account for approximately two-thirds of federal discretionary spending (more than \$850 billion) and combine the top priorities for members of both parties, and likely enjoying bipartisan support. If the Senate considers the package in August, House and Senate appropriators could move to conference committee on the measure when the House returns in September. The White House has not indicated whether it will support the proposal.

Leadership is hoping to move all of the minibus bills before the start of the fiscal year, but it is possible that continuing resolutions will be needed to provide additional time for the conference committees to finish their work. The three remaining spending bills not included in minibuses, Department of Homeland Security, State-Foreign Operations and Commerce-Justice-Science, likely will be delayed until after the November elections with the covered departments operating under continuing resolutions in the meantime. Each of the three bills include provisions related to immigration and foreign policy and are expected to be more controversial. In particular, the Homeland Security bill will face an uphill battle to passage with the Senate providing \$1.6 billion in border wall funding and the House providing \$5 billion.

Last week, President Trump indicated he was willing to shut down the government if the Democrats do not vote for increased border security which includes the wall he has proposed to construct at the southern border of the U.S.

Transportation and Infrastructure

House Infrastructure Proposal – On July 23, House Transportation and Infrastructure Chairman Bill Shuster (R-PA), who is not seeking reelection this fall, released a legislative framework for infrastructure investments. While the proposal is unlikely to receive a vote in this Congress, it would serve as an agenda-setter for Republicans in the 116th Congress should they retain control of the House as a result of the 2018 midterm elections. The proposal would fund the Highway Trust Fund (HTF)

through 2028 with an increased gas tax (15 cents/gallon on gasoline and 20 cents/gallon on diesel fuel). The tax would be phased in over three years and then be indexed to inflation. In addition, new taxes would be levied on bike tires and electric vehicle batteries and repealing the motor coach exemption for intercity and local public transit buses. At the end of the fiscal year in 2028, the gas tax would be eliminated and possibly replaced by a new Vehicle Miles Traveled program.

In addition to providing financial stability to the HTF, the proposal includes a number of provisions designed to remove barriers to private investment. It authorizes incentive grants to encourage public entities to lease their infrastructure to the private sector and then use both the funding from the lease and the incentive grant to improve other public infrastructure. Representative Shuster's proposal also reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA).

The plan also would establish a national, volunteer-based pilot program to demonstrate whether a per-mile user fee can replace the existing user fees on gasoline and diesel fuel, which are the primary sources of revenue for the HTF. Volunteers for the pilot program can be owners of both passenger vehicles and commercial motor vehicles, as well as an owner of a fleet commercial of motor vehicles. The pilot program would be administered by the Secretary of Transportation, in coordination with the Secretary of the Treasury.

Water Resources Development Act (WRDA) – The House has passed a two-year WRDA bill to authorization and fund the U.S. Army Corps of Engineers and water resources projects. Meanwhile, the Senate Environment and Public Works Committee is working to limit the scope – and price tag – of its WRDA proposal before taking to the floor in the coming weeks. The Senate bill initially included \$200 million for the WIFIA loan program, but that has been reduced to \$9 million.

Immigration

House Immigration Debate – After several weeks of negotiations, the House voted on and failed to pass a pair of immigration bills at the end of June. The chamber first took up a bill from Representative Bob Goodlatte (R-VA) that included Administration priorities to curtail legal immigration, increase border security, crack down on sanctuary cities, and mandate that employers use the E-Verify system. The bill also would have provided three-year legal status for Deferred Action for Childhood Arrivals (DACA) recipients. After the bill proposed by Representative Goodlatte failed, the chamber considered a compromise proposal supported by a small number of moderate Republicans who had been pushing for a procedural vote on DACA.

The compromise bill would have provided a path to citizenship for DACA recipients and other young immigrants who are eligible for DACA status but have not applied; ended the family separation policy at the border; and provided funding for the border wall. This proposal also failed, leaving the path forward on any immigration legislation unclear. The appropriations process could present some limited opportunities for action, but not comprehensive reform.

Sanctuary Cities – The Byrne-Justice Assistance Grant program provides funding for public safety to many cities across the country. A federal judge rejected a U.S. Justice Department policy that would withhold these funds from cities that do not cooperate with federal immigration authorities. In the case, brought by the City of Chicago, the judge found that the conditions of the policy proposed by the Justice Department violated the separation of powers act and the decision rejecting the policy should be applied nationwide.

Tax and Finance

E-Fairness – The U.S. Supreme Court overruled its 1992 decision in the *Quill* case that had barred state and local governments from collecting sales taxes from internet sellers that did not have a physical presence in their jurisdiction. In the wake of this decision, tax experts and some lawmakers are advocating for legislation that would protect small businesses by placing a threshold on the amount of revenue required before a company is required to start collecting sales tax.

Foreign Investments Review – Under a provision included in the National Defense Authorization Act (NDAA, H.R. 5515), the scope of transactions subject to review by the Committee on Foreign Investment in the U.S. (CFIUS) would be expanded. The CFIUS is made up of representatives of various federal agencies and reviews the national security implications of foreign investment in the U.S. The provision is the result of a compromise between Senate language and a previously-passed House bill (H.R. 5841). The compromise clears the way for the bill to go to the President for his signature.

The CFIUS could now conduct a review of any transaction that could result in foreign control of a U.S. business, including businesses that work around critical technology and infrastructure. In the past, the CFIUS typically focused on mergers, acquisitions and takeovers. However, the expanded review authority would now include artificial intelligence and semiconductors and would be expected to cover defense articles and services on the Commerce Control List, as well as oversight of businesses that collect sensitive personal data of U.S. citizens that would allow a foreign person to access information regarding critical technologies or critical infrastructure (excluding financial data) and other information.

Staff will provide additional information for Council if the legislation is signed by the President and once the potential impacts on state and local governments are known.

Technology and Telecommunications

Net Neutrality – Last December, the Federal Communications Commission (FCC) announced that it would roll back previous FCC rulemaking to protect net neutrality under its Title II authority. The FCC's action to roll back the regulation went into effect on June 11. Some states, including Washington, have taken legislative action to protect net neutrality. On July 17, Republican Congressman Mike Coffman (R-CO), introduced a bill in the House that would reestablish the Internet as a public utility nationwide. The prospects are not good for Representative Coffman's legislation in the House, and neither are the prospects to roll back the newer FCC regulation via the Congressional Review Act.

5G/Small Cell Facilities – Senators John Thune (R-OK) and Brian Schatz (D-HI) introduced legislation to ease the deployment of small cell wireless facilities. The measure, S. 3157, would establish a short timeline for states and local governments to approve or deny requests to install the equipment. Cities have raised concerns about the measures local preemption provisions and have conveyed concerns to Congress via national associations such as the National League of Cities.

ALTERNATIVES

N/A

RECOMMENDATION

N/A

ATTACHMENT(S)

N/A