

**CITY COUNCIL STUDY SESSION ITEM**

**SUBJECT**

Federal Legislative Update

**STAFF CONTACT(S)**

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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**

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**DIRECTION**

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**INFORMATION ONLY**

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

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

**BACKGROUND/ANALYSIS**

**DC Big Picture Update**

The 115<sup>th</sup> Congress convened on January 3. In the first weeks of official business, much of the action has focused on paving the path forward for the incoming Trump Administration's first 100 days – considering Cabinet appointees and beginning the process to repeal the Affordable Care Act (ACA). More on those actions later.

Until Inauguration Day on January 20, a feeling of limbo will persist in DC with the outgoing Obama Administration making the final acts of his presidency while the incoming Trump Administration prepares to take the helm at the White House. Policy issues, like the energy bill and tax extenders, that were hot in the 2016 lame duck session have largely cooled while legislators wait for the new Administration to settle in.

President-elect Donald Trump began rolling out his picks for Cabinet positions at the end of 2016. The Senate got off to a quick start in considering the selections, holding seven confirmation hearings during the week of January 9. These hearings have featured varying levels of combativeness in the questioning of the nominees, particularly from Senate Democrats who oppose a number of President-elect Trump's choices. Senate Majority Leader Mitch McConnell (R-KY) is hoping to have seven or eight nominees ready to confirm on Inauguration day, with an emphasis on the national security team. With confirmation hearings and floor votes filling the calendar, there is limited time for other action in the Senate.

Last week there were confirmation hearings for nominees for Attorney General (Jeff Sessions), Secretary of State (Rex Tillerson), Secretary of Homeland Security (John Kelly), Secretary of Transportation (Elaine Chao), CIA Director (Mike Pompeo), HUD Secretary (Ben Carson), and Defense Secretary (James Mattis).

Coming up are confirmation hearings for nominees for Secretary of Education (Betsy DeVos), Secretary of Interior (Ryan Zinke), Secretary of Commerce (Wilbur Ross), EPA Administrator (Scott Pruitt), Secretary of Health and Human Services (HHS) (Tom Price), Ambassador to the United Nations (Nikki Haley), Secretary of Energy (Rick Perry), Secretary of Treasury (Steven Mnuchin).

### **Appropriations/Continuing Resolution**

An FY17 omnibus spending bill was widely expected to be passed during the lame duck session at the end of last year. However, following the election, the President-elect's transition team asked that Congress pass another continuing resolution (CR) to keep the government funded beyond the existing CR's December expiration date and to allow time for the new administration to provide input on FY17 funding. Congress passed a new CR, holding funding levels steady at FY16 levels, that extends through April 28. That means that seven months of FY17 will have been funded under a CR.

Discussions are underway on how to fund the final five months of FY17; it could be an omnibus or several smaller minibus spending bills. It's possible that a supplemental funding request for President-elect Trump's proposed border wall with Mexico could also be considered.

Finally on the spending front, it's likely that debate over an FY18 budget resolution will begin early this year. The FY17 budget resolution passed by the House and Senate last week has a very narrow focus (more below), and an FY18 resolution is seen as a way to start the ball rolling on tax reform. A budget resolution sets top-line spending numbers for appropriators to utilize in drafting their appropriations bill proposals. Recently, budget resolutions have been viewed as superlative as those top-line numbers have been set in the Murray-Ryan deal and the subsequent Bipartisan Budget Act, but the resolutions will likely become more significant in the new Congress both as a way to set spending levels and a way to lay out a path for major changes like the repeal of the ACA and tax reform under reconciliation.

### **Affordable Care Act**

While confirmation hearings have dominated the Senate committee process, starting the process of repealing the ACA or "Obamacare," has been the major focus on the floor. Last week the Senate passed a FY17 budget resolution that included reconciliation language directing the committees with jurisdiction over the ACA (Senate Finance Committee and Health, Education, Labor and Pensions Committee and House Energy and Commerce Committee and Ways and Means Committee) to develop plans to repeal portions of the ACA and submit those plans to the Senate and House Budget Committees by January 27. The Budget Committees will compile those plans into legislation that will be considered under budget reconciliation rules which require only a simple majority vote, thus avoiding a filibuster in the Senate. Under budget rules, the reconciliation process can only be used for budget-related actions, so this approach to repeal will focus specifically on budget-related pieces of the ACA: subsidies for individuals purchasing coverage in the individual market; Medicaid expansion; penalties under the individual mandate; and a number of tax increases that help pay for the ACA. The House passed the resolution last Friday.

Passage of the FY17 budget resolution with reconciliation instructions is just the first step in what will be a long process to unwind the ACA. With the repeal process in motion, the looming question is what will the plan be to replace the ACA and ensure continued stability in the insurance markets and coverage for those currently insured under the ACA. Initially, Republican leadership had largely coalesced around a “repeal and delay” strategy that would allow additional time after the repeal is passed for lawmakers to develop their replacement plan. Many lawmakers are pushing for simultaneous or nearly simultaneous repeal and replace to ensure market stability and continuity of coverage. Regardless of which approach is taken, it is expected that there will be a transition period of two-to-four years between repeal of the ACA and the replacement in an effort to ensure a smooth path between the policies.

Also complicating the process, it is unlikely that Congressman Tom Price (R-GA), President-elect Trump’s pick to head the Department of Housing and Human Services, which currently oversees the ACA and will oversee its replacement, will be confirmed before mid-February. Price has been a leader in fighting the ACA in Congress and is expected to be an integral part of the repeal and replace effort once he is confirmed.

Many state and local leaders continue to express their concerns about the impact that repeal, particularly of the Medicaid expansion, will have on residents’ coverage and government budgets. Medicaid expansion and other ACA policies have directed substantial federal funding to states and local governments for patient coverage, uncompensated care at public hospitals and public health services. This issue will continue to dominate Congressional discussion, action and headlines for at least the next several months.

## **Transportation and Infrastructure**

Transportation Secretary-designate Elaine Chao was among the President-elect's Cabinet appointees to appear in a confirmation hearing recently. Chao, who is married to Senate Majority Leader Mitch McConnell and served as Secretary of Labor in the George W. Bush Administration, appeared before the Senate Commerce, Science and Transportation Committee on Wednesday, January 11, and received a generally warm welcome from the panel. Chao focused her remarks on three broad categories: safety and new technology; expediting projects and improving efficiency in spending; and rural-urban and modal equity. She is well known for her commitment to outcome-based policymaking from her time at the Department of Labor.

In terms of existing transportation programs, Chao highlighted the perennial challenges in funding stability of the Highway Trust Fund, which pays for surface transportation projects. She also said that the TIGER grant and TIFIA loan programs have proven their worth, giving cause for cautious optimism to supporters of the programs who hope to see them continue. Other competitive grant programs are also likely to continue.

Senators also asked about the proposed infrastructure investment plan that was a cornerstone of President-elect Trump’s campaign plan. To date, there are few details about the contents of the plan, and Chao wasn’t able to shed light on when additional information might be released. She did confirm that the plan would include both funding (from federal coffers) and financing (by leveraging private equity from public-private partnerships).

## **Environment**

In the first week of the new Congress, the House advanced two bills that would expand Congress' ability to roll back some of the regulatory policies of the Obama Administration. The measures, the Midnight Rules Relief Act and the Regulations from the Executive in Need of Scrutiny Act (REINS Act), allow Congress to reject rules within 60 legislative days of finalization and require congressional approval of federal regulations with an estimated annual economic impact of more than \$100 million. These measures would make it easier to roll back regulations, should they avoid the filibuster in the Senate and become law.

One of the major regulations that will continue to be targeted by Congressional Republicans – and perhaps the new Administration – will be the controversial Waters of the United States rule which expands federal authority (Environmental Protection Agency and U.S. Army Corps of Engineers) under the Clean Water Act. The rule is currently working its way through the courts as many groups, including municipalities and agriculture, have opposed it.

## **115<sup>th</sup> Congress**

Washington's two Senators – Patty Murray and Maria Cantwell – are both returning. Senator Murray will continue as ranking member of the Health, Education, Labor and Pensions Committee and of the Transportation, Housing and Urban Development Appropriations Subcommittee. She also serves on the Budget and Veterans Affairs Committees and holds the number three spot in the Senate Democratic Caucus, serving as Conference Secretary. Senator Cantwell will continue as the ranking member of the Senate Energy and Natural Resources Committee. She also serves on the Commerce, Science and Transportation Committee, the Finance Committee, the Indian Affairs Committee and the Small Business Committee.

In the House, Washington has a new member serving the 7<sup>th</sup> Congressional District, Congresswoman Pramila Jayapal, who replaced Jim McDermott, who retired. Congressman Dan Newhouse joins Congresswoman Jaime Herrera Beutler and Congressman Derek Kilmer on the House Appropriations Committee. Congresswoman Suzan DelBene joined the Ways and Means Committee where Congressman Dave Reichert serves as the Chair of the Trade Subcommittee. Congressman Adam Smith continues in his role as ranking member on the House Armed Services Committee.

## **ALTERNATIVES**

NA

## **RECOMMENDATION**

NA

## **ATTACHMENT(S)**

NA

## **AVAILABLE IN COUNCIL DOCUMENT LIBRARY**

NA