

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

DC Big Picture Update

The environment in Washington, DC, has been interesting in the days since the start of the 115th Congress and President Trump's inauguration. There has been a flurry of action from the Trump Administration coupled with strong resistance from minority Democrats and a lack of consensus among majority Republicans on how to approach some major issues, including the Affordable Care Act (ACA). Members of Congress have been back in their home states/districts for the President's Day recess and return on Monday, February 27.

The Senate has been almost singularly focused on processing the new administration's cabinet nominees which has not left much time for other action in the chamber. (More on the confirmation process for Presidential appointees below.) Meanwhile, the House has passed a flurry of measures to roll back regulations finalized in the last few months of the Obama Administration. Under the Congressional Review Act (CRA), Congress can undo regulations put into place in the final six months of the previous President's term with a simple majority vote.

In addition, President Trump's nominee to fill the vacant seat on the Supreme Court, Judge Neil Gorsuch, was scheduled for his first confirmation hearing in the Senate on March 20. The confirmation process is expected to be contentious with Senate Democrats signaling their opposition early and expressing lingering frustration over Senate Republicans' decision to block President Obama's Supreme Court nominee last year. Judge Gorsuch is widely seen as a fair jurist with a conservative take on the law. He was easily approved by the Senate to serve in his current position on the US Court of Appeals 10th Circuit. In the wake of comments from President Trump regarding judicial review, intense focus has been placed on Judge Gorsuch's opinions about judicial independence. Senate Democrats are debating whether to filibuster the nomination – a move that would likely lead Senate Republicans calling for a vote to eliminate the filibuster.

Administration/Senate Activity on Filling Cabinet Positions

President Trump has nominated 22 individuals to serve in his cabinet, and so far 14 of the nominees have been confirmed. Some less controversial appointees have moved quickly through the process, while others have faced considerable opposition, including Senate Democrats holding the floor overnight for speeches to express their concerns regarding Betsy DeVos, nominated for Secretary of Education, Scott Pruitt for the Environmental Protection Agency and Jeff Sessions for Attorney General, all of whom have been confirmed by the Senate. Still, action on other nominees has been delayed because Democrats are drawing out consideration for the most controversial nominees which has dramatically extended the amount of time required for approval, including Ben Carson as Secretary of Housing and Urban Development, Rick Perry for Secretary of Energy and Ryan Zinke as Secretary of Interior. The heavy scrutiny lead one nominee, Andy Puzder, to withdraw from consideration as Secretary of Labor. On February 16, President Trump nominated former Justice Department official Alexander Acosta to head the Labor Department.

The additional scrutiny being given to the new administration's Cabinet nominees has dramatically slowed what was widely expected to be a busy and fast-moving first 100 days of President Trump's term. In total, there are thousands of executive nominees that will require approval. Many agencies are limited in their decision-making ability until the Senate confirms the cabinet officials and their deputies, some of whom have not yet been named. The table below provides a snapshot of the status cabinet appointments:

Department	Nominee	Committee Confirmation	Floor Confirmation
State	Rex Tillerson	Jan 23	Feb 1
Treasury	Steven Mnuchin	Feb 1	Feb 13
Defense	Gen. James Mattis (ret.)	Jan 18	Jan 20
Attorney General	Former Alabama Sen. Jeff Sessions	Feb 1	Feb 8
Interior	Montana Rep. Ryan Zinke	Jan 31	
Agriculture	Former Georgia Gov. Sonny Perdue	TBD	
Commerce	Wilbur Ross	Jan 24	
Labor	Alexander Acosta	TBD	
Housing & Human Services	Former Georgia Rep Tom Price	Feb 1	Feb 10
Housing & Urban Dev.	Dr. Ben Carson	Jan 24	
Energy	Former Texas Gov. Rick Perry	Jan 31	
Transportation	Elaine Chao	Jan 24	Jan 31
Education	Betsy DeVos	Jan 31	Feb 7
Veterans Affairs	David Shulkin	Feb 7	Feb 13
Homeland Security	Gen John Kelly (ret.)	n/a	Jan 20
EPA	Scott Pruitt	Feb 2	Feb 17
Small Business Administration	Linda McMahon	Jan 31	Feb 14

Department	Nominee	Committee Confirmation	Floor Confirmation
CIA	Former Kansas Rep. Mike Pompeo	Jan 23	Jan 23
National Intelligence	Former Indiana Sen. Dan Coats	TBD	
UN Ambassador	Former South Carolina Gov. Nikki Haley	Jan 23	Jan 24
Office of Mgmt. & Budget	Former South Carolina Rep. Mick Mulvaney	Feb 2	Feb 16
Trade Representative	Robert Lighthizer	TBD	

Budget & Appropriations

FY17 Appropriations – The FY17 continuing resolution (CR) passed at the end of last year is set to expire on April 28. House and Senate appropriators have returned to negotiations on the 11 remaining spending bills (one spending bill, funding military construction and the Veteran’s Administration was passed as part of the September 2016 CR). The blueprint for FY17 spending is already in place because the House and Senate appropriations committees both passed all 12 of the bills out of committee last year, but the details still need to be ironed out with input from the Trump Administration. That input is expected to include supplemental funding requests for the border wall between Mexico and the US and additional Pentagon funding.

Between now and the end of April, Congress is scheduled for seven weeks of legislative business. It will be a tight squeeze to move all 11 bills separately in that time, especially with the Senate still slogging through executive branch nominees and the Supreme Court nominee. It is possible that the appropriations bills could be packaged into “minibuses” or a single omnibus spending bill. Passing another CR covering the remainder of the fiscal year is also an option.

FY18 Appropriations – Hot on the heels of the FY17 appropriations process, appropriators will need to turn their attention to FY18 spending. The Trump Administration, now with Office of Management and Budget Director Mick Mulvaney leading the budget process, is expected to submit its FY18 spending proposal sometime this spring. That proposal will set the table for appropriators to draft their spending plans by setting topline spending numbers for the budget. Several budget proposals are circulating at this point, including a draft memo from the Trump Administration, a proposal from the Republican Study Committee and another from the conservative Heritage Foundation. Each of those proposals would dramatically re-envision the federal government and cut the federal debt through significant cuts to programs. The proposed cuts under discussion include substantially curtailing the EPA and Department of Energy research, clean energy and environmental programs, eliminating federal funding for arts programs and making sweeping changes to safety net programs like the Community Development Block Grant. At this point, these are all just draft proposals.

Transportation & Infrastructure

A cornerstone of President Trump’s campaign was a \$1 trillion infrastructure investment package. Details on what that proposal would entail have not been fully fleshed out, but it is clear that it would emphasize public-private partnerships where federal dollars are used to leverage private investment in infrastructure, including roads and bridges, waterways, airports, etc. Some Democrats have expressed optimism that an infrastructure package would provide an opportunity for bipartisan collaboration, while

some Republicans have expressed concerns about the cost of such a program. Staff will continue to monitor as more details become available.

Tax & Finance

Municipal Bonds – While it remains intact for now, eliminating the tax exempt status of municipal bonds has long been viewed as a potential source of revenue in a tax reform package. As discussions around tax reform move forward, it is likely that municipal bonds will again be in the mix. Washington Congressmen Derek Kilmer (D-District 6), Dave Reichert (R-District 8) and Adam Smith (D-District 9) have joined the House Municipal-Finance Caucus which works to protect the tax exempt status of municipal bonds.

Energy & Environment

Congressional Review Act (CRA) Actions – As mentioned earlier in this update, Congress is working quickly to undo many Obama Administration regulations under the CRA. Under the CRA, Congress is able to roll back regulatory actions taken in the last six months of the previous administration during its first 60 legislative days. The 60-day clock has members, especially in the House, moving quickly. The Senate has been taking up CRA resolutions in between hearings and action on Cabinet nominees. So far, the House has introduced over 20 resolutions under the CRA. Three have been passed by both chambers, including: a rule that would have prevented some Americans with disabilities from purchasing or possessing firearms if they receive Social Security benefits; the stream protection rule; and a disclosure rule requiring energy companies to report royalties and other payments that energy companies make to foreign governments.

Waters of the US Rule – While the controversial EPA/US Army Corps of Engineers waters of the US rule (WOTUS) was finalized too long ago to be addressed under the CRA, it is widely expected that Congress will take action to roll back the rule within the year. The WOTUS extended federal jurisdiction under the EPA and Corps of Engineers to many more bodies of water under the Clean Water Act and has drawn opposition from the business and agricultural sectors as well as local governments who believe that it oversteps the regulatory authority of local jurisdictions.

Housing, Human Services & Public Safety

Affordable Care Act (ACA) Repeal and Replace – The FY17 budget resolution passed early in January directed the House and Senate Committees with jurisdiction over health care to develop proposals for how to repeal the ACA. The resolution set January 27 as the deadline for those committees (House Ways and Means, House Energy and Commerce, Senate Finance and Senate Health, Education, Labor and Pensions) to submit their proposals. That deadline has since passed, and it is now expected that a proposal will be released next month. In the meantime, the House has developed a briefing paper that outlines what ACA repeal and replacement would look like: increased use of health savings accounts, catastrophic coverage, changes to tax credits for those buying in the individual markets. In addition, the Trump Administration has also taken action on the ACA. Shortly after being sworn in, President Trump signed an executive order directing the Secretary of Health and Human Services (the recently-confirmed Tom Price) to exercise his authority and discretion to provide greater flexibility to states and to minimize the regulatory burdens of the ACA. Under the order, Secretary Price can make a number of decisions that will impact health care across the country, including changing what is covered as preventative care and changing open and special enrollment periods. While the overall process of repealing and replacing will take another several months and would largely not impact coverage until 2018, some of these changes could have an immediate impact.

Executive Orders – At a press conference on February 16, President Trump announced plans to rescind the controversial immigrant and refugee travel ban executive order and replace it with a new order on who can enter the country next week. The initial executive order has faced substantial legal challenges. On February 9, President Trump issued three executive orders on crime and policing: one to establish a Task Force on Crime Reduction and Public Safety, one to strengthen enforcement of federal laws relating to transnational criminal organizations and preventing international trafficking and one to pursue legislation that would promote the safety of law enforcement officers. The third order calls for an evaluation of Department of Justice grant funding programs “to determine the extent to which its grant funding supports and protects federal, state, tribal and local law enforcement officers.” Upon completion of that evaluation, Justice Department staff will recommend any changes to grant funding.

ALTERNATIVES

N/A

RECOMMENDATION

N/A