March 27, 2017

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
Spring will be punctuated by some major political/policy battles – and the Easter recess which begins April 7 and lasts for two weeks. Republican leadership hopes to repeal and replace the Affordable Care Act (ACA/Obamacare) before the start of the recess. That will leave the final week of April to finish up FY17 appropriations before the continuing resolutions that are funding government operations expire.

At the same time, the House and Senate Intelligence Committees have begun their investigations of Russia's involvement in the 2016 presidential election. In addition, the Senate continues the confirmation process for President Trump's cabinet nominees. The Senate Judiciary Committee has begun its consideration of Judge Neil Gorsuch to fill the vacancy on the U.S. Supreme Court.

Last week, the White House released its budget outline for FY18. The so-called "skinny budget", at 62 pages, is somewhat the norm for the budgets of incoming Presidents. The document provides the outline of the Administration's priorities and, as with most Presidential budgets, it won't pass in the form in which it was submitted. The proposal includes significant cuts to domestic discretionary spending. Many of the details of the outline, including a planned $54 billion increase in defense spending, had already been made public, so there were few surprises in the document. Even though many of the proposals were largely anticipated, the response from Capitol Hill was very strong. House and Senate Democrats and Republicans expressed a wide range of concerns about the proposal. In DC, they say, "the President proposes, and the Congress disposes," meaning that the proposal lays out President Trump's priorities but Congress will make the final decisions – and many of the programs facing deep cuts in the President's plan may be left out of the final spending plan. More on FY18 spending is included below.

Administration & Cabinet Nominees

The Senate is nearly finished with the confirmation process for the President's cabinet nominees. Only three appointees have yet to be approved by the upper chamber. Trade Representative-designate Robert Lighthizer's confirmation hearing before the Senate Finance Committee was held on March 14; no committee vote has been scheduled yet. Consideration of Agriculture Secretary-designate Sonny Perdue was delayed to allow time for his background check and ethics paperwork to be processed. His confirmation hearing was scheduled for March 23. And, Secretary of Labor-designate Alexander Acosta, is scheduled for a hearing on March 22. Acosta was nominated to head the Labor Department after President Trump's original pick, Andy Puzder, withdrew from consideration.

In addition to Cabinet-level selections, there are an estimated 1,500 additional positions in the administration that require Senate confirmation. The White House has begun to advance names to fill many of these roles, and the Senate has approved several high-level appointees, including at the Justice Department and the Housing and Human Services Department. The Administration has also indicated that it may not fill all of the vacancies as part of its plan to limit the size of the federal government.

The confirmation status of the President's cabinet nominees is included in the chart below

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 AL Sen. Jeff Sessions	Feb 1	Feb 8
Interior	MT Rep. Ryan Zinke	Jan 31	Mar 1
Agriculture	Former GA Gov. Sonny Perdue	*TBD*	
Commerce	Wilbur Ross	Jan 24	Feb 27
Labor	Alexander Acosta	*TBD*	
Housing & Human Services	Former GA Rep Tom Price	Feb 1	Feb 10
Housing & Urban Development	Dr. Ben Carson	Jan 24	Mar 2
Energy	Former TX Gov. Rick Perry	Jan 31	Mar 2
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
CIA	Former KS Rep. Mike Pompeo	Jan 23	Jan 23
National Intelligence	Former IN Sen. Dan Coats	Feb 28	Mar 15
UN Ambassador	Former SC Gov. Nikki Haley	Jan 23	Jan 24
Office of Mgmt. & Budget	Former SC Rep. Mick Mulvaney	Feb 2	Feb 16
Trade Representative	Robert Lighthizer	*TBD*	

Debt Limit

Adding to Congress' to do list, the debt limit reset at midnight on March 15. Congress will need to act in the next several months to extend the suspension of the limit. In the meantime, the Treasury Department will use so-called "extraordinary measures" to avoid defaulting on the national debt. The debt limit or debt ceiling is a legislative cap on the amount of national debt that can be issued by the federal government. It is likely that a vote on the debt limit will be folded into a larger legislative package; FY17 spending could be the chosen vehicle, but is just the first opportunity.

Budget and Appropriations

Budget Resolutions and Reconciliation – The FY17 budget resolution passed in January set topline spending numbers and included reconciliation language to repeal the Affordable Care Act (ACA) (more below) and enact replacement legislation. Reconciliation is a process that requires only a simple majority vote to pass legislation which allows the Senate to avoid the threat of a filibuster. Congress must finish its ACA work under reconciliation instructions before it can take up a FY18 budget resolution to set topline spending numbers. The FY18 budget resolution is also expected to include reconciliation language for tax reform, which is why Congressional Republicans and the White House are pushing to complete ACA repeal and replace before they can take up the issue of tax reform.

FY17 Appropriations – The FY17 continuing resolution (CR) passed at the end of last year will expire on April 28. 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 final deal is not yet done. One of the spending bills, the non-controversial Military Construction and Veterans Affairs, was passed last fall. The House passed the Defense appropriations bill earlier in March on strong bipartisan lines. The remaining 10 appropriations bills could be packaged into an omnibus FY17 spending bill or another CR that would hold funding steady at FY16 levels for the rest of the year. Whether an omnibus or a CR, it's likely that the nondefense discretionary spending including in those 10 spending bills will hitch a ride on the Defense spending bill shortly before the current CR expires at the end of April. By waiting until closer to the April 28 deadline, leadership hopes to solidify support in a must-pass situation.

FY18 Appropriations – As noted earlier, the White House released its "skinny budget" for FY18 – the fiscal year that begins on October 1, 2017. This budget proposal lays out the Administration's proposed spending allocations for federal departments and agencies. The spending outline is called the "skinny budget" because it includes only highlights, so it is much skinnier than the full budget proposal from the Administration which is expected in mid-May. The budget outline kicks off the FY18 appropriations process.

The President's budget proposes a total discretionary budget of $1.07 trillion. (The discretionary budget does not include mandatory spending, such as spending on entitlement programs. Mandatory spending is not addressed in the "skinny budget".) While this represents an overall cut of 1.2% compared with current spending levels, it impacts defense and nondefense discretionary spending dramatically differently. The proposal would increase defense spending by $54 billion and cut nondefense spending by the same amount, so there is no impact on the budget deficit. The $54 billion increase represents a 10% increase in spending for the Department of Defense (DOD). Within nondefense discretionary spending, the Department of Homeland Security (DHS) and the Department of Veterans Affairs (VA) are the only agencies to see proposed increases, 6.8% and 6% respectively. All other federal departments and independent agencies would see cuts under this proposal.

Budget proposals from the president (any president) are starting point documents – there is a long way to go before we have FY18 spending in place. While the White House traditionally produces a budget proposal to highlight Administration priorities, Congress holds the power of the purse and conducts its own appropriations process. Members of both parties and in both chambers have expressed concerns about the President's budget proposal since its release for a variety of reasons – cuts to popular transportation/infrastructure/safety net programs, not enough investment in the military, a complete failure to address mandatory entitlement spending, etc.

In terms of timing, Congressional attention currently is focused on repealing the Affordable Care Act (ACA or Obamacare) and enacting replacement legislation called the American Health Care Act (AHCA) which is the current proposal under consideration in the House. In addition, Congress will be on Easter recess for two weeks in April, returning with one week to wrap up FY17 appropriations. Between health care and the CR, Congress likely will not be able to turn its attention to FY18 appropriations until early May, when the President's detailed budget is expected to be released. Then work will begin in earnest on passage of a FY18 budget resolution that sets topline spending numbers for defense and nondefense discretionary spending.

If the President's detailed budget proposal is presented in mid-May as expected, it is likely that appropriations committees would hold hearings on the proposal through the remainder of the month and then begin marking up their own appropriations proposals in June. The cuts and changes in the President's budget proposal will be taken under consideration as part of the appropriations process, and ultimately, legislative action will be required for almost all of the proposed changes, should Congress decide to move them forward.

As has been the case in recent years, the appropriations process is very easily bogged down. Some action will need to be taken before the start of FY18 on October 1. That could mean a continuing resolution, spending bills or some combination of the two. The Budget Control Act (BCA), passed in 2011, is also an obstacle to enacting this proposal. The increase in defense spending above the spending caps set in the BCA would trigger sequestration unless Congress reaches a compromise to lift the caps, like the Murray-Ryan deal in 2013 and the Bipartisan Budget Act in 2015. Any deal to raise the caps would require 60 votes in the Senate.

Below is a breakdown of how the budget outline would impact several agencies:

Department of Health and Human Services (HHS): The budget outline requests $69 billion for HHS, a 17.9% or $15.1 billion reduction from the current spending level. The cuts include eliminating the Low Income Home Energy Assistance Program (LIHEAP) and the Community Services Block Grant (CSBG) as well as a drastic decrease in funding for the National Institutes of Health. On the other hand, the budget outline funds the Substance Abuse and Mental Health Services Administration's substance abuse treatment activities and directs an additional $500 million (above FY16 levels) to address the opioid epidemic.

Department of Housing and Urban Development (HUD): The budget outline requests $40.7 billion for HUD, a 13.2% or $6.2 billion reduction. To achieve that reduction, the Community Development Block Grant (CDBG) would be eliminated ($3 billion savings) along with the HOME Investment Partnerships Program and several other programs ($1.1 billion savings). Zeroing out CDBG, HOME and other popular assistance programs will meet with strong congressional opposition.

Department of Justice (DOJ): The budget outline requests $27.7 billion for DOJ, a 3.8% or $1.1 billion reduction. There is an increased focus on DOJ programs to address criminal organizations, drug trafficking and illegal immigration. On the other hand, the proposal calls for $700 million in cuts to programs that support local and state law enforcement. The State Criminal Alien Assistance Program is specifically identified for elimination, but there are no additional details on other local programs, like Community-Oriented Policing Services (COPS) or the Violence Against Women Act (VAWA), that could be impacted.

Department of Transportation (USDOT): The budget outline requests $16.2 billion for USDOT, a 12.7% or $2.4 billion reduction. The proposal puts a freeze on the Federal Transit Administration's Capital Investment Program (also called New Starts). Only projects that have existing full funding grant agreements in place will receive funding. Even if Congress did want to appropriate funds for projects that are poised to finalize their grants, it is still up to USDOT to execute the agreements, so those projects would still not move forward. A freeze on finalizing the agreements would impact several regional projects, including Sound Transit's planned extensions to Lynnwood and Federal Way. The proposal also eliminates funding for the TIGER grant program. TIGER is very popular in Congress, especially the Senate, so appropriators could act to protect the program.

The discretionary spending addressed in the "skinny budget" makes up about one quarter of total transportation funding from the federal government. The rest is made up of mandatory spending, largely through the Highway Trust Fund. It is likely that the infrastructure package planned by the Trump Administration will shift more transportation from discretionary to mandatory spending, but there are limited details on what will be included in that plan or how it will be funded.

Environmental Protection Agency (EPA): The budget outline requests $5.7 billion for the EPA, a 31% or $2.6 billion reduction. The proposal eliminates (or reduces enforcement) many clean water and air, research and climate change programs. It does slightly increase funding for State Revolving Funds and continues to fund the Water Infrastructure Finance and Innovation Act program.

Health Care and the Affordable Care Act

House Republicans released their health care proposal, the "American Health Care Act" (ACHA), earlier this month, and the House Ways and Means Committee and House Energy and Commerce Committee held markups of the legislation earlier this month to consider amendments to the portions of the bill over which they have jurisdiction. The AHCA then moved to the House Budget Committee for additional changes before coming to the House Floor. A vote was scheduled for March 23, but at the time this update is being written, it's not yet clear that there are enough "yes" votes to pass the measure. Some conservatives have indicated their support of the modified version of the bill, but those changes have raised concerns for some moderate Republicans.

If the bill passes the House, it will go to the Senate, where major changes are expected to ensure that the measure can be passed under reconciliation. In order to use reconciliation, the measure must be strictly budget related, so some provisions will have to be removed. In addition, several Senators have expressed opposition to the measure. Moderates and those who come from states that expanded Medicaid under the provisions of the ACA/Obamacare, are concerned about the impact of capping expansion enrollment in 2020, while conservatives believe that the bill does not go far enough in repealing the ACA. Changes made to satisfy one group will undoubtedly turn away the other group.

The goal is to have the bill passed and signed by the President before Congress leaves for Easter recess on April 7 – an aggressive timeline given conservative opposition to the measure's tax credit provisions and some Republican members' reservations about the impacts to Medicaid expansion. The AHCA repeals all of the taxes in the Affordable Care Act (except for the Cadillac tax which is delayed until 2025) and repeals the individual mandate. In addition, it reduces the value of the tax credits to purchase coverage on the individual market. It also retains coverage requirements for individuals with preexisting conditions, dependent coverage up to age 26, preventative care and the prohibition on lifetime limits. On Medicaid, the AHCA would convert federal Medicaid financing to a per capita cap beginning in FY20 (states could continue to enroll under Medicaid expansion until 2020) and reduce eligibility from 138% of the federal poverty level to 100% of the federal poverty level.

The Congressional Joint Committee on Tax has estimated that repeal of the taxes will cost $500 billion over 10 years. The nonpartisan Congressional Budget Office (CBO), which analyzes the impact of proposed legislation, released its score of the AHCA a few days prior to the House Budget Committee markup. The CBO found that the proposed legislation would result in a loss of coverage for fourteen million Americans within the next year, mostly due to changes in the individual markets and the repeal of the individual mandate. The CBO estimated that by 2024, twenty-four million Americans would loss coverage; after the first fourteen million, the remainder of the decrease in insured people is from cuts to Medicaid. That means that under the AHCA, by 2026 more people would be uninsured than before the ACA was enacted. At the same time, the measure would reduce the federal deficit by $337 billion over the next 10 years. The reduction is the result of a nearly $900 billion that would be cut in Medicaid spending over that period.

OPTIONS
N/A

RECOMMENDATION
N/A

ATTACHMENTS
N/A

AVAILABLE IN COUNCIL DOCUMENT LIBRARY
N/A