July 24, 2017

CITY COUNCIL STUDY SESSION ITEM

SUBJECT
Federal Legislative Update

STAFF CONTACTS
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.

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

D.C. Big Picture Update
Congress is headed toward the August recess in short order. July 28 is scheduled to be the last day the House is in session until after Labor Day. On the Senate side, Majority Leader Mitch McConnell (R-KY) announced that Senators will remain in D.C. for two weeks longer than originally planned, pushing the start of their recess back to August 11. Senator McConnell made the unusual decision to allow the chamber more time to work through executive branch nominations, health care, budget and spending bills. This is just the second time that the Senate has stayed in D.C. for part of the scheduled August recess; the other time was in 1994 during a failed attempt to overhaul health care.

The appropriations process is moving forward on a truncated timeline with the House targeting passage of an omnibus spending bill before recess. An omnibus, if it can pass the House, would set the table to speed up FY18 spending negotiations in the three weeks of work between Labor Day and the start of the new fiscal year on October 1.

Meanwhile, the climate in D.C. remains tense. The legislative "to do" list is very long and there have been few major achievements so far, and the Russia investigation continues to draw attention away from the policy priorities of the White House and Congress.

Budget and Appropriations
Budget Resolutions and Reconciliation – A budget resolution is a non-binding action of Congress to set topline spending numbers for appropriators. It can also include reconciliation instructions to direct the work of committees on a range of budget-related actions. Reconciliation is the process by which the Senate hopes to repeal the Affordable Care Act (ACA); the FY17 resolution included reconciliation

instructions for that effort. The FY18 budget resolution is still a work in progress, and there is broad consensus among Capitol Hill Republicans that it should include reconciliation instructions relating to a tax system overhaul.

The House Budget Committee released its proposal on July 18. In addition to setting topline spending numbers and setting out reconciliation instructions on tax reform, it also includes reconciliation language guiding 11 authorizing committees to identify $203 billion in deficit reductions over the next 10 years with the goal of reducing the deficit over that time. Under the proposal, the House Ways and Means Committee will be particularly busy – it has jurisdiction over creating a tax reform plan that is deficit neutral and is tasked with identifying $53 billion in cuts over 10 years, a lofty goal considering that the fastest growing share of federal spending comes from entitlement programs which President Trump has promised not to cut. Other committees also have target reductions that will be submitted to the Budget Committee, along with the Ways and Means plan, to be rolled into a single measure.

The House proposal sets defense discretionary spending at $621.5 billion for FY18, $70 billion over the Budget Control Act (BCA) spending caps, and nondefense discretionary spending at $511 billion for FY18, $11 billion below BCA levels. This is not a surprise based on the spending levels included in the appropriations bills currently moving in the House, but it will be a tall order. The BCA, passed in 2011, laid out spending levels for 10 years and imposed across-the-board cuts (called "sequestration") if those levels were exceeded without a budget agreement to raise them. While a budget resolution can be passed by a simple majority vote in both chambers, any deal to raise the BCA spending caps will require 60 votes in the Senate. Senate Democrats are almost certain to oppose any budget deal that has such a dramatic impact on nondefense discretionary spending, meaning that the spending levels in the House budget resolution are untenable. The Senate has not released its proposed budget resolution yet.

FY18 Appropriations – After getting off to a slow start on spending bills (delayed by the FY17 continuing resolution hangover and slow start to the new Administration and the new Congress), the House is flying through appropriations bills now. They have marked up seven of the twelve in the full appropriations committee (all twelve have passed out of subcommittee) and are targeting passage of an omnibus spending bill that rolls all 12 into a single measure before the August recess. If they are successful, the House would be ready for negotiations with the Senate during the September D.C. work period.

Of note in the House proposals:

- **Transportation, Housing and Urban Development (THUD)**
    - Zeroes out the TIGER grant program as it has every year recently (since House appropriators know the Senate is likely to prioritize TIGER, they strengthen their negotiating position by starting from zero)
    - Funds the Federal Transit Administration's (FTA) New Starts grant program at $1.75 billion, a cut of $660 million from the enacted fiscal 2017 level, but $520 million above the Trump Administration's request. The White House had asked that only projects with signed full funding grant agreements receive federal funds in fiscal 2018. Several Sound Transit projects are anticipating funding from the New Starts program.
    - Increases funding for the Public and Indian Housing tenant-based rental assistance programs, including Section 8 vouchers, by $195 million, to $20.5 billion.

- Cuts $100 million each from Community Development Block Grants (CDBG), funded at $3 billion in FY17, and the HOME Investment Partnerships, funded at $950 million in FY17. These programs were identified for elimination in the President's budget request.

- **Financial Services**
    - Cuts Federal Communications Commission (FCC) funding by 10 percent. The FCC is currently working on rolling back net neutrality rules put in place during the Obama Administration.

- **Commerce, Justice and Science**
    - Continues to fund some grants for local law enforcement, including $500 million for Byrne JAG Grants and $527 million for the Violence Against Women Account. Zeroes out the COPS grants program.
    - Appropriates $103 million for programs authorized under the Comprehensive Addiction and Recovery Act of 2016 to combat the opioid crisis.

The House goal of fast progress and hopes of having an FY18 spending bill in place by October 1 are likely to face a roadblock in the Senate where committee consideration of spending bills has just begun. The Senate Appropriations Committee passed its Military Construction and Veterans Affairs spending bill out of committee and has several subcommittee hearings slated for this week.

Debt Ceiling – Treasury Secretary Steven Mnuchin and Office of Management and Budget Director Mick Mulvaney continue to push for Congress to vote to raise the debt ceiling before leaving town for the August recess. Because legislation to raise the debt ceiling is considered "must pass", it often becomes a vehicle for other measures that members would like to move but that lack the momentum or support to do so on their own. For example, this year, a debt ceiling bill could be the vehicle for a budget deal raising the sequester-level spending caps. Secretary Mnuchin is pushing for a clean bill that only includes the debt ceiling and thus, may have the best chance of passage. The Treasury Department is currently using extraordinary measures as a stopgap until the debt ceiling is raised.

Health Care – Senate Pulls Repeal and Replace Measure

Senator Mitch McConnell released an updated draft of legislation to repeal and replace the ACA (Obamacare) on July 13. The new draft sought to address some of the concerns about the original draft of the Better Care Reconciliation Act (BCRA) raised by Senate Republicans. Around 10 Senate Republicans opposed the original version of the BCRA leading Senator McConnell to cancel a scheduled floor vote before Fourth of July recess and rework some of its provisions. According to the nonpartisan Congressional Budget Office (CBO), the first bill would have left 22 million more Americans uninsured by 2026 (slightly fewer than the House proposal in the American Health Care Act (AHCA)). It would also make $772 billion in cuts to Medicaid coverage by rolling back the Medicaid expansion included in the ACA and capping spending on the program.

Senator McConnell was forced to postpone a vote on the new version of the BCRA following news that Senator John McCain (R-AZ) would need to stay home in Arizona and recover from surgery to remove a blood clot from above his eye. Senators Rand Paul (R-KY) and Susan Collins (R-ME) had already expressed their opposition to the new version meaning that Senator McCain's vote – and the votes of every other member of the Senate Republican Conference, plus Vice President Mike Pence – would have been needed to pass the measure. In order to pass the bill under the reconciliation process and avoid a filibuster, Senator McConnell's magic number for passing the bill was 50 votes plus Vice President Pence. Senator McConnell was working hard to ensure that moderates, who worry primarily about coverage loss, and conservatives, who think the measure does not go far enough to roll back the ACA's regulations, would support the measure. For example, he was hoping that additional funding to address the opioid crisis would be persuasive to lawmakers like Senators Rob Portman (R-OH) and Shelly Moore Capito (R-WV).

In addition, 20 Republican Senators come from states that expanded Medicaid under Obamacare. The cuts to Medicaid included in the first draft of the BCRA remained largely intact in the new version, so concerns around program cuts were not addressed to the satisfaction of those Senators from states that expanded Medicaid. The CBO was scheduled to release its score of the updated bill draft on July 17, but the delay in the vote gave the office more time to conduct its analysis.

And then late Monday, it all became a moot point when two conservative Senators, Mike Lee (R-UT) and Jerry Moran (R-KS), made a joint announcement that they were withdrawing their support from the BCRA. After the announcements from Senators Lee and Moran, Majority Leader Mitch McConnell stated that the Senate will next pursue a straight repeal of the Affordable Care Act with a two-year delay to buy the government, in theory, time to craft a replacement system. Such a plan will also face significant political opposition, meaning it too faces an uncertain future. A "repeal and delay" approach to the ACA was considered earlier in the year by Republicans who wanted quick action on repeal but did not want to rush the process of developing a replacement. However, at the time, House and Senate leadership and the White House agreed that pursuing repeal and replace concurrently would better preserve the stability of the insurance markets.

Transportation and Infrastructure

Details of the Trump Administration's proposed $1 trillion infrastructure package are still under development. The package is expected to include funding for roads and bridges, airports, VA facilities, broadband deployment, and will include a heavy emphasis on public-private partnerships. In one new development, Transportation Secretary Elaine Chao indicated that the White House could be open to an increase in the federal gas tax to help fund the package; the federal share of gas tax has been set at $0.184 per gallon since 1993.

Tax and Finance

Along with repealing and replacing the Affordable Care Act (ACA), tax reform is at the top of the "to do" list for President Trump and Congressional Republicans. The slow pace on health care has delayed progress on tax reform, but House Ways and Means Committee and Senate Finance Committee leaders continue to work with the White House on a consensus measure. Although Ways and Means Chairman Kevin Brady (R-TX) still supports the proposal, the House plan to include a Border Adjustment Tax on imported goods has not garnered much support from the Senate or the Administration, leaving legislators to seek alternative sources of revenue to offset the cost of lowering corporate and personal tax rates. It is unclear where a final compromise on tax reform will wind up, but the budget resolution set to be released later this week will likely provide some additional clues.

Energy & Environment

***Waters of the U.S. Rule* (WOTUS)** – The House Energy and Water spending bill that was approved by the Appropriations Committee includes a policy rider that would clear the way for quick repeal of the WOTUS rule but allowing the Environmental Protection Agency (EPA) to sidestep the regulatory procedures normally required for rulemaking, including time for comments on draft rules changes. House Democrats attempted to block the language but did not have the votes. The rider is likely to face a challenge from Senate Democrats as well, but could still make it through the appropriations process.

ALTERNATIVES
N/A

RECOMMENDATION
N/A

ATTACHMENTS
N/A

AVAILABLE IN COUNCIL DOCUMENT LIBRARY
N/A