

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

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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 legislative proposals.

BACKGROUND/ANALYSIS

Big Picture D.C. Update

In observance of Rosh Hashanah, the Jewish celebration of the New Year, the House is on recess, and the Senate had an abbreviated work week last week. As members of both chambers return, they will have just four legislative days before the end of the federal fiscal year on September 30. While a deal struck between President Trump and Congressional Democratic Leadership to fund hurricane relief efforts, extend the debt limit and continue government spending through December 8 has taken some pressure off, there are still many things on the "to do" list. Congress still needs to reauthorize several important programs before the end of the month, and even more before the end of the year, including the annual defense authorization bill. Members of both parties will also be grappling to resolve the Deferred Action for Childhood Arrivals (DACA) program and tax reform in the coming months.

Spending, Budget Caps and Tax Reform

Heading into September after the August recess, there was much speculation about how Congress and the White House would address the challenge of raising the debt ceiling and funding the government in the new federal fiscal year which begins October 1. Shortly after arriving back in Washington from the recess, Senate Minority Leader Chuck Schumer (D-NY) and House Minority Leader Nancy Pelosi (D-CA) reached a deal with President Trump on an extension of the debt limit and a continuing resolution (CR) funding the government through December 8. The package also included funding for Hurricane Harvey relief. The deal sets up another showdown at the end of the year to ensure that the federal government remains funded and can issue new debt to pay its bills. There is also broad agreement that

additional emergency funding will be needed to further address storm damage from Hurricanes Harvey and Irma as well as any additional storms this fall.

With the CR extending the deadline for a deal on fiscal 2018 appropriations, the House and Senate have continued to push forward on appropriations measures. Although it will be a non-starter in the Senate, where Democratic votes will be required to pass appropriations bills, the House has passed an omnibus appropriations bill for FY18. The measure sets topline spending at \$621.5 billion for defense spending and \$511 billion for nondefense funding. Those levels – and the ones that will likely be reflected in the Senate’s appropriations bills – far exceed the spending caps set by the 2011 Budget Control Act (BCA).

The BCA places caps on defense and nondefense spending for 10 years beginning in 2013, with any money allocated above those levels precipitating an automatic revocation. Without a budget deal raising the caps, the proposed spending levels would trigger sequestration’s across-the-board spending cuts throughout the federal government. A sequester has only occurred in fiscal 2013, as two separate budget deals raised the caps in fiscal years 2014 through 2017. A budget deal to lift the caps will require the support of Senate Democrats to advance.

No such agreement is yet in place for fiscal 2018, meaning the BCA limitations are scheduled to once again kick in. The White House has encouraged lawmakers to pass such an agreement for the upcoming fiscal year, but only so it can increase defense spending. In his budget, President Trump proposed increasing defense spending by \$54 billion and cutting nondefense spending by the same amount.

The Administration has endorsed an omnibus appropriations bill recently passed by the House, which the Office of Management and Budget (OMB) conceded would cause a \$72 billion sequestration on the defense side of the budget. The OMB representatives urged lawmakers to make “the necessary changes to the discretionary caps” so that sequestration would not occur. It did not respond to questions about whether it would also support raising nondefense caps to avoid sequestration of those accounts as well. Democrats are reluctant to make any adjustments that do not treat civilian and defense spending equally.

The agreement reached by President Trump with Senator Schumer and Representative Pelosi that extends the debt limit and the CR funding the government through December 8 buys time to avoid a lapse in appropriations, but there are still unresolved issues around adjusting the statutory spending caps and issues such as President Trump’s proposed wall along the U.S. border with Mexico.

The White House and Congressional Republicans hope that the deal to fund the government and raise the debt ceiling clears the decks for action on tax reform. Congressman Kevin Brady (R-TX) and Senator Orrin Hatch (R-UT), chairmen of the House Ways and Means and Senate Finance Committees respectively, have been working with White House officials and leadership to reach agreement on an outline of and approach to tax reform. That plan is expected to be released soon.

Health Care

Senate Republicans have turned their attention to a bipartisan effort to stabilize the existing health care system. Senator Lamar Alexander (R-TN), working with Senator Patty Murray (D-WA), held a series of hearings in the Health, Education, Labor, and Pensions (HELP) Committee on possible steps to stabilize the Affordable Care Act’s (ACA) individual markets. The committee heard from state insurance commissioners, governors, industry and policy experts on cost reduction subsidies, opportunities to give states additional flexibility under the ACA’s waiver policies, and more. Insurance companies must make

final decisions on coverage maps and rates at the end of September, so time is rapidly running out for action to stabilize the individual market in time for 2018.

Momentum is building behind a last-ditch proposal to repeal and replace the Affordable Care Act (ACA) from Senators Lindsay Graham (R-SC) and Bill Cassidy (R-LA). The Graham-Cassidy bill would give much more flexibility to states by giving them block grants to cover subsidies, cost-sharing reduction payments and Medicaid expansion coverage. However, the Senate parliamentarian ruled that the reconciliation instructions included in the fiscal 2017 budget resolution expire at the end of September when the federal fiscal year ends. The parliamentarian's decision means that Senate Republicans must act before the end of the month to pass a measure with just a simple majority and sidestep a Democratic filibuster. After several attempts to move legislation to repeal and replace the ACA failed this summer, Senate Majority Leader Mitch McConnell is wary of putting the Graham-Cassidy bill up for a vote unless he is confident that the bill has the votes to pass the Senate (at least 50 Republicans voting in favor and Vice President Mike Pence casting a tie-breaking vote if needed).

Meanwhile, authorization of the Children's Health Insurance Program (CHIP) for low-income children who do not qualify for Medicaid is set to expire at the end of the month. The Senate Finance Committee has rolled out its proposal to reauthorize the program that covers children across the country who fall into the gap between Medicaid and private insurance coverage. The bipartisan Senate bill would reauthorize the program through 2022. The House is likely to follow the Senate's lead on CHIP.

In addition, the Community Health Center Fund's authorization also expires at the end of the September. Community health centers provide services to patients regardless of their ability to pay. This program is facing a funding cliff as several key grant programs could end at the end of the month. Efforts to extend funding are gaining momentum, but time on the legislative calendar is very short to get something done before the end of the month. Several members of the Washington House delegation—Representatives Suzan DelBene, Dan Newhouse, and Pramila Jayapal--have signed onto legislation to extend the fund for five years.

Transportation & Infrastructure

Infrastructure Package – Details of the long-awaited \$1 trillion infrastructure investment package remain unclear. There is a chance that a package could be linked with tax reform, which could provide a revenue source for the spending involved.

National Flood Insurance Program (NFIP) – The NFIP, which provides flood insurance, improves floodplain management, and develops maps of flood hazard zones, has been in the spotlight recently following the sweeping impacts of Hurricane Harvey in Texas and Louisiana and Hurricane Irma in Florida and Georgia. The program is likely to be continued over the short-term via a CR. The program's authorization was set to expire at the end of the month, but a short-term extension will keep the program operating through December 8, along with fiscal 2018 spending.

Federal Aviation Administration (FAA) – Congress has been extending the FAA's authorization via a short-term CR since the last full reauthorization expired in 2015. The extensions have been the result of a disagreement over whether to spin off the air traffic control system as a non-profit corporation. House Transportation and Infrastructure Chairman Bill Shuster (R-PA) has been pushing the privatization proposal for several years, but to date, the Senate has not come on board. It is likely that another CR will be needed to keep FAA programs authorized while the debate on privatization continues.

Immigration

Earlier this month, the Administration announced that it would be ending the Deferred Action for Childhood Arrivals program (DACA) in six months. The DACA program offered work permits and protection from deportation for young people brought to the U.S. as children without legal status. The President called for Congress to act to protect DACA recipients during the six-month window before the program ends. There is bipartisan support for addressing the issue, but it is not clear whether there is the time and the will to reach a solution.

ALTERNATIVES

NA

RECOMMENDATION

NA

ATTACHMENTS

NA