

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Federal Legislative Update

STAFF CONTACTS

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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

D.C. Big Picture and Spending Bill Updates

President Signs \$1.3 Trillion Spending Bill

The spending bill for FY18 approved by Congress and signed by the President late last month appropriates spending for the remainder of the federal fiscal year which ends September 30. The House and Senate returned from their Easter recess on April 9 to several busy weeks of hearings and markups. Agency heads and Cabinet members continue to meet with appropriations committees on their budget requests and the Senate continues to tackle executive branch nominations at the same time.

Growing Number of Retirements Will Change Congressional Leadership in 2019 – House Speaker Paul Ryan (R-WI) announced that he will be leaving Congress at the end of his term. Speaker Ryan joins a growing list of members who have announced that they will not seek reelection this year, including Representative Dave Reichert (R-WA). The large number of retirements reflects the general political atmosphere in Washington, D.C., and may continue into the new Congress as new leaders take the helm.

FY18 Appropriations

To get to agreement on the spending bill, congressional leaders and the White House agreed to leave out most of the controversial policy riders, including language blocking the implementation of the Obama-era Waters of the U.S. Rule and immigration reform. The measure provides \$654.7 billion in defense discretionary spending (\$589.5 billion in regular Pentagon spending and \$65.2 billion in Overseas Contingency Operations funding that isn't counted toward defense/non-defense spending parity) and \$579 billion in nondefense discretionary spending, following the numbers set in the Bipartisan Budget Act passed last month.

The Bipartisan Budget Act of 2018 lifted spending caps in the 2011 Budget Control Act for FY18 and FY19, increasing federal funding by nearly \$300 billion over sequester levels. Programs and issues of relevance to cities included:

- **Infrastructure Funding Boost** – \$10 billion in new infrastructure funding. Although the President’s budget requests included reductions to several infrastructure and transportation programs that would then offset spending on his proposed infrastructure package, Congress elected to include this additional spending on infrastructure.
 - \$1 billion boost to TIGER grants, for a total of \$1.5 billion in TIGER grants for innovative transportation and transit projects. The FY18 budget request from the President and the House proposal would have eliminated TIGER funding.
 - Federal Transit Authority (FTA) Capital Improvement Grants, called “New Starts”, were funded at \$2.6 billion and will meet all current grant agreements and fund all new projects expected to be ready to enter into grant agreements, including Sound Transit (ST) projects in the region. ST projects, including Lynnwood Link, were facing major funding cuts under the Administration’s plan which would have cancelled grant agreements that were in process but not fully executed.
- **Public Safety** – Law enforcement and public safety funding programs also saw an increase in funding in the omnibus. Of note, the omnibus does not include any provisions to take away funds from sanctuary cities.
 - Byrne Memorial Justice Assistance Grant program (JAG) funding is increased from \$396 million to \$415.5 million.
 - Community Oriented Policing Grants (COPS) funding is increased from \$221.5 million to \$275.5 million.
 - Emergency Management Performance (UASI) Grants are funded at \$350 million and Urban Area Security Initiative grants are funded at \$630 million, as part of an overall \$342 million increase in Federal Emergency Management Agency (FEMA) spending to \$4.4 billion.
- **Affordable Housing and Homelessness** – Funding boosts for Housing and Urban Development (HUD) programs, and an expansion of the Low-Income Housing Tax Credit will help local communities address the challenge of homelessness and lack of affordable housing options.
 - HUD will receive \$4.6 billion in additional funding over 2017 levels and \$12 billion more than President’s FY18 budget request. The Community Development Block Grant (CDBG) program will see a \$305 million boost in funding over 2017 levels to \$3.3 billion, and the HOME Investment Partnership program will see a \$412 million boost in funding over 2017 levels to \$1.4 billion.
 - Includes language based on legislation from Senator Cantwell (D-WA) and Senator Orrin Hatch (R-UT) to expand the Low-Income Housing Tax Credit program (LIHTC) for the next four years (2018-2021). Specifically, it expands the tax credit allocation by 12.5% each year, resulting in production of an estimated additional 35,000 affordable housing units.
 - \$3.6 billion for the Low-Income Home Energy Assistance Program (LIHEAP) to provide home heating and cooling assistance for low-income households.

- **Health Care and Public Health** – Pursuant to the funding boosts outlined in the Bipartisan Budget Act passed last month that lifted the spending caps, health care and public health both saw increases to many programs in the omnibus.
 - \$3.3 billion in increased funding to fight the opioid epidemic and mental health crisis, including an increase of \$2.8 billion in treatment, prevention and research for programs within the Department of Health and Human Services (DHHS).
 - \$1.63 billion in funding for Community Health Centers, an increase of \$135 million over 2017 funding levels. Community Health Centers, including many clinics in King County, provide preventative and primary care for low-income patients.
 - \$3 billion increase in funding for the National Institutes of Health (NIH) to support a wide range of medical research, including Alzheimer’s disease and flu vaccines.
 - The omnibus includes a provision clarifying that the Centers for Disease Control Prevention (CDC) has the authority to conduct research on the causes of gun violence. CDC has not been permitted to conduct this research.

The measure also included reauthorization for several programs:

- **Federal Communications Commission (FCC)** – The first reauthorization of the FCC since 1990 was approved as part of the omnibus. The measure was agreed upon by the chairs and ranking members of the House Energy and Commerce Committee and the Senate Commerce, Science and Transportation Committee and was passed by the House before being rolled into the omnibus bill. It includes provisions on spectrum auctions, deployment of 5G wireless broadband, and updates to agency reporting requirements.
- **Federal Aviation Administration (FAA)** – The FAA has been operating under continuing resolutions for several years, and congressional leaders are now pushing to pass a full authorization bill before the end of September. It’s unlikely that a proposal to spin-off the air traffic control system (supported by President Trump and House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA)) will be included in any reauthorization measure going forward.
- **National Flood Insurance Program (NFIP)** – The NFIP has been operating on continuing resolutions since its funding authorization expired last fall. The massive and expensive storms of 2017 have placed a spotlight on the program and the need to reform it, but there is no agreement on the path forward.

Rescission Attempt – After the President signed the budget bill, the Administration, frustrated with the size of the omnibus, is now working with several conservative House members to develop a proposal to claw back as much as \$60 billion from the FY18 spending bill under a process known as rescission. The proposal would trim spending from the \$1.3 trillion omnibus, passed just last month. Details on proposed cuts are expected in early May. Led by Senate Majority Leader Mitch McConnell (R-KY), many congressional Republicans have expressed concerns about a rescission effort, and Democrats are broadly opposed to any effort to reopen the spending bill, especially since cuts would likely focus on non-defense discretionary spending.

FY19 Appropriations

The President released his budget request for FY19 last month. It included reductions to federal funding across most federal agencies with the exception of the Department of Defense. Since the release of the budget request, Cabinet members and agency heads have been testifying before congressional committees in support of the proposal. The White House budget request and subsequent committee appearances are part of the normal appropriations process. The White House request does not reflect the higher spending numbers agreed to in the Bipartisan Budget Act last month.

Congressional appropriators will next turn to the development, hearings and mark-ups of their own FY19 spending plans. They will be working with the topline numbers set by the Bipartisan Budget Act and will need to work quickly as the new federal fiscal year begins on October 1. While appropriators and congressional leadership are again hoping for “regular order”, where all 12 appropriations bills move through the normal committee and floor process to passage, they will have limited time – only about sixteen weeks on the legislative calendar – to make that happen given the long summer recess and additional time off to allow for campaigning in October. Given this schedule and the late completion of the FY18 appropriations, it is widely expected that Congress will need to pass at least one continuing resolution (CR) to keep the government funded into FY19.

Transportation and Infrastructure

White House Infrastructure Package – A chorus of congressional leaders has expressed doubts about the prospects for President’s proposed infrastructure package. The \$1.5 trillion proposal would invest \$200 billion in federal funding to leverage \$1.3 trillion in state, local and private dollars for infrastructure projects across the country. The Administration is hoping that Congress will act on a major infrastructure investment package before the November election, but House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) said it might need to be pushed to the lame duck session following the November election. Senate Commerce, Science and Transportation Committee Chairman John Thune (R-SD) said that the Senate likely would be too busy processing nominations and other legislation to get to the infrastructure package this year, particularly given the lack of a concrete funding source for the \$200 billion federal share of the proposal.

The President’s FY19 budget proposal does identify some transportation program cuts and savings that would be used to pay for the infrastructure package, but cutting from existing transportation programs to pay for the new proposal has met with resistance on Capitol Hill. State and local governments are particularly concerned that the package comes with relatively little in federal resources at a time when they are already maxed out on investment funding for large infrastructure projects.

Water Infrastructure – In addition to the FY18 appropriations investments in transportation outlined above, the omnibus directed additional funds to water infrastructure programs including a \$600 million total increase to the EPA’s state revolving loan funds (Clean Water State Revolving Fund and Drinking Water State Revolving Fund) and \$63 million in funding for the Water Infrastructure Finance and Innovation Act loan program.

Tax and Finance

E-fairness Legislation – The U.S. Supreme Court heard oral arguments in the case of *South Dakota v. Wayfair* on April 17. *South Dakota* is a challenge to the Court’s 1992 *Quill* decision that states could not impose sales tax on vendors who do not have a physical presence within the state. Retailers hope to keep the *Quill* status quo, while states and local governments are seeking to overturn the ruling in the face of ever-increasing internet retail sales and sales tax revenue deficits. The Supreme Court is expected to

issue its ruling in June. In the meantime, e-fairness legislation, including the Remote Transactions Parity Act (Representative Kristi Noem (R-SD)) and the Marketplace Fairness Act (Senator Michael Enzi (R-WY)) have not moved since being introduced last year.

FCC Action on Small Cell 5G Deployments – On March 30, the FCC released the language for its order to streamline the approval process for deploying small cells for 5G cellular networks. The order, which closely aligns with a provision included in the President’s infrastructure proposal released earlier this year, is intended to streamline the approval process by clarifying that small wireless projects are not considered a “major federal action” under the National Environmental Policy Act (NEPA) or a “federal undertaking” under the National Historic Preservation Act. Under the FCC order, state and local permitting would serve as a backstop to the streamlined federal process. FCC Commissioner Brendan Carr indicated that the order does not restrict local governments’ rights to review and approve small cell deployments, but the Commission could take up that issue separately, which could possibly result in the federal government pre-empting state and local government authority.

Transportation and Infrastructure

TIGER Grants Announced – The US Department of Transportation announced the recipients of 2017 TIGER Grants in mid-March. In Washington state, one project in Spokane will receive a TIGER grant. The TIGER program sets a floor directing 20% of funds are allocated to support rural projects; in the most recent funding cycle, more than 50% of successful applicants were rural projects. The FY18 omnibus tripled funding for the TIGER program up to \$1.5 billion and increased the floor for rural projects to 30%. We expect to see the Administration again award many more than the minimum number of rural projects TIGER grants in the coming cycle. As communities weigh potential projects, this will be an important factor to consider.

Mountains to Sound Greenway National Heritage Area – Congressman Dave Reichert’s legislation to designate the Mountains to Sound Greenway as a National Heritage Area under the National Parks Service received a hearing in the House Natural Resources Committee on April 11. Congressman Reichert is pushing hard to complete this effort before his retirement. The legislation would recognize the Greenway as an asset to the community and serve as a national model for collaborative conservation. A National Heritage Designation provides a non-regulatory approach to conservation without impacting private property or tribal treaty rights.

Public Health

Senate Opioid Bill – Senators Lamar Alexander (R-TN) and Patty Murray (D-WA) are leading efforts on a major opioid abuse prevention bill, the Opioid Crisis Response Act (OCRA). Draft legislation was released in advance of an April 11 hearing in the Senate Health, Education, Labor and Pensions Committee; a markup of the measure and amendments is scheduled for April 24. The measure comes on the heels of a \$3 billion investment to address the crisis in the FY18 omnibus. Those funds will be directed to federal agencies as well as to state and local governments.

Farm Bill and Nutrition Benefits – The House Agriculture Committee has released its proposed 2018 Farm Bill, which reauthorizes the U.S. Department of Agriculture (USDA) programs, including the Supplemental Nutrition Assistance Program (SNAP), formerly known as the food stamp program, and the Women, Infants and Children Program (WIC) which provides food benefits to low-income mothers. The proposal is facing stiff opposition from House Democrats who oppose proposed cuts and changes to SNAP and WIC, including imposing work requirements to receive the benefits. State and local governments have raised concerns about the impacts of the proposed changes on residents who rely on

the programs. Senate Agriculture Committee leaders have indicated that they plan to release a bipartisan draft soon.

ALTERNATIVES

N/A

RECOMMENDATION

N/A

ATTACHMENTS

N/A