

CITY COUNCIL STUDY SESSION

Federal Legislative Update

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DIRECTION NEEDED FROM COUNCIL**INFORMATION
ONLY**

No formal action is required; this is an informational briefing. 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.

RECOMMENDATION

N/A

BACKGROUND & ANALYSIS**BIG PICTURE UPDATE**

While the impeachment inquiry, Ukraine, the situation in Syria and election politics are dominating the news, Congress is also working on moving forward a legislative agenda. With only a few weeks to go, Congress is facing a looming deadline to approve appropriations bills to avoid a government shutdown before Thanksgiving and to reach agreement on other must-do bills such as the National Defense Authorization bill. Health care, gun control, appointee confirmations and the US-Mexico-Canada trade agreement also remain legislative priorities that House and Senate leaders hope to make progress on before the end of the year.

Impeachment Inquiry Underway in House of Representatives

House Speaker Nancy Pelosi (D-CA) announced in late September that the House is moving forward with an official impeachment inquiry (of the President). House Democratic leaders immediately moved to set up and move through the impeachment inquiry process. Three House committees are heading up impeachment inquiries into separate issues concerning the Administration: the House Oversight and Reform Committee, the Intelligence Committee and the Foreign Affairs Committee. Last week Chairman of the House Oversight and Reform Committee Representative Elijah Cummings (D-MD), passed away. His replacement has not been named. The other two committees continue to move ahead with investigations. It was recently reported that if the House moves to impeach the President before Thanksgiving, which is its goal, the Senate will attempt to move quickly to finish an impeachment trial before the holidays.

BUDGET and APPROPRIATIONS

Beyond impeachment, the biggest challenge (and political liability) facing Congress and the White House is an agreement on FY 2020 funding to avoid a government shut-down. The House and Senate have independently made progress to move appropriations bills and a short-term stop-gap spending bill approved at the end of September has provided more time to reach consensus on funding measures, but a long-term deal between leaders in both chambers and the White House on FY 2020 federal funding remains uncertain.

Budget Caps and Debt Limit Agreement

Prior to the August recess, Congress and the White House reached a two-year deal on budget caps and the debt limit. The agreement raises the current budget caps by \$320 billion over two years, \$30 billion less than Democrats sought and about half of the \$150 billion in savings the Administration sought. The agreement was necessary to avoid the significant budget cuts (sequestration) mandated under the Budget Control Act of 2011 and to avoid a default on federal government debt.

With top-line numbers set, House and Senate appropriators are one step closer to funding agreements for FY 2020. Reminiscent of the appropriations fights of last fall, however, the next steps are proving to be a challenge. Despite holding several meetings on the matter, House and Senate Appropriations leaders have yet to reach agreement on the allocations for each individual spending bill (302(b) allocations). This sets up a possible challenge when the two chambers meet in conference to reach agreements on the appropriations packages.

Federal Budget Funded by Continuing Resolution (CR) through November 21

A stop gap funding bill was agreed to days before the September 30 end of the fiscal year to extend current year federal funding levels which provided Congress more time to work out agreements on individual funding bills. In addition to extending funding to avoid a government shut-down, the CR also increases funding for some programs (Census, Import Export Bank, etc.) and extends the authorization of several programs set to expire, including the National Flood Insurance Program and several public health programs. It also cancels some funding cuts to mass transit programs.

Public Health Programs extended through the length of the CR include:

- \$569.9 million for Community health centers, which support underserved and vulnerable populations. This is the same rate as the funding of \$4 billion for FY 2019.
- \$44.2 million for the National Health Service Corps.
- \$18 million for the Teaching Health Center Graduate Medical Education Program.
- \$21.4 million for the Special Diabetes Program.
- \$21.4 million for the Special Diabetes Program for Indians.
- \$10.7 million for the Sexual Risk Avoidance Education Program.
- \$10.7 million for the Personal Responsibility Education Program.
- The Certified Community Behavioral Health Clinics demonstration program, which was recently extended through September 13.
- Health Profession Opportunity Grants that were scheduled to expire September 30.

Mass Transit Funding

The measure would avert a cut to the mass transit formula funding that the Congressional Research Service estimated in April would be about \$1 billion in FY 2020. The bill would waive, for the length of the CR, a law requiring the Department of Transportation to reduce apportionments when unfunded authorizations for mass transit are estimated to fall short of revenue into the Highway Trust Fund. The measure would require a portion of Capital Investment Grant transit funding from FY 2018 and FY 2019 to be allocated, instead of obligated, by certain deadlines set by those years' appropriations laws.

House of Representatives

The House passed 10 of the 12 appropriations bills in June, before an agreement on a budget cap was reached on budget caps. Most of the House appropriations bills exceed the agreed-to budget cap numbers.

The first package (H.R. 2740) passed 226-203 on June 19. It covers Defense, Energy and Water, Labor- HHS (Health and Human Services)-Education and State-Foreign Operations. The second tranche (H.R. 3055), passed 227-194 on June 25, includes Agriculture-FDA, Commerce-Justice-Science, Interior-Environment, Military Construction-Veterans Affairs (VA), and Transportation-Housing and Urban Development (HUD). House lawmakers also passed the Financial Services appropriations bill (H.R. 3351), 224-196, on June 26. The House Appropriations Committee approved the Homeland Security (H.R. 3931) and Legislative Branch (H.R. 2779) bills, but those bills have not received floor votes.

Senate

The Senate Appropriations Committee has moved 10 of the 12 bills out of committee. Many of the Senate bills received unanimous, bipartisan support in committee, passing with 31-0 votes. These appropriations bills include: Agriculture, Commerce, Justice, State, Energy and Water, Financial Services, Interior, Legislative Branch, State Foreign-Operations and Transportation. The Labor HHS bill and Military Construction spending bills have yet to receive full committee votes. The Defense bill passed out along party lines on a 16-15 vote.

Senate Majority Leader Mitch McConnell (R-KY) announced that the Senate will take up and debate eight of the 12 annual spending bills as part of two packages in order to jump-start the appropriations process. In a nod to Senate Democrats, Senator McConnell proposed that the first package focus on domestic funding and will likely include measures to fund the departments of Commerce, Justice, Agriculture, Interior, Transportation and Veterans Affairs. If work on that package is successful, Senator McConnell said he will bring another package with the annual spending bills for the more controversial Defense and Labor-HHS bills. The State and Energy and Water bills are expected to be part of this second package.

OTHER POLICY UPDATES

Healthcare

On healthcare, House and Senate Democrat leaders are trying to protect Affordable Care Act provisions such as coverage for pre-existing conditions. Republicans also support many of these policies but may be reluctant to open a platform for a healthcare debate.

Drug Pricing

In September, Speaker Nancy Pelosi (D-CA) took the lead on the issue of drug pricing by introducing HR 3 that would allow Medicare to negotiate the price of 250 brand-name prescription drugs. The bill is quickly making its way through the House. Two separate House committees, the House Energy and Commerce Committee and the House Education and Labor Committee have approved the bill in a vote along party lines. The Ways and Means Committee is expected to mark up the bill soon, with the full House considering the measure soon after.

In the Senate, Finance Committee Chairman Charles Grassley (R-IA) has outlined a package of drug pricing bills but no formal text has been introduced. It is reported that the White House is working with the Senate on its package.

Healthcare--Surprise Billing

Surprise billing refers to instances in which patients face high medical bills despite having enough insurance coverage to pay for the health services they received. Leading legislative proposals are aimed at ending "balance billing" which occurs in instances where a doctor or a facility cannot reach agreement with an insurer on the cost of services and then charge the patient for any costs beyond what the insurer will pay. The Energy and Commerce Committee has led the effort to move legislation in the House (HR 3630) that would end the practice. However, the House Ways and Means and Education and Labor Committees have indicated interest in also taking up the measure. It is uncertain which committee will be able to move its bill to a vote or if there will be competing bills.

In the Senate, the Health, Education, Labor, and Pensions Committee approved Senate bill 1895 on June 26 by a 20-3 vote. Chairman Lamar Alexander (R-TN) is negotiating with members to see if agreement can be reached on issues related to health care billing disputes.

The White House convened a panel about surprise billing, signaling it may be open to working on this issue.

Transportation

Over the spring and summer prospects dimmed for a major infrastructure bill and congressional transportation leaders shifted their focus to developing a transportation reauthorization deal before the Fixing America's Surface Transportation Act (FAST) expires. Quiet and steady progress has been made in both the House and Senate on reauthorizing the FAST Act, which is set to expire September 30, 2020.

Reauthorization of the highway portion of the surface transportation bill has long been the main priority for Senate Environment and Public Works Chairman John Barrasso (R-WY). At the end of July Senator Barrasso released and passed out of committee the America's Transportation Infrastructure Act of 2019. The bill authorizes \$287 billion from the Highway Trust Fund over five years. According to the committee, \$259 billion, (over 90 percent of the funds) is distributed to states by formula and the five-year funding level is more than a 27 percent increase above the FAST Act. The bill addresses the highways, roads and bridges portion of the surface transportation reauthorization bill. Importantly, it also represents the first Republican bill to address climate change issues in transportation legislation. Key provisions include:

- Establishes a competitive grant program funded at \$1 billion over five years, for states and localities to build hydrogen, natural gas, and electric vehicle fueling infrastructure along designated highway corridors which lack such infrastructure.
- Authorizes a mix of formula-based and grant-based programs to begin to reduce transportation-related emissions.
- Legislation “supports” carbon-capture projects including development of carbon dioxide pipelines and direct air capture research projects.
- Establishes a program to support projects that will improve the resiliency of roads and bridges to withstand natural disasters and extreme weather events.
- Increases funding for the Nationally Significant Freight and Highway Projects program, known as “INFRA,” by providing \$5.5 billion over five years.
- Authorizes over \$6 billion over five years, including \$3.3 billion from the Highway Trust Fund, for a competitive bridge program to address the nationwide backlog of bridges in poor condition.
- Includes a new safety funding supplemental appropriation of \$500 million per year to be distributed to states based on their current formula share to support projects that would reduce driver and pedestrian fatalities.
- Codifies key tenets of the “One Federal Decision” policy to streamline project delivery and federal approvals.

Big Technology

US technology giants continue to face scrutiny on Capitol Hill and with federal regulators. Several congressional committees are continuing their investigations into the dominance of companies such as Amazon, Apple, Facebook and Google. The House antitrust panel recently examined whether technology giants are using their dominance over markets to harm competition.

Federal Trade Commissioner (FTC) Rohit Chopra testified before Congress that US technology giants pose a threat to competition and innovation around the world through collection and control over massive amounts of consumer data. Commissioner Chopra’s remarks come as the FTC is investigating a number of ongoing federal probes of the biggest US tech companies. In his testimony, Chopra endorsed the idea of breaking up companies as a means of restoring competition.

Separately, a trade association representing wholesale distributors is calling on the Justice Department and the FTC to investigate a highly lucrative US government e-commerce contract the group says favors Amazon.

Several legislative proposals are being developed that aim to protect consumer privacy and beefing up the authority of the federal government to regulate technology companies. Senator Maria Cantwell (D-WA), the ranking member of the Senate Commerce, Science and Transportation Committee, is working with Chairman Roger Wicker (R-MS) on a federal privacy bill. In the House, Representative Anna Eshoo (D-CA) said she and fellow California Democrat Zoe Lofgren are very close to introducing their federal privacy bill.

Senator Ron Wyden (D-OR) introduced legislation, referred to as the “Mind Your Own Business Act” of 2019, that would have company executives face possible jail time for lying to the FTC about privacy and data security matters. It would allow the FTC to issue fines for first-time privacy violators of up to

four percent of annual revenue, like a potential penalty under the European Union’s General Data Protection Regulation. It also includes a “do not track” provision that would allow users to stop companies from tracking and selling their data.

POLICY & FISCAL IMPACTS

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OPTIONS

N/A

ATTACHMENTS & AVAILABLE DOCUMENTS

N/A

AVAILABLE IN COUNCIL LIBRARY

N/A