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MEMORANDUM

TO Legislative Committee

FROM Brent R. Heberlee

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RE Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the September 15, 2022, Special Legislative Committee meeting.

1. FY2023 Appropriations

With the end of the fiscal year rapidly approaching, Congress is expected to consider a continuing resolution (CR) within the next two weeks to keep the government operating through mid-December. The White House would like to attach to the CR $47 billion in funding for Ukraine, Covid, monkeypox and disaster relief. The Covid funding request, as it has for months, is a major sticking point with Republicans, who believe that the White House should reprogram American Rescue Plan Act funds to meet any needs for vaccines, tests and therapeutics.

Once the CR is passed, Congress will turn its attention to negotiating an omnibus FY2023 appropriation package, although serious negotiations are not likely to begin until after the November elections. The hope and expectation are that earmarks will remain in the final omnibus spending bill, including the funding secured by Rep. Panetta for three Monterey County projects -- the Family Justice Center ($500,000), Castroville Seawater Intrusion Project ($900,000), and U.S. 101 Lane Widening "South of Salinas Project" ($1,000,000).

2. Inflation Reduction Act

President Biden signed the Inflation Reduction Act (IRA) into law on August 16th. The three pillars of the IRA are reducing the federal deficit through tax reform, cutting greenhouse gas emissions and lowering health insurance related costs while increasing health insurance coverage for vulnerable Americans.

The IRA invests $369 billion in climate and energy, aiming to reduce greenhouse gas emissions by 40 percent below 2005 levels by 2030. It establishes new programs that provide direct funding opportunities for counties to engage in clean energy and climate projects and provides funds for range of issues including air pollution, energy efficiency and carbon emissions.

The IRA establishes a $5 billion Climate Pollution Reduction Grant Program at EPA, which will award funding to state and local governments and other eligible entities, for greenhouse gas air pollution planning and implementation activities. Applicants will be required to submit a plan for the reduction of greenhouse gas air pollution including programs, policies, measures and programs to EPA. The Agency will then award funds to selected applicants to carry out those plans. EPA is required to publish a Notice of Funding Opportunity (NOFO) for the program within nine months of the IRA's enactment. Counties will be able to apply directly to EPA for funding under the program.

The IRA appropriates funding to HUD to provide loans and grants to fund energy and water efficiency projects in affordable housing. Of the funding provided, $837.5 million is reserved for loans and grants to fund projects at an eligible property that:

- Improve energy or water efficiency
- Enhance indoor air quality or sustainability
- Implement the use of zero-emission electricity generation
- Contain low-emission building materials or processes, energy storage or building electrification strategies
- Addresses climate resilience

Eligible properties include:

- Section 202 Housing (supportive housing for the elderly)
- Section 811 Housing (supportive housing for persons with disabilities)
- Section 8 Housing (low-income housing assistance)
- Section 236 Housing (rental and cooperative housing for lower-income families)
- Households that received project-based rental assistance in FY 2021

Eligible recipients include owners of these properties.

Additionally, the IRA extends, modifies and establishes several tax incentives to boost the development and deployment of clean energy. Several incentives are now available to local governments under a 'direct pay' option, meaning that counties could elect to receive a direct payment from the federal government in lieu of the credit. This presents new opportunities for counties interested in pursuing and financing renewable and clean energy projects.

The IRA also provides funding for Bureau of Reclamation water supply projects, including $550 million for grants to disadvantaged communities, as defined by the Bureau of Reclamation, in eligible states for up to 100 percent of the cost of the planning, design or construction of water projects to increase supply to communities or households that don't have reliable access to water. Funds are available through FY2031.

Lastly, the IRA provides funding to the National Oceanic and Atmospheric Administration (NOAA) to award grants and other financial assistance to state and local governments, among other entities, for conservation and restoration of coastal and marine habitats and resources. Funds are available through FY 2026 and counties can apply directly to NOAA for funding under the program.

3. Student Load Debt Relief

President Biden recently announced a student debt relief plan to help borrowers transition back to regular payment as pandemic-related support expires. Part of the transition includes a final extension of the student loan repayment pause through December 31, 2022, with payments resuming in January 2023.

The plan also includes one-time student loan debt relief targeted to low- and middle-income families. The U.S. Department of Education (ED) will provide up to $20,000 in debt relief to Federal Pell Grant recipients and up to $10,000 in debt relief to non-Pell Grant recipients. Borrowers with loans held by ED are eligible for this relief if their individual income is less than $125,000 (or $250,000 for households). In addition, borrowers who are employed by non-profits, the military, or federal, state, Tribal, or local government may be eligible to have all of their student loans forgiven through the Public Service Loan Forgiveness (PSLF) program. This is because of time-limited changes that waive certain eligibility criteria in the PSLF program. These temporary changes expire on October 31, 2022.

Finally, the President's plan calls for proposing a rule to create a new income-driven repayment plan that will substantially reduce future monthly payments for current and future lower- and middle-income borrowers. The crux of the proposed rule would require borrowers to pay no more than 5% of their discretionary income monthly on undergraduate loans. This is down from the 10% available under the most recent income-driven repayment plan.

4. DACA Final Rule

The Department of Homeland Security recently issued a final rule for the Deferred Action for Childhood Arrivals (DACA) policy for certain eligible noncitizens who arrived in the United States as children, deferring their removal and allowing them an opportunity to access a renewable, two-year work permit. Since its inception in 2012, DACA has allowed over 800,000 young people to remain in the only country many of them have ever known, with their families.

The rule continues the DACA policy as announced in the 2012 Napolitano Memorandum and is based on longstanding USCIS practice. The final rule maintains the existing threshold criteria for DACA; retains the existing process for DACA requestors to seek work authorization; and affirms the longstanding policy that DACA is not a form of lawful status but that DACA recipients, like other deferred action recipients, are considered "lawfully present" for certain purposes.

The final rule is effective Monday, October 31, 2022. However, while a July 16, 2021, injunction from the U.S. District Court for the Southern District of Texas remains in effect, DHS is prohibited from granting initial DACA requests and related employment authorization under the final rule. Because that injunction has been partially stayed, DHS presently may grant DACA renewal requests under the final rule.

Attachments:

- Federal Bill/Issues Track