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MEMORANDUM

TO Legislative Committee
FROM Brent R. Heberlee
DATE August 5, 2020
RE Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the August 10, 2020, Legislative Committee meeting.

1. FY2021 Appropriations

In the latter part of July, the House passed two massive spending bills that comprise 10 of the 12 annual appropriations bills. Together, both bills would fund the vast majority of the federal government for FY2021, and provide significant budgetary increases for many federal programs important to counties. The bills have no chance of passing the Senate in their current form, but rather represent an opening offer from House Democrats to Senate Republicans in an effort to avoid a government shutdown on September 30th.

Congressman Panetta was successful in securing the following provisions in the appropriations bills that reflect County legislative priorities:

- prohibits funds from being used to open up new federal lands for oil and gas leasing on the Central Coast and surrounding areas
- includes \$2.4 billion in additional wildfire suppression appropriations
- establishes an emergency program to reimburse agricultural employers who purchase safety equipment, including personal protective equipment (PPE), for farmworkers
- includes \$68.277 billion in required mandatory spending for the Supplemental Nutrition Assistance Program, known locally as CalFresh, along with \$25.131 billion in mandatory funding for child nutrition programs
- includes a \$9.8 billion increase for Veterans Medical Care

The appropriations bills also contain two cannabis provisions that support the County's legislative priorities. The cannabis banking language prohibits some federal funds from being used to punish banks simply for offering services to cannabis businesses, but is not a full replacement for the SAFE Banking Act. And the Department of Justice would be prohibited from using federal funds to crack down on states, territories or Native American tribes for establishing recreational cannabis markets.

2. **HEALS Act**

On July 27th, Senate Republicans released their proposal for a fifth COVID-19 relief bill. The HEALS Act is a collection of 9 separate bills that provide roughly \$1 trillion of relief and contain policy proposals to address the health and economic fallout from the pandemic. House Democrats passed their fifth relief bill, known as the HEROES Act, back in May. Democratic leaders in the House and Senate are currently negotiating with Trump administration officials to resolve differences between the two proposals, although the first week of discussions has shown little evidence of progress on any of the major issues, such as unemployment insurance and state and local aid.

The HEALS Act provides no additional, direct funding to state and local governments beyond the \$150 billion already allocated by the CARES Act, but the legislation does contain several retroactive changes that affects how counties may spend CARES Act funds. It extends the end date for allowable necessary expenditures from December 30, 2020 to 90 days after the last day of the government's FY 2021, and it expands allowable uses of relief payments to include lost revenue incurred during the period from March 1, 2020 to 90 days after the last day of the government's FY 2021. The HEROES Act provides \$187 billion directly to counties and expands the allowable uses of funding to include revenue replacement. It also allows funds to be used until expended.

The HEALS Act reduces enhanced unemployment benefits provided by the CARES Act from \$600 to \$200 for two months, until states are able to provide a 70 percent wage replacement benefit. The HEROES Act extends the \$600 supplement through January 31, 2021.

The HEALS Act and the HEROES Act provide additional \$1200 stimulus payments to individuals that phase-out for higher incomes.

The HEALS Act includes civil liability protections for businesses, schools, government agencies, and health care providers that cover all coronavirus exposure claims through 2024. If a plaintiff can establish that the defendant did not take reasonable steps to comply with the applicable standards and regulations, the plaintiff must further show that the defendant's gross negligence or willful misconduct caused an actual exposure to coronavirus that caused the plaintiff's personal injury. The HEROES Act contains no such provision.

Federal Legislative Update
August 5, 2020

The HEALS Act allows certain small businesses that have suffered major financial losses to apply for a second Paycheck Protection Program (PPP) loan. It also expands authorized uses of existing PPP loans and simplifies the loan forgiveness process for smaller loans. The HEROES Act expands eligibility for PPP loans to all 501(c) nonprofits.

The HEALS Act provides \$302 billion in supplemental appropriations to federal agencies for a range of health, education, housing and other domestic assistance programs. The HEROES Act provides nearly \$1.2 trillion in emergency appropriations for federal agencies, in addition to the nearly \$1 trillion in assistance to state and local governments. The delta of over \$2 trillion in total spending between both bills is a key inflection point in the current negotiations.

3. 2020 Census

The Trump Administration has taken several actions recently that are purposefully designed to depress the 2020 Census count. President Trump signed a memorandum in late July that seeks to ban undocumented immigrants from being counted in the census, excluding them from the process that determines how many members of Congress are allocated to each state. The memo directs Commerce Secretary Wilbur Ross to collect data about immigrants for the purpose of withholding those numbers from the population totals. The County has joined a coalition of states, counties, and cities, led by the State of New York, in filing a lawsuit to block the policy.

The Census Bureau has also announced its intent to end its field operations by September 30th, a month earlier than what was previously announced, ostensibly to meet its statutory deadline of providing data to Congress and the president by the end of the year.

The Trump administration initially sought four months more to complete the count because of complications created by the current pandemic. In March, the bureau suspended most of its field activities. Under the initial plan to resume and extend data collection, the bureau resumed field activities on June 1st and extended the data collection period from mid-August to Oct. 31st. The House voted to extend the December 31st statutory deadline and set aside an additional \$400 million for the census effort as part of the HEROES Act. The HEALS Act proposes an additional \$448 million but does not include an extension.

4. Child Care Legislation

The House recently passed the Child Care for Economic Recovery Act (H.R. 7327) and the Child Care Is Essential Act (H.R. 7027), two bills that would provide relief to child care providers in response to the COVID-19 pandemic. Together, the bills would make more than \$60 billion in short and long-term investments in the child care sector to increase the supply of high quality, affordable child care and expand access to child care for low-income families.

The Child Care for Economic Recovery Act seeks to increase access to high quality, affordable child care through payroll tax incentives for employers, increases and expanded access to the child and dependent care tax credit, and investments in child care facility improvements with an emphasis on meeting new health and safety standards.

The Child Care Is Essential Act would appropriate \$50 billion for the establishment of a new grant program within the existing Department of Health and Human Service's Child Care and Development Block Grant program that would aid providers that have either remained open or are temporarily closed due to Covid-19.

Both bills include provisions that would give priority to providers serving low-income, "low-supply" and other high-need communities. The sector's collapse has hit Black and brown women especially hard: 93 percent of child care workers are women, according to Labor Department data, while half of child care businesses are minority-owned.

Democrats are pushing to include both measures in the COVID relief package that is currently being negotiated with the White House.

5. National Museum of the American Latino Act

The House recently passed the National Museum of the American Latino Act (H.R. 2420/S. 1267), which would establish a Smithsonian National Museum of the American Latino on the National Mall dedicated to honoring the contributions of Latinos to the United States. Congressman Panetta spoke on the House floor in support of the bill, and the Senate bill has been cosponsored by Senators Feinstein and Harris. The legislation is the culmination of a 16 year process to study the feasibility of establishing a Latino Museum on the National Mall.

Attachment:

- Federal Bill/Issues Track