



TO: Nick Chiulos, Annette D'Adamo
FROM: Brent R. Heberlee
DATE: April 30, 2015
RE: Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the May 4, 2015, Legislative Committee meeting.

A. FY2016 Federal Budget/Appropriations

The FY2016 budget conference agreement, which establishes broad spending and policy priorities over a 10 year period, will be considered by Congress next week and is expected to be approved without the support of a single Democrat in the House and Senate. The agreement maintains the spending caps imposed by the Bipartisan Budget Act of 2013, which would keep FY2016 spending largely flat for domestic discretionary programs. The agreement also authorizes an expedited legislative process, known as "reconciliation," to repeal the Affordable Care Act. The reconciliation instructions in the agreement also provide flexibility for certain committees to use the expedited process to move a legislative response to a Supreme Court ruling expected in June that could potentially find that health care subsidies offered on federal exchanges are unlawful.

House and Senate Democrats are threatening to vote against all FY2016 appropriations bills that adhere to sequester-level spending caps, aligning themselves with the White House effort to push for another budget deal that increases spending for domestic programs.

B. Workforce Innovation and Opportunity Act (WIOA) implementation

As I reported to the Legislative Committee last August, President Obama signed WIOA into law on July 22, 2014. WIOA reauthorized and overhauled the Workforce Investment Act of 1998, and it represents the first major legislative reform in 15 years of the public workforce system. In 2013, the Board of Supervisors sent a letters to Rep. Sam Farr and Senators Feinstein and Boxer opposing the House-passed version of WIOA because of the limitations it placed on the input of local elected officials in the decision-making process for workforce development activities. Congress passed WIOA the following year by a broad, bipartisan majority after extensive negotiations resolved differences between House and Senate versions of the legislation.

The U.S. Department of Labor and U.S. Department of Education recently issued a joint Notice of Proposed Rulemaking (NPRM) to implement the activities of Title I of WIOA, which

include the nationwide system of one-stop centers that provide an array of employment services and connect customers to work-related training and education. Section 121(d)(2)(A) of WIOA and the proposed rule would require one-stop operators to be selected through a competitive process and in place no later than July 1, 2017. The proposed rule suggests that this competitive process should be conducted not less than every 4 years.

Comments on the NPRM are due no later than June 15, 2015, and the final rule is expected to be published no later than January 26, 2016.

C. Legislative Updates

1. Base Realignment and Closure (BRAC)

The draft FY2016 National Defense Authorization Act that is currently being considered by the House Armed Services Committee includes a provision that prohibits the Pentagon from initiating a new BRAC round in 2017. The top Democrat on the committee is expected to attempt to offer an amendment to the bill when it reaches the House floor to authorize a BRAC round in 2017. His amendment would set up a nine-member independent commission appointed by the president and subject to Senate confirmation. The panel would only be authorized to meet during calendar year 2017. It is unclear if the House Republican leadership would allow a vote on the amendment.

2. Surface Transportation bill reauthorization

The current short-term extension keeping federal surface transportation programs operating expires at the end of May, and Congress has yet to identify how it plans to provide funding for the Highway Trust Fund beyond July when it is expected to reach a critical level. As in previous years, Congress is expected to enact another short-term extension, possibly through the end of the year, with the length of the extension driven by the amount of money that is available. Congress will need to find about \$10 billion to shore up the trust fund through December.

3. Medicare “Doc Fix” and extension of federal health care programs

After passing 17 temporary patches over the past 20 years, Congress finally enacted legislation in March to replace the flawed Sustainable Growth Rate formula used to calculate Medicare payments to physicians. The bill establishes a new reimbursement system under which physicians could choose to participate under one of two methods: a Merit-Based Incentive Payment system under which doctors could get higher reimbursements based on better overall performance, or a group-oriented Alternative Payment Model system under which doctors would move away from traditional fee-for-service payments. It provides for a 10-year transition period under which current Medicare reimbursement rates would gradually rise each year until 2020 and then remain stable for five years while the two new programs are more fully implemented.

The measure also extends funding for the Children's Health Insurance Program for an additional two years, providing a total of \$19.3 billion for the program for FY 2016 and \$20.4 billion for the program for FY 2017. The program helps cover children whose families do not qualify for Medicaid. It extends funding for community health centers for an additional two years, through FY 2017, providing \$3.6 billion each year, as well as numerous other health care programs that would otherwise soon expire, including the Maternal, Infant, and Early Childhood Home Visiting Program. It makes permanent the Qualifying Individual (QI) program that helps low-income seniors pay their Medicare premiums, as well as the Transitional Medical Assistance (TMA) program under which individuals receiving Medicaid may continue to receive benefits as they transition to employment. The bill also delays by one year, until 2018, the scheduled reduction in Disproportionate Share Hospital payments received by many public hospitals across the country, including Natividad Medical Center.

4. Secure Rural Schools (SRS) funding extension

The "Doc Fix" legislation included an unrelated provision to extend SRS funding for two years to certain rural counties affected by the decline in revenue from timber harvests on federal land. The County received approximately \$16,000 in payments in FY2014.

5. Municipal bonds tax exemption

Rep. Sam Farr and over 100 of his colleagues sent a letter to Speaker Boehner and Minority Leader Pelosi urging them to oppose attempts to repeal or limit the tax exemption for municipal bond interest.

6. State Criminal Alien Assistance Program (SCAAP)

Rep. Sam Farr and 41 other House members sent a letter to the Appropriations Committee expressing support for SCAAP and requesting that the program be appropriated at a level consistent with its federally mandated responsibility. The County received \$392,000 from SCAAP in FY2014.

D. Bureau of Land Management (BLM) Final Rule on Hydraulic Fracturing ("fracking")

The BLM released its final rule on hydraulic fracturing on March 20th. The rule updates regulations about drilling and fracking on land managed by the BLM and the Forest Service, as well as Native American tribal land. The rule, which would affect roughly 3,400 hydraulically fractured wells each year, requires operators to disclose fracturing chemicals to the industry-based FracFocus website and bans open pits at well sites, requiring wastewater to be stored in metal tanks. It would also require companies to demonstrate that wells are properly cemented to ensure fracking fluids do not leak into surrounding aquifers. The rule also includes a "variance" process when state and tribal regulations meet or exceed BLM's standards, and therefore qualify to supplant the federal regulations.