



**TO:** Nick Chiulos, Annette D'Adamo

**FROM:** Brent R. Heberlee

**DATE:** August 26, 2016

**RE:** Federal Legislative Update

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This memo provides a Federal Legislative Update on the items appearing on the agenda for the August 26, 2016, Legislative Committee meeting.

**A. FY2017 Budget and Appropriations**

Just before Congress recessed in mid-July, the House passed its \$32 billion FY2017 Interior and Environment spending bill by a vote of 231-196, with Democrats opposing the measure en masse over contentious policy riders and disputes over funding levels. The measure contains provisions to block Obama administration regulations including the Clean Power Plan, the Waters of the U.S. rule and other water regulations, as well as Republican language relating to the California drought. Before final passage, Republicans voted down several efforts by Democrats to remove contentious riders from the bill.

Despite a major effort by Republican leaders to move all 12 appropriations bills on the floor this year, the spending process appears headed for yet another continuing resolution and year-end omnibus. When Congress returns to work on September 7<sup>th</sup>, it will have just four weeks to formulate a spending plan. None of the FY2017 appropriations bills has made it to the president's desk so far, and a conference report on the Military Construction-VA bill is mired in the Senate amidst a bitter dispute over Zika emergency funding.

Conservatives in the House are pressing Republican leaders for a meeting as soon as Congress returns in September on how they plan to avoid a government shutdown. More than 50 members of two key conservative groups, the House Freedom Caucus and the larger Republican Study Committee, recently sent a letter to Republican leadership requesting a special House Republican conference meeting to discuss plans for passing a stopgap funding measure before September 30<sup>th</sup>, when FY2016 appropriations expire.

Members of each group, particularly the Freedom Caucus, are demanding a six-month continuing resolution that would punt final funding decisions into March 2017. Conservatives are vehemently opposed to the idea of returning to Congress after the November elections and passing another massive omnibus spending package, negotiated privately by congressional leaders and the White House.

## **B. Legislative/Regulatory Updates**

### **1. H.R. 5540 – The Military Infrastructure Consolidation and Efficiency Act**

The Board recently sent a letter to Rep. Sam Farr thanking him for cosponsoring H.R. 5540, the Military Infrastructure Consolidation and Efficiency Act of 2016. The legislation would instruct the Pentagon to value professional military education as importantly as traditional military training as part of the base consolidation, closure, and realignment review process.

### **2. Federal Transit Administration (FTA) Safety Rule**

The U.S. Department of Transportation released its final regulation on August 11<sup>th</sup> guiding the FTA's oversight of U.S. transit system safety. The final rule goes into effect on September 12<sup>th</sup> and codifies the FTA's program for pinpointing and reducing safety risks for federally funded public transportation systems across the country.

The rule stipulates that FTA is allowed to withhold up to 25 percent of a transit operator's Urbanized Area Formula funds until serious safety violations are resolved, and the rule scraps language in current law that states that the FTA will consider in its enforcement action whether transit systems have complied with safety advisories.

### **3. Drug Enforcement Administration (DEA) Review of Marijuana Classification**

The DEA recently declined to reclassify marijuana on its schedule of controlled substances, preserving its current classification as a schedule I controlled substance. Schedule I controlled substances are those deemed to have no accepted medical uses and a high potential for abuse. Instead, the agency said it was ending a policy that restricts growing of marijuana for research purposes to a single institution, a move that could broaden the ability of universities and other institutions to develop new drugs.

The policy took effect immediately, allowing researchers to register with the DEA as registered growers who will be subject to quota and record-keeping requirements and will be required to seek further approval to distribute their product for research or processing. The DEA does not have a specific number of approved growers in mind. It is bound by statute only to approve a number "necessary to provide an adequate and uninterrupted supply of marijuana" to researchers in the United States. The agency will consider whether new growers are needed as it evaluates applications.

Current growers of medical marijuana or marijuana for recreational use in states where it is legal might run into problems becoming registered. Even if production is legal under state law, the DEA still considers it an illegal activity, which "may weigh heavily against granting the registration," according to the agency notice.

#### 4. Federal Emergency Management Agency (FEMA) Proposal to Restrict Disaster Mitigation Grants

FEMA has proposed that projects it funds with money from disaster aid and mitigation grants be built at least two feet above the 100-year flood elevation. The proposed regulation is part of a federal effort to account for higher flood risks associated with climate change and would apply to the agency's grants and preparedness activities, but would not affect National Flood Insurance Program policies or maps.

President Obama issued an Executive Order in January 2015 requiring all federal agencies to update their flood-risk calculations in light of the rising seas and stronger storms expected in the future. The EO gave agencies several options for how to take this increased risk into account. In addition to building higher — the approach FEMA selected — the EO also allows agencies to use science and technical data to assess flood risk in specific areas being eyed for construction, or to key off of the 500-year floodplain rather than the 100-year floodplain.

#### 5. Zika Funding

The Centers for Disease Control and Prevention (CDC) recently awarded more than \$16 million to 40 states and territories to establish, enhance, and maintain information-gathering systems to rapidly detect microcephaly—a serious birth defect of the brain—and other adverse outcomes caused by Zika virus infection. These awards are a stopgap diverted from other public health resources until Zika funds are provided by Congress.

The funding will also help states and territories ensure that infants and their families are referred to appropriate health and social services. Finally, the awards will enable states and territories to monitor the health and developmental outcomes of children affected by Zika.

The funds were provided to states and territories based on their risk of Zika virus transmission, population need, and availability of funds. These funds are in addition to \$25 million awarded on July 1 as part of CDC's preparedness and response funding to areas at risk for outbreaks of Zika. Funding amounts for the 40 states and territories receiving the assistance range from \$200,000-\$720,000. The State of California has received \$720,000.

The Obama Administration has requested \$1.9 billion that public health experts identified as necessary to combat Zika and protect the homeland, but the budget has not been approved by Congress.

### **C. U.S. Forest Service funding for Nacimiento-Fergusson Road**

Rep. Sam Farr's office continues to work with the U.S. Forest Service (USFS) to fulfill the commitment it received to fund repair work to Nacimiento-Fergusson Road. One of the principal staff members for the USFS working on this project has been on leave for the past several weeks, causing a delay in the availability of funds at the local level.