



TO: Legislative Committee
FROM: Brent R. Heberlee
DATE: September 7, 2017
RE: Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the September 11, 2017, Legislative Committee meeting.

A. FY2018 Budget/Appropriations

Prior to leaving for the August recess, the House completed work on a package of four FY2018 spending bills. Upon its return, the House began consideration of the remaining eight appropriations bills that have been combined into one omnibus measure. The incorporated measures are:

- Agriculture-FDA, which would provide \$20 billion in discretionary funding and roll back tobacco regulations.
- Commerce-Justice-Science, which would provide \$53.9 billion in discretionary funding, including \$220 million for the State Criminal Alien Assistance Program, which the administration proposed eliminating.
- Financial Services-General Government, which would provide \$20.2 billion in discretionary funding and would repeal major financial regulations.
- Homeland Security, which would provide \$49.5 billion in discretionary funding. The total would include disaster funding and cover increased spending for immigration enforcement.
- Interior-Environment, which would provide a total of \$31.5 billion, including \$465 million for the Payments in Lieu of Taxes (PILT) program.
- Labor-HHS-Education, which would provide \$157.9 billion in discretionary funding, and would block the use of money to implement the Affordable Care Act.
- State-Foreign Operations, which would provide \$47.4 billion for the State Department, foreign aid, and international programs.
- Transportation-HUD, which would provide \$56.5 billion in discretionary funds and eliminate the Transportation Investment Generating Economic Recovery (TIGER) grant program.

The eight-bill package includes modifications to two of the committee-approved spending measures. Most notably, funding for the wall along the U.S.-Mexico Border has been removed from the Homeland Security section of the bill. The wall funding was added to the minibus appropriations bill that the House passed on July 27th. The package's Financial Services-General Government section omits a committee-approved provision that would have

allowed immigrants who are authorized to work in the U.S. under the Deferred Action for Childhood Arrivals (DACA) program to qualify for government employment.

As of this writing, the House Rules Committee is in the process of vetting more than 900 amendments to set the terms of floor debate on the measure. The Committee has already barred dozens of controversial amendments from floor votes on the spending package. No amendments relating to the DACA made the cut, and Republicans also prevented consideration of amendments that would bar federal funds from going to businesses tied to Trump.

Among the first four spending bills addressed by the Rules Committee, there will be floor votes on amendments withholding funds from sanctuary cities, requiring government employees to be verified through E-Verify, defunding an Obama administration executive order dealing with labor agreements on government construction projects, defunding Amtrak, cutting funds for the Immigration and Customs Enforcement, and removing a measure allowing Department of Homeland Security funds to be reprogrammed for ICE, among others.

With the likelihood of the Senate completing action on their versions of the FY2018 appropriations bills before the end of the month close to zero, President Trump and Congressional leaders announced a deal on September 6th to adopt a short term continuing resolution to fund the government through December 15th.

B. Legislative

1. Debt Limit

Senate Minority Leader Chuck Schumer (D-NY) and House Democratic Leader Nancy Pelosi (D-CA) announced on September 6th that President Trump and congressional leaders agreed to a legislative package containing hurricane relief funds, an extension of the debt limit, and a continuing resolution to fund the government through December 15th. Republican congressional leaders as well as Treasury Secretary Steven Mnuchin had pushed for a longer-term debt deal but they backed down when President Trump told them he sided with Democrats on the timetable.

The deal is being reported as a major victory for Democrats. When the debt ceiling and government funding bills expire in December, Democrats will have all the leverage, because Republicans can't pass another continuing resolution or debt ceiling bill without Democratic votes.

2. Children's Health Insurance Program (CHIP)

Funding for the Children's Health Insurance Program (CHIP) is set to run out on September 30th, but Congress has until December to extend new funds for the program, which extends coverage for kids whose families fall in the gap between meeting eligibility for Medicaid and being able to afford other types of private insurance. The program covered nearly 9 million children in FY2016. California and several other states will exhaust their CHIP funds by December. Nearly all states have assumed continuation of federal CHIP funding in their

FY2018 state budgets, and most would face a funding shortfall if Congress does not extend federal funding.

Congress has done little work on CHIP this year, and it's possible that lawmakers could punt on the issue by giving money to those states expected to run out of funds by December and addressing the whole program in early 2018.

3. Medical Cannabis Amendment to FY2018 Appropriations Bill

The House Rules Committee blocked the full House from voting on an amendment to the FY2018 omnibus appropriations bill that would prevent the Department of Justice (DOJ) from prosecuting individuals who are in compliance with their state's medical marijuana laws, or otherwise interfering with the implementation of such laws. The Rules Committee also blocked several other marijuana-related amendments, including one that would have prevented financial institutions from being penalized for serving legitimate marijuana businesses.

Since 2014, the Justice Department spending bill has included language that blocks funds from being used to enforce federal law relating to medical marijuana in states where the drug is legal. The Senate version of the FY2018 spending bill for DOJ includes the medical marijuana provision, so the issue will have to be resolved during budget negotiations between the two chambers later this fall.

4. Affordable Care Act (ACA) Stabilization Hearings

The Senate Health, Education, Labor and Pensions Committee has begun a series of hearings to solicit advice from governors, state insurance commissioners, medical providers, insurers, and other experts about how to stabilize and strengthen the individual insurance markets established under the ACA. The stabilization effort, led by Chairman Lamar Alexander (R-TN) and Ranking Democrat Patty Murray (D-WA), could yield the first bipartisan ACA bill since the law was passed seven years ago. It could also provide some measure of certainty for insurance companies that have until September 27th to make final decisions about whether to participate in ACA markets next year.

Chairman Alexander has said he wants to advance a narrow package that would include funding for the law's controversial cost-sharing reduction payments for one year and allow additional flexibilities for states to implement changes under the law's so-called 1332 waiver program. Senator Murray and other Democrats are unlikely to agree to ease the basic protections in the waiver process designed to ensure coverage doesn't become less comprehensive or more expensive. Murray has also called for a "multiyear solution," rather than a one-year package as Alexander is promoting, and she has suggested the inclusion of a "public option" on the exchanges, which would pit insurers against a government plan, should be a part of a longer-term solution.

C. Immigration – Deferred Action for Childhood Arrivals (DACA)

The Trump administration announced on September 5th that it would begin phasing out DACA on March 5, 2018. On September 4, 2017, Attorney General Jeff Sessions sent a letter to DHS Acting Secretary Elaine Duke stating DACA was an “unconstitutional exercise of authority by the Executive Branch” and that legal challenges to the program would “likely” result in DACA being deemed unlawful. On September 5, 2017, Acting Secretary Duke issued a memorandum officially rescinding the program. DHS will not process new DACA applications received after September 5th.

The memorandum allows current DACA recipients to keep their work authorization and deferred action grants until they expire. Beneficiaries whose status expires before March 5, 2018 can renew their two-year deportation protection and work permit by October 5th. DACA recipients will begin to lose protection March 6, 2018. They will no longer be eligible for lawful employment and they will be deportable. However, recipients who renew their status before March 6th can continue to work for the length of their renewal, which may be up to two years. According to the Trump Administration, the six month delay for ending DACA is intended to provide Congress with time to pass legislation, such as the DREAM Act, that would provide relief to DACA beneficiaries.

Consider a recommendation to the Board of Supervisors to adopt a resolution supporting “Dreamers” and the DACA Program at the September 12, 2017 meeting of the Board.

Attached to this report is a resolution developed by Supervisor Alejo regarding “Dreamers” and the DACA Program. It is recommended that the Committee consider making a recommendation to the Board of Supervisor to adopt this resolution at their September 12, 2017 Board meeting.

D. Pajaro River/Army Corps of Engineers Flood Prevention Project

Congressman Panetta has made the Pajaro River Flood Control Project a top priority for his office. He and his staff are working closely with the Army Corps of Engineers, Monterey County, and Santa Cruz County to ensure the project moves forward in a timely manner and all parties understand the funding and permitting requirements that lie ahead.

Supervisor Phillips and staff from the Water Resources Agency and IGLA are on point for the County at the local level, and I am monitoring any federal issues that could impact the project.

Attachments:

- Resolution supporting “Dreamers” and the DACA Program
- Federal Bill/Issues Track