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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Katano Kasaine
Finance Director

SUBJECT: Federal & State Budgetary Actions
Standing Report

DATE: May 10, 2018

City Administrator Approval

Date:

S/10/18

A standing report from staff will be scheduled at the Finance and Management Committee meeting quarterly, for the purpose of presenting to the Committee any new developments relating to Federal and State budgetary actions and their potential impact on the City.

For questions regarding this report, please contact Brad Johnson, Assistant to the City Administrator, at (510) 238-6119.

Respectfully submitted,

Katano Kasaine

KATANO KASAINÉ
Director, Finance Department

Attachments (1):
Report from Townsend Public Affairs, Inc.

M E M O R A N D U M

To: Mayor Libby Schaaf
Council President Larry Reid and Members of the City Council

From: Townsend Public Affairs, Inc.

Date: May 10, 2018

Subject: Ongoing update of the 2018-2019 State & Federal Budgets

State Budget

At the time of submitting this report, the Governor has not yet released the May Revise Budget. The City/TPA team, specifically the Mayor and her office, have been very active both individually and as part of various coalitions advocating for increased funding through the State Budget, especially for homelessness.

Additionally, over the past three months TPA has been working with various City Departments to ensure two previous state grant awards will be extended thereby giving the City ample time to finish the projects. These extensions are secured through the State Budget and trailer bills and are for a park project and affordable housing project.

When the May Revise is released TPA sends the City our summary and analysis with suggested next steps.

As background, the January Budget proposal is the starting point for budget negotiations, so it is very possible that allocations will change before the final budget is enacted. In the coming weeks, the Assembly and Senate Budget Committees will hold hearings to discuss various pieces of the Governor's Budget proposal. We will keep the City updated on those hearings and as of the date of this memo, no subcommittee hearings on the Budget have been scheduled.

The Governor's January Budget proposal builds upon the theme of saving for a rainy day, paying down debt, and limiting ongoing spending commitments. The \$190 billion dollar January budget proposal maintains fiscal prudence. The General Fund revenues continue to beat estimates by approximately \$6.1 billion as part of what Governor Brown noted was the longest economic recovery since World War II. These additional revenues will be primarily dedicated to fully funding the Rainy Day Fund, allocating a supplemental \$3.5 billion in the proposed January Budget in addition to the constitutionally required amount under Proposition 2. The Governor was adamant that this action will help the next Administration and the State weather the storm of an inevitable downturn that could result in an annual \$20 billion revenue decline over several years. The



Governor also recognized the \$4.6 billion for SB 1 transportation infrastructure, noting that if SB 1 is repealed it could have a devastating impact to California's economy.

The Governor's January Budget does not address the many unknowns resulting from federal policy changes or assumptions coming from the recently passed "Tax Cuts and Jobs Act" signed by President Trump last month. Those impacts will not be known until tax filers complete their 2018 returns in calendar year 2019.

Federal Budget

Federal Budget & Appropriations Overview

- At the federal level, the **budget** is a non-binding, broad outline of spending that is recommended but not required, which is followed by appropriations bills that fund all federal government agencies.
- **Appropriations bills**, which fund the federal government, are traditionally adopted in twelve individual bills pertaining to the various federal departments and agencies. These bills may also advance in the form of a:
 - **Continuing Resolution (CR):** Extension of federal funding for a set amount of time at the same level as previously negotiated
 - **Omnibus:** Full-year funding, all in one bill
 - **Minibus:** Full-year funding, but for several departments at a time
 - **CRomnibus:** Combination CR and omnibus, which negotiates new funding levels for some areas of government and simply extends federal funding at same levels for other areas of government
- In a typical legislative year, Congress begins crafting their annual funding bills after the president submits his proposal in February, followed by appropriation committee hearings in early spring, appropriation bill mark-ups in late spring, floor debate and passage in summer, conference committee negotiations in early fall and final approval by the House and Senate before the September 30 end of the fiscal year.
- However, for the past several years, Congress has been unable to pass all twelve bills in time, and has relied in a series of CRs or omnibus bills.
- An omnibus (and sometimes minibuses) can be unwieldy and under-scrutinized compared to the individual twelve bills, but ultimately, they fund the government in the same way individual appropriation bills would.

FISCAL YEAR 2018 BUDGET AND APPROPRIATIONS

On March 23, 2018, Congress passed and President Trump signed a \$1.3 trillion omnibus spending bill, which funds the federal government through the remainder of the federal Fiscal Year 2018, until September 30, 2018.

Despite many of the progressive funding levels included in the omnibus spending bill, Congress was not able to reach an agreement to include statutory protections for DACA recipients. In a press conference touting increases in military and homeland security spending, President Trump expressed his disappointment with the bill and passage process, including:

- Reprimanded Congress for this 2232-page bill coming together just hours before passage, providing little time to read it.
 - Said he would not sign another bill like this.
- Called on Congress to provide line-item veto power on spending bills.
 - President Clinton had this authority until the Supreme Court ruled a presidential line-item veto is unconstitutional in 1998.
- Called on Congress to eliminate the “filibuster rule,” which generally requires a 60-vote threshold for procedural votes on most legislation.
 - A bipartisan group of 61 Senators sent a letter to Senate leadership urging them to preserve the 60-vote threshold in April 2017.
- Said Democrats have treated Dreamers very poorly and did not want a fix to DACA in the spending bill.
 - The White House and Republican leaders offered a 2.5-year extension of protections for Dreamers in exchange for \$25 billion in border wall funding.
 - Democrats countered with a path to citizenship for Dreamers and \$25 billion in border wall funding, and a deal was not reached.
- Appealed for additional border wall funding.

Omnibus Highlights:

- Infrastructure:
 - \$10 billion in new funding for infrastructure projects
 - \$1.5 billion for the TIGER grant program (possibly renamed as BUILD grants), which is triple the funding the program received last year
- Housing:
 - \$3.3 billion for the Community Development Block Grant program, an increase of \$240 million
 - \$1.36 billion for the HOME Investment Partnerships program, an increase of \$412 million
 - \$40 million for HUD-VASH vouchers
 - Expands the Low-Income Housing Tax Credit program
- Education:
 - \$1.2 billion for 21st Century Learning Centers, a \$20 million increase
 - Raised Pell Grant eligibility up to \$6,095, a \$175 increase
 - Preserved Public Service Loan Forgiveness program
 - Creates \$350 million discretionary relief fund to help borrowers working in public and nonprofit sectors to discharge loans they had been paying for 10 years but were in repayment plans ineligible for loan forgiveness
- Cannabis:
 - As has been included in previous appropriations bills, no federal funds may be used to prevent the use, distribution, possession, or cultivation of medical cannabis in the states in which it is legal
- Gun Violence:
 - Includes “Fix NICS” legislation, which would encourage states to report more frequently to the federal background check system

- Allows the Centers for Disease Control and Prevention to use funds available for injury prevention to research gun violence for the first time since 1996
- Health:
 - \$3 billion to combat the opioid epidemic
 - \$37 billion for the National Institutes of Health
 - Nearly \$1 billion for mental health programs
- Border Security:
 - Provides nearly \$1.6 billion for border security improvements
 - \$251 million for 14 miles of secondary fencing near San Diego
 - \$641 million for 33 miles of primary fencing in Texas, which is being referred to as “border wall funding” by members of the Trump Administration
- Environmental Protection:
 - Level funding (\$8.06 billion) for the EPA, even though the Trump Administration has called for drastic cuts to the agency
- Election Security:
 - Allocates \$380 million for the administration of elections, including to enhance election technology and make security improvements in the wake of Russian attempts to meddle in the 2016 election

FISCAL YEAR 2019 BUDGET AND APPROPRIATIONS

This week, the House Appropriations Committee began releasing FY19 appropriations bills, the first of twelve in each chamber for the year. The bills will be debated and voted on moving forward over the next weeks and months.

Commerce, Science, and Justice Bill Highlights:

- Anti-Opioid Abuse – \$447 million for grant programs to help stem opioid abuse, including funding for federal law enforcement resources to investigate and prosecute drug traffickers
- Gun Crimes and School Safety –
 - \$75 million in grants to states to improve records used in background checks
 - \$50 million in grants to reduce gang and gun violence
 - \$100 million for stopping school violence
 - \$100 million for youth mentoring programs
 - \$20 million for police active shooter training
- Department of Justice (DOJ) – \$30.7 billion, an increase of \$793 million above the fiscal year 2018 enacted level
- Executive Office for Immigration Review (EOIR) – \$630 million, which is \$126 million above fiscal year 2018, which funds 100 additional immigration judge teams
- Grant Programs – The bill includes a total of \$2.9 billion for various state and local law enforcement assistance grant programs including:
 - \$493 million for Violence Against Women Act programs
 - \$442 million for Byrne Justice Assistance Grants
 - \$255 million for the State Criminal Alien Assistance Program
 - \$130 million for DNA Initiative Grants

- \$48 million for Reduce Sexual Assault Kits Backlog grants
- \$100 million for Anti-Human Trafficking grants
- \$380 million for Comprehensive Addiction and Recovery Act grants
- \$76 million for Missing and Exploited Children programs
- Census Bureau – \$4.8 billion for the Census Bureau to ramp up for the 2020 Decennial Census

Agriculture Bill Highlights:

- Women, Infants, and Children (WIC) – \$6 billion in discretionary funding for WIC, which is \$175 million below the fiscal year 2018 enacted level, and rescinds \$300 million of unobligated funds
- Child nutrition programs – \$23.2 billion in required mandatory funding for child nutrition programs, which is \$1.1 billion below the fiscal year 2018 level
- Supplemental Nutrition Assistance Program (SNAP) – \$73.2 billion in required mandatory spending for SNAP, which is \$794 million below last year's level

Cannabis

On April 13, the Trump administration announced that it would not crack down on recreational cannabis in states where it is legal, including California, in a move that signals a shift in DOJ strategy. This policy shift could allow licensed California cannabis businesses to operate without fear of federal raids and prosecution.

This announcement comes on the heels of recent conversations between President Trump and Senator Cory Gardner (R-CO). Senator Gardner had blocked DOJ nominees in the wake of the Trump Administration of the Obama-era Cole Memorandum, which limited federal enforcement of cannabis laws in states in which cannabis had become legal to possess.

Senator Gardner also indicated that President Trump said he would support legislation to give states the authority to set their own policies on cannabis. However, we have not yet seen any additional push from White House on this issue to loosen federal cannabis laws.

Sanctuary Cities

On April 12, a federal judge ruled that DOJ cannot favor police departments that cooperate with ICE when awarding grant funds.

The City of Los Angeles filed a lawsuit in September against the DOJ, which had put restriction or preferences on grant funding pertaining to law enforcement sanctuary policies.

The lawsuit specifically mentioned the Community Oriented Policing Services (COPS) program, which beginning last year indicated that cooperation with immigration agents would cause applicants to gain favorability. The COPS program actually had the less restrictive of the two primary DOJ examples of sanctuary policies on grant programs; Byrne-JAG grants were entirely restricted based on sanctuary policy.

In his ruling, U.S. District Judge Manuel Real agreed with the Los Angeles City Attorney that the new funding rules violated the separation of powers laid out in the nation's Constitution.

- Real found the funding conditions were an improper attempt to force local police to participate in immigration enforcement, which is the job of the federal government.
- He also found that the conditions crossed the authority given to Congress, not the executive branch, to control government spending.

The ruling creates a permanent injunction against DOJ. DOJ is likely to appeal the case, but there could be immediate consequences for this upcoming round of COPS applications, since the appeal will not likely be resolved by the opening of the cycle.

Immigration

On April 24, On Tuesday night, a third federal judge blocked the Trump Administration's move to end the Deferred Action for Childhood Arrivals (DACA) program, which protects undocumented immigrants brought here as children from deportation.

- This is the first decision that would require the Administration to reopen DACA applications to new recipients within 90 days unless the Department of Homeland Security (DHS) can develop sufficient justification for ending the program.
 - DHS initially argued that a lawsuit threatened by several states, including Texas, asserting that the establishment of the DACA program was unlawful justified termination of the program.
 - The previous injunctions from federal courts already required the federal government to continue to accept renewal applications from those protected from deportation.
- Judge John Bates is the first federal judge appointed by a Republican president to rule on the Administration's decision to end DACA. Two federal judges, both appointed by President Bill Clinton, previously rejected the Trump Administration's request to end the DACA program.
- In February, the Supreme Court turned down the Trump Administration's request to immediately review these lower court decisions. As such, it would likely be until at least the next term, starting in October 2018, before the issue could return to the Supreme Court.
- Congress failed to pass a legislative solution to protect Dreamers before the previously anticipated deadline of March 5, 2018.