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Memorandum

From: Rick Spees, Jane Sargent and Jose Villalobos

To: Board of County Commissioners

CC: Phillip Drujak

Date: September 1, 2022

Subject: August 2022 Monthly Report

Appropriations Update:

Very little happened on the Fiscal Year 2023 Appropriations bills in August. For the most part Congress was in its annual summer recess and out of town. For the brief time the House and Senate were in town each was focused on passage of the latest version of the Build Back Better bill, renamed the Inflation Reduction Act (IRA). The Senate passed the IRA by a vote of 51-50 with all the Democrats voting for the bill and all the Republicans voting against it. The Vice President broke the tie by voting in favor. When the bill was considered in the House the vote was 220-207 for passage. Again all the Republicans voted against the bill. Action on the regular FY 2023 bills was deferred until September.

The federal fiscal year starts on October 1st. Thus we are almost at the end of FY 2022 and FY 2023 is a month away. Before the start of each fiscal year, Congress must pass twelve appropriations bills that make up the federal budget. If they don't they have to pass a bill called a Continuing Resolution (CR) that keeps the government operating at current levels for a set period of time. The idea is that Congress will take the additional time to pass the regular bills. If the time period of the CR expires before all the bills have passed, Congress will pass another CR until all the bills are done.

As reported previously the two parties are hopelessly divided on the direction of the federal budget. The Democrats want to minimize the increases for defense spending while putting more resources into domestic programs. The Republicans want more for defense and a much smaller increase for domestic spending programs. This impasse has continued all year. What is complicating the process is the chance that the Republicans will take control of one or both Houses in the election. If they do, the bargaining position of the Republicans will increase. In other words, politically the Republicans are assuming that they are better off waiting until after the elections.

Thus we can guarantee that nothing will get done on the twelve bills in September. Instead the Congress will focus on passing a CR. While that should be an easy thing to do, nothing ever is. The two parties will have two fights on the CR. The first is how long it will last. The Republicans will press for a date later in the year, and ideally until next year when they take over. The Democrats will press for an earlier deadline date in hopes that they can complete work on the bills after the election but before the end of the year, when they may lose control of one or both Houses. Our best guess is that they will eventually agree to a date in December. If the work is not done by then, they will pass another CR lasting until February or March of 2023.

The second issue is a thing called anomalies. While the vast majority of programs can operate for weeks at the current year's spending levels, there are always a few that need an exception to that policy and need additional spending. The problem is that the two parties disagree on which agencies need more. They will go back and forth on a list of exceptions. This issue is in the budgetary weeds and is not usually highlighted by the press, but it can cause real problems in Congress. We can't predict exactly which agencies will get exceptions or anomalies in the CR they will pass in September. We do know that after lots of pain the parties will eventually agree to a list.

Once they agree to a CR, they will have successfully kicked the can down the road for several weeks and they can go home in October to campaign.

Inflation Reduction Act:

The one major bill that Congress passed in August—one that impacts the federal budget—was the Inflation Reduction Act (IRA). That bill has a number of major parts. First it funds a number of climate change programs. Second it makes changes in the federal health care system. Finally it pays for the other programs in the act by increasing taxes. Each of the sections would be a major piece of legislation if it was passed independently. Taken together the IRA will have a massive impact on the country.

First a bit of the backstory. When the Biden Administration started the President proposed two major budgetary initiatives in addition to the regular budget/appropriations process. The first would deal with physical infrastructure—roads, bridges, airports, ports, and broadband. The cost of that bill was projected to total over $2 trillion. The second would deal with human needs, and would include things like health care, child care, climate change and education. The second bill was called the Build Back Better bill. The cost of that bill was estimated at roughly $2 trillion as well. The Republicans objected initially to both measures, saying they were too expensive. The Democrats, and particularly the progressive Democrats pressed for even more spending. Some versions of the Build Back Better totaled up to $6 trillion.

After months of wrangling, some moderate Senate Republicans and Democrats developed a bill to cover the physical infrastructure programs. After all, the federal government has been spending money on things like the interstate highway program since the Eisenhower Administration. The existing highway authorization was up for renewal. The bill totaled $1.2 trillion. The bill passed the Senate with support of enough Republicans to avoid a filibuster. It went over to the House and eventually passed there too. (I am greatly simplifying the entire process. Feel free to contact us for more details.)

As for the Build Back Better bill, it was clear that no Republicans would support it in the Senate. That meant that the bill could not overcome a filibuster. The only way it could pass is through a complicated budget maneuver called Reconciliation. Reconciliation allows the majority party in the Senate to pass one budget related measure each year with a majority vote. As you know, the Senate is split 50-50. That meant that every Democrat had to be in agreement with every part of any bill they passed with the Vice President. As I also assume you know, two Democratic Senators, Senator Manchin from West Virginia and Senator Sinema from Arizona did not agree to the large extensive bill and wanted a much smaller version of the bill. After over a year of negotiations, they agreed to the current version of the bill now called the Inflation Reduction Act. It passed the Senate by the vote of 51-50 and the House by a vote of 220-207. No Republicans voted for the bill in either chamber. The bill was signed into law by the President on August 15th.

We have previously sent a summary of the key IRA provisions of interest to local governments. A few highlights include:

- Greenhouse Gas Reduction Fund: $27 billion for a new EPA "Greenhouse Gas Reduction Fund" to help communities purchase and deploy low- and zero-emission products, technologies and services, including $7 billion for competitive grants to states, local governments, tribes and nonprofits to provide financial aid and technical assistance to help low-income and disadvantaged communities deploy or benefit from zero-emission technologies (e.g. rooftop solar panels) and carry out other greenhouse gas emission reduction activities.
- Port Emissions: $3 billion for EPA assistance to help port authorities install zero-emission port equipment
- Diesel Emission Reduction: $60 million is provided for grants, rebates and loans under the EPA's existing Diesel Emission Reduction program to help identify and reduce diesel emissions at airports, railyards and other freight transfer and shipping facilities in and near low-income and disadvantaged communities. Eligible applicants include state and local governments, tribes, port authorities and nonprofits organizations.

- Municipal Trucks and Buses: $1 billion for EPA grants and rebates to help state and local governments replace heavy-duty commercial vehicles, such as transit buses, school buses, garbage trucks and street sweepers, with zero-emission vehicles
- Neighborhood Access Grant Program for State and Local Governments: $3.2 billion for a Neighborhood Access grant program to help improve the safety and livability of communities divided by highways and other surface transportation infrastructure, as well as to mitigate the environmental impacts of that infrastructure
- Updated Building Codes: Provides $1 billion to help states and local communities adopt updated building energy codes for residential and commercial buildings, including $330 million for the adoption and implementation of the latest building energy codes and $670 million for zero energy and equivalent stretch codes
- Public Housing Energy Improvements: Provides $1 billion to HUD for projects to improve the energy efficiency and sustainability of federally assisted rental housing
- Sustainable Aviation Fuel and State and Local Government Grants: Promotes the development of sustainable aviation fuel through a new tax credit and providing $297 million to the Department of Transportation to award competitive grants to state and local governments, air carriers, airport sponsors, research institutions, colleges and universities, nonprofits and private companies to support the production of sustainable aviation fuel and to advance the development of low-emission aviation technology
- State and Local Government Incentives for Low Carbon Construction Materials: Provides $2 billion to incentivize states, local governments, or planning organizations to use low-carbon construction materials for federal-aid highways
- Urban and Community Forestry Assistance Grants: Provides $1.5 billion for the US Forest Service's Urban and Community Forestry Assistance Grants to help urban and suburban areas plant trees to increase community tree cover
- Federal Environmental Reviews and State and Local Government Assistance: Provides funding to improve environmental reviews at federal agencies, including $100 million for the Federal Highway Administration to help state and local governments and planning organizations complete required environmental reviews for surface transportation projects.

We will continue to provide updates as the Biden Administration implements the IRA and makes funding opportunities available.

Immigration Update:

In August, the Biden Administration finalized a rule to preserve and fortify the Deferred Action for Childhood Arrivals (DACA) program to protect "Dreamers." The rule, which is scheduled to go into effect on October 31st, codifies into federal regulation the Obama-era DACA program that protects more than 600,000 undocumented immigrants from deportation and allows them to work legally in the U.S. To qualify for the DACA program, immigrants must have arrived in the U.S. by age 16 and before June 2007, must have studied at a U.S. school or served in the military, and must lack a serious criminal record. The rule does not change the program's current eligibility requirements.

The DACA program was established in 2012 through a Department of Homeland Security (DHS) memorandum. The Biden Administration has encouraged Congress to enact legislation to permanently protect Dreamers, but they have been unable to make progress on the issue. In March 2021, the House passed a bill to provide a pathway to citizenship for Dreamers, but the narrowly divided Senate has not considered the bill. So, the Biden Administration moved forward with a rule to codify the program in federal regulation instead.

The DACA program has faced significant legal challenges, including a federal court ruling last year that allows DHS to renew current DACA applicants, but prevents the department from accepting new applicants into the program. The final rule is expected to face legal challenges as well.

Activities for September:

The Senate is out of session until after Labor Day. The House will reconvene for floor votes on September 13th. When Congress reconvenes they will be focused on passing a Continuing Resolution (CR) before the end of the fiscal year in order to keep the government operating until they can finish the FY 2023 appropriations bills. The CR will likely run into December. There are some other extensions that must be dealt with before the fiscal year ends on September 30th, including an extension of the National Flood Insurance Program (NFIP). Congress has been working on a comprehensive reauthorization of the program, but has been unable to reach an agreement. An extension of the NFIP and other expiring authorizations will be included in the CR. We will continue to monitor and report on legislative and executive branch developments of interest to the County.