

## Memorandum

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From: Rick Spees, Jane Sargent and Jose Villalobos

To: Board of County Commissioners

CC: Phillip Drujak

Date: July 6, 2023

Subject: June 2023 Monthly Report

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### **Appropriations Update:**

In May the Congress made good progress on the budget and appropriations process for the upcoming Fiscal Year 2024 federal budget. They passed the Fiscal Responsibility Act (FRA) which raised the debt ceiling until January 2025—taking that fiscal issue off the table—and established budget ceilings for the FY 2024 bills. Specifically, the FRA set a ceiling for defense spending of \$886.3 billion and a ceiling of \$703 billion for non-defense spending. The bill also rescinded unspent monies from previous years and allowed the Appropriations Committees to spend those savings as well. But the bottom line is that the FRA set spending limits for the rest of the process. The spending numbers would be tight, but all sides predicted that the appropriations bills would get finished this year.

Then in June the Congress, and the House in particular, took a giant step backward. In previous years, the Appropriations Committees would take the ceilings and spend right up the limit—to the penny. Every dime would be gone which is why they had set ceilings in the first place. But in June the House Appropriations Committee, under the direction of the House leadership, decided to spend significantly less than the amount established in the FRA for the budget ceilings. They would also rescind more money from previous years. For example, the bill that funds the Departments of Labor, Health and Human Services and Education would receive roughly \$60 billion less in FY 2024 than it was allocated for FY 2023. Needless to say, the

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Democrats were outraged. They argued that the FRA established a deal, and the Republicans were violating that deal in less than a month.

The House only worked on a few bills in June, and focused on the less controversial ones, such as the bill that funds the Department of Veterans Affairs (VA). The rest are scheduled to be marked up in July including the very controversial ones. But everyone sees what is happening and is gearing up for big fights. With numbers so low the bills will not get a single Democratic vote in the Appropriations Committee or on the floor. The Republican leadership will need to pass the bills with only Republican votes. Currently there are 222 Republicans in the House and 212 Democrats (there is one vacancy). If the Republicans lose more than five votes on the floor a bill is defeated. Can the Speaker minimize his losses to less than five? It is unknown at this time. There are several very conservative members that have never voted for an appropriations bill and are making noises that they won't again this year. There are also some moderate Republicans from districts that President Biden won that do not want to vote to cut spending.

On the other hand, the Congress does need to pass the budget bills. Our best guess is that the Speaker will convince enough of his members to vote the bills out of the House to have a good starting place in negotiations with the Senate and the White House. This is what he did on the Fiscal Responsibility Act, where the House passed a bill with much greater cuts and then the final bill was negotiated out. His members, both on the right and the left, will be very unhappy but left with little choice.

Then the bills will go to the Senate, where both parties have no intention of passing bills with greater cuts than the ceilings enacted in the FRA. In fact, members of both parties have been talking about ways to get around the budget ceilings passed in the FRA. They are talking about passing emergency supplementals which do not count against budget ceilings.

The bottom line is that when June started, we had a clear path forward and a hope that the appropriations bills would be finished on time and with a minimum of chaos. When June ended, we were heading back into a serious budgetary stalemate and no clear picture how things will end.

### **FY 2024 Appropriations Bills:**

In June, the House Appropriations started marking up the FY 2024 bills. This included the Agriculture, Defense, Energy and Water, Homeland Security, Legislative Branch, and Military Construction-VA bills. The Senate Appropriations marked up the Agriculture and Military Construction-VA bill.

Below are highlights of the House version of the Homeland Security Bill of interest to the County:

**FEMA State and Local Programs:** The bill includes the following for State and Local Programs:

- State Homeland Security Grant Program: \$530 million, which is below the FY 2024 President's budget request of \$601.2 million but above the FY 2023 level of \$520 million
- Urban Area Security Initiative (UASI): \$615 million, same as FY 2023, but below the President's budget request of \$711.2 million
- Public Transportation Security Assistance, Railroad Security Assistance and Over-the-Road Bus Security Assistance: \$105 million, same as FY 2023, and \$5 more than the budget request
- Port Security Grants: \$100 million (same as FY 2023 and the budget request)
- Education, Training, and Exercises: \$326.487 million (\$10 million more than the budget request and FY 2023)
- Firefighters Assistance Grants: \$360 million (same as FY 2023) each for SAFER and Assistance to Firefighter Grants (AFG) (\$10 million below the budget request)
- Emergency Management Performance Grants: \$355 million (same as FY 2023 and the budget request)
- Emergency Food and Shelter Program: \$130 million (same as FY 2023 and the budget request)
- FEMA Disaster Relief: \$20.4 billion for disaster relief to fund recent major disaster response and recovery activities (same as the budget request and \$461.34 million above FY 2023).

Customs and Border Protection (CBP): \$19.9 billion for CBP, over \$3 billion more than the President's budget request and the FY 2023 level, including over \$2.1 billion for construction of a physical wall along the southwest border and \$496.2 million to fund 22,000 Border Patrol Agents.

Immigration and Customs Enforcement (ICE): \$9.8 billion for ICE, which over \$1 billion more than FY 2023 and the President's budget request, for immigration enforcement.

Transportation Security Administration (TSA): \$9.3 billion (\$1.3 billion more than FY 2023 and \$160.4 million less than budget request), including \$111 million to continue staffing certain airport exit lanes, \$45.9 million for the Law Enforcement Officer Reimbursement Program, and \$34.1 million for the Canine Law Enforcement Officer Reimbursement Program. The President's budget request did not include funding for these programs.

### **Inflation Reduction Act (IRA) Guidance:**

The Inflation Reduction Act (IRA) passed last year includes billions in tax credits for clean energy and climate projects. With most of the IRA funding being made available as tax credits, tax-exempt entities, such as local governments, could not directly benefit from these incentives. However, the IRA included two new credit delivery mechanisms – direct pay and transferability – that enable tax-exempt entities, including local governments to access these incentives.

In June, the U.S. Department of the Treasury issued new [guidance](#) that enables state, local and tribal governments and other non-profit organizations to benefit from the clean energy tax credits. The proposed Direct Pay allows local governments to receive a payment equal to the amount of the credit in the form of a direct payment from the federal government. Also, eligible tax entities will be able to transfer certain tax credits to other parties. The proposed guidance includes more details about the rules, timelines, available tax credits and how to access them. The Treasury Department is currently accepting public comment on the proposed rules for sixty days.

### **Waters of the U.S. (WOTUS):**

As we previously reported, in late May, the U.S. Supreme Court issued a ruling the *Sackett v. EPA* Clean Water Act case. The Court ruled that wetlands are only protected by the CWA if they have a continuous surface connection with a larger body of water as opposed to a "significant nexus" as proposed by the Biden WOTUS rule, finalized in December 2022, and previous federal case law. Following the ruling, the Biden Administration moved to reevaluate its WOTUS regulation in light of the Court's recent decision. In late June, the EPA and US Army of Corps of Engineers announced that they plan to finalize a revised definition of WOTUS by September consistent with the Court's latest decision.

### **Federal Aviation Administration (FAA) Reauthorization:**

The current FAA authorization law, the FAA Reauthorization Act of 2018 (P.L. 115-254), expires on September 30<sup>th</sup>. In June, the House Transportation and Infrastructure Committee approved a bipartisan bill (H.R. 3935) to authorize \$104 billion in funding for the FAA over five years. The bill authorizes funding allocations for federal aviation programs, such as the Airport Improvement Program (AIP), aims to improve aviation safety, strengthen the workforce and modernize the FAA. The House bill would increase funding for the AIP program to \$4 billion per year. During the markup, the committee adopted several amendments and plans to continue negotiating on several others before the bill is considered by the full House.

The Senate Commerce, Science and Transportation Committee also introduced its bipartisan version of the FAA reauthorization bill (S. 1939) in June. The Senate bill would provide \$107 billion for the FAA over five years from FY 2024 to FY 2028, a more than 10 percent increase over the current law. The Committee planned to mark up the bill in June, but consideration of the bill was displayed over concerns about an amendment related to pilot training.

The full House may consider the FAA reauthorization bill in July. The Senate will also be working on revised language on the pilot training amendment so that they can move forward with the mark up.

Under regular order, the bills would move out of the transportation authorizing committees then be voted on by the full House and Senate. Then the two versions of the bill would be referred to

a conference committee to reconcile the differences. The final version would then need to be passed by the House and Senate before going to the President for his signature into law. They will need to reach a final agreement before the end of September when the current law is set to expire. Otherwise, they will have to pass a short-term extension until they can complete the bill. It is not uncommon for Congress to pass some extensions of the current FAA law while they work out a new reauthorization bill. During the last reauthorization, Congress had to pass six extensions before they reached agreement on a final bill. We do not anticipate this reauthorization to take that long. We will continue to keep you updated as the reauthorization process continues.

**Activities for July:**

The House and Senate will be out of session until July 10<sup>th</sup> for the Fourth of July recess. The House and Senate Appropriations Committees will continue marking up the FY 2024 bills. The current fiscal year expires on September 30<sup>th</sup>. Congress will not be able to complete the bills by then. They will need to pass a Continuing Resolution (CR) to keep the government operating. The Fiscal Responsibility Act (FRA) includes a provision requiring the bills be completed by end of the December 2023 or another cut in spending could be triggered. In the meantime, discussions will continue on the Farm Bill., which expires at the end of September. Congress will also be working on the FAA reauthorization, which also expires at the end of the fiscal year. The full House and Senate may also consider the National Defense Authorization Act (NDAA). Congress will only be in session for three weeks in July before adjourning for the annual August recess. We will continue to monitor and report on legislative and executive branch developments of interest to the County.