Attachment A

Summary of Federal Legislative Report – May 7

Federal Budget Update

Trump Administration's Rescission Request

On May 8, the White House delivered a request to Capitol Hill calling on Congress to rescind just over $15 billion in unspent funding. It should be noted that the administration initially sought to claw back over $60 billion, with the majority of the cuts coming from the recently enacted fiscal year 2018 omnibus spending law (PL 115-141). However, GOP leaders balked at the initial plan, prompting the Trump administration to reconsider its approach. The official, scaled back request will seek to cancel unspent funding from previous years and would not affect fiscal year 2018 spending.

The programs being targeted by the administration include:

- $7 billion from the Children's Health Insurance Program ($5 billion in lapsed funds and $2 billion from a contingency fund);
- $4.3 billion from DOE's Advanced Technology Vehicle Manufacturing program;
- $523 million from DOE's Title 17 Loan Guarantee program;
- $800 million from the Center for Medicare and Medicaid Innovation;
- $252 million from funds to address the 2015 Ebola outbreak;
- $133 million from the Railroad Unemployment Insurance Extended Benefits;
- $148 million from inspections related to animal disease outbreaks that have since been resolved; and,
- $107 million in technical assistance designated for Hurricane Sandy relief efforts.

Looking ahead, Congress will have 45 days to act on the president's request. Notably, the rescission resolution will only require a majority vote in both chambers, rather than the usual 60 votes needed to end debate in the Senate. While the proposal is likely to clear the House, it is unclear if it will have enough support to advance in the Senate. If Republicans are ultimately successful in their efforts to claw back unspent funding, the White House could follow-up with additional rescission requests in the coming months.

Fiscal Year 2019 Appropriations

The fiscal year 2019 budget process is beginning to ramp up in the House, as the full Appropriations Committee cleared its first two spending bills the week of May 8: Military Construction/Veterans Affairs and Legislative Branch. Generally considered the least controversial of the 12 annual funding measures, both bills passed with overwhelming support. In addition, the following three spending bills will soon be considered at the subcommittee level: Energy-Water Development; Commerce-Justice-Science (CJS); and, Agriculture.

The fiscal year 2019 Energy-Water bill, which funds the Department of Energy, the U.S. Army Corps of Engineers, the Bureau of Reclamation, and several independent agencies, was favorably reported to the full committee on May 7. All told, the measure proposes to spend $44.7 billion, or $1.5 billion above the fiscal year 2018 enacted level and $8.17 billion above the president's budget request. Notably, the Army Corps would see its budget increase by over $450 million, while an additional $75 million would be available for the Bureau of Reclamation.

In addition, the legislation includes $134 million for water storage projects authorized in the *Water Infrastructure Improvements for the Nation* (WIIN) *Act*. With regard to California, the federal funds could be used for the following projects: design and pre-construction work on the Shasta Reservoir project; feasibility study completions for the Sites Reservoir and the Temperance Flat Reservoir; and, initiation of a feasibility study to address subsidence on the Friant Kern Canal.

The CJS Appropriations Subcommittee, as well as the Subcommittee on Agriculture, will consider their respective fiscal year 2019 spending bills on May 9. As of this writing, neither bill has been released.

Transportation

On April 27, the House of Representatives overwhelmingly approved legislation (HR 4) that would reauthorize the Federal Aviation Administration (FAA). The measure, which was cleared on a 393 to 13 vote, would renew programmatic authority for federal aviation programs through fiscal year 2023. The FAA is currently operating on a short-term extension that runs through September 30.

It should be noted that lawmakers adopted an amendment to HR 4 that, if enacted into law, could pave the way for California to take advantage of a new environmental reciprocity program created by the *Fixing America's Surface Transportation* (FAST) *Act*. The amendment, sponsored by Representatives Jeff Denham (R-CA) and Jim Costa (D-CA), would modify the Statute of Limitations (SOL) for the aforementioned program.

Pursuant to Section 1309 of the FAST Act, up to five qualified states may seek participation in a DOT pilot program to conduct environmental reviews and make approvals for both state and local projects under State environmental laws and regulations instead of the *National Environmental Policy Act* (NEPA). The program would build upon California's long-term and successful execution of the NEPA Assignment Program (23 USC § 327), which allows the State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal-aid highway projects.

The FAST Act affords potential litigants a two-year window to file a claim for judicial review of an agency action in connection with a Section 1309 project. By way of comparison, federal law sets the SOL for other highway and transit projects at 150 days, while the *California Environmental Quality Act* (CEQA) provides a 30-day petition period. The extended SOL under Section 1309 effectively precludes the new program from being implemented because of the heightened litigation risks to state and local governments.

The Denham-Costa amendment revises the reciprocity program by bringing the SOL for covered projects in line with the judicial review requirements for other federal highway and public transportation capital projects. If enacted into law, the modification would ensure certainty and predictability in the transportation decision-making process and would ultimately allow California to move forward with applying to USDOT for reciprocity program participation.

In other developments, the U.S. Department of Transportation recently opened the application period for a new infrastructure grant program known as the Better Utilizing Investments to Leverage Development (BUILD) initiative. According to DOT, BUILD grants will replace the current Transportation Investment Generating Economic Recovery (TIGER) grant program.

Pursuant to DOT's announcement, $1.5 billion in BUILD grants will be awarded on a competitive basis for infrastructure projects that are designed to have a significant local or regional impact. Program funds will be available to support roads, bridges, transit, rail, ports or intermodal transportation. Eligible applicants for BUILD grants include State, local, and tribal governments, as well as transit agencies, port authorities, metropolitan planning organizations, and other political subdivisions.

With regard to cost sharing, BUILD grants will cover up to 80 percent of an eligible project in urban areas and up to 100 percent for projects in rural communities. Furthermore, by law, no less than 30 percent of program funds, or $450 million, must be used for projects located in rural areas.

It should be noted that the fiscal year 2018 Omnibus Appropriations Act also allows up to 20 percent of available BUILD funds to be used by DOT to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

The deadline for BUILD program applications is July 19.

Farm Bill

A GOP-sponsored FARM bill reauthorization package could make it way to the floor of the House as early as the week of May 14. The legislation, which is still in draft form, includes a number of provisions that are designed to restrict eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits.

In general, the legislation would require all able bodied adults – unless there are children under age six in the household – to be engaged in at least 20 hours of work or work-related activities each week in order to remain eligible for SNAP. The requirement would be effective after the first month of receiving benefits.

The bill also would restrict categorical eligibility to only those individuals receiving TANF cash assistance or other TANF supports, such as child care. Currently, there are other ways of becoming eligible for SNAP, such as receiving a state assistance program or Supplemental Security Income. Additionally, the proposal would effectively eliminate the use of the standard utility disallowance and instead would require SNAP participants to submit utility bills and would count any Low Income Home Energy Assistance Program benefits when determining SNAP benefits. Given the focus on work, the measure would nearly triple the amount of funding for SNAP Employment and Training programs.

In the Senate, key Republicans and Democrats have indicated that they will develop a bipartisan measure in recognition of the fact that 60 votes will be needed to pass a Farm Bill in the upper chamber.

TANF Reauthorization

House Republicans have indicated that they intend to release the text of a Temporary Assistance for Needy Families (TANF) draft reauthorization bill. The legislation is not expected to garner the support of any Democrats on the Ways and Means Committee, the panel with jurisdiction over TANF. Solano County's Washington representatives will be providing the County with a full analysis of the legislation once details become available.