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MEMORANDUM

TO: **NCAE**

FROM: **CJ Lake, LLC**

DATE: **February 9, 2016**

RE: **President Obama's Fiscal Year 2017 Budget Request**

Introduction

President Obama submitted his eighth and final annual federal agency budget request to Congress today, which officially begins the Fiscal Year 2017 Budget and Appropriations process. As previewed in his State of the Union address in January, the President's Request reflects the priorities of his legacy initiatives including climate change and energy sector transformation, technology investment, criminal justice reform, substance abuse treatment and prevention, college affordability, cancer research and repairing the country's aging infrastructure. Whether any of these initiatives survive and/or receive funding in 2017 will now be determined by Congress. To that point, the House and Senate Budget Committee chairs have already announced that they do not intend to receive testimony from the Administration on the Budget Request, highlighting its lack of relevance.

As we advised earlier this year, House Speaker Paul Ryan indicated his intention to adhere to the "regular order" of budget processing. This means that both the House and Senate would pass Budget Resolutions in early spring defining overall funding levels for the various federal agencies and that the Chambers would also then draft, debate, and pass 12 separate appropriations bills governing program level funding for all the agencies by the fiscal year deadline of September 30, 2016. Senate leaders have expressed their desire to follow this process as well, but it is a daunting task, particularly as all funding legislation must originate in the House before consideration by the Senate. The last time the House considered and passed all 12 agency funding bills was 2006. The task this year is further complicated by a compressed Congressional legislative schedule and the lack of unity within the Republican Conference in the House on budget targets.

The House calendar contains only 80 legislative days this Session due to the timing of the pre-election party conventions in July and the early adjournment target to accommodate election campaigning in the fall. To address the compressed timeline, Speaker Ryan has announced that the House Budget Committee will develop and consider its Budget Resolution the last week of February with the full House scheduled to vote on the Resolution the first week of March. Upon adoption of the Budget Resolution the Appropriations Committee will then begin developing and debating the 12 agency funding bills with the intent to complete Committee and Floor passage by July.

In addition to scheduling, Speaker Ryan faces challenges maintaining House Republican majority support for the implementation of the two-year budget deal reached in October that paved the way for the FY16 omnibus spending bill. As we advised at the time, the budget deal was passed with significant support from Democrats, with all but 79 House Republicans voting against the deal. The deal raised spending limits by $85 billion above the Balanced Budget Act to avoid automatic sequestration. The first year of the deal was implemented through the passage of the FY16 Omnibus Appropriations bill in December. The second year of the deal would be implemented in this year's budget and appropriations bills, and that is causing expressions of dissatisfaction and opposition from several House members. In closed door meetings over the last two weeks as the House has prepared for today's budget submission, Speaker Ryan has been advised by Members of the more conservative Republican Study Committee and the Freedom Caucus that they will oppose any budget process that implements the budget deal unless it contains reductions in spending of at least $30 billion below the level set by the deal. Given that the Speaker can only lose roughly 28 – 30 Republican votes to pass legislation without Democrat support, the latest developments show that the funding process remains volatile again this year with the spectre of stalled progress, Continuing Resolutions to provide level funding until after the elections or potential government shutdown in October still loom large.

With that background in mind, please find below an analysis of the Administration's Fiscal Year 2017 Request.

Additional Revenue Sources

Unless Congress acts again to delay or replace the provisions of the Balanced Budget Act, sequestration is scheduled to return in 2018. The President's budget proposes to eliminate mandatory sequestration, at a cost of more than $200 billion over the next 10 years. Overall, however, the budget proposes to leverage health care savings and additional revenue sources into $2.9 trillion in deficit reduction over that 10-year period. The budget's $196 billion in increased spending for FY17 is offset by the $308 billion in proposed additional revenue in FY17.

Nearly $1 trillion of the $2.9 trillion total reduction comes from what is described as "curbing inefficient tax breaks for the wealthy and closing loopholes for high-income households." Capital gains tax reforms are projected to recoup another $235 billion over 10 years, while business tax reforms would yield $299 billion over that period. One-year health care cost reductions of $378 billion are projected, including changes to Medicare Parts B and D and accelerating the availability of generic drugs. One benefit of the proposed savings is extending the life of the Medicare Hospital Insurance Trust Fund by 15 years.

The budget reiterates the White House's support for comprehensive immigration reform, which it asserts would lead to deficit reduction of $170 billion over 10 years and nearly $1 trillion over 20 years. In FY17 and FY18, there would be a net cost to the government, but additional revenue is projected for the "out" years of FY19-FY26. No explanation is offered as to how comprehensive immigration reform would be introduced or moved through Congress.

One provision in the budget that has received significant coverage is the proposed $10.25/barrel fee on oil, phased in over 5 years, for $319 billion over 10 years. This amount is calculated to offset a proposed $312 billion infrastructure improvement program. The White House says that the tax will be assessed on oil companies, but not "at the wellhead." The per-barrel fee would be the equivalent to a $0.238/gallon increase in the gas tax. Specific destinations for this additional revenue have not been finalized, and many of the details are left to negotiations with Congress, where the proposal was met with a chilly reception earlier this week. Early suggestions propose revenue allocations to vague targets: $20 billion to reduce traffic and improve commuting; $10 billion for state and local transportation and climate programs; and $2 billion for research on clean vehicle and aircraft technologies.

Even more than the funding level changes discussed below, the tax reform provisions in the budget, and particularly the proposed tax increases, will face a difficult future in Congress.

Cabinet Agencies

Department of Agriculture

FY16 Enacted Level: $141.32 billion (Total) $21.75 billion (discretionary funding)
FY17 Requested Level: $156 billion (Total)

Agriculture Statistics:
Office of Chief Economist – Requests $18 million, an increase of $1 million over 2016 to provide statistical analysis in bio energy, global climate change, agricultural labor, sustainable development and agriculture markets.

Department of Homeland Security

FY16 Enacted Level: $47.8 billion
FY17 Requested Level: $40.6 billion

- U.S. Customs and Immigration Services -- the President's budget calls for a 10% increase in USCIS funding, with a particular focus on increased investment in technology for USCIS visa processing to improve operations and eliminate paper-based processing. Most of the office's funding would continue to come from fees on the applications and petitions that it processes.

- Immigration and Customs Enforcement has requested a relatively small 1.3% increase in funding, including hiring 63 additional full-time personnel (out of nearly 20,000).

Department of Labor

FY16 Enacted Level: $12.2 Billion
FY17 Requested Level: $12.8 Billion

- Office of Foreign Labor Certification (OFLC):
    - The President's budget request for OFLC funding for federal administration increases by 1.3%, from $48,028,000 to $48,666,000, with funding for state workforce agencies remaining unchanged from last year's level of $14,282,000. Staffing at OFLC would remain at FY16 levels (182 full-time equivalent workers) after a 10% increase in staffing from FY15 to FY16.

    - The President's budget also repeats its call for fee-based funding for the OFLC, estimated to bring in $38 million to OFLC in FY17. DOL asserts that the ability to charge fees to employers would give the Department a more reliable, workload-based source of funding, similar to how DHS operates regarding these visa programs. An additional $38 million for OFLC would be a nearly 80% increase in current federal administration funding levels, matching the 80% increase in applications that the Office processed from FY10-FY15. For H-2A fees, currently deposited in the General Fund, the budget proposes to retain the revenue with OFLC.

- Funding for migrant and seasonal farmworker programs, including training them to leave farming and take non-agricultural jobs, would remain level at $82 million for FY17, the same level at which the program was funded in FY15 and FY16.

- The President's budget proposes a significant increase in funding for the Wage and Hour Division (WHD), up 22% from FY16 ($227.5M) to FY17 ($276.6M), including hiring more than 300 additional full-time employees, a 23% increase.

- OSHA would see a proposed funding level of $595 million for FY17, an 8% increase from FY16 funding levels of $552 million. OSHA proposes to introduce two new standards in FY17 (no indication is given as to what those might be) and conduct more than 35,000 investigations, which would match the record set in 2015.

<u>Department of State</u>

FY16 Enacted Level: $53 billion (Total) $38 billion (Base) $14.9 billion (OCO)
FY17 Requested Level: $50.1 billion (Total) and $37.8 billion (Base) $14.9 billion (OCO)

- The Consular and Border Security Program Account (CBSP)-- uses revenue from consular fees and surcharges to fund programs consistent with applicable statutory fees, including the issuance of passports and adjudication of visa applications. The FY17 request proposes a new standalone account to display fee-funded consular programs independent of the larger Diplomatic and Consular Programs beginning in FY 2018 and will transfer authority of all accounts under the heading Administration of Foreign Affairs.