AGENDA ITEM NO.
M-1

COUNTY OF HUMBOLDT

For the meeting of: April 21, 2015

Date: April 15, 2015

To: Board of Supervisors

From: Phillip Smith-Hanes, County Administrative Officer PSH

Subject: County Administrative Officer Report: Recent Meetings, First Quarter Federal Legislative Update, and Various Other Topics

RECOMMENDATION(S):

That the Board of Supervisors receives an oral report from the County Administrative Officer regarding recent meetings and first quarter federal legislative update, and various other topics, and takes action as may be required.

SOURCE OF FUNDING: N/A

DISCUSSION:

The County Administrative Officer will provide a brief oral report to the Board on various topics. Anticipated topics for April 21 are:

1. **Recent Meetings**
   The County Administrative Officer has attended several recent meetings, including the West Coast Summit for the International City/County Management Association in Portland, Oregon. He will review information gathered at these meetings that is of value to Humboldt County.

Prepared by Phillip Smith-Hanes CAO Approval Amy Nilsen

REVIEW:
Auditor ______ County Counsel ______ Human Resources ______ Other ______

TYPE OF ITEM:
______ Consent
X Departmental
______ Public Hearing
______ Other ______

PREVIOUS ACTION/REFERRAL:

Board Order No. ______

Meeting of: ______

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor Seconded by Supervisor

Ayes
Nays
Abstain
Absent

Per Order of the Chair

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: April 21, 2015
By: ______
Kathy Hayes, Clerk of the Board

2. **First Quarter Federal Legislative Update**
   The county's federal legislative advocates, Waterman & Associates, have provided the attached review of first quarter activity.

FINANCIAL IMPACT:

There is no financial impact to hearing the oral report. Some topics discussed may have positive or negative financial impact on the County.

OTHER AGENCY INVOLVEMENT: None.

ALTERNATIVES TO STAFF RECOMMENDATIONS: Board's discretion.

ATTACHMENTS: Waterman & Associates First Quarter Report

Waterman & Associates GOVERNMENT RELATIONS

HUMBOLDT COUNTY
WASHINGTON BRIEFS **FIRST QUARTER 2015**

As expected, the start of the 114th Congress saw its share of partisanship as the newly strengthened Republican majority found a number of opportunities to take on congressional Democrats and the White House. From efforts to block President Obama's Executive Order on immigration to passage of a bill authorizing the construction of the Keystone XL oil pipeline (S 1), GOP leaders worked to advance their party's post-election agenda amid significant pushback from Democrats. Incidentally, both of the aforementioned issues ultimately fell by the wayside, as Republicans failed to override a presidential veto of the Keystone legislation and were forced to abandon efforts to use the fiscal year 2015 Department of Homeland Security (DHS) spending bill to roll back the administration's immigration actions.

After passing a "clean" DHS funding bill (HR 240) in early March - which prevented a partial government shutdown and officially brought to a close the current-year budget and appropriations process - lawmakers turned their attention to crafting a budget for fiscal year 2016. As part of that process, a number of committees held hearings to review details of President Obama's fiscal year 2016 budget request.

All told, the administration is proposing to spend nearly $4 trillion next fiscal year while assuming same-year revenues of $3.53 trillion. The resulting $474 billion deficit would equate to 2.5 percent of gross domestic product (GDP), slightly down from the estimated 2.6 percent in fiscal year 2015.

The president's budget also would scrap the post-sequester discretionary spending caps that were established under the 2011 *Budget Control Act* (BCA, PL 112-25). Pursuant to the administration's plan, base discretionary spending would amount to $1.091 trillion in fiscal year 2016, or $75 billion above the $1.016 trillion allowed under the BCA. The additional outlays - which would amount to a seven percent funding increase - would be split almost evenly between defense and non-defense programs. The plan also would repeal the post-sequester caps through their scheduled end in 2021.

For their part, the House and Senate Budget Committees began this past quarter the process of crafting their respective fiscal year 2016 budget resolutions. On the discretionary spending side, both chambers' measures (H Con Res 27 and S Con Res 11) seek billions of dollars in savings over the next ten years. The House assumes roughly $460 billion in unspecified cuts, while the Senate measure includes about $620 billion in savings over the ensuing decade. It remains to be seen whether and how those cuts would be achieved.

The House and Senate budget blueprints - which were approved largely along party-lines - also include "reconciliation" instructions. As in previous years, the House budget proposes to convert Medicaid and the Supplemental Nutrition Assistance Program (SNAP) into state block grants and calls for the repeal of the *Affordable Care Act* (ACA).

The Senate budget resolution includes a similar proposal to block grant Medicaid, but would protect low-income, elderly individuals and persons with disabilities. The upper chamber's budget also includes reconciliation instructions calling for the repeal of the ACA. If Congress approves subsequent legislation that would dismantle the health care law, President Obama would undoubtedly veto the bill.

Looking ahead, House and Senate negotiators will be working to craft a concurrent budget resolution in an effort to produce a final spending blueprint for fiscal year 2016.

WATER RESOURCES

Humboldt County Water Contract with the U.S. Bureau of Reclamation

Earlier this year, the U.S. Department of the Interior announced that it would honor its commitment to providing Humboldt County with 50,000 acre-feet of water from the Trinity River. The announcement, which followed disclosure of the Interior solicitor's legal opinion on the matter, represents a major, long-awaited victory for Humboldt County. Representative Jared Huffman (D-CA), who strongly supported the County's efforts to affirm its water rights, was instrumental in securing the favorable decision from the Department.

The County's annual right to Trinity River water was guaranteed by the *Trinity River Division Authorization Act of 1955* and memorialized in a 1959 contract with the federal government. Despite these explicit guarantees, the Department of the Interior for years chose to interpret the law in such a way that the County's contracted water was subsumed by existing water releases. The reversal of the Department's previous policy will ensure that Humboldt County is able to protect vital salmon and steelhead runs on the lower Klamath River, a key concern to the County, local tribes, and sport and commercial fishermen.

It should be noted that the solicitor's opinion was announced concurrently with the release of a draft plan by the Bureau of Reclamation entitled "Protecting Late Summer Adult Salmon in the Lower Klamath River." The draft plan provides details on future water releases from Trinity Lake into the Lower Klamath River during late summer and fall, which would be intended to prevent a repeat of the 2002 fish kill. Public comments regarding the draft were due by January 31, 2015.

Looking ahead, the Bureau of Reclamation has indicated that it will be coordinating with Humboldt County concerning the release of the Trinity River water, including the potential for its use for flow augmentation purposes.

Klamath Basin Restoration

In January, Senators Ron Wyden (D-OR), Jeff Merkley (D-OR), Dianne Feinstein (D-CA), and Barbara Boxer (D-CA) reintroduced the *Klamath Basin Water Recovery and Economic Restoration Act* (S 133). The legislation, which Humboldt County has formally endorsed, would provide the necessary congressional authority to implement the Klamath Basin Restoration Agreement (KBRA), the Klamath Hydroelectric Settlement Agreement (KHSA), and the Comprehensive Upper Basin Agreement.

On the heels of the bill's introduction, the Klamath Coalition held a planning session in Washington, DC. The two-day session was an opportunity for key stakeholders to meet at the beginning of a new Congress and discuss next steps. Waterman & Associates attended the retreat on behalf of the County, while Supervisors Ryan Sundberg and Mark Lovelace participated via conference call.

In other developments, the Klamath Tribes, the Karuk Tribe, and the Yurok Tribe in late February each filed a dispute initiation notice. According to the dispute resolutions, the tribes believe that the bargained for benefits of the KBRA are no longer achievable unless there is a renewed memorandum of understanding with the Department of the Interior or authorizing legislation is implemented in a timely manner. For their part, the Klamath Tribes filed the notice after learning that the Mazama Forest - a key bargained-for component - was sold to another party.

Tribal representatives have made it clear that they are still fully committed to the Klamath Agreements. For the Karuk and Yurok, it seems that the intent of their respective notices was to help prod the process along, as well as to preserve tribal interests going forward. The same is true of the Klamath Tribes, although they also have issued a notice of impending failure. The subsequent notice sets forth a 30-day process to resolve the issue. If it is not resolved in that time, it could set up another 30-day process to formally withdraw from the Agreements.

Finally, the Humboldt County Board of Supervisors sent a formal letter this past quarter to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NOAA Fisheries) requesting funding for KBRA-related technical assistance. Such funding would allow Humboldt County to more effectively participate in the KBRA and related Klamath discussions. It should be noted that a similar request was submitted to the Bureau of Reclamation last year, but Reclamation officials suggested that FWS would be a better fit. The County's federal advocates continue to work with the relevant agencies and congressional staff to ensure the request receives sufficient consideration.

California Drought

Although drought-relief legislation was not officially introduced during the first quarter of the year, negotiations between key lawmakers picked up where they left off in 2014. In particular, House Republicans - led by Representative David Valadao (R-CA) - continued discussions with Senator Feinstein aimed at producing consensus on a drought bill. Despite the ongoing discussions, substantive progress remained elusive.

Absent bicameral agreement on a legislative approach to the drought, House Republicans continued their process of drafting a bill that could be considered in the lower chamber. Likewise, Senator Feinstein has been in the process of fine tuning her own drought legislation. It should be noted that the chair of the Senate Energy and Natural Resources Committee - Senator Lisa Murkowski (R-AK) - is working on a broader Western drought measure, which, if considered by the committee, could include provisions from Senator Feinstein's draft.

In late 2014, the House passed a bill (HR 5781) designed to provide temporary drought relief to California's Central Valley. The measure, which was approved largely along party lines, was a scaled-back version of a bill (HR 3964) that cleared the lower chamber last February.

Included in HR 5781 were a number of provisions aimed at boosting water deliveries to drought-stricken areas of the state, including language that would have provided federal resource agencies with additional operational flexibility. The bill stipulated that authorities under the legislation would expire on September 30, 2016 or the date the emergency drought declaration is lifted, whichever is later.

Although the measure cleared the House under expedited procedures, Senators Feinstein and Barbara both expressed their opposition to the bill, effectively killing the effort. The White House also opposed the bill for a number of reasons, including concerns that the measure could lead to unintended consequences or further litigation.

REAUTHORIZATION OF THE SECURE RURAL SCHOOLS ACT

In a victory for Humboldt County, the House overwhelmingly approved on March 26 a two-year extension of the Secure Rural Schools (SRS) program. The long-awaited SRS extension was included in legislation (HR 2) that provides for a continuation of several key health and human services programs. The bill also includes a provision that would permanently correct the Medicare program's physician payment formula (known as the "doc fix"). Although the Senate left town for its two-week recess without taking action on HR 2, the upper chamber is expected to clear the legislation in the second quarter of 2015.

Specifically, the SRS section of the bill would provide payments to counties for fiscal year 2014 (retroactive) and fiscal year 2015. The legislation also would require the U.S. Forest Service to provide the fiscal year 2014 payment in a timely manner – within 45 days of enactment.

Because the program has already expired, the *Twenty-Five Percent Fund Act* of 1908 will, for the time being, guide the 2014 distribution of payments. The Act essentially requires the federal government to share with states 25 percent of the receipts generated on national forest land. While this model worked well for a number of years, declining federal timber production and sales led to the development of the SRS program.

In fact, the U.S. Forest Service earlier this year distributed more than $50 million to 746 timber counties under the 1908 law. Of the $50 million, California counties received approximately $8.7 million. Last year, by comparison, about $300 million was allocated under the SRS program, with nearly $936,000 going to Humboldt County. Furthermore, unlike SRS, the 25-percent payments do not allow states to allocate funds for work similar to Title II (conservation work on national forests) or Title III (county projects for Firewise programs, emergency services or community wildfire protection plans).

On the long-term reauthorization front, Senators Wyden and Mike Crapo (R-ID) introduced bipartisan legislation (S 517) this past quarter that would extend the SRS program for three years at 2011 funding levels. The bill also would restore mandatory funding for the Payments-in-Lieu-of-Taxes (PILT) program. While the legislation does not include a spending offset, Senators Wyden and Crapo have pledged to work to identify a viable source of funding that would be acceptable to both parties.

Finally, it should be noted that President Obama's budget for fiscal year 2016 includes a five-year reauthorization of SRS, with funding provided through mandatory appropriations beginning in fiscal year 2015.

PAYMENTS-IN-LIEU-OF-TAXES

In March, 100 members of Congress - including Congressman Huffman - sent bipartisan correspondence to congressional leaders regarding the PILT program. Specifically, the letter urges House leaders to work in a bipartisan, bicameral fashion to secure full funding for PILT in fiscal year 2016 and beyond. For its part, Humboldt County supported the effort and urged Congressman Huffman to sign on. The final PILT letter can be viewed here.

For fiscal year 2015, Congress has already approved $442 million in discretionary spending for PILT. The funding was included late last year in two separate pieces of legislation (PL 113-291 and PL 113-235). While this will ensure that counties receive their annual PILT payments this June, there is no guarantee that the program will be funded beyond the current fiscal year.

It should be noted that the interaction between PILT and SRS is such that a cut in SRS would significantly impact annual PILT payments to certain counties. As a result, if Congress fails to extend the SRS program, a number of California counties will experience a significant decline in their PILT funding for fiscal year 2015.

On the budget front, the president's proposal for fiscal year 2016 included a one-year extension of mandatory PILT funding at the full entitlement amount. If fully funded, the program is expected to total $452 million, slightly more than the fiscal year 2015 enacted level. In addition, the budget acknowledges that a sustainable, long-term funding solution for PILT must be developed.

For its part, the Senate included a provision in its budget resolution that would create a deficit-neutral reserve fund for PILT. If approved, this would allow the Budget Committee chairmen to revise the resolution to accommodate legislation reauthorizing the program.

Transportation Policy - MAP-21 and FAA Reauthorization

Transportation committees in the House and Senate held a series of hearings this past quarter to examine key issues surrounding the reauthorization of the nation's highway and transit law. The current surface transportation act (MAP-21), which is operating under a short-term extension, is slated to expire on May 31.

This year, lawmakers are once again faced with the politically formidable challenge of identifying a new source of revenue to pay for the nation's infrastructure needs. The purchasing power of the federal gasoline tax - once a sufficient source of revenue for transportation program financing - has been eroded due to inflation. Moreover, the advent of more fuel-efficient cars has translated into fewer trips to the pump and decreased gas tax receipts flowing into the Highway Trust Fund.

For his part, House Transportation & Infrastructure (T&I) Committee Chairman Bill Shuster (R-PA) has indicated that he opposes an increase in the federal gasoline tax. Instead, Shuster favors taxing repatriated corporate profits to pay for new transportation investment.

In the upper chamber, Senators Boxer and Rand Paul (R-KY) announced in late January that they will be introducing legislation that would pay for a new long-term highway bill by cutting the tax rate for repatriated earnings. Although the proposed financing mechanism appears to be gaining some level of momentum on Capitol Hill - as well as within the Obama administration - a number of key policymakers oppose the option. For one, the chairman of the Senate Finance Committee - Senator Orrin Hatch (R-UT) - has expressed skepticism about the viability of such a plan.

Due to a lack of consensus over how to pay for a new long-term transportation bill, it is very likely that Congress will need to pass another short-term extension of MAP-21.

In related developments this past quarter, Congressman Jeff Denham (R-CA) launched an effort aimed at securing additional federal funding for local bridges as part of MAP-21 reauthorization. Specifically, Congressman Denham has requested members of the California congressional delegation to sign onto correspondence urging the leaders of the T&I Committee to make funding for crumbling bridges a top priority. Additionally, the letter urges Congress to provide a dedicated funding stream for locally owned bridges that are *on* the Federal-Aid Highway System. Congressman Huffman has agreed to sign the letter.

Pursuant to MAP-21, local bridges that are off of the Federal-Aid System receive a special funding set-aside; on-system bridges, however, do not have a dedicated federal funding source. In light of the fact that a significant percentage of locally-owned bridges in Humboldt County are located on Federal-Aid Highways (over 37 percent), the County's federal advocates are working with key members of Congress to create a funding mechanism for on-system bridges.

On the Federal Aviation Administration (FAA) reauthorization front, lawmakers in the House held a series of hearings this past quarter on various aspects of aviation renewal and reform. With the current Act (PL 112-095) set to expire at the end of September, lawmakers are looking to avoid a repeat of what occurred in the previous FAA reauthorization cycle, which was passage of 23 short-term extensions.

According to T&I Chairman Shuster, he is hoping to put together a "transformational" bill in which all policy and funding options are on the table. For counties and local governments, primary issues include funding and flexibility for key programs such as the Airport Improvement Program (AIP), the Essential Air Service (EAS) program, and the Small Community Air Service Program (SCASP). Additionally, localities are supporting the continued collection of Passenger Facility Charge (PFC) funds, as well as ensuring sufficient flexibility in the expenditure of those dollars.

Looking ahead, the Senate Commerce, Science, and Transportation Committee will be holding in April its first FAA reauthorization hearing of the year. Legislative drafting will likely occur in the weeks and months ahead.

Remote Sales Tax

House Judiciary Committee Chairman Bob Goodlatte (R-VA) circulated during the first quarter a long-anticipated discussion draft on online sales tax enforcement. Among other things, Chairman Goodlatte's proposal would require Internet vendors to collect their own home state sales taxes and remit those proceeds to the customer's home state. For example, if an online vendor located in Virginia sells a product to a customer living in California, the vendor would collect the sales tax at Virginia's rate and remit the payment to California.

Vendors in states without a statewide sales taxes would have the option of reporting an interstate sale to the buyer's state or collecting a flat rate that is based on the lowest combined state and local sales tax rate. In addition, the draft measure would only allow retailers to be audited by their own state, addressing a key concern for Goodlatte and other critics of previous proposals. Finally, it should be noted that the proposal does not include an exemption for small businesses.

There are a number of fundamental differences between Goodlatte's discussion draft and the *Marketplace Fairness Act* (MFA; S 698), which was reintroduced in the Senate in March. For example, the MFA would give states the ability to collect sales taxes from out-of-state Internet retailers based on the destination of the purchase, rather than the origin of the sale. The MFA also includes language exempting retailers with less than $1 million in annual remote sales from any tax collection requirements.

Representative Jason Chaffetz (R-UT) also is working on draft legislation in an effort to provide sales tax parity. Like the MFA, the proposal would require online vendors to collect sales taxes based on the destination of the purchase. However, there are a number of key distinctions between the two proposals.

Among other things, the Chaffetz bill includes language that would shield sellers from being audited in states where they do not have a physical presence. It also would allow remote sellers to avoid lawsuits for the over-collection of sales taxes. These and other provisions are intended to address concerns raised by critics of the MFA. Saying that, it remains to be seen whether House and Senate leaders will indeed bring remote sales tax legislation to the floor of their respective chambers.

In other developments, Supreme Court Justice Anthony Kennedy recently expressed a desire to reconsider the court ruling (*Quill v. North Dakota*) that prevented states from compelling sales tax collection by vendors with no nexus or presence in their borders. Kennedy's remarks are significant in that he has raised the possibility of new court rulings that may favor states. If the judicial branch appears to be on the cusp of such action, it could very well provide the necessary motivation for Congress to act.

Property Assessed Clean Energy Program

This past quarter, key state and local stakeholders continued to urge the Federal Housing Finance Agency (FHFA) to withdraw its objections to residential Property Assessed Clean Energy (PACE) programs. While FHFA remains supportive of energy/water efficiency upgrades to residential properties, the agency continues to maintain that first liens established by PACE assessments in California (and a number of other states) pose risk management challenges for existing mortgage lenders.

In addition, FHFA continues to have concerns with California's Loan Loss Reserve Program, claiming that it fails to offer full loss protection to Fannie Mae and Freddie Mac. Questions have also been raised about the Reserve Fund's ability to be sustainable over time. As such, the agency is not prepared to change its position and will continue to prohibit housing lenders from purchasing or refinancing mortgages with a PACE lien. FHFA officials have also warned that the agency would not hesitate to act, despite the rapid expansion of PACE programs in California.

In other developments, Governor Jerry Brown and Department of Housing and Urban Development (HUD) Secretary Julián Castro - in partnership with the MacArthur Foundation -

recently announced the creation of the California Multifamily PACE pilot program. Specifically, the pilot will enable PACE financing for certain multifamily properties, including specific properties within HUD, the California Department of Housing and Community Development, and the California Housing Finance Agency's portfolios. Prior to the announcement, HUD-backed housing projects were not eligible for PACE financing.

According to the Obama administration, about a quarter of households live in multifamily housing units, including more than three million units in California. The California pilot will help make existing multifamily buildings more affordable to low-income families. As a result, it will save money for both consumers and taxpayers. It should be noted that the U.S. Department of Energy will study the performance of the program. If the study concludes that the pilot is indeed successful and delivers on the intended benefits, it can have positive implications for the national PACE market.

Health and Human Services

During the first quarter, Congress and the Obama administration introduced legislative and budget proposals, respectively, to address child welfare issues. On Capitol Hill, the House adopted by voice vote the *Justice for Victims of Trafficking Act* (HR 181) that would provide competitive federal grants to states or counties to encourage intergovernmental collaboration and provide services to youth victims of sex trafficking. Many of the sexually exploited youth have been in the child welfare system.

In the Senate, lawmakers recently considered a similar child welfare bill (S 178). The legislation, which was on the Senate floor for nearly two weeks, was ultimately pulled from consideration. While the underlying proposal enjoys broad, bipartisan support, the Senate measure includes a controversial abortion-related rider. Democratic senators have strongly objected to the rider, including both senators from California.

It is uncertain when the upper chamber will reconsider S 178. If the impasse is overcome and the bill is adopted, the House and Senate would have to reconcile the slightly different measures before sending the legislation to President Obama for his signature.

On the budget front, the Obama administration's fiscal year 2016 budget proposal includes a number of provisions addressing child welfare. One request would address the over-prescribed use of psychotropic medications among foster youth. Specifically, the administration is requesting $250 million in mandatory funding over five years through the federal foster care program to build state capacity in using evidence-based psychosocial interventions as alternatives to psychotropic medications. The White House also is proposing $500 million for a related Medicaid initiative that would provide states with performance-based incentives to coordinate care and reduce the use of psychotropic drugs in the foster care system.

Currently, the federal foster care program provides little to no funding for preventing at-risk children from entering care. Therefore, the administration is proposing funding for preventive services and to support families who are fostering youth. The proposal, which is estimated to cost $586 million over ten years, would give states the option to draw down a 50 percent federal match for evidence-based pre-placement and post-permanency services in order to prevent removals and improve the stability of children placed into foster care.

In other developments, several health program extensions are included as part of a comprehensive bill changing the way doctors are paid under Medicare. The so-called "doc fix" bill (HR 2) extends funding for two key programs serving low-income families. Passed by the House in late March, the measure includes a two-year funding extension for the Children's Health Insurance Program (CHIP/Healthy Families), which was set to expire on September 30, 2015. Without the extension, the federal financial match would decrease from 65 percent to 50 percent. If CHIP is not extended, California's Health and Human Services Agency estimates an annual loss of up to $533 million.

The bill also includes a two-year extension of funding (at the current level of $400 million) for the Maternal, Infant, and Early Childhood Home Visiting Program. In February, California received $22.6 million in fiscal year 2015 funding. As of that month, 21 California counties participated in the federal program, which helps support pregnant women and families. Additionally, the program helps at-risk parents of pre-school children by using evidence-based, cost-effective models to improve maternal and child health, as well as to prevent child abuse and neglect.

The Senate is expected to adopt the doc-fix bill once it returns from its spring recess. The measure would then go to the president, who has expressed support for the legislation.

With respect to the Older Americans Act (OAA), the Senate Health, Education, Labor and Pensions Committee earlier this year adopted legislation (S 192) that would reauthorize the programs under the Act. Among other things, the bill (S 192) would provide a greater focus on elder abuse through prevention and screening training for Area Agencies on Aging staff. The legislation also would refine the funding formulas last reviewed in 2006 to account for changes in the older adult populations among the states. It should be noted that states would be held harmless for the changes between 2006 and 2015.

The Senate has not yet scheduled floor action for S 192. In the House, a companion OAA reauthorization bill has yet to be introduced.

We hope this information is useful to Humboldt County officials. Please do not hesitate to contact our office if you have any questions or need additional information.