

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

FEBRUARY 21, 2017

TITLE:

FEDERAL AND STATE LOBBYIST
YEAR END SUMMARY
{STRATEGIC PLAN NO. 1, 2, 3, 4, 5, 6, 7}

CLERK OF COUNCIL USE ONLY:

APPROVED

- As Recommended
- As Amended
- Ordinance on 1st Reading
- Ordinance on 2nd Reading
- Implementing Resolution
- Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____



CITY MANAGER

RECOMMENDED ACTION

Receive and file.

DISCUSSION

The City of Santa Ana's state and federal lobbyist have provided a report, respectively, summarizing key legislation, regulations, and other relevant information that occurred throughout 2016. State lobbyist, Townsend Public Affairs, highlighted activities that occurred with the State legislature and provides an outlook of issues that will occur in 2017 (Exhibit 1). Federal lobbyist, Holland & Knight, provides a summary of the important federal actions taken in 2016 and federal priorities to observe for 2017 (Exhibit 2).

STRATEGIC PLAN ALIGNMENT

Approval of this item supports the City's efforts to meet Goal #1 – Community Safety, Goal #2 – Youth, Education, Recreation, Goal #3 – Economic Development, Goal #4 – City Financial Stability, Goal #5 – Community Health, Livability, Engagement, & Sustainability, Goal #6 Community Facilities, Goal #7 – Team Santa Ana

FISCAL IMPACT

There is no fiscal impact associated with this item.

EXHIBIT: 1. Townsend Public Affairs Year End Summary
2. Holland & Knight Year End Summary

TOWNSEND

PUBLIC AFFAIRS

EST TPA 1978

MEMO

To: City of Santa Ana
From: Townsend Public Affairs, Inc.
Date: February 13, 2017
Subject: 2016 Year End Legislative Update

The Legislature completed their work and adjourned the 2015-16 legislative session early in the morning on September 1, 2016. The new Legislature convened the 2017-18 session on December 5, 2016, to swear-in members, and then adjourned until they begin the new session the first week of January 2017.

In the final days before adjournment, the Legislature considered hundreds of bills that were pending before them. The topics that took center stage at the end of session included: climate change, Cap and Trade, overtime pay for farmworkers, and tributes for outgoing members of the Legislature.

After the Legislature concluded their work, the Governor had until September 30th to act on all legislation passed by the Legislature. After the Governor considered all bills, he ultimately signed 900 bills and vetoed 150; a veto rate of 15 percent. While the veto rate may sound low, it represents Governor Brown's highest rate during any of his four terms as Governor. The Governor vetoed several bills that attempted to establish new tax credits, expend new funds, or fund new programs. In several of his veto messages, the Governor indicated he would like to consider these types of proposals during the Budget negotiations in June, in order to maintain optimal fiscal forecasting and a balanced budget.

Legislative Activity

Over 2,300 bills were introduced by the Assembly and Senate during the most recent legislative session; however, a great number of those bills failed to meet legislative deadlines and a little less than half were sent to the Governor for his consideration.

Below are brief summaries of measures that the City took a position on, as well as items of interest to the City, and the final action on each measure.

- Bills with Official Positions:
 - AB 1217 (Daly) – The City adopted a support position on this bill last year. After going through several amendments, the final version of this measure codified the action taken by the Orange County Fire Authority to prohibit the board from containing alternate members. The Governor signed this measure on September 23, 2016.

Exhibit 1

- AB 2031 (Bonta) – The City adopted a support position on this bill. This measure allows cities or counties to pass an ordinance to issue bonds for affordable housing without raising taxes or diverting property taxes from other sources. AB 2031 allows cities or counties to access their net available revenue, commonly referred to as boomerang funds, to use bonds for affordable housing. The Governor signed this measure on September 22, 2016.
- SB 443 (Mitchell) – The City adopted an oppose position on this bill last year. This bill, which deals with the circumstances under which law enforcement can seize assets was amended at the end of session to remove the main concerns of law enforcement associations. The final version of the bill states that a conviction is required for the forfeiture of assets, except for cash seizures more than \$40,000. The Governor signed this measure on September 29, 2016.
- SB 969 (Nguyen) – The City adopted a support position on this bill. This measure permits a facility to sell Vietnamese rice cakes that have been at room temperature for up to 24 hours. The Governor signed this measure on August 25, 2016.
- Medicinal Cannabis:

Three of the major bills relating to medicinal cannabis that were introduced last session failed to pass out of the Legislature. The Legislature is likely to introduce numerous bills related to cannabis in the new session, a major focus will be on reconciling medical cannabis laws with the recently approved Proposition 64 that was on the November ballot. Additionally, the Administration is working to finalize regulations for medicinal and adult use of cannabis so that they can begin issuing permits in January 2018.

 - AB 1575 (Bonta) – This bill contained numerous clean-up provisions to the medicinal cannabis framework adopted in 2015, as well as new provisions in several areas, including: licensing authorities and restrictions, dispensaries and deliveries, research and development, testing, and local authority for fees and ordinances. This bill was held in the Senate Appropriations committee.
 - AB 2243 (Wood) – This bill would have imposed a tax on the distribution in this state by a licensed cultivator of medical cannabis flowers, medical cannabis leaves, and immature medical cannabis plants to a licensed distributor and would require the licensed distributor to collect the tax from the cultivator and remit it to the State Board of Equalization. Revenues would be used fund competitive grants for local law enforcement-related activities pertaining to illegal cannabis cultivation; to fund environmental cleanup restoration and protection of public and private lands that have been damaged by illegal cannabis cultivation; and to address the environmental impacts of cannabis cultivation on public and private lands in California and fund other state enforcement-related activities pertaining to illegal cannabis cultivation. This bill was held in the Senate Appropriations committee.
 - AB 2300 (Wood) – This bill would provide that a qualified patient is not permitted to engage in the smoking of medical marijuana in any location that is prohibited by a landlord. This failed to pass off the Senate Floor.
- Other Items of Interest:
 - AB 2444 (Garcia) – This bill proposed to place a park bond on the November 2016 ballot. The final version of the bill proposed a total bond amount of \$3.5 billion for

numerous different funding programs. The bond included per capita allocations to cities, competitive grants for park poor communities, funding for the Santa Ana River Conservancy program, and other funds which could be available to the City. The bill was ultimately held by the author and he has agreed to work with the Governor and legislative leadership to try and craft a park bond that can be placed on the ballot in 2018.

- SB 1298 (Hertzberg) – This bill proposed to make changes to the Proposition 218 Omnibus Implementation Act. Specifically, the bill would have made changes to the definition of “sewer” in such a way that would provide parity for stormwater and flood control programs in their ability to raise capital. Even though the bill was amended to remove controversial provisions, including the allowance of tiered rate structures and lifeline rates, it was unable to garner the necessary support to pass out of the Assembly. The bill was held on the Assembly Floor.

Cap and Trade

At the end of the legislative session, the Administration and Democratic leadership in the Legislature were finally able to reach agreement on a cap and trade spending plan. The main bill, SB 830, contained the proposed funding for cap and trade for the current fiscal year and an accompanying bill, SB 859, contained policy changes to some of the funding programs. While the overall spending plan, which appropriated \$900 million in the current fiscal year, was not as large as some wanted, it does represent the first comprehensive spending plan of cap and trade dollars since late 2014. It should be noted that the last several cap and trade auctions have not brought in significant revenues, the last two auctions generated less than \$10 million each, so the prospects of future funding plans are not clear at this point. Additionally, there are still pending lawsuits that are challenging the legality of the cap and trade auction programs.

Below is a brief highlight of the items contained within the \$900 million cap and trade expenditure plan:

- \$150 million for the Heavy Duty and Off-Road Investments to help develop and pilot cleaner industrial vehicles, buses, and port equipment with new low or zero emissions;
- \$140 million for the Transformative Climate Communities program to allow for a community-wide approach for disadvantaged communities specified in statute to implement an integrated transportation, housing, and green space development plan to reduce pollution and improve local quality of life;
- \$135 million for the Transit and Intercity Rail Capital program, helping fund essential local capital projects to keep Californians moving by bus and commuter rail;
- \$133 million for a reformed Clean Vehicle Rebate Project, which help low and middle income families purchase the newest, cleanest vehicles available;
- \$80 million for the Enhanced Vehicle Fleet Modernization program to provide low income families help in replacing their existing polluting vehicle with a newer, cleaner vehicle;
- \$80 million for the Urban Greening program, to create green spaces and parks in communities in California that lack green space;
- \$50 million for programs that help dairies reduce emissions and pollution associated with animal manure;
- \$40 million for waste diversion projects for organic material which fund projects that have a double environmental benefit of capture greenhouse gases while also reducing methane emissions;

- \$25 million for the Healthy Forest program, which preserves existing forests by reducing the threat of wildfires by reducing fuels, removing dead trees, and providing long-term protection to forest land;
- \$20 million to help individuals in low-income communities reduce their energy use with weatherization and energy efficiency improvements, including solar installations;
- \$15 million to continue the successful Urban Forestry program, which helps urban disadvantage communities plant trees in their neighborhood;
- \$10 million for the Active Transportation Program to fund bicycle and pedestrian programs that make walking or biking to school and work safer and easier;
- \$7.5 million for the Healthy Soils program, to establish innovative farming practices that capture carbon, reduce water use and improve soil health;
- \$7.5 million to continue the successful State Water Efficiency and Enhancement Program (SWEET) which helps replace older inefficient water irrigation and pumping equipment with new state-of-the-art replacements that pollute less and save water; I. \$25 million for the Healthy Forest program, which preserves existing forests by reducing the threat of wildfires by reducing fuels, removing dead trees, and providing long-term protection to forest land;
- \$5 million to reduce black carbon emissions by supplementing successful local programs to reduce wood smoke pollution through fireplace, stove, and heater replacement;
- \$2 million to assist disadvantaged communities and local governments with developing climate action plans.

Transportation Infrastructure Funding

There were many different transportation proposals put forward during the legislative session, including two different proposals by the Democrats, a proposal by the Republicans, and a proposal by the Governor; however, none of the various could garner the two-thirds support needed for passage before the adjournment of the legislative session. The inability to get a two-thirds vote was largely due to the Republicans opposition to any new revenue raised through tax or fee increases.

At the end of the legislative session in August, there was discussion by legislative leadership about possibly calling a lame-duck session after the November election to deal with transportation. Ultimately, a lame-duck session was not called, but the Governor, Pro Tem, and Speaker issued a joint statement reaffirming their commitment to finding a solution for long-term transportation funding. To that end, Assembly Member Frazier and Senator Beall each introduced a transportation funding proposal as the first bill introduced in their respective House this session and the Governor has included a transportation proposal as part of his January budget.

Looking Ahead

The deadline to introduce bills in the first year of the 2017-18 legislative session is February 17, 2017. It is anticipated, that once that deadline passes, nearly 3,000 bills will be introduced and eligible for consideration in 2017. It is likely that many of the items that were unsuccessful last year will be reintroduced this year, in addition to the new bills that will be brought forward on a host of issues.

One new dynamic that is already being felt in Sacramento, is the new tenor of the relationship between California and the Trump Administration. Legislative leaders and the Governor have already shown their willingness to confront the new President on many of his priorities that could

have an impact on California and its residents. It is likely that there will be legislation to deal with issues where the State and Federal government disagree, such as immigration, environmental regulation, and sanctuary cities.

Governor Brown, in his State of the State Address, confirmed that he will work to defend Californians from the Trump Administration. The Governor also indicated that California cannot just be on the attack, but must find areas in which it can work with the new President. Once such area may be on critical infrastructure projects in California; the President has already begun to talk about a broad proposal to build infrastructure throughout the country, and Governor Brown has submitted a list of over 50 projects in California that could fit into the President's proposal.

Below are items that have either been introduced, or are likely to be introduced, that may be of interest to the City:

- Sanctuary Cities – With the election of President Trump, there has been a focus on what activities the new Administration poses as they relate to immigration. During the President Trump's first days in office, he signed several Executive Orders, including one relating to increased immigration enforcement. In his Executive Order, the President asked federal agencies to look at ways in which the federal government may be able to withhold funding from sanctuary cities.

Knowing that the topic of sanctuary cities was likely to draw the attention of the new Administration, Senate Pro Tem De Leon introduced legislation earlier this year, SB 54, that would limit state and local law enforcement agencies involvement in immigration enforcement, as well as ensure that individuals can seek services and interact with state agencies without regard to their immigration status. This legislation is a high priority for the Pro Tem and has already passed out of its first policy committee. During the committee hearing, numerous individuals and organizations testified in favor of the measure, including Council Member Tinajero.

In addition to the introduction of SB 54, the Legislature and Governor Brown have indicated that they will use their power and authority to protect Californians, to the fullest extent possible, from federal authorities. Other measures have already been introduced in the Legislature that would provide legal services to those that are facing deportation, eliminate the ability of local governments to enter or extend contracts to detain immigrants facing deportation proceedings.

While not included in the January Budget release by Governor Brown, it is likely that the Legislature will look to discuss potential funding options for sanctuary cities should the Trump Administration decide to withhold federal funding. The State, as well as sanctuary cities, receive significant levels of funding from the federal government and it is unclear what funding, if any, could legally be withheld from individual cities or from the State. The topic of funding for sanctuary cities will likely emerge as the Legislature conducts Budget Committee hearings and the Governor prepares to issue the May Revise; unless federal actions require the State to take more immediate action.

- Transportation Infrastructure – As indicated above, finding a long-term solution for the funding of transportation infrastructure remains a key item for the Governor, the Senate Pro Tem, and the Assembly Speaker. The Governor included his transportation infrastructure proposal from last year as part of his January Budget. Additionally, AB 1 (Frazier) and SB 1 (Beall) have been introduced in the Legislature and both contain proposals for raising billions of dollars for transportation infrastructure.



Unlike 2016, this year the Democrats control two-thirds supermajorities in both the Assembly and the Senate, meaning that they do not need any Republican support to approve a transportation proposal. The Democrats will be negotiating with the Brown Administration to determine what level of transportation funding would be appropriate, as the proposals in the Legislature would generate significantly more money than the proposal put forth by the Governor. Additionally, it will need to be determined if the Legislature is willing to vote for the taxes and fees that they propose to increase to generate revenue or if they may instead opt to place a measure on a statewide ballot for voters to consider.

As these discussions take place, there are numerous stakeholders that are applying pressure on the Legislature and Governor to reach agreement and approve a proposal this year. While the exact funding levels are still to be determined, it should be noted that all the proposals contain core elements that would receive funding; one such item in all proposals is funding for local streets and roads.

- Cannabis – In 2015, the Legislature approved a regulatory framework for medicinal cannabis. Additionally, last November voters approved Proposition 64, which allows for the adult-use of cannabis. The goal of the State is to have regulations in place for both medical and adult-use so that the State may begin issuing licenses in 2018.

There have already been several bills introduced in the current legislative session that relate to marijuana. It appears that the primary vehicle in the Legislature for dealing with issues between medical marijuana and adult-use will be AB 64 (Bonta). This measure currently contains several provisions, but will likely be amended several times as it moves through the legislative process to reflect additional issues and negotiations between stakeholders and the Brown Administration. Other legislation deals with varying aspects of cannabis regulation, including rules for marketing, tools for law enforcement to identify and deal with those under the influence of cannabis, and issues related to banking.

Additionally, the Brown Administration has indicated that they will be putting forth a budget trailer bill relating to medicinal cannabis and adult-use and how to treat the two systems. The Governor's Office has begun to gather the heads of the state departments together to determine how best to move forward and align the medical and adult-use industries. It is unlikely that specific language will be released until later in Spring, potentially as late as the May Revise.

- Affordable Housing and Homelessness – The issues of affordable housing and homelessness will continue to be legislative priorities in 2017. Since the dissolution of redevelopment, the Legislature has made several attempts at crafting legislation to develop a permanent source of funding for affordable housing; however, none of these attempts have been successful. At the same time, numerous pieces of legislation have been introduced that have attempted to address issues surrounding homelessness in California. Many of the bills on homelessness have focused on ancillary issues, such as sleeping in vehicles, and not focused on the root causes of homelessness.

In addition to the conditions that have led to previous bills being introduced, the cost of housing has continued to rise in many parts of the State, to the point that many traditionally middle class families are struggling to find affordable housing. Last year the Governor attempted to attach a proposal to the state budget that would have made affordable housing funding available on the condition that the Legislature approved the Governor's

proposal for “by-right” affordable housing. This proposal would have made the approval of housing developments, that met certain criteria, a ministerial act that was not subject to the further imposition of conditions by a local government. Ultimately, the Legislature did not approve the Governor’s proposal.

While the “by-right” proposal did not succeed, it demonstrated that the Brown Administration was willing to advance policy changes needed to speed up the location and development of housing projects. It is likely that there will be legislation introduced in 2017 to reduce or eliminate regulation that slows down or prevents local housing development. At this point, it is not clear if there will be additional funding available for affordable housing, as the Governor did not include any new funding as part of his January budget. Furthermore, the Governor’s budget reverts the funding that was set aside for affordable housing last year, as the Legislature did not approve the Administration’s “by-right” proposal.

It is also likely that the Legislature will introduce new bills to deal with homelessness. Numerous areas of the state are dealing with large homeless populations and trying to determine what housing options are available, what health and mental health services may be available, and what skills training programs may be available to help individuals develop skills that will help them integrate into the workforce. It is likely that legislation will touch on these aspects of homelessness.

Holland & Knight

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Memorandum

Date: February 13, 2017
To: Gerardo Mouet, City Manager
From: Dan Maldonado, Senior Policy Advisor
Leslie Pollner, Senior Policy Advisor
Re: Federal Update

This memo provides a brief overview of Holland & Knight's work with the City of Santa Ana in 2016. In addition, this memo highlights important federal actions taken at the end of 2016 and in the beginning of 2017 that impact the City's priorities.

I. Progress to Date

2016 Accomplishments

In 2016, the Holland & Knight (HK) team made significant progress on several of the City's key issues, including:

- Empowerment Zone: Empowerment Zone tax incentives were extended by the 2015 Tax Extenders package passed by Congress in December 2015. This includes the empowerment zone hiring tax credit that was nearly eliminated in the previous session of Congress. While the tax extender package was not addressed in fiscal year (FY) 2016, we anticipate them being addressed in 2017, potentially as part of tax reform.
- Streetcar: The President's FY 2017 Budget included \$125 million for the Santa Ana/Garden Grove in New Starts funding. This is a critical step in the process as the City and OCTA work to secure a Full Funding Grant Agreement with US DOT. In addition, we worked with Sen. Feinstein's office to have the Santa Ana streetcar included in her letter of support to the Office of Management and Budget. Additionally, the Senate FY 2017 Transportation, Housing and Urban Development (THUD) appropriations bill included funding for the Streetcar (\$250 million to be divided among three California projects) and the House THUD bill included \$75 million for the project. The FY 2017 appropriations bill, which includes transportation spending, could end in a full year continuing resolution (CR), meaning that FY 2016 funding levels will be extended. Meanwhile, the FY 2018 appropriations process is expected to begin this spring. H&K will be monitoring the appropriations process closely to advocate for streetcar funding.

- Trip: Members of the Santa Ana team traveled to Washington D.C. in 2016 and met with a variety of governmental and congressional staffers. Meetings included staff at the White House; the Federal Emergency Management Agency (FEMA); COPS Office at the Department of Justice (DOJ); Department of Transportation (DOT); and the Department of Housing and Urban Development (HUD). The group also traveled to Capitol Hill and met with Senator Boxer and Senator Feinstein's offices, and Congresswoman Loretta Sanchez's office.
- HOME Funding: The President's FY 2017 budget requested \$950 million for the HOME Investment Partnerships, of which \$10 million was set aside for the Self-help Homeownership Opportunity Program (SHOP). This funding level is consistent with 2016 enacted levels and is a significant increase from the cuts originally proposed to the program in the Senate THUD appropriations bill. H&K helped the City work in cooperation with several other cities impacted by the cuts and successfully helped raise the funding levels in the final FY 2016 omnibus package.
- COPS: In 2016, Santa Ana received \$1.25 million to hire 10 officers, building on the City's successful track record with the COPS program.
- UASI: Once again, Santa Ana successfully received UASI FY 2017 funding in the amount of \$5.43 million.

II. Ongoing

- Monthly Calls: Host monthly calls with city staff; more frequently as needed.
- Grant Assistance: HK continues to monitor funding opportunities at the federal level for the City and continues to provide a weekly grants newsletter that highlights opportunities of relevance to local government.
- Communication with Senators and Representatives: Maintain regular contact with Santa Ana's congressional delegation.

III. 2016 Federal Update

Congress Passed FY 2017 Continuing Resolution

On December 9, 2016, the Senate voted to pass a continuing resolution (CR), averting a government shutdown that was set for midnight. The CR extends current government funding levels to April 28. The House passed the CR first on December 8, and subsequently adjourned for the remainder of the year.

The spending bill follows the annualized limit on discretionary spending of \$1.07 trillion, as called for in the budget deal reach in 2015. Had the bill followed the 2015 limit of \$1.067 trillion, agencies would have had to adjust their budgets for the next four months to account for the decrease—an approach strongly opposed by the Department of Defense.

Notably, the CR included:

- \$170 million in funding to address Flint, Michigan’s water contamination issues;
- \$10 billion in war funding;
- \$7 million to reimburse the New York Police Department for the cost of security for President Trump, which is far less than the \$35 million that the city requested;
- \$4.1 billion in disaster aid for Louisiana and other states affected by Hurricane Matthew, as well as flood, drought, and other weather-related emergencies;
- \$500 million to help states combat the opioid crisis; and
- \$870 million for the 21st Century Cures Act—a new law designed to advance medical research.

Congress Passed Final Water Resources Bill

On December 10, the Senate passed the final water resources bill, concluding the 114th Congress. The House passed the final bill on December 8. Both the House and Senate approved their respective versions of the bill in September with overwhelming support. Conference negotiators resolved the bills’ differences on December 5, and promptly released the final version. The House renamed the Water Resources Development Act to the Water Infrastructure Improvements for the Nation (WIIN) Act (S. 612).

After passing the House, the bill faced unexpected opposition in the Senate from its Democratic author—Senator Barbara Boxer (D-CA)—due to the last-minute addition of California drought language sponsored by Majority Leader Kevin McCarthy (R-CA) and Senator Diane Feinstein (D-CA). The language aims to provide drought relief to central and southern California, but drew criticism from Senator Boxer because it would temporarily loosen environmental standards and divert more water to corporate farmers. Nevertheless, the Senate voted to pass the bill.

The bill authorizes 30 new Army Corps of Engineers projects in navigation, natural disaster management and ecosystem restoration projects; and modifications to eight existing projects. The final conference report (S. 612) includes:

- Authorization of \$11.7 billion for Army Corps of Engineers navigation and flood control projects;
- Authorization of \$170 million for lead contamination issues in Flint, Michigan;
- Allows the Secretary of the Army to conduct an evaluation to improve water supply conservation measures when a drought emergency has been declared in a state;
- Authorization of \$300 million in grants over five years to help small communities comply with the Safe Drinking Water Act; and
- Directs the Environment Protection Agency (EPA), in conjunction with the Department of Interior, USDA, NOAA, along with state and local governments, to develop non-regulatory national drought resilience guidelines relating to drought preparedness planning and investments.

IV. 2017 Federal Update

The 115th Congress began on January 3. The Senate is comprised of 52 Republicans and 48 Democrats. In the House, there are 241 Republican seats and 194 Democratic seats – 218 seats

are needed for a chamber majority. Since Senate Democrats can successfully block legislation using the filibuster (which requires 60 votes to overcome), Republican Leaders will need to work together with Democrats to advance major pieces of legislation, including transportation and infrastructure financing.

Donald Trump was sworn in as the 45th President of the United States on January 20. Since then, President Trump has continued to issue actions consistent with his campaign platform in *Donald J. Trump's Contract with the American Voter*. Notably, on January 31, President Trump announced his nominee to replace the late Justice Antonin Scalia, Judge Neil Gorsuch, a federal appeals court judge in Denver, Colorado. If confirmed by the Senate, Gorsuch is expected to play a conservative role on the court.

There are a number of issues pending at the federal level that could impact Santa Ana:

Immigration

Sanctuary Cities

On January 25, the President issued an executive order (EO), which directs the AG and the Secretary of DHS to eliminate federal funding for sanctuary cities. Under the EO, sanctuary cities is defined as "...willfully refus[ing] to comply with 8 U.S.C. 1373." According to this statute, a sanctuary policy is "sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual." This same EO also empowered U.S. Immigration and Customs Enforcement (ICE) to enforce the laws, identify criminal aliens, triple ICE enforcement and removal operations/agents, create a victim's advocacy office for victims of crime by illegal aliens, collect unpaid fines from illegal immigrants, and increase transparency. While it is unclear how the Administration will define "federal funding", we expect the President to attempt to defund "sanctuary cities" in some way.

Defunding legislation may need a legislative vehicle—either stand-alone legislation or provisions added to an appropriations bill. If Trump takes the stand-alone legislative route, a bill could look similar to previous congressional efforts to withhold federal discretionary funding from sanctuary cities. This includes legislation sponsored by Sen. Pat Toomey (R-PA) intended to strip congressional funding from sanctuary cities, including law enforcement grant programs and Community Development Block Grants for affordable housing, anti-poverty programs and infrastructure development. House Republicans have also made legislative attempts to punish sanctuary cities. Last year, the House passed, mostly along party lines, *Enforce the Law for Sanctuary Cities Act*, which would deny some federal funding for jurisdictions that prohibit law enforcement from asking people about their citizenship or immigration status.

However, denying all federal funding to sanctuary cities would be difficult to implement, as well as raise serious constitutional issues. It is possible that Republicans may specifically target certain discretionary grants—such as those from Department of Justice—which provide important funding support to emergency services, including police and firefighters. Moreover, since Republicans do not have enough votes to overcome the Democratic-led filibuster, any immigration legislation will need bipartisan input.

On January 31, San Francisco (city and county) sued over the President's authority to withhold funding from "sanctuary cities." Subsequently, Santa Clara County, and Chelsea and Lawrence, Massachusetts, who filed a joint complaint, have sued the administration over the EO. In their complaint, San Francisco sought declaratory and injunctive relief against the United States of America and certain federal officials for violating the 10th Amendment (Anti-Commandeering Principle) and further sought a declaration that the City and County of San Francisco comply with 8 U.S.C. Section 1373.

DACA

The President recently indicated that he intends to issue his administration's policy on the Deferred Action for Childhood Arrivals (DACA) program in the next few weeks. Separately, the sanctuary city EO may implicitly rescind the Obama Administration's November 14, 2014 immigration executive action, which created the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program and expanded the 2012 DACA program. The action was never codified into law. This EO comes soon after a federal judge overseeing a challenge to President Obama's unilateral immigration reforms put the case on hold for two months while President Trump decides what to do with the policies. The original lawsuit was filed by 26 states, arguing that President Obama violated the U.S. Constitution's separation of powers by acting without congressional approval.

If DAPA and DACA, are struck down, Congress would have to act to reverse this change in policy and seek to codify President Obama's executive action to protect people brought to the U.S. as children. Since Republicans hold a majority in both chambers, passing a bipartisan DACA bill will be difficult, especially in the House. Some Republicans in the Senate, namely those who cosponsored the Bridge Act—including Sens. Murkowski (R-AK), Flake (R-AZ) and Graham (R-SC)—which would provide temporary relief from deportation and employment authorization to individuals who are eligible for DACA.

FY 2017 & FY 2018 Budgets/Appropriations

Budgets

To overcome the filibuster, Republicans will use procedural tools that only require a simple majority (50 votes) to pass controversial legislation. One such tool is the budget reconciliation process. This year, Republicans will use two budget reconciliations (resolutions) to accomplish two major priorities: ACA repeal and replace (FY 2017) and tax reform (FY 2018). The first budget resolution to repeal the ACA was passed by the Senate on January 12 and the House on January 13, and does not require the president's signature. The President recently noted that a GOP replacement plan could take a year. The FY 2017 resolution is currently being reconciled.

The FY 2017 budget resolution includes reconciliation instructions to four authorizing committees—Ways and Means and Energy and Commerce in the House and Finance and Health, Education, Labor, and Pensions in the Senate—to allow immediate action on repeal of the ACA once reconciled. Once the committees finish drafting their changes, they will be sent to the budget committees, which merge the language into a single bill. Then the House and Senate will act on the bills produced by their budget committees. In the House, this is likely an up-or-down vote on the product whereas in the Senate any amendments meeting the budget-related requirement could be offered. Finally, the House and Senate would need to resolve differences in

their bills and a final bill would then be passed and sent to the President who, presumably, would sign it into law.

Appropriations

Early in 2017, Congress will need to address appropriations for two fiscal years. Lawmakers punted the FY 2017 appropriations bill last Congress in a continuing resolution (CR) that expires on April 28, 2017. As a result, Congress must determine whether to extend the current CR for the rest of the fiscal year, or try to pass an appropriations package. Many observers believe that Congress may pass a defense appropriations bill (and potentially a defense supplemental to provide funding for the border wall); however, time constraints will likely force Congress to extend all other funding through a CR for the remainder of the year.

Meanwhile, the President and Congress will also need to focus on the FY 2018 appropriations process in the spring. The President's budget is due in February—a deadline that was missed. Once Congress receives the President's budget in the spring, they will begin crafting legislation. Around this time, members of appropriations committees will accept requests from stakeholders. Appropriations subcommittees will hold hearings and mark ups, and then the full committee will vote on each individual bill.

Debt Ceiling Negotiations & Spending Caps

Congress and the Administration will also face a major legislative hurdle: sequestration. When the Budget Control Act of 2011 was enacted, it set in motion very low spending caps, limiting federal funding for defense and non-defense discretionary programs. Since then, Congress has reached short-term agreements to increase spending above the caps and avoid sequestration—or across-the-board spending cuts that are triggered when Congress spends more than the caps allow.

Most recently in October 2015, Congress reached a two-year agreement to increase the spending caps for FY 2016 and FY 2017 and to suspend the debt ceiling through March 2017. Low spending caps are slated to return in FY 2018, however, unless Congress acts again.

For the last several years, Congress agreed that parity was central to any spending negotiations so that the impact of these spending caps fell equally on defense and non-defense programs. However, President Trump has indicated that he wants to eliminate parity by lifting the spending caps for defense programs. Such an action could result in placing the full weight of budget limitations on non-defense programs. Further, he has proposed cutting non-defense spending by an additional 1 percent each year for the next 10 years. Both of these proposals could devastate funding for many critical programs and significantly impede negotiations on FY 2018 appropriations.

Affordable Care Act (ACA)

Process

The FY 2017 budget reconciliation bill could repeal all of the ACA's tax and revenue provisions, as well as its spending provisions—such as the premium tax credits to subsidize the purchase of insurance policies, the various forms of financial support for insurers offering plans, and the funding for expanded Medicaid matching funds to cover adults. But some provisions probably

cannot be repealed (e.g. requirement that insurers cover young adults through age 26) because they do not meet the requirement of being directly budget-related.

And to "replace" Obamacare, the same rule applies—only provisions that are directly budget related can be put in a reconciliation bill. So, for example, the GOP could create a new tax credit, a new insurance subsidy, a new pool of funds for states to use with the uninsured, or a revised funding allocation for Medicaid. But it may be a tough argument with the Senate Parliamentarian that revising insurance regulation, redefining required benefits, and making major reforms to the rules of the Medicaid program can fit in this bill.

Replacement Plan

President Trump recently vowed that his healthcare replacement would provide “insurance for everybody,” but Republicans have not yet reached consensus about a replacement healthcare plan. We expect the new plan to eliminate Medicaid expansion, but how states will receive federal Medicaid funding is unclear. Options include block grants or per-capita grants, where states receive a fixed sum for each participant. Thus, it is possible that overall federal Medicaid funding will decrease. Several reform bills have been introduced in the last few weeks. Most notably, the Cassidy-Collins plan, the Patient Freedom Act of 2017, which would give states three options: keep the current ACA system, reject any federal assistance, or transition to a new program that will automatically enroll eligible individuals in a high-deductible plan linked to a health savings account. Their plan calls for initially keeping the ACA taxes and transitioning to the new system by 2020.

Timeline

The original Republican plan was to quickly move legislation that would repeal as much of Obamacare as possible, probably with a one or two year delay in the effective date of those repeal provisions, and leave the question of developing and adopting a replacement approach to later legislation. House Republicans hoped to complete the reconciliation process and have a repeal bill on the President’s desk by February 20th. The Republicans did not want to replace one 2,700 page bill with another one. They also did not want to get into a messy internal debate about how to replace Obamacare. However, that approach is becoming less and less appealing politically.

As a result, there is now an increasing number of statements from senior elected GOP officials and the President articulating different approaches such as "step-wise" repeal and replace, "nearly simultaneous" repeal and replace, or doing it all at once. The direction of movement is toward having more replacement features included in the repeal bill that is considered in the next few months under the protection of reconciliation.

Impacts of Repeal

According to a 2010 Congressional Budget Office report, overhauling the ACA could cause 32 million people could lose coverage and double premiums by 2026. Further, the cost of repealing the law will be at least \$350 billion; and some estimates say \$9 trillion in the long-term. Eliminating the insurance premium tax credits and Medicaid expansion could result in \$140 billion loss in federal funding for health care in 2019, leading to the loss of 2.6 million jobs (mostly in the private sector) that year across all states. A third of lost jobs are in health care,

with the majority in other industries. If replacement policies are not in place, there will be a cumulative \$1.5 trillion loss in gross state products and a \$2.6 trillion reduction in business output from 2019 to 2023. States and health care providers will be particularly hard hit by the funding cuts.

Tax Reform

Municipal Bond Tax Exemption

Another top priority for Congress is reforming the tax code, which House and Senate Republicans plan to do through the FY 2018 budget resolution, which is expected to come up this spring. The tax package may, in part, help to pay for an infrastructure package. President Trump and Congress have proposed including significant cuts to income tax rates, keeping rates low on investment, and to eliminate the estate tax. A serious concern for local jurisdictions is a proposal that would eliminate the tax-exempt status on municipal bond interest, which is critical for job and infrastructure creation, and has been on the table in the past and may resurface again. It is estimated that eliminating the tax-exemption would generate approximately \$500 billion over 10 years to pay for other tax cuts. The President has previously promised to work to maintain the tax-exempt status.

State & Local Tax Deduction

The President's tax plan would cap itemized deductions for higher earners, and the Republican tax reform plan would entirely eliminate the state and local tax deduction. New York Governor Andrew Cuomo, and other state and local leaders, have asked Donald Trump not to eliminate this deduction, arguing that the cut would devastate states like New York and California. The deduction is known to disproportionately benefit wealthy individuals and Democratic areas like major cities. Moreover, this provision is among the most expensive for the federal government. The tax reform blueprint released by House Republicans in June 2016 lowers tax rates, but eliminates all itemized deductions, except those for mortgage interest and charitable giving. Quantifying the impacts of doing away with this deduction will be important to advocacy efforts.

Transportation/Infrastructure

President Trump's pick to lead the Department of Transportation, Elaine Chao, was confirmed by the Senate on January 31. Chao will likely be involved in helping the GOP develop an infrastructure proposal. Chao is the wife of Senate Majority Leader Mitch McConnell (R-KY), and served eight years as Deputy Secretary of Transportation during the George H.W. Bush Administration.

Although Trump promised a \$1 trillion infrastructure bill in his first 100 days in office, the timing of a plan has been delayed by a full Republican agenda. Moreover, Republican leaders have not yet decided how to pay for the investment nor what types of infrastructure will be included. On the campaign trail, Trump claimed that the bill will be revenue-neutral, use public-private partnerships as a pay-for, and provide tax incentives to leverage private investments, which will be difficult to deliver. This would only work for money-making infrastructure projects, which includes airports and toll roads, but excludes many important modes. The President has also considered creating a national infrastructure bank. Democratic leaders Nancy Pelosi (D-CA) and Chuck Schumer (D-NY) have said that an infrastructure package may be an area where Democrats can work with the new Administration.

Meanwhile, on January 24, Senate Democrats unveiled a plan for \$1 trillion federal infrastructure spending over 10 years. Democrats believe that the measure should spur economic growth and create jobs, but avoid taking money away [from other programs]. The proposal includes:

Reconstruct Roads & Bridges	\$100 Billion	Improve Airports	\$30 Billion
Revitalize Main Street	\$100 Billion	Address Ports & Waterways	\$10 Billion
Expand TIGER	\$10 Billion	Build Resilient Communities	\$25 Billion
Rehabilitate Water and Sewer	\$110 Billion	21 st Century Energy Infrastructure	\$100 Billion
Modernize Rail Infrastructure	\$50 Billion	Expand Broadband	\$20 Billion
Repair & Expand Transit	\$130 Billion	Invest in Public Lands & Tribal Infrastructure	\$20 Billion
Vital Infrastructure Program	\$200 Billion	Modernize VA Hospitals	\$10 Billion
Rebuild Public Schools	\$75 Billion	Provide Innovative Financing Tools	\$10 Billion

We will continue to keep the City updated as developments occur.

