

**Fresno Council of Governments Monthly State Legislative Report
2/10/2017**

[AB 1](#)

(Frazier D) Transportation funding.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 1/19/2017-Referred to Coms. on TRANS. and NAT. RES.

Location: 1/19/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund.

Position

[AB 17](#)

(Holden D) Transit Pass Program: free or reduced-fare transit passes.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 1/19/2017-Referred to Com. on TRANS.

Location: 1/19/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would create the Transit Pass Program to be administered by the Department of Transportation. The bill would require the Controller of the State of California to allocate moneys made available for the program, upon appropriation by the Legislature, to support transit pass programs that provide free or reduced-fare transit passes to specified pupils and students.

Position

[AB 28](#)

(Frazier D) Department of Transportation: environmental review process: federal pilot program.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 2/9/2017-Read second time. Ordered to third reading.

Location: 2/9/2017-A. THIRD READING

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Current law, until January 1, 2017, provided that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities it assumed as a participant in the pilot program. This bill would reinstate the operation of the latter provision.

Position

[AB 30](#)

(Caballero D) Planning and zoning: specific plan: housing.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 1/19/2017-Referred to Coms. on L. GOV. and H. & C.D.

Location: 1/19/2017-A. L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would authorize a legislative body of a city or county to identify an area of underperforming infill and direct the planning agency to prepare a specific plan, in accordance with specified described provisions and specified additional procedures, to provide for immediate development within that area. The bill would require the specific plan make certain findings relating to the need for affordable housing and to designate the specific plan area as an overlay zone in which development is permitted by right.

The bill would require the legislative body conduct at least one public hearing before approving a specific plan pursuant to these provisions to provide for community participation.

Position

[AB 33](#)

(Quirk D) Greenhouse gases from transportation: reduction: fees and rebates on new vehicle purchases.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 12/6/2016-From printer. May be heard in committee January 5.

Location: 12/5/2016-A. PRINT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would state the intent of the Legislature to enact legislation to reduce net emissions from greenhouse gases from transportation by imposing fees and granting rebates on sales of new automobiles and light trucks.

Position

[AB 65](#)

(Patterson R) Transportation bond debt service.

Current Text: Introduced: 12/13/2016 [Text](#)

Introduced: 12/13/2016

Status: 1/19/2017-Referred to Com. on TRANS.

Location: 1/19/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law provides for transfer of certain vehicle weight fee revenues to the Transportation Debt Service Fund to reimburse the General Fund for payment of current year debt service on general obligation bonds issued for transportation purposes, including bonds issued for high-speed rail and associated purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Proposition 1A of 2008). This bill would specifically exclude from payment under these provisions the debt service for Proposition 1A bonds.

Position

[AB 69](#)

(Allen, Travis R) State highways: roadside rests.

Current Text: Introduced: 12/16/2016 [Text](#)

Introduced: 12/16/2016

Status: 1/4/2017-Read first time.

Location: 12/16/2016-A. PRINT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law provides that the Department of Transportation has full possession and control of the state highway system and associated property. Current law authorizes the department to plan, design, and construct a system of safety roadside rests along state highways. Current law requires the department to design only those safety roadside rests that are reasonably economical and that will provide the motorist a place where he or she may stop for a short time during daytime and nighttime hours. This bill would make nonsubstantive changes to these provisions.

Position

[AB 87](#)

(Ting D) Autonomous vehicles.

Current Text: Introduced: 1/5/2017 [Text](#)

Introduced: 1/5/2017

Status: 1/19/2017-Referred to Coms. on TRANS. and C. & C.

Location: 1/19/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law requires the Department of Motor Vehicles to adopt regulations no later than January 1, 2015, setting forth requirements for the submission of evidence of insurance, surety bond, or self-insurance, and for the submission and approval of an application to operate an autonomous vehicle. Under current law, it is unlawful and constitutes an infraction for any person to violate, or fail to comply with any provision of the Vehicle Code, unless otherwise specified. This bill would provide

that violation of this section is not an infraction and would instead, among other things, require the department to revoke the registration of a vehicle that is being operated in violation of those provisions.

Position

AB 174

(Bigelow R) California Transportation Commission: membership.

Current Text: Introduced: 1/17/2017 [Text](#)

Introduced: 1/17/2017

Status: 1/30/2017-Referred to Com. on TRANS.

Location: 1/30/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law provides that the California Transportation Commission consists of 13 members, 11 voting members, of which 9 are appointed by the Governor subject to Senate confirmation, 1 is appointed by the Senate Committee on Rules, and 1 is appointed by the Speaker of the Assembly, and 2 Members of the Legislature who are appointed as nonvoting ex officio members. This bill would require that at least one voting member reside in a rural county with a population of less than 100,000 individuals.

Position

AB 179

(Cervantes D) California Transportation Commission.

Current Text: Introduced: 1/18/2017 [Text](#)

Introduced: 1/18/2017

Status: 1/30/2017-Referred to Com. on TRANS.

Location: 1/30/2017-A. TRANS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law provides that the California Transportation Commission consists of 13 members: 11 voting members, of which 9 are appointed by the Governor subject to Senate confirmation, one is appointed by the Senate Committee on Rules, and one is appointed by the Speaker of the Assembly, and 2 Members of the Legislature who are appointed as nonvoting ex officio members. This bill would require that 6 of those voting members have specified qualifications.

Position

AB 278

(Steinorth R) California Environmental Quality Act: exemption: existing transportation infrastructure.

Current Text: Introduced: 2/2/2017 [Text](#)

Introduced: 2/2/2017

Status: 2/3/2017-From printer. May be heard in committee March 5.

Location: 2/2/2017-A. PRINT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would exempt from the provisions of CEQA a project, or the issuance of a permit for a project, that consists of the inspection, maintenance, repair, rehabilitation, replacement, or removal of, or the addition of an auxiliary lane or bikeway to, existing transportation infrastructure and that meets certain requirements. The bill would require the public agency carrying out the project to take certain actions.

Position

SB 1

(Beall D) Transportation funding.

Current Text: Amended: 1/26/2017 [Text](#)

Introduced: 12/5/2016

Last Amend: 1/26/2017

Status: 2/3/2017-Set for hearing February 14.

Location: 2/2/2017-S. T. & H.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require

the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. This bill contains other related provisions and other existing laws.

Position

SB 4

(Mendoza D) Goods Movement: allocation of federal funds: Goods Movement and Clean Trucks Bond Act.

Current Text: Introduced: 12/5/2016 [Text](#)

Introduced: 12/5/2016

Status: 1/12/2017- Referred to Coms. on T. & H., EQ., and GOV. & F.

Location: 1/12/2017-S. T. & H.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would, subject to voter approval at the June 5, 2018, statewide primary election, enact the Goods Movement and Clean Trucks Bond Act to authorize \$600,000,000 of state general obligation bonds as follows: \$200,000,000 to the California Transportation Commission for projects and programs eligible for funding from the Trade Corridors Improvement Fund; \$200,000,000 to the State Air Resources Board for projects and programs consistent with the Goods Movement Emission Reduction Program; and \$200,000,000 to the State Air Resources Board for projects and programs to expand the use of zero- and near-zero emission trucks in areas of the state that are designated as severe or extreme nonattainment areas for ozone and particulate matter.

Position

SCA 2

(Newman D) Motor vehicle fees and taxes: restriction on expenditures.

Current Text: Introduced: 1/18/2017 [Text](#)

Introduced: 1/18/2017

Status: 1/26/2017- Referred to Coms. on T. & H. and E. & C.A.

Location: 1/26/2017-S. T. & H.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would prohibit the Legislature from borrowing revenues from fees and taxes imposed by the state on vehicles or their use or operation, and from using those revenues other than as specifically permitted by Article XIX. The measure would prohibit those vehicle revenues and fuel tax revenues from being pledged or used for the payment of principal and interest on general obligation bonds issued by the state, except that vehicle weight fee revenues would be authorized to be pledged or used for the payment of principal and interest on general obligation transportation bonds approved prior to January 1, 2017. This bill contains other related provisions and other existing laws.

Position

Total Measures: 14
Total Tracking Forms: 14

Melissa Garza

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Washington Friday Report

Volume XIX, Issue Four



SIMON AND COMPANY
Intergovernmental Relations and Federal Affairs

Washington Friday Report

February 3, 2017

Inside this Issue...

- Sanctuary Cities
- SCOTUS Nominee Judge Gorsuch
- Refugee and Immigration

It has been an action-filled first two weeks of the Trump Administration, with bold and troubling initiatives, which we have briefed you on as they have been unveiled. We expect the pace to pick up even more as the secretaries in the Cabinet agencies take their seats and bring on the "factory floor of

Executive Order

- Trump Cabinet Slowly Taking Shape
- Infrastructure
- Cutting Back Regulations
- Hearings on the Hill
- Mayors Survey
- Welcoming Secretary Chao
- Safety in Cities
- LGBTQ Rights

government” -- the Deputy, Assistant and Deputy Assistant Secretaries, Special Assistants and others who make the key decisions on implementing the Administration’s policies. We’ll do our best to continue keeping you up to date and working with you on strategies to engage with the new management in town. Here’s the highlights of this past week.



TOP STORIES

Sanctuary Cities

We wanted to follow up on [our previous reports](#) of the President’s [Executive Order](#) focusing on sanctuary cities. Additional guidance and statements in response have been issued since our last report. Acting OMB Director **Mark Sandy** has discussed the [impact](#) the order might have on federal revenues. This impact, of course will be a moving target depending on the implementation of the Executive Order. As you know from our Special Report last week, the Trump Administration replaced the Obama Administration’s “Priority Enforcement Program” (PEP) with the revival of “Secure Communities,” which the Obama Administration had discontinued. We thought you would be interested in reviewing the document prepared by the previous Administration which [details](#) the differences between PEP and the Secure Communities Program.

We also had the opportunity to join a teleconference hosted by the U.S.

Conference of Mayors in which various Mayors discussed how they are approaching the Executive Order in their own cities. During the call, some mayors emphasized focusing around the “*human element*” of the order and recommended partnerships, particularly with sheriffs, police chiefs and religious organizations. A number of Mayors suggested that messaging should include the idea that working with Immigration and Customs Enforcement (ICE) and still being a welcoming city are not mutually exclusive and cities could find a way to communicate both as they address this issue. Discussion ensued regarding possible future legal action (beyond that already taken by San Francisco—see below) which could ultimately focus on how defunding cities not in future ICE compliance is a violation of constitution provisions on the delegation of powers among the federal government and the states.

The following entities also released statements in response to the Executive Order: [State Attorneys General](#), the [U.S. Conference of Mayors](#), and the [Major County Sheriffs Association](#). As many of you may know, City of San Francisco has [filed suit](#) challenging the executive order. *We will be sure to keep you updated on any legal actions and/or joint efforts being taken by cities.*

SCOTUS Nominee Judge Gorsuch



The President has [nominated](#) **Neil M. Gorsuch** to serve on the Supreme Court. A graduate of Harvard Law, Columbia University, and Oxford, he went on to clerk for Justice **Byron White** and Justice **Kennedy** of Supreme Court of the United States and Judge **David Sentelle** of the United States Court of Appeals for the D.C. Circuit, the former appointed to the Court by President **Kennedy** and the later by

President **Reagan**. He has since served for over a decade as a federal judge on the U.S. Court of Appeals for the Tenth Circuit. You can read more about the nominee by clicking [The New York Times](#), [Politico](#), and [The Washington Post](#). *An historical footnote: Judge Gorsuch's mother, Anne Gorsuch, was EPA Administrator from 1981–1983 under President Reagan. As a USCM staff member, Len would see her from time to time as she met with Mayors! It's nice to see that her young boy turned out ok!*

Refugees and Immigration

As many of you know, the President ended last week on a controversial note by signing an [Executive Order](#) regarding refugees and immigration. The [special report](#) we sent over the weekend provides an overview of the order's key objectives, including temporarily suspending: (1) visas from 7 predominately Muslim countries, and (2) the U.S. Refugee Admissions Program.

The order was immediately implemented by TSA agents around the country, which led to detainments, people being unable to board planes coming back to the U.S., and protests by citizens and elected officials at many large airports. At the [Republican Leadership Press Conference](#) held earlier this week, Speaker **Ryan** supported the order by saying a “*pause*” was necessary as it relates to refugee admission. However, he did acknowledge that the rollout could have been implemented better. As the Speaker's remarks indicate, the order seemed to generate as much concerns among Republicans as it did from Democrats, as comments make clear:

Sens. Lindsey Graham (R-SC) and John McCain (R-AZ): “We fear this executive order will become a self-inflicted wound in the fight against terrorism. This executive order sends a signal, intended or not, that America does not want Muslims coming into our country. That is why we fear this executive order may do more to help terrorist recruitment than improve our security.” [New York Times, [1/29/17](#)]

Sen. Cory Gardner (R-CO): “While I am supportive of strengthening our screening processes and securing our borders, a blanket travel ban goes too far.” [Denverite, [1/29/17](#)]

Rep. Barbara Comstock (VA-10): "The President's Executive Order issued yesterday went beyond the increased vetting actions that Congress has supported on a bipartisan basis."
[\[1/29/17\]](#)

Gov. John Kasich (R-OH): "We must strengthen our nation's security through well-thought out and constructed plans. The latest executive order is neither...This order should be replaced with a more thoughtful approach consistent with our values." [\[1/29/17\]](#)

The order generated the first [statement](#) from former President **Obama** since leaving the White House. His words came from his spokesman **Kevin Lewis**, where he praised, "*citizens exercising their Constitutional right to assemble*" and reaffirmed that "*the President fundamentally disagrees with the notion of discriminating against individuals because of their faith or religion.*" State Department employees also issued a [dissent cable](#) asserting that the order would not make the nation safer. *The dissent has been signed by almost 1,000 State Department employees.*

Pushing back, the Administration followed up with additional [guidance](#) and clarification on this Executive Order. President Trump also issued a [statement](#) clarifying some of his views. After firing former Acting Attorney General **Sally Yates** for sending a [letter](#) detailing why she would not defend the order, the newly appointed Acting Attorney General **Dana Boente** issued [guidance](#) directing "*the men and women of the Department of Justice to do our sworn duty and to defend the lawful orders of our President.*"

Trump Cabinet Slowly Taking Shape

President Trump now has four members of his cabinet in place: Secretary of State **Rex Tillerson**, Secretary of Transportation **Elaine Chao**, Secretary of Defense **James Mattis**, CIA Director **Mike Pompeo** and U.N Ambassador **Nikki Haley**. **Rex Tillerson** was confirmed as Secretary of State earlier this week and promptly [addressed](#) the State Department. At the Committee level, circumventing boycotts by Democratic lawmakers, Senate Republicans advanced the nominations to the Senate floor of Senator **Jeff Sessions** for Attorney General, **Steve Mnuchin** for

Treasury, Rep. **Ryan Zinke** for Interior, Rep. **Tom Price** for HHS, Oklahoma Attorney General **Steve Pruitt** for EPA, **Betsy DeVos** for Education, and **Linda McMahon** for SBA. *The final votes on these nominations could come next week.*



OTHER NEWS AND GRANTS

Infrastructure

Following the Democratic unveiling of their infrastructure blueprint, talks resurfaced about what is next related to a big spending package. House Transportation and Infrastructure Chairman **Bill Shuster** mentioned the President's infrastructure ambitions as a *"unique opportunity"* during a [hearing](#) this week, but did not offer more on any impending legislation. Ranking Member **DeFazio** called for raising user fees that support transportation programs and stated, *"The FAST Act was good, but part of it's paid for with funny money that'll never show up because we didn't have the guts to raise user fees."* As far as President Trump's infrastructure plans, Democrats and rural Republicans worry the P3 aspect could shift focus and funding from the various non-profitable projects, like road maintenance.

Cutting Back Regulations

A new presidential [Executive Order](#) signed this week requires that for every new federal regulation implemented, two must be rescinded. The order comes after a meeting held by the President with



small business owners. The President said, *“If you have a regulation you want, No. 1, we’re not going to approve it because it’s already been approved probably in 17 different forms...But if we do, the only way you have a chance is we have to knock out two regulations for every new regulation. So if there’s a new regulation, they have to knock out two.”* The order also gives the OMB Director a lot of responsibility in these changes to the regulatory process, including issuing guidance to address *“processes for standardizing the measurement and estimation of regulatory costs.”*

Hearings on the Hill

The House Education and Workforce Committee held a hearing this week on [*“Rescuing Americans from the Failed Health Care Law and Advancing Patient-Centered Solutions.”*](#) In her opening statement, Chairwoman **Virginia Foxx** stated, *“There is an urgent need to address the challenges facing working families and small businesses under Obamacare, and that’s exactly what this hearing is about.* The Committee also held a hearing on *“Helping Students Succeed Through the Power of School Choice.”* You can view a webcast [here](#). Chairman **Todd Rokita’s** [opening statement](#) touches on giving parents more choice and touts charter schools, stating that *“nearly 400,000 kids are benefiting from a private school choice program.”* He even mentioned *“opposition building against the idea of empowering parents with more choices,”* which in many ways he believes *“explains the smear campaign against **Betsy DeVos.**”*

The House Energy and Commerce Committee held a [hearing](#) regarding Medicaid and *“prioritizing the most vulnerable.”* In seeking to accomplish this goal, Committee members highlighted several pieces of legislation, including the [Verify Eligibility Act](#), [Close Annuity Loopholes in Medicaid Act](#), and [the](#)

[Prioritizing the Most Vulnerable Over Lottery Winners Act](#). Through this hearing and these bills, the Committee is exploring ways to make changes to the Medicaid program. You can read more in a [background memorandum](#) provided by the Committee.



Recently, we sent many of you grant notices on [EPA Community-Scale Air Toxics Ambient Monitoring Grants](#).

Please contact Jen Covino with any questions about grants.

Mayors Survey

Politico has released their eighth installment of their Mayors survey, where they asked mayors in the two weeks before the inauguration to forecast how their cities would fare under the incoming Trump administration. Forty-six mayors responded to the unscientific and anonymous survey. Three quarters of the predominantly Democratic mayors who responded to the survey say it would be *“a complete disaster”* for their cities. The survey also revealed that 63% of those surveyed believe the Trump Administration would cause some harm in creating affordable housing and touched on mayors’ highest priority health threats, where drug addiction and lack of health insurance came out on top. The future of schools was also discussed and 87% of surveyed mayors said charter schools should be a small part of the mix, but never replace traditional public schools. *To read more about the survey and it’s results, click [here](#).*



Welcoming Secretary Chao

The Department of Transportation has posted an introductory message introducing their newest Secretary. In an accompanying email sent out by the DOT, Secretary **Chao** writes, *“America’s transportation infrastructure underpins our world-class economy and is a key factor in productivity growth, which has provided good jobs for millions of hard working Americans and a standard of living that is the envy of the world. And while our transportation infrastructure has given us unprecedented mobility for many years, it is increasingly in need of repair and refurbishment. Another challenge facing the transportation infrastructure is how to incorporate new technology and innovations, including drones and autonomous vehicles.”* To read more, click [here](#). We look forward to working with her and her team.

Safety in Cities

We wanted to share a plan crafted by U.S. Conference of Mayors Vice President and New Orleans Mayor **Mitch Landrieu** that aims to increase safety, justice, and opportunity in America’s cities. With support from police chief’s, Mayor Landrieu’s [Secure America Plan](#) addresses the following goals: strengthening police-community relations, expanding homeland security grants, investing in mental health and substance abuse services, reducing gun violence, and reforming the criminal justice system and strengthening reentry services. The plan also calls on the President and Congress to take certain actions to support these objectives.

LBGTQ Rights

Following chatter of an executive order related to LGBTQ rights, the President came out to affirm that he will continue to enforce the Obama Administration Executive Order protecting the rights of the LGBTQ community in the workplace. In his [statement](#), the President references the 2014 order and says he *“is proud to have been the first ever GOP nominee to mention the LGBTQ community in his nomination acceptance speech, pledging to protect the community from violence and oppression.”*

If you have any questions about this edition of the *Washington Friday Report*, please feel free to contact [Silvana Caldera](#) or [Len Simon](#).

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Washington Friday Report

Volume XIX, Issue Four



SIMON AND COMPANY
Intergovernmental Relations and Federal Affairs

Washington Friday Report

January 27, 2017

Inside this Issue...

- Sanctuary Cities Executive Order
- President Donald J. Trump
- Transit Funding and Safety

It' has been the fastest take-off of any administration we remember – startling in many ways – a flurry of actions beginning day one that collectively portray an engaged and active President undertaking initiatives that each have considerable implications for local

- Democrats Step Out First on Infrastructure
- Financing Highways through PPPs
- Optimizing Public Housing Funds
- The Case for Parks in Infrastructure
- An Overview of the Budget Reconciliation Process

governments. We' hope our Wednesday Special Report was helpful to you -- this regular Washington Friday Report recaps events in what can only be described, in the words of that great old British TV show as "That Was the Week That Was".



TOP STORIES

Sanctuary Cities Executive Order

As many of you know, the Administration signed an [executive order](#) on Wednesday targeting funding for sanctuary cities. The order comes as part of a series of actions aimed at addressing immigration both at the border and within the United States. We sent out a [special report](#) on the order earlier this week, but wanted to follow up with a more in-depth analysis of the pertinent language and legal implications.

The language specific to sanctuary cities is contained in Sections 8 and 9 of the executive order. Section 10 refers to *"Previous Immigration Actions and Policies"* and reinstates the Secure Communities program.

Key provisions from Section 9 are as follows:

- *"Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State,*

shall comply with 8 U.S.C. 1373.”

- *“...jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary.”*
- *“The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction.”*
- *“The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.”*
- *“...the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.”*
- *“The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.”*

Based on this section, the executive order defines a sanctuary city as “jurisdictions that willfully refuse to comply with statute 1373” and the Secretary of Homeland Security has the discretion to designate a jurisdiction. Statute 1373 is defined as follows: *Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.* You can read more from statute 1373 [here](#).

According to the order, a city is also subject to enforcement actions at the discretion of the Attorney General if (1) they violate 1373, or (2) they have policies or practices that prevent or hinder the enforcement of the federal law. In addition, the order directs the Secretary of Homeland Security to make a weekly list of jurisdictions that have failed to honor detainers and all resulting criminal acts. Finally, the OMB Director is directed to provide information on all federal grant money that is currently received by a sanctuary city.

As it pertains to legal aspects, the National Immigration Law Center believes that current local policies in place do not violate 1373 and that the order stretches the scope of the law. The language also gives the Secretary of Homeland Security and Attorney General a lot of discretion, especially related to actions that *“hinder the enforcement of federal law.”*

While the level of discretion and ambiguity make it difficult to know exactly which practices, statues, or policies constitute violations of 1373, the fact that the order states *“all federal grant money”* makes it seem more coercive should cities make the legal argument that the it violates the 10th Amendment.

As we mentioned earlier this week, there is consensus that there are several legal avenues cities can take should the federal government threaten to withhold funds. In addition to the 10th Amendment, this includes the question of whether the order violates 4th Amendment prohibition on self-incrimination and legal support from a previous Supreme Court decision. In this decision, Chief Justice John Roberts’s wrote in a ruling in a case involving the ACA and Medicaid expansion in states that while Congress can offer Medicaid funds to States to expand health care coverage, *“What Congress is not free to do is to penalize States that choose not to participate in that new program by taking away their existing Medicaid funding.”*

It is also important to note that the Department of Justice has previously referred cities allegedly in violation of 1373 to the Office of the Inspector General (OIG) for analysis. You can find a memorandum on this referral and subsequent OIG report made last summer [here](#). The OIG investigated these allegations and selected a sample of 10 state and local jurisdictions from the list provided for further review. They ultimately found that the jurisdictions had laws or policies that hindered immigration enforcement policies and required grant applicants to provide certifications specifying the applicants’ compliance with 1373. You can review the Inspector General’s testimony before Congress on this topic [here](#).

Moving forward, a unified approach among sanctuary jurisdictions may be key,

including messaging to any potential legal actions. On that note, The Center for American Progress has shared an [article](#) detailing how sanctuary cities have lower unemployment, poverty, crime, and other experience other benefits compared to non-sanctuary cities. Finally, considering the legal implications and previous actions by the DOJ and OIG, there has been talk of how the 10 cities previously examined by the OIG may be well-suited to spearhead any legal action relating to this executive order.

Since the announcement of this executive order, [The New York Times](#), [The Washington Post](#), [USA Today](#), [The Atlantic](#), and many other news sources have reported on mayors' responses as well as some of the legal aspects we covered. The U.S. Conference of Mayors also issued a [statement](#) on the order.

*This Washington Post published an article detailing how the order is unconstitutional, you can read it [here](#). The following maps have also been circulated: [NY Times Map](#) and [WaPo Map](#). Last year, Representative **John Culberson** sent letters to then-Attorney General **Loretta Lynch** and the Department of Justice regarding the OIG investigation in his capacity as Chairman of the Commerce, Justice, and Science Subcommittee on Appropriations. Please review Rep. Culberson's [correspondence](#) and the list of [sanctuary cities](#) he referenced in his letter.*

As you can see, there are a number of discrepancies between the lists in the absence of guidance or specific criteria from DHS, which should be more clearly defined by the Secretary in response to the executive order. We will be sure to relay any more information we learn about this executive order, legal actions, or any other relevant news and provide assistance as needed.

President Donald J. Trump



Donald J. Trump was sworn in as the 45th President of the United States last Friday. You can watch his inaugural address [here](#). The President did not waste any time and immediately got busy signing executive orders and an array of policy issues, from aforementioned sanctuary cities to the TPP and oil pipelines. Below we provide a brief highlight of what actions the President has taken since he took the oath and what that may mean for cities.

Presidential Actions

President Trump's first action as President was to sign an [executive order](#) on Obamacare. The order grants agency heads the authority to halt implementation of any provision of the law that would fiscally burden states, hospitals, insurers, patients or drug and device manufacturers. The law does not necessarily grant any new authority to the executive branch but certainly gives space to take actions to undermine the law. Should you be interested, the Cities Thrive Coalition is putting together a [letter](#) to be sent to Congress. The letter details the harm that would be to those living with mental illness should the ACA be repealed. The letter details the protections afforded by the law and how cities are on the front lines of dealing with mental illness among their citizens.

In addition, the President issued a [Memorandum for Executive Departments and Agencies](#), essentially halting all pending federal regulations, among other things. He also reinvigorated the construction of the [Keystone XL Pipeline](#) and [Dakota Access Pipeline](#), ordering new reviews of their permits. He also withdrew from the [Trans-Pacific Partnership Negotiations and Agreement](#). Furthermore, the President issued an [executive order](#) expediting reviews and approvals for high priority infrastructure projects and issued a [federal hiring freeze](#), which also

directed the Director of OPM to recommend a long-term plan to reduce the size of the federal workforce.

Cabinet Update

So far, the Senate has made four cabinet confirmations. General **John Kelly** has been confirmed as the Secretary of Homeland Security and **Nikki Haley** has been confirmed UN Ambassador. General **Mattis** has been confirmed Secretary of Defense and **Mike Pompeo** as CIA Director. There is obviously a long way to go and the Senate Democrats have said they need more time to vet candidates. *We expect to see more votes next week and will keep you posted on the results.*

OTHER NEWS AND GRANTS

Transit Funding and Safety

The Federal Transit Administration has posted its [FY17 partial year apportionment tables](#) allocating funding through April 28, 2017. Authorized through the [FAST Act](#) and the recent CR, this annual process makes formula funding available to transit agencies nationwide. For more, click on [Apportionment Notice](#).

We thought you may also be interested in the new FTA [National Public Transportation Safety Plan](#), which established performance measures to improve the safety and public transportation systems that receive federal financial assistance. The plan is primarily used to provide guidance to the transit industry regarding their safety performance. Transit agencies should set performance targets and assess safety performance based on the measures in the plan. For more, click on [Fact Sheet](#), [FAQs](#), and [FTA Rulemakings and Technical Assistance](#).

Democrats Step Out First on Infrastructure



Democratic lawmakers unveiled [“A Blueprint to Rebuild America’s Infrastructure”](#) this week, calling for a historic \$1 trillion federal investment to modernize crumbling infrastructure and create more than 15 million jobs. The blueprint calls for the largest investments in the following areas: reconstructing roads and bridges, revitalizing main street, expanding TIGER, rehabilitating water and sewer, modernizing rail infrastructure, repair and expand transit, vital infrastructure program, and public schools. The plan would also make significant investments to improve airports, address ports and waterways, build resilient communities, create 21st century energy infrastructure, expand broadband, invest in public lands and tribal infrastructure, modernize VA hospitals, and provide innovative financing tools. To learn more, click on [Blueprint One Pager](#).

Financing Highways through PPPs

The Build America Bureau and FHWA have released a guide on [Financing of Highway Public–Private Partnership \(PPP\) Projects](#). The guide is to help public sector transportation professionals understand the financial layout in PPPs. The guide is part of a larger PPP toolkit, which offers an array of resources and tailored guidance. These partners are also hosting a webinar on **Thursday, February 2, 2017** at 2:00 pm EST to discuss the guide and answer questions. For more, click on [DOT P3 Toolkit](#).



This week, we sent many of you grant notices on [DOJ FY 17 Comprehensive Opioid Abuse Site-based Program](#).

Please contact Jen Covino with any questions about grants.

Optimizing Public Housing Funds

HUD has announced an expansion of the Moving to Work Demonstration Program. The program allows Public Housing Authorities to apply for status to have greater flexibility in their use of federal housing funds. Tacoma and Louisville already have this and make great use of it, now 100 additional cities will have the same opportunity. For more, click on [HUD Expansion of Moving to Work Demonstration](#).

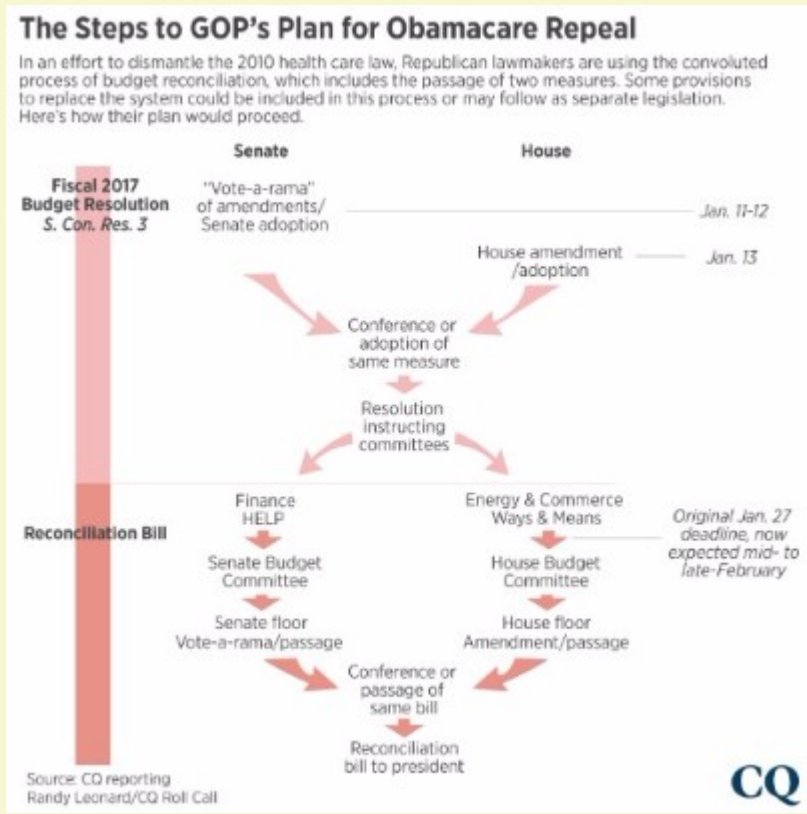
The Case for Parks in Infrastructure

Given all the talk of infrastructure lately, the Mayors for Parks Coalition sent a [letter](#) to the President urging him to include parks in any potential infrastructure plan. The letter highlights the many benefits of urban parks, including growing local economies, attracting businesses, workers, and investment, as well as enhancing residential and commercial property values. Furthermore, perhaps resonating with this new administration, leveraging public funds with private capital to invest in mixed-use infrastructure projects has proven beneficial in addressing community challenges. To learn more, you can read City Parks Alliance Director **Catherine Nagel's** [piece](#) on the topic.

Overview of the Budget Reconciliation Process

Whether its reconciling last year's budget or crafting one for 2018, federal budgetary actions are on the horizon. Therefore, we wanted to share a helpful [article](#) and chart (below) that breaks down the typically complicated reconciliation process. As we have reported, the Senate has already taken steps

to repeal Obamacare through the budgetary reconciliation process. The graphic, provided by CQ, presents several ways they can use the process to accomplish this goal.



If you have any questions about this edition of the *Washington Friday Report*, please feel free to contact [Silvana Caldera](#) or [Len Simon](#).

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