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MEMORANDUM

To: Mayor Libby Schaaf
Council President Rebecca Kaplan and Members of the City Council

From: Townsend Public Affairs, Inc.

Date: October 4, 2019

Subject: Update of the 2019 State & Federal Budgets

State Legislative Update

The Legislature wrapped up the first year of the 2019-2020 Legislative Session on September 13, the last day to pass bills in either house. Due to the passage of Proposition 54 in 2016, all bills must now be in print for 72 hours prior to being considered on their respective Floor. Approximately 2,600 policy bills were introduced in the Legislature in 2019. Just over 1,000 of those bills passed and were sent to the Governor for his signature or veto.

The final day of session was interrupted by anti-vaccination protesters when a potential biohazard was exposed to the Senate Floor, prompting an evacuation of the Senate chamber and a criminal investigation. The protesters were opposed to SB 276 (Pan – D, Sacramento), a bill that increases oversight of vaccine exemptions and was ultimately signed into law by the Governor. After the incident, the Senate resumed its proceedings in a committee hearing room.

Of note, Governor Newsom recently vetoed SB 1 (Atkins – D, San Diego), a bill authored by the Senate Pro Tempore that would have codified federal water pumping standards and endangered species protections for the Sacramento-San Joaquin Delta into State law. The bill was an attempt by the Legislature to oppose the Trump Administration's rollbacks of environmental protections. However, the bill was opposed by the Governor who argued that the bill did not "provide the State with any new authority to push back against the Trump Administration's environmental policies and it limits the State's ability to rely upon the best available science to protect our environment."

The bill was also opposed by several Central Valley lawmakers, as well as U.S. Senator Diane Feinstein. Senator Atkins stated her disappointment with the Governor's decision, and the lack of consensus on the issue highlights the lack of a clear path forward on future State environmental policy.

Furthermore, Governor Newsom signed AB 5 (Gonzalez – D, San Diego) into law, a high-profile labor bill that would require companies such as Uber and Lyft to classify workers as employees instead of independent contractors. Companies that employ certain independent contractors would be required to provide workers with benefits such as overtime and sick leave and would be



required to pay them a minimum wage. Uber and Lyft have stated their firm opposition to the bill since it was introduced.

Since September 13, the Governor has signed approximately 400 bills and vetoed 19. There are nearly 600 bills left for the Governor to consider before the midnight deadline on October 13. At the time of drafting this report, the Governor has taken action on some of Oakland's priority bills and many are still outstanding with over a week to go.

Federal Budget

Federal Budget & Appropriations Overview

- At the federal level, the **budget** is a non-binding, broad outline of spending that is recommended but not required, which is followed by appropriations bills that fund all federal government agencies.
- **Appropriations bills**, which fund the federal government, are traditionally adopted in twelve individual bills pertaining to the various federal departments and agencies. These bills may also advance in the form of a:
 - **Continuing Resolution (CR):** Extension of federal funding for a set amount of time at the same level as previously negotiated
 - **Omnibus:** Full-year funding, all in one bill
 - **Minibus:** Full-year funding, but for several departments at a time
 - **CRomnibus:** Combination CR and omnibus, which negotiates new funding levels for some areas of government and simply extends federal funding at same levels for other areas of government
- In a typical legislative year, Congress begins crafting their annual funding bills after the president submits his proposal in February, followed by appropriation committee hearings in early spring, appropriation bill mark-ups in late spring, floor debate and passage in summer, conference committee negotiations in early fall and final approval by the House and Senate before the September 30 end of the fiscal year.
- However, for the past several years, Congress has been unable to pass all twelve bills in time, and has relied in a series of CRs or omnibus bills.
- An omnibus (and sometimes minibuses) can be unwieldy and under-scrutinized compared to the individual twelve bills, but ultimately, they fund the government in the same way individual appropriation bills would.

FISCAL YEAR 2020 BUDGET AND APPROPRIATIONS

Over the last few months, the House and Senate have been working to draft Fiscal Year 2020 appropriations bills to fund the federal government. To date, the House, where all spending bills originate, passed all 12 of their appropriations bills.

The House has passed 10 of its 12 appropriations bills. The Senate Appropriations Committee has advanced 10 of its 12 out of committee, but none have reached the floor. To date, none of the FY 2020 spending bills have been signed into law.

What follows is a chart of FY 2020 federal funding progress for Oakland priority programs.

Housing/Community Development:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|---|------------------------|------------------------------------|----------------------|-----------------------|------------------------|
| Community Development Block Grant (CDBG) | \$3.3 billion | \$0 | \$3.6 billion | \$3.3 billion | N/A |
| HOME Investment Partnerships | \$1.25 billion | \$0 | \$1.75 billion | \$1.3 billion | N/A |
| Homeless Assistance Grants | \$2.64 billion | \$2.6 billion | \$2.8 billion | \$2.8 billion | N/A |
| HUD Tenant-Based Rental Assistance (Section 8 Vouchers) | \$22.5 billion | \$22.2 billion | \$23.8 billion | \$23.8 billion | N/A |
| HUD Project-Based Rental Assistance | \$11.74 billion | \$12 billion | \$12.6 billion | \$12.6 billion | N/A |
| Economic Development Administration (EDA) | \$304 million | \$0 | \$540 million | \$319.5 million | N/A |

Transportation:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|--|------------------------|------------------------------------|----------------------|-----------------------|------------------------|
| Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants | \$900 million | \$1 billion | \$1 billion | \$1 billion | N/A |
| Infrastructure For Rebuilding America (INFRA) Grants | \$1 billion | \$2.04 billion | \$1 billion | \$1 billion | N/A |

Public Safety:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|---|------------------------|------------------------------------|----------------------|-----------------------|------------------------|
| Community Oriented Policing Services (COPS) | \$225.5 million | \$99 million | \$323 million | \$245 million | N/A |
| Recidivism/Reentry Grants (Second Chance Act) | \$87.5 million | \$85 million | \$80 million | \$90 million | N/A |
| Assistance to Firefighters (AFG) Grants | \$350 million | \$344 million | \$375 million | \$355 million | N/A |
| Staffing for Adequate Fire and Emergency Response (SAFER) | \$350 million | \$344 million | \$375 million | \$355 million | N/A |

| | | | | | |
|--|---------------|-----|---------------|---------------|-----|
| Grants | | | | | |
| FEMA Pre-Disaster Mitigation Grant Program | \$250 million | \$0 | \$250 million | \$250 million | N/A |

Education:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|-------------------|-----------------|-----------------------------|----------------|----------------|-----------------|
| Head Start | \$10.1 billion | \$10.1 billion | \$11.6 billion | \$10.1 billion | N/A |
| Job Training/WIOA | \$2.8 billion | \$2.8 billion | \$3 billion | \$2.8 billion | N/A |

Environment:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|--------------------|-----------------|-----------------------------|---------------|----------------|-----------------|
| Brownfields Grants | \$87 million | \$62 million | \$105 million | \$85.2 million | N/A |

Welfare Assistance:

| Program | FY 2019 enacted | FY 2020 President's Request | FY 2020 House | FY 2020 Senate | FY 2020 Enacted |
|---|-----------------|-----------------------------|----------------|------------------|-----------------|
| Supplemental Nutrition Assistance Program (SNAP) | \$73.5 billion | \$69.1 billion | \$71.1 billion | \$69.2 billion** | N/A |
| Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) | \$6 billion | \$5.8 billion | \$6 billion | \$6 billion | N/A |
| Community Service Block Grant (CSBG) | \$725 million | \$0 | \$796 million | \$700 million | N/A |
| Senior Community Service Employment Program | \$400 million | \$0 | \$464 million | \$400 million | N/A |

** Cut due to declining enrollment.

Because Congress had not finalized all 12 bills in both chambers by the September 30 deadline, it passed a Continuing Resolution (CR) (H.R. 4378) to fund the government at Fiscal Year 2019 levels through November 21, 2019, the Thursday before Thanksgiving. On September 19, the House passed a CR by a vote of 301-123. On Thursday, September 26, the Senate voted for the CR with a vote of 81-16, and President Trump signed the CR into law on Friday, September 27.

Included in the CR are a number of temporary extensions through November 21, including:

- The National Flood Insurance Program.
- The Export-Import Bank.
- The Temporary Assistance for Needy Families Program.
- The U.S. Commission on International Religious Freedom.
- The Education Department's National Advisory Committee on Institutional Quality and Integrity.
- EB-5 regional investor visas, the E-Verify program, and other immigration authorities.

- The Calfed Bay-Delta Program, which coordinates state and federal agency activities related to the Sacramento-San Joaquin River Delta in California.

The measure would avert a cut to mass transit formula funding that the Congressional Research Service estimated in April would be about \$1 billion in fiscal 2020. The bill would waive, for the length of the continuing resolution, a law requiring the Transportation Department to reduce apportionments when unfunded authorizations for mass transit are estimated to fall short of revenue into the Highway Trust Fund.

The CR also includes a number of anomalies, or exceptions to the across-the-board FY2019 funding level extension. This includes additional funding for:

- Census Bureau to carry out operations for the 2020 census.
- Secret Service to support hiring and protective activities for the 2020 presidential campaign.
- Federal Emergency Management Agency to carry out disaster relief operations.
- Agriculture Department to ensure that summer child nutrition programs will be fully operational by May 2020.
- Housing and Urban Development Department to maintain rental assistance for elderly housing.

The measure also would provide the following annualized funding amounts:

- \$177.1 million for Small Business Administration (SBA) disaster loans.
- \$99 million for the SBA's 7(a) loan program for business startup costs.
- \$16.5 million for the Agriculture Department to continue implementation of the Hemp Production Program established under the 2018 farm law

Although federal funds are now extended through November 21, lawmakers may still find it difficult to close the gap between party priorities in that time frame. President Trump's FY 2020 request for \$8.6 billion for a wall on the southern border, and House Democrats' counteroffer of zero dollars, has created a chasm between lawmakers negotiating the final Homeland Security and Military Construction-VA funding bills. Abortion policy debates have stalled progress in the Senate on Labor-HHS-Education and State-Foreign Operations money.

Cannabis

On September 25, the House of Representatives passed the "SAFE Banking Act" (H.R. 1595), which would allow banks and credit unions to provide financial services to state-authorized cannabis businesses without federal penalties. The House passed the bill with a vote of 321-103, indicating a wider margin of support than a party-line vote.

Prospects of success in the Senate are increasing – a provision offering hemp industry relief is designed to appeal to Senate Majority Leader Mitch McConnell, whose home state of Kentucky is seeing the industry take off as Kentucky farmers are looking to replace tobacco crops. About 1,000 Kentucky farmers are growing hemp, a five-fold increase from 2018, and more than 200 hemp businesses are now registered in the state, up from 70 a year ago. Because of the Majority Leader's involvement supporting hemp in the past, it is likely that he would bring this bill up for a vote in a larger legislative vehicle.

Immigration

Census Citizenship Question

In June, the Supreme Court released its decision on the Trump Administration's efforts to add a citizenship question to the 2020 census. In a decision indicating that the Department of Commerce's explanation for adding the question was inadequate, the Supreme Court blocked the question for now.

The Court said that the lower courts were right to send the issue back to the Department for further explanation. Although this decision left the door open for the Department to provide an explanation in the future that the Supreme Court would accept, which could change the Court's decision down the line, the Trump Administration announced they would abandon their efforts to add a question to the Census, and will look for ways to collect the same information another way. This is a major win for California, which was slated to lose congressional seats and federal funds should the addition of the question result in an undercount of residents.

Public Charge

California is leading a recent lawsuit filed by several states against the Trump Administration to challenge the legality of a new "public charge" rule. The lawsuit is also joined by Maine, Oregon and Pennsylvania as well as the District of Columbia. The lawsuit names several federal agencies, including the U.S. Department of Homeland Security.

This latest move by the federal administration seeks to add Medicaid and food stamps to the list of programs whose past recipients could be deemed a "public charge," potentially jeopardizing their ability to become citizens.

The lawsuit is based on several key issues:

- The new rule violates the Constitution's equal protection guarantee, disproportionately blocking admission of non-white immigrants from Asia, Latin America and Africa.
- The federal government's failure to adequately determine the cost on the state and its counties if more people suffer from poverty as a result of the rule change
- The rule's improper punishment of immigrants for participating in widely used public benefits programs.
- The concern of federal interference with states' rights to protect residents

The new rule could deny green cards to immigrants who receive public assistance, including food stamps, Medicaid and housing vouchers. The rule potentially jeopardizes the more than 382,000 people who are currently applying for green cards

In California specifically, the new rule could have a chilling effect on up to 2.2 million Californians in immigrant families who might disenroll from Medi-Cal and CalFresh, the food stamps program, most of whom would not actually be legally subject to the proposed new public charge test. The rule will go into effect in October, but states are seeking a nationwide injunction block enforcement until the cases are fully litigated.

Local Authority over Wireless Infrastructure

In June, Senator Feinstein introduced the "Restoring Local Control Over Public Infrastructure Act," a companion bill to Rep. Anna Eshoo's H.R. 530.

Original cosponsors of the Senate companion bill are Senators Kamala D. Harris (D-CA), Chuck Schumer (D-NY), Michael Bennet (D-CO), Ron Wyden (D-OR), Ben Cardin (D-MD) and Richard Blumenthal (D-CN). The bill is supported by the U.S. Conference of Mayors, National Association of Telecommunications Officers and Advisors, American Public Power Association, Communications Workers of America, National Association of Counties, League of California Cities, and American Public Works Association.

As a reminder, both bills are in response to a pair of recent FCC rules that revoke local authority to regulate telecommunications equipment deployment and determine how much wireless carriers would pay to use public phone and utility poles. These rules are designed to facilitate the expansion of 5G technology. Unlike 4G signals, which can be transmitted for miles by large cell

towers, the 5G waves can only travel short distances and will require refrigerator-sized stations every few city blocks (as little as 300 feet apart).

The rule is similar to some provisions seen in SB 649 at the state level last year, and S. 3157 (the STREAMLINE Small Cell Deployment Act) at the federal level this year, though the FCC rule is narrower in scope than either bill.

There are multiple lawsuits against the FCC, filed on behalf of local government leaders. They have asked a court to issue a stay, keeping the order from taking effect during the litigation. As of writing, a stay has not been issued and the rules are in effect.

SALT Taxes

In September, federal legislation was introduced that temporarily reverses caps on State & Local Taxes (SALT). Congressman Bill Pascrell (D-NJ) recently indicated that members of Congress are currently drafting a compromise bill, which calls for a repeal of the \$10,000 cap on state and local tax deductions for three or four years. Lawmakers have indicated that a temporary repeal of the cap is in fact under serious consideration, but the issue of how to offset the cost of the bill is a major point of contention.

According to staff, Congressman Pascrell's bill would repeal the cap while also raising the top marginal tax rate on individuals from 37 percent to 39.6 percent, where it was prior to the 2017 tax law. Congressman Pascrell's measure would apply the new top rate to taxable income above \$470,700 for married couples filing jointly, with annual inflation adjustments; currently the lower rate kicks in at \$612,350 for joint filers.

In addition to the bill Congressman Pascrell is currently drafting, House members have introduced several individual bills this year to undo or eliminate the \$10,000 cap on SALT deductions.