



CITY OF OAKLAND

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OAKLAND

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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Katano Kasaine
Finance Director

SUBJECT: Federal and State Budgetary Actions
Standing Report

DATE: February 11, 2019

City Administrator Approval

Date:

2/19/19

The Townsend Public Affairs will present, on a quarterly basis, any new developments relating to the Federal and State budgetary actions and their potential impact on the City of Oakland at the Finance and Management Committee meeting.

For questions regarding this report, please contact Brittany Hines, Assistant Budget and Management Analyst, at (510) 238-7078.

Respectfully submitted,

KATANO KASAINÉ
Director of Finance

Item: _____
Finance and Management Committee
March 05, 2019

TOWNSEND
PUBLIC AFFAIRS
EST TPA 1998

MEMORANDUM

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

From: Townsend Public Affairs, Inc.

Date: January 25, 2019

Subject: Update of the 2019 State & Federal Budgets

State Budget

As background, TPA sent the City of Oakland a budget update on January 10th. The following report provides greater detail on the Governor's spending proposal.

The January Budget proposal is the starting point for budget negotiations, so it is very possible that allocations will change before the final budget is enacted. Budget subcommittee hearings will have more in-depth discussions of the proposals beginning in February. Traditionally, the Department of Finance and LAO staff present their take of the governor's proposal, stakeholders present their proposals, and public comment is accepted during the hearings. We will keep the City updated on those hearings and as of the date of this memo, no subcommittee hearings on the Budget have been scheduled.

As a reminder, votes on most items are usually delayed until after the governor releases the May Revise and revenue numbers have been updated. June 15 is the deadline for the Legislature to send the negotiated budget to the governor for his signature or veto.

Governor Gavin Newsom unveiled his first budget outlining \$209 billion in spending including \$144 billion in General Fund expenditures, \$59 billion in special fund spending, and \$5.3 billion in bond funds. The budget relies on an economic forecast that is brighter than the November forecast by the Legislative Analyst's Office (LAO) which estimated a budget surplus of \$14.5 billion. Instead, the Administration assumes a surplus of \$21.4 billion. The Governor's proposed budget adds \$1.8 billion to reserves bringing the Rainy Day fund to \$15.3 billion.

Below is a quick summary.

Debts

For years there have been outstanding loans made from special funds to the General Fund, as well as accounting tickets used during lean years. The 2019-20 budget will pay off those loans, reverse the accounting changes, and includes \$4 billion for the following:



- \$2.4 billion to eliminate all outstanding loans from special funds and transportation accounts.
- \$1 billion to eliminate the annual payroll deferral. The one-month deferral of the June payroll provided a one-time budget savings that was used to help balance the budget nine years ago.
- \$700 million to eliminate the deferral of the fourth-quarter payment to the California Public Employees' Retirement System (CalPERS). Similar to the payroll deferral, this action reverses a one-time budget savings that was used to help balance the budget over a decade ago.
- In addition, the proposed budget includes a one-time \$3 billion supplemental contribution to *the State's share* of unfunded PERS liability, and a \$1.1 billion payment toward CalSTRS pension liability.

Homelessness

The Administration proposes to continue momentum addressing California's homeless population through the following means:

- Regional Planning – \$300 million for jurisdictions that establish joint regional plans to address homelessness. The Business, Consumer Services and Housing Agency will distribute funds through federally designated areas (\$200 million) and the eleven most populous cities in the state (\$100 million). Plans must include regional coordination and funds must be used to expand or develop shelters and navigation centers.
- Meeting Milestones – \$200 million for jurisdictions that show progress toward the development of housing and shelters.
- Streamlining CEQA – The Administration will propose legislation to accelerate the construction of homeless shelters, navigation centers, and supportive housing units by allowing for streamlined CEQA with accelerated judicial review of challenges to an Environmental Impact Report.
- Airspace – The Administration will develop a statewide policy for the use of Caltrans airspace for emergency shelter. As a side note, this is something we did last year with the City and were able to secure leases for 1 dollar a month on Caltrans property.
- Housing and Disability Advocacy Program – \$25 million General Fund ongoing to assist homeless, disabled individuals with applying for disability benefits while providing housing supports.
- No Place Like Home Act and SB 3 Bonds – Timing on both initiatives would be accelerated.

Redevelopment

Governor Newsom dismissed the need to recreate redevelopment agencies, however, his budget does propose changes to make existing enhanced infrastructure financing district (EIFD) authority more attractive and viable.

This budget proposes to eliminate the need to secure 55% voter approval in order to issue debt, and to link EIFDs with the federal Opportunity Zone program. This includes conforming state law to federal law allowing for deferred or reduced taxes on capital gains for Opportunity Zone investments in green technology or affordable housing.

Housing Linked to Transportation

During his presentation, Governor Newsom made it clear that housing and transportation are inextricably linked, with the Department of Housing and Community Development (HCD) taking a more active role in developing, monitoring, and enforcing housing production goals under his

proposal.

The budget links the receipt of transportation funds to meeting new, more ambitious housing goals, however, there are currently no details specifying how this process will be implemented, or which funds would be in jeopardy.

A stakeholder group is to be convened, including local governments, to develop an equitable path forward in linking transportation funding and other economic development tools to meeting housing production goals.

Housing Production

As noted above, the budget proposes to revamp the Regional Housing Needs Assessment (RHNA) process, with HCD moving away from its advisory role and engaging in developing, overseeing, and enforcing regional housing goals and production. These new longer-term goals will be more ambitious and should provide the lead time necessary for local governments to update housing plans and zoning.

To assist local governments in meeting these new goals, the budget provides the following:

- \$750 million in one-time General Fund money to provide grants to local governments to jump start housing production.
 - \$250 million would be available to cities and counties for technical assistance and staffing to develop plans to reach the higher new housing goals. This includes plans rezoning for higher density, environmental review, permitting, and streamlining the local process to speed up production.
 - \$500 million would be used to provide grants to cities and counties that meet the milestones developed by HCD for general purpose needs related to producing housing.
- \$500 million to the Mixed Income Loan Program, which provides loans to developers for mixed income developments that include housing for moderate income households. This is in addition to the \$43 million being provided through SB 2, the Building Homes and Jobs Act of 2017.
- Increases the State Housing Tax Credit Program to \$500 million. Of this amount, \$300 million would be dedicated to the existing tax credit program, and the remaining \$200 million would be dedicated to a new program that targets housing projects for households with incomes between 60 and 80 percent of the area median income.
- Utilizes suitable excess state property for housing development, soliciting proposals from affordable housing developers that use creative approaches to building affordable and mixed income housing projects.

Poverty

Governor Newsom spent much of his campaign focused on health and human services programs impacting Californians in poverty and his budget reflects that concentration. Below are some of the augmentations and changes he is proposing to those programs.

Health

- Full Scope Medi-Cal – \$260 million (\$296.5 million General Fund) is provided in the budget proposal to expand Medi-Cal for undocumented immigrants up to the age of 26 who are income eligible. A redirection of 1991 indigent health realignment dollars away from counties who do not use the AB 85 hospital formula is included as part of this proposal.
- Medi-Cal Administration – Includes \$2.1 billion (\$723.6 million General Fund) for eligibility, an increase of \$53 million based on growth in the California Consumer Price Index.

- Whole Person Care Pilot Programs – One-time funding of \$100 million General Fund as an augmentation to the pilot program that provides housing services – DHCS will develop a funding allocation methodology.
- Covered California – Increased subsidies for those earning between 250 and 400% of federal poverty level. Expands financial assistance to those who make between 400 and 600% of federal poverty level. The expansion would be funded by a new state requirement for individuals to maintain health insurance.
- Prescription Drug Purchasing – The budget includes a plan intended to reduce the cost of prescription drugs for the State as well as private purchasers by allowing them to benefit from bulk state purchasing of pharmaceuticals. The proposal is estimated to result in hundreds of millions in annual savings starting in 2021-22.
- Developmental Screenings for Children – \$60 million (\$30 million Prop 56).
- Adverse Childhood Experiences Screenings – \$45 million (\$22.5 million Prop 56) for children and adults in Medi-Cal.
- Family Planning Services – \$50 million (Prop 56) for Medi-Cal recipients, will draw down additional federal funding.
- Medi-Cal Managed Care – \$360 million (\$180 million Prop 56) for a program that encourages Medi-Cal managed care providers to meet goals in critical areas.
- Mental Health Workforce Programs – \$50 million one-time to increase training
- Psychosis – \$25 million General Fund in one-time grant funds for projects that demonstrate innovative approaches to detect and intervene when a young person has experienced a first episode of psychosis.
- Sexually Transmitted Diseases – \$2 million General Fund for local health programs to prevent STDs.
- Black Infant Health – \$7.5 million augmentation.
- Home Visiting – \$23 million for expansion of the program.
- Health Care Workforce Investment – \$33 million General Fund ongoing beginning in 2020-21 to encourage providers to work in medically underserved areas by providing funds to medical education programs.
- Traumatic Brain Injury Program – \$1.2 million General Fund through 2023-24, which was previously funded by the State Penalty Fund.
- Paid Family Leave – the Administration is proposing to convene a task force to consider different options which would allow children to be cared for by a parent or close relative for their first 6 months.
- Student Mental Health Services – \$5.3 million ongoing to the University of California (UC) to meet staffing ratios and improve student services.
- Student Hunger – \$15 million ongoing to assist UC's efforts to address student hunger and housing needs.

Human Services

Of the anticipated budget proposals in 2019, adjustments to the In-Home Supportive Services (IHSS) Maintenance of Effort was anticipated to be one of the most significant and impactful to counties.

In conjunction with the release of the budget, the Department of Finance released their report on 1991 realignment and suggestions for moving forward. According to the Department of Finance, the goal is to ensure that counties do not have to use a significant amount of their General Fund to cover IHSS costs and that the health and mental health subaccounts can receive growth funding. The budget proposal includes:

- A rebase of the IHSS MOE in 2019-20 from about \$1.8 billion to \$1.56 billion.
- An inflation factor of 5% in 2018-19 and 7% in 2019-20, which is current law.

- An inflation factor of 4% beginning in 2020-21 and ongoing.
- The separation of IHSS administration from service costs.
- Returning to the original caseload methodology comparing prior years instead of using an accelerated approach.
- Eliminating growth funding to CMSP.
- IHSS Administration – An ongoing increase of \$15.4 million is included as part of the budget, totaling \$326 million General Fund.
- IHSS Restoration – The 7% across-the-board cut to IHSS is repealed, without the assumption that the managed care organization tax will be extended. Cost is estimated at \$342.3 million General Fund in the budget year.
- IHSS Electronic Visit Verification – Federal law requires that states implement an electronic visit verification system by January 1, 2020 as well as one for home health care services by January 1, 2023. The budget includes \$34.9 million (\$5.3 million General Fund) for electronic visit verification and enhancements of other IHSS IT systems.
- CaWORKs Grant Increase – \$347.6 million General Fund is included to raise grant levels to 50% of federal poverty level on October 1, 2019. The cost is estimated at \$455.4 million annually thereafter.
- Home Visiting – \$78.9 million for home visits to 16,000 CaWORKs families in the budget year.
- Single Allocation – A \$93.6 million one-time augmentation is included in the budget while the Administration examines the budget methodology for Employment Services. Adjustments are anticipated as part of the May Revise.
- County Indigent Health Savings – \$617.7 million in projected savings to offset General Fund costs in CaWORKs, a decrease of \$155.5 million. The decrease is offset by additional indigent health savings (based on the latest reconciliation) of \$315 million available from 2016-17.
- Safety Net Reserve – The budget increases the Safety Net Reserve Fund by \$700 million, bringing the total to \$900 million, which would be made available for CaWORKs and Medi-Cal during an economic downturn.
- Continuum of Care Reform – \$416.9 million (\$301.7 million General Fund) is allocated to continue the implementation of Continuum of Care Reform.
- Immigration Services – \$75 million ongoing for immigration-related services is included to maintain funding in the 2018-19 Budget Act.
- Immigration Rapid Response Program – The budget includes \$20 million to establish the program which would assist nonprofits and community-based organizations in providing services during immigration or human trafficking emergency situations where federal funding isn't available.
- California Statewide Automated Welfare System (CalSAWS) – California is federally required to create a single SAWS by 2023. The budget includes \$148.2 million (\$31.2 million General Fund) to design, develop, and implement the new system.
- CalFood and Food Bank Capacity Improvements – The governor's budget continues allocating \$8 million General Fund for CalFood. It also includes a one-time \$20 million General Fund augmentation to support infrastructure needs of food banks.
- Community Crisis Homes for Children – \$4.5 million General Fund one-time to expand the development of community crisis housing for children.
- Specialized Home Monitoring – \$3.8 million (\$2.6 million General Fund) for increased monitoring of Enhanced Behavioral Support Homes and Community Crisis Homes.
- Child Support – \$56 million (\$36.9 million federal funds, \$19.1 million General Fund) to 21 local child support agencies with lower than average funding levels. The budget year will be the first year of a three-year phase-in of new budgeting methodology for child support agencies.
- Incompetent to Stand Trial (IST) – \$18.6 million General Fund and 119.3 positions is

included for the second phase of the Metropolitan State Hospital's secured treatment area expansion which will provide 236 additional secured forensic beds for treatment of ISTs. \$12.3 million General Fund is also allocated to contract up to 74 additional jail-based competency restoration treatment beds through county jail treatment programs.

- Child Savings Accounts – \$50 million General Fund one-time for the development of models to support and encourage families to build assets for their children's education.

Public Safety

One of the most controversial proposals within the governor's budget is the transfer of juvenile justice programs from the California Department of Corrections and Rehabilitation to a new department under the California Health and Human Services Agency. Other less controversial proposals include the following:

- Inmate Literacy – \$5.5 million General Fund for a package of programs improving literacy rates among inmates.
- Peace Officer Standards and Training (POST) – Provides \$14.9 million General Fund to restore POST to its historical budget level. Makes permanent a 2018 \$20 million General Fund augmentation for training on the use of force and de-escalation as well as training on individuals experiencing a mental health crisis.
- Human Trafficking – \$10 million to continue funding for the Human Trafficking Victim Assistance Program.
- Retail Theft – \$5.8 million General Fund to create a regional task force as directed by AB 1065 (Jones-Sawyer) Theft: aggregation: organized retail theft.
- Community Corrections Performance Incentive Grant – \$116.4 million General Fund to continue providing incentives for counties to reduce felony probationers sent to state prison.
- Armed Prohibited Persons System (APPS) – \$16.9 million General Fund to assist in disarming individuals prohibited from owning a firearm.
- Dependency Counsel – \$20 million is provided with the intention of reducing caseloads.
- Bureau of Firearms Workload – \$6.9 million to help fund the increasing workload related to firearm sales.
- Sex Offender Registry – \$17.2 million General Fund to continue implementing a tiered registration of sex offenders.
- Tattoo Removal – \$2.5 million to expand the tattoo removal program, allowing the removal of more than 4,000 annually.
- Prison Medical Care – \$6 million augmentation to increase staffing and make improvements to prison medical care.
- Prison Maintenance – \$18.5 million, growing to \$55.6 million in 2021-22 to establish a new funding methodology and baseline budget for annual prison maintenance and repair costs.

Property Tax Backfill

\$31.3 million General Fund is included as part of the budget to backfill wildfire-related property tax losses. Funding will be available to Orange, Butte, Lake, Los Angeles, Riverside, Shasta, and Siskiyou counties for 2019-20 losses resulting from 2018 wildfires.

Cap & Trade

The budget summary includes an expenditure plan for Cap & Trade auction revenue, which is estimated to total \$2.5 billion in 2019-20. The proposal does not propose any changes to the 60% of funds that are continuously appropriated to High-Speed Rail, transit operations, housing, and transit capital funds, however, some funds are taken "off-the-top" for forest health programs. 60% is then continuously appropriated, leaving about \$1 billion in discretionary funds. Auction revenue is expected to be a little lower than in prior years due to the anticipated use of "banked" credits

purchased in prior auctions, but not used.

Green Apprenticeships

Of note to the City, the Cap & Trade expenditure plan includes \$27 million for workforce development, which would be used to establish apprenticeships and workforce assistance as follows:

- Pre-Apprenticeship Construction Partnerships—\$10 million annually for 5 years to place approximately 3,000 disadvantaged workers in apprenticeships for a career in the trades by doubling the training capacity for each of the existing 14 regional hubs.
- Training Partnerships—\$10 million annually for 5 years to place 2,000 disadvantaged workers into entry-level jobs and develop skills in climate and technology-related occupations through the expansion of existing partnerships.
- Worker Transition Fund—\$5 million annually for 5 years to provide income replacement in conjunction with retraining for approximately 1,500 displaced workers resulting from climate policies or automation.
- Technical Assistance and Program Administration—\$2 million for 11 positions and contract resources at the California Workforce Development Board to support these programs.

Safe Drinking Water

In addition to allocating \$188 million in one-time bond and General Fund revenue for safe drinking water programs, the governor is proposing to establish a Safe and Affordable Drinking Water Fund.

This proposal is consistent with legislation introduced last year that would impose a fee on water bills of less than \$1 per month, in addition to fees placed on the use of fertilizers and dairy farms. This revenue would be used to assist water retailers in providing clean and safe water to their customers.

Transportation Funding

The budget summary does not include a chapter on transportation, and with SB 1 firmly in place, the budget proposal simply lets these funds flow as previously directed.

The budget estimates that a total of \$4.8 billion in SB 1 funds will be available, providing \$1.2 billion to cities and counties for local streets and roads, \$1.2 billion for state highway maintenance, as well as \$400 million to repair and maintain the State's bridges and culverts, \$307 million to improve trade corridors, and \$250 million to increase throughput on congested commute corridors.

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 2018 BUDGET AND APPROPRIATIONS

To date, President Trump has signed 5 of the 12 federal appropriations bills for Fiscal Year (FY) 2019 into law. He also signed a continuing resolution, which extended FY 2018 funding levels for remaining authorized programs through December 21, 2018.

Because the House and Senate did not finish work on the remaining 7 bills (Agriculture; Commerce, Justice, Science; Financial Services; Homeland Security; Interior-Environment; State-Foreign Operations; Transportation-Housing and Urban Development) by December 21, and since the President said he would not sign another continuing resolution, a partial government shutdown began at midnight on December 22, 2018. At the time of writing, the government is still in partial shutdown, making this the longest government shutdown in U.S. history.

What follows is a chart of FY 2019 federal funding progress for Oakland priority programs, including programs that are impacted by the current partial government shutdown.

Housing/Community Development:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
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Community Development Block Grant (CDBG)	\$3.3 billion	\$0	\$3.3 billion	\$3.37 billion	FY 18 level through 12/21/18 – currently impacted by shutdown
HOME Investment Partnerships	\$1.36 billion	\$0	\$1.2 billion	\$1.36 billion	FY18 level through 12/21/18 – currently impacted by shutdown
Homeless Assistance Grants	\$2.51 billion***	\$2.38 billion***	\$2.57 billion***	\$2.61 billion***	FY18 level through 12/21/18 – currently impacted by shutdown
HUD Tenant-Based Rental Assistance	\$22.02 billion	\$20.55 billion	\$22.48 billion	\$22.78 billion	FY18 level through 12/21/18 – currently impacted by shutdown
HUD Project-Based Rental Assistance	\$11.52 billion	\$11.15 billion	\$11.75 billion	\$11.75 billion	FY18 level through 12/21/18 – currently impacted by shutdown
Economic Development Administration (EDA)	\$302 million	\$0	\$302 million	\$306 million	FY18 level through 12/21/18 – currently impacted by shutdown

*** Maintaining and increasing homelessness funding is a major success this year. Top line numbers for homelessness nationwide have been down, but numbers on the West Coast have gone way up. Increasing funding for these programs indicates federal appropriators are listening to us and specifically prioritizing the homelessness crisis in California and other West Coast states.

Transportation:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Better Utilizing Investments to Leverage Development	\$1.5 billion***	\$0	\$750 million***	\$1 billion***	FY18 level through 12/21/18 – currently

(BUILD) Transportation Discretionary Grants, formerly known as TIGER***					impacted by shutdown
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*** In FY 2018, BUILD/TIGER grants received triple funding of the previous year as a one-time boost... proposed FY 2019 levels are 50-100% higher than FY 2017 levels before the one-time boost.

Public Safety:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Community Oriented Policing Services (COPS)	\$276 million***	\$99 million***	\$226 million***	\$310 million***	FY18 level through 12/21/18 – currently impacted by shutdown
Recidivism/Reentry Grants	\$85 million	\$30 million	\$85 million	\$90 million	FY18 level through 12/21/18 – currently impacted by shutdown
Assistance to Firefighters (AFG) Grants	\$350 million	\$344 million	\$350 million	\$350 million	FY18 level through 12/21/18 – currently impacted by shutdown
Staffing for Adequate Fire and Emergency Response (SAFER) Grants	\$350 million	\$344 million	\$350 million	\$350 million	FY18 level through 12/21/18 – currently impacted by shutdown
FEMA Pre-Disaster Mitigation Grant Program	\$249 million	\$39 million	\$249 million	\$150 million	FY18 level through 12/21/18 – currently impacted by shutdown

*** In response to a lawsuit, COPS has put a hold on several grant programs for the FY18 cycle, including the COPS hiring program. If the hold is not resolved soon, this could affect appropriations for FY19 full-year funding, including prompting a one-year cut while COPS allocates its delayed FY18 award funding. While congressional appropriators are not currently factoring this in, we are aware of its ability to change in the near future. Additionally, the House version would move the COPS office into the larger Office of Justice Programs within the U.S. Department of Justice per the President's budget request.

Education:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Head Start	\$9.86 billion	\$9.28 billion	\$9.91 billion	\$10.1 billion	\$10.1 billion
Job Training/WIOA	\$3.49 billion	\$2.02 billion	\$3.47 billion	\$3.5 billion	\$3.5 billion

Environment:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Brownfields Grants	\$80 million	\$62 million	\$80 million	\$80 million	FY18 level through 12/21/18 – currently impacted by shutdown

Welfare Assistance:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Supplemental Nutrition Assistance Program (SNAP) ***	\$74.01 billion***	\$73.22 billion***	\$73.22 billion***	\$73.22 billion***	FY18 level through 12/21/18 – currently impacted by shutdown

*** SNAP and WIC funding levels are currently proposed to be lower than last year, but the decrease is small enough that we do not anticipate an observable change in access to assistance on the ground.

New Congress

The newly-selected Speaker of the House, Nancy Pelosi, gaveled in the first session of the 116th Congress on Thursday, January 3. One hundred new House members were seated. Sixty-three of those are Democrats, who have a 235-199 majority. Eight new members were sworn into the Senate, where Republicans expanded their majority from 51-49 to 53-47.

On the first day of session, votes on rules packages and bills to fund and reopen the government occurred well into the night (both passed). The continuing resolution to fund the government will

now go to the Senate, but Majority Leader Mitch McConnell indicated he would not take up the bill. Both chambers will reconvene next week.

Cannabis

Majority Leader Mitch McConnell succeeded in inserting a provision in the Senate version of the Farm Bill, a major agricultural policy bill, to legalize hemp under federal law.

The current hemp-related provisions of the Farm Bill, including descheduling, went into effect immediately after being signed by the President.

With respect to the regulation of hemp production, USDA would issue its own regulation plan as well as a framework for states to be able to apply to be the primary regulatory authority if they desire to do so. However, there is no specific timeline for the promulgation of such regulations. As a result, the specific timeline for the development and release of these regulations would be up to USDA. Unfortunately, the partial government shutdown has caused delays in the regulatory process.

Immigration

DACA

On Saturday, January 19, 2019, President Trump announced that he would agree to a deal that traded border wall funds for a three-year extension on Deferred Action for Childhood Arrivals (DACA) protections.

This proposal is similar to the BRIDGE Act, a bill that has been introduced in several congresses as an extension measure. It would not provide a path to citizenship for DACA recipients, and would not guarantee the program would exist beyond the three-year extension.

House Democrats, led by Speaker Pelosi, said that this was not a viable deal and the House would not pass it. Senate Republicans began work on a proposal in order to pass and put pressure on the House to act.

Reports indicate that a proposal to codify DACA and provide a path to citizenship (likely similar to or exactly the same as the DREAM Act, which has been introduced in many congresses) would gauge more interest among House Democrats.

Census Citizenship Question

In January, a federal judge blocked the Trump Administration's plan to put a question about citizenship on the 2020 census. Judge Jesse Furman, of the U.S. District Court for the Southern District of New York, issued his ruling after a two-week trial in Manhattan that the government asked to be dismissed more than a dozen times.

Furman said Commerce Secretary Wilbur Ross violated a statute that requires him to collect this kind of data through the acquisition and use of "administrative records" instead of through "direct inquiries" on a survey such as the census. However, Furman said he was unable to find that Ross's decision to add the question was a pretext for impermissible discrimination as the challengers had argued.

The Supreme Court is hearing an appeal related to the trial in February in hopes of handing down a decision before the Census Bureau has to finalize its questionnaire.

This decision is significant, since the census will help determine U.S. elections, congressional seats and federal funding decisions for a decade, and asking questions about citizenship may

skew the participation rate. California and other states with high levels of immigrant residents would be particularly affected.

Local Authority over Wireless Infrastructure

On January 14, 2019, the Federal Communications Commission's (FCC) new rules restricting local control of wireless infrastructure permitting went into effect.

As a reminder, in September the FCC voted on a 3-1 party-line vote to approve the new rule to limit fees on wireless provider use of local infrastructure, and limit the amount of time that local authorities can take to review businesses' proposals for deploying wireless infrastructure. 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.

Additionally, Congresswoman Anna Eshoo introduced H.R. 530, the Accelerating Broadband Development by Empowering Local Communities Act of 2019, to counter the Federal Communication Commission's (FCC) rules on wireless infrastructure.

The bill would nullify the two rules that the FCC approved on August 2 and September 26 of last year, which unfairly hamstrung municipalities' wireless permitting processes. NLC, NACo, and the National Association of Telecommunications Officers and Advisors have gotten on board with the bill, though it is unclear whether the bill can garner enough support for passage.

Criminal Justice Bill

On December 21, 2018, President Trump signed a criminal justice overhaul bill that would reduce sentences for nonviolent offenders and offer job training for prisoners to help them succeed once released. The final version was amended from the initial version that was introduced in the Senate.

Changes the bill will make include:

- *Federal Sentencing Changes*
 - Mandatory Minimums - The measure would cut mandatory minimum sentences for drug-related felonies with a previous conviction to 15 years from 20. It would also reduce mandatory minimum sentences to 25 years from life in prison for repeat offenders — individuals previously convicted for two or more felonies.
 - Safety Valves - Courts can impose a shorter sentence than required by a mandatory minimum if specific conditions are met. This option, known as a "safety valve," can be used to reduce the sentences for a range of crimes or offenders.
 - Cocaine Sentences - The 2010 Fair Sentencing Act (Public Law 111-220) reduced a sentencing disparity between powder and crack cocaine-related offenses. Courts could retroactively reduce certain sentences that were imposed before the law's enactment based on such disparities.

- *Recidivism Reduction*
 - Assessment System - The Justice Department would have to release a “risk and needs assessment system” and post it online within 210 days of the bill’s enactment.
 - Recidivism Programming - Recidivism-reduction programming would include group and individual activities supported by empirical evidence to help prisoners succeed in their communities after release.
 - Programming Providers - Activities could be offered through partnerships with nonprofit and other organizations, including faith-based, art, and community groups. Universities and private entities could also deliver classes, training, employment, or other assistance.

- *Funding for Prisoner Reentry Programs*
 - Reauthorize Second Chance Act grants - The amendment would reauthorize through fiscal 2023 federal grants under the Second Chance Act (Public Law 110-199) that support prisoner reentry projects, substance abuse treatment, mentorships, and career training.
 - Adult and Juvenile Reentry - The measure would authorize \$35 million annually through fiscal 2023 for Justice Department planning and implementation grants for reentry projects. Grants would be made to states, local governments, territories, or American Indian tribes in partnership with federal corrections agencies, service providers, and nonprofits.

- *Other Provisions*
 - The bill would require BOP to:
 - Place prisoners as close to their primary residences as practicable, within 500 driving miles if possible.
 - Place low-risk, low-needs prisoners into home confinement for as long as allowed and practicable.
 - Provide de-escalation training to employees and contractor employees.
 - Report to Congress on its ability to treat heroin and opioid abuse and the availability of medication-assisted treatment.
 - Establish separate five-year pilot programs in at least 20 facilities for youth mentorship and animal rescue training.
 - Make tampons and sanitary napkins available to inmates at no charge and in appropriate quantities.
 - Help inmates obtain identification before they’re released from prison or community confinement facilities.
 - Solitary Confinement - The measure would prohibit solitary confinement at juvenile facilities, except as a temporary response to a serious and immediate risk of physical harm. Confinement couldn’t exceed three hours for an individual who poses a threat to others and 30 minutes for those who pose a threat to themselves.
 - Pregnant Inmates - The bill generally would prohibit BOP and the U.S. Marshals Service from using restraints on pregnant women in their custody.