



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** April 12, 2016

Approved

Date

4/12/16

## INFORMATION

**SUBJECT: SQUIRE PATTON BOGGS FEDERAL LEGISLATIVE AND REGULATORY ACTION RELEVANT TO GENERAL LOCAL GOVERNMENT INTERESTS: SPRING 2016**

The City's Federal lobbyist firm of Squire Patton Boggs, LLP has provided the attached comprehensive update for local government regarding actions of notable federal legislation and regulatory issues in the first quarter of 2016.

In particular, San José advocated with the West Coast Alliance of Mayors (WCAM) – a coalition formed to present a united voice for increased funding for programs that help address the homelessness and housing affordability crisis affecting our cities, particularly among our veterans - in support for funding for the HOME Investment Partnerships, Community Development Block Grant (CDGB), McKinney-Vento Homeless Assistance Grants and Tenant-Based Rental Assistance. The City also advocated for support for the funding of the BART extension, HUD-Veterans Affairs Supportive Housing, Supportive Services for Veterans Families, Urban Area Security Initiative (UASI), the Clean Water State Revolving Fund program and the Water Infrastructure Finance and Innovation Act.

The memorandum provides an update on a number of issues being heard in this last session of the 114<sup>th</sup> Congress in 2016 including updates on implementing the transportation reauthorization -- the FAST Act which the City successfully advocated for increased Surface Transportation Program funding and flexibility and was signed by the President in December.

The Federal Aviation Administration (FAA) reauthorization expired on March 31 and Congress passed another short-term extension that reauthorizes FAA programs through July 15, 2016, to provide time to pass a longer-term bill. Congress also has until September 30 to pass what will likely be an FY 2017 Continuing Resolution to fund the federal government until after the November elections.

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**Interests: Spring 2016**

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Noted in the public safety section is the recent resumption of the Department of Justice's (DOJ) Asset Forfeiture Program/Equitable Sharing Program. The Bipartisan Budget Act of 2015 and Consolidated Appropriations Act of 2016 included rescissions to the Asset Forfeiture Program which reduced its funding by \$1.2 billion which caused a temporary cessation of the program, with uncertainty of its renewal. The City advocated for the program to continue and the DOJ has recently announced that it will be resuming Equitable Sharing payments to State, local and tribal law enforcement. While these payments fluctuate each year they have assisted the Police Department with the purchase of supplies, weapons, and in addition have helped fund the Department's Gun Buy Back program.

Also highlighted in the review are updates concerning the budget and appropriations, energy and environment, tax and telecommunications, housing and community development, workforce and job training, healthcare, cybersecurity, and trade issues.

This Federal legislative and regulatory update reflects many of the City's legislative policy principles and priorities and our efforts to work with our Federal partners to advocate on issues of concern and interest to the City in the concluding 2016 session. Updates are also provided in Squire Patton Boggs' weekly "Capital Thinking Blog" found on their website: [www.squirepattonboggs.com](http://www.squirepattonboggs.com).

/s/

BETSY SHOTWELL

Director, Intergovernmental Relations

For more information please contact Betsy Shotwell, Director of IGR at 408-535-8270.

Attachment: Squire Patton Boggs Federal Legislative and Regulatory Action Relevant to General Local Government Interests: Spring 2016

## Memorandum

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**To:** City of San José  
**From:** Squire Patton Boggs LLP  
**Date:** April 5, 2016  
**Subject:** Federal Legislative and Regulatory Action Relevant to General Local Government Interests: Spring 2016

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This memorandum provides a comprehensive update for local governments and their partners regarding actions on notable federal legislation and regulatory issues in the first quarter of 2016.

Last year ended with passage of an FY 2016 omnibus spending measure, enactment of a five-year surface transportation bill, and reauthorization of elementary and secondary education programs. That set high expectations for the last session of the 114<sup>th</sup> Congress, despite a legislative calendar that would be shortened by presidential conventions, congressional campaigns and the election. Congressional leaders hoped for a return to order in the budget process, enactment of a long-term reauthorization of Federal Aviation Administration (FAA) programs, piecemeal measures regarding tax reform, and proposals to address the Syrian refugee crisis and the increased threat by ISIS, among others.

Optimism faltered, however, when House Republican leaders realized that, even with a two-year budget agreement in place, they could not coalesce their caucus around an FY 2017 budget resolution (details below). The unexpected death of Supreme Court Justice Antonin Scalia and Republican refusal to consider a replacement candidate until the next Administration further complicated bipartisan action. This is evidenced by a number of stalled bills, including energy legislation, funding for the Flint water crisis, and addressing the national opioid/heroin epidemic, as well as the Zika virus.

This election year is particularly critical. In addition to the contentious and unpredictable presidential election, 34 Senate seats and all House seats will be up for re-election. Congress is scheduled to adjourn for the presidential nominating conventions on July 15 and will return in early September for less than 20 legislative days before adjourning again for a final round of campaigning prior to the November elections.

Before adjourning on July 15, Congress must either extend the current FAA reauthorization or enact a longer-term bill. They also have until September 30 to pass what will likely be an FY 2017 Continuing Resolution to fund the federal government until after the November elections.

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## **BUDGET/APPROPRIATIONS**

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### **PRESIDENT OBAMA'S FY 2017 BUDGET PROPOSAL**

President Obama delivered his final budget request to Congress on February 9. In typical fashion, the \$4.15 trillion package was declared dead on arrival. In a sharp departure from years of tradition, Congressional Republicans declined to invite the Director of the Office of Management and Budget to testify in a congressional hearing on the proposal. Nevertheless, the budget outlines the President's priorities for the last year of his presidency, and, along with the concomitant response from Congress, echoes many of the themes in this presidential election year. *Squire Patton Boggs provided a detailed analysis of the President's FY 2017 Budget Proposal on February 11.*

### **FY 2017 APPROPRIATIONS**

Following last fall's two-year budget agreement, there was hope for a smooth FY 2017 appropriations process. Republican leaders confidently avowed a return to regular order and on-time passage of all 12 spending bills, a feat that has not been achieved in decades. This enthusiasm was short-lived as fractures within the House Republican caucus became apparent during development of its FY 2017 budget resolution, making it very unlikely they will meet the April 15 statutory deadline.

The House Budget Committee approved its FY 2017 budget resolution (H. Con. Res. 125) on March 23, but it has yet to reach the floor due to a dispute among House Republicans over spending levels. Republican leaders and appropriators want to move forward under the discretionary spending level established in last year's two-year budget agreement (P.L. 114-74) and focus on addressing their priorities through policy riders in the spending bills. Complicating the process, the Republican Study Committee (RSC) recently followed the lead of the House Freedom Caucus in pushing for an FY 2017 discretionary spending limit of \$1.04 trillion, the level set in the Budget Control Act of 2011 (P.L. 112-25), commonly referred to as the "sequestration level," which is \$30 billion less than the \$1.07 trillion level set in last year's budget agreement. Leaders pitched a strategy to pursue separate legislation that would offset the \$30 billion increase with an equivalent level of cuts to mandatory spending, but that received less than lukewarm reception from some conservatives. The Senate Budget Committee postponed its early-March budget resolution markup and Chairman Michael Enzi (R-WY) has yet to reschedule it.

Without a budget resolution, the two-year budget agreement allows the Budget Committees to provide the topline allocation and the 1974 budget law allows floor action on spending bills after May 15 (this rule may also be waived for earlier floor action). However, if Republicans do not pass a budget resolution, they will forgo the opportunity to use the Budget Reconciliation process to push through policy priorities, such as a repeal of Obamacare, with a simple majority vote, as the Reconciliation process does not require the typical 60-vote threshold in the Senate.

The Appropriations Committees are moving forward, with the House holding its first subcommittee markup of the Military Construction-Veterans Affairs (MilCon-VA) bill on March 23 and anticipating full committee consideration on April 13. Meanwhile, the Senate anticipates commencing its subcommittee markups in mid-April, looking at April 14 as a tentative date for a MilCon-VA bill markup. In a break with precedent, the Senate may actually bring spending bills to the floor before the House, using FY 2016 House bills as templates (the Constitution mandates that revenue bills originate in the House). Despite these efforts, with a limited number of legislative days and a particularly tense election season, a Continuing Resolution running at least through November is extremely likely.

## TRANSPORTATION

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### **SURFACE TRANSPORTATION: IMPLEMENTING THE FAST ACT AND THE OMNIBUS APPROPRIATIONS BILL**

The US Department of Transportation (US DOT) began implementing the *Fixing America's Surface Transportation (FAST) Act* (H.R. 22), the five-year surface transportation reauthorization signed into law in December 2015. US DOT recently released Notices of Funding Opportunities (NOFOs) for the FAST Act's newly-created Nationally Significant Freight and Highway Projects (NSFHP) and reestablished Buses and Bus Facility discretionary grant programs.

US DOT announced the availability of \$800 million from the NSFHP program, which US DOT has named the Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) grants. Eligible projects include highway projects on the National Highway Freight Network, highway or bridge projects on the National Highway System, intermodal freight projects, and railway-highway grade crossing and grade separation projects. Grants are intended to: improve safety, efficiency, and reliability of the movement of freight and people; generate national or regional economic benefits; and reduce congestion and bottlenecks (among other purposes). Most projects must meet the minimum project size of \$100 million with a minimum \$25 million grant, though 10% of funds are reserved for smaller projects with a minimum \$5 million grant. FASTLANE grants can provide up to 60% of total project costs and will require a 40% local match, though up to half of the required match can come from other federal funding. Applications are due April 14, 2016.

US DOT also announced the availability of \$266 million from the Buses and Bus Facilities discretionary grant program, with \$55 million of that reserved for Low and No Emission bus and bus facilities projects. Eligible projects include replacing, rehabilitating, leasing, and purchasing buses and related equipment, or purchasing, rehabilitating, leasing, or constructing bus-related facilities, such as buildings for bus storage and maintenance. Evaluation criteria include: need for investment in bus transit systems, including the age and condition of buses; benefits to the community through Ladders of Opportunity Principles; and integration with local and regional planning. Applications are due May 13, 2016.

US DOT also began implementing transportation provisions included in the FY 2016 omnibus appropriations bill, the Transportation Investment Generating Economic Recovery (TIGER) grant program, and a provision allowing \$2 billion in dormant earmarks to be repurposed for other projects.

US DOT announced the availability of \$500 million in discretionary grants through the FY 2016 TIGER grant program. The grants are intended for projects that will have a significant impact on the nation, a metropolitan area, or a region, and US DOT will focus on projects that generate economic development and improve access to reliable, safe, and affordable transportation for communities. The FY 2016 TIGER grant program does not include dedicated funding for planning or design, but these are eligible activities when included in a construction project. Applications are due April 29, 2016.

The Federal Highway Administration (FHWA) released guidance on a provision from the FY 2016 omnibus appropriations bill to allow earmarks over 10 years old that are either: (1) less than 10% obligated; or (2) more than 10% obligated and finalized or closed, to be repurposed for other projects within 50 miles of the original project. Any project eligible under the Surface Transportation Program (STP) is eligible for the repurposed funding. State DOTs will determine whether earmarked funding will be repurposed and what projects will receive the funding, with approval from FHWA.

## **FEDERAL AVIATION ADMINISTRATION (FAA) REAUTHORIZATION**

The House Transportation and Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee have approved Federal Aviation Administration (FAA) reauthorization legislation. However, the bills differ considerably, and Congress passed another short-term extension that reauthorizes FAA programs through July 15, 2016, to provide time to pass a longer-term bill.

The House's FAA reauthorization bill, the *Aviation Innovation, Reform, and Reauthorization (AIRR) Act* (H.R. 4441), would reauthorize FAA programs for six years and includes controversial air traffic control (ATC) reforms, proposing to transfer ATC operations to a federally-chartered, not-for-profit corporation called the ATC Corporation. The AIRR Act's ATC reform provisions are opposed by a variety of groups, including House and Senate Democrats, the bipartisan leadership of the House and Senate Appropriations Committees, and some Republican members of the House Ways and Means Committee, in addition to various stakeholder organizations. The House Transportation and Infrastructure Committee adopted numerous amendments in a marathon markup, and ultimately passed the bill on a largely party-line vote. House Republican Leadership chose not to move forward with floor consideration of the AIRR Act, due in part to the controversial ATC reform provisions.

The Senate's FAA reauthorization bill, the *Federal Aviation Administration Reauthorization Act* (S. 2658), would reauthorize FAA programs through September 2017. The FAA Reauthorization Act does not address the AIRR Act's ATC reform proposal and largely sticks to incremental changes to streamline FAA's ATC modernization process. The FAA Reauthorization Act would provide a \$400 million increase to Airport Improvement Program funding in FY 2017 and includes provisions intended to address safety and consumer protection concerns. Despite some discussion of increasing the allowable passenger facility charge (PFC), the final bill retained the current maximum PFC of \$4.50. The bill also includes significant provisions to speed the integration of unmanned aircraft systems (UAS). Of particular concern to local governments, the bill provides for broad preemption of state and local authority to regulate the commercial use of drones. There is currently an effort underway by local governments to remove this provision on the floor of the Senate. The Senate is expected to consider the FAA Reauthorization Act on the floor in the coming days, although disputes over whether to incorporate several energy-related tax extenders may cause a slight delay.

## **ENERGY AND ENVIRONMENT**

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### **DROUGHT LEGISLATION AND EXECUTIVE ACTION**

In February, Senator Dianne Feinstein (D-CA) introduced a revised drought bill, *The California Long-Term Provision for Water Supply and Short-Term Provisions for Emergency Drought Relief Act* (S. 2533), intended as a comprehensive compromise to the bill approved by the House (H.R. 2898) and previous measures introduced by the Senator. The bill addresses emergency response to the ongoing drought and supports long-term supply and storage initiatives, while aiming to protect fish and wildlife. Yet, a consensus among the California congressional delegation and environmentalists on drought legislation remains elusive.

As a result of recent El Niño rains, Senator Feinstein and House Majority Leader Kevin McCarthy (R-CA) recently led letters from the California delegation to the President calling for more water exports and for federal agencies to pump more water from the Sacramento-San Joaquin River Delta in light of currently high water levels.

On March 22, in conjunction with World Water Day, the White House hosted a Water Summit to highlight the need for innovative strategies to conserve and protect water resources. The Administration released its [Commitments to Action on Building a Sustainable Water Future](#), including:

- Nearly \$4 billion in private capital committed to investment in a broad range of water-infrastructure projects nationwide. This includes \$1.5 billion from Ultra Capital to finance decentralized and scalable water-management solutions, and \$500 million from Sustainable Water to develop water reclamation and reuse systems.
- More than \$1 billion from the private sector over the next decade to conduct research and development into new technologies. This includes \$500 million from GE to fuel innovation, expertise, and global capabilities in advanced water, wastewater, and reuse technologies.
- A Presidential Memorandum and supporting Action Plan on [building national capabilities for long-term drought resilience](#) in the United States, including by setting drought resilience policy goals, directing specific drought resilience activities to be completed by the end of the year, and permanently establishing the National Drought Resilience Partnership as an interagency task force responsible for coordinating drought-resilience, response, and recovery efforts.
- Nearly \$35 million this year in grants from the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Science Foundation, and the U.S. Department of Agriculture to support cutting-edge water science.
- The release of a new National Water Model that will dramatically enhance the nation's river-forecasting capabilities by delivering forecasts for approximately 2.7 million locations, up from 4,000 locations today (a 700-fold increase in forecast density).

#### **EPA'S LEAD AND COPPER RULE**

The Environmental Protection Agency (EPA) is considering potential revisions to the Lead and Copper Rule because of the situation in Flint, Michigan, in an effort to improve the effectiveness of the rule in reducing exposure to lead and copper from drinking water. EPA anticipates proposed rule changes will be published in 2017; however, in the near-term, EPA will be issuing clarifications on how samples should be collected. On March 21, EPA published the [Flint Safe Drinking Water Task Force Recommendations Regarding City of Flint Fast Track Plan for Lead Service Line Replacement](#). In the report, EPA concludes that "EPA supports full lead service line replacement as an effective long-term approach to address lead contamination of drinking water, provided it is done properly."

Additionally, in the aftermath of Flint and the Gold King Mine spill disaster, EPA Administrator Gina McCarthy issued an "elevation memo" to agency employees to direct that while employees evaluate compliance questions, they must also be aware of ongoing public health risks of which the public should be immediately made aware. Some EPA lawyers are concerned that not only do they have to do their legal work, they now need to be aware of aspects concerning public health including: "public notification; risk assessment; damage and mitigation." EPA also stated that these disasters have "highlighted the agency's relationship with the states," but did not provide further comment on how that might change EPA's interaction with states in the future.



## **ENERGY LEGISLATION**

Senate leadership continues to encourage their colleagues to lift holds that have prevented further floor consideration of *The Energy Policy Modernization Act of 2016* (S. 2012) and the funding to address the water crisis in Flint, MI. The proposed federal funding for Flint is more than \$100 million – a combination of grants and loans to address water supply and infrastructure needs. While progress reportedly was made to address Senator Mike Lee’s (R-UT) hold concerning spending for the Flint water crisis, the hold placed by Senator Bill Nelson (D-FL) in connection with an amendment concerning offshore oil and gas drilling and revenue remains unresolved. There was some discussion of bringing the energy bill and a Flint package to the floor regardless of Senator Nelson’s hold, but that would require a cloture vote, which would consume valuable floor time. We anticipate the bill will be brought to the floor as soon as the holds are resolved. The Senate is expected to consider 30 amendments by voice vote and eight amendments by roll-call vote – each of the roll-call votes would need 60 votes to pass.

One anticipated amendment will include the *SAVE Act*, being spearheaded by Senators Johnny Isakson (R-GA) and Michael Bennet (D-CO), that would enable energy costs of a home to be included in calculations for mortgages. The legislation would include a home’s expected energy cost savings when determining the total value of a home for a mortgage. While real estate taxes and homeowners insurance are routinely included in mortgages, utility bills can be larger than either, but they are currently ignored in the mortgage underwriting process. Supporters of the *SAVE Act* note that this would enable homebuyers with a true comparison of actual the costs of homes, as well as enable home owners to finance the cost of home energy efficiency upgrades as part of their traditional mortgages. In addition, studies show that energy efficient homes are 32 percent less likely to be in default on their mortgage as compared to traditional homes. The legislation enjoys bipartisan support and is also advocated for by the National Association of Realtors, the U.S. Chamber of Commerce, and the Natural Resources Defense Council (NRDC), among others.

Alternative efforts to provide assistance to Flint are ongoing. Members of both the House and Senate are exploring new pieces of legislation to attempt to pass an aid package for the city.

In March, the Senate passed legislation that reauthorizes the Pipeline and Hazardous Materials Safety Administration (PHMSA). The bill also requires that the agency ensures minimum standards to the safety of natural gas storage facilities. The House has introduced its own PHMSA reauthorization bill which includes provisions giving PHMSA authority to impose emergency restrictions on the entire industry after a disaster. Several conservative members of the House have already spoken out in opposition to this provision.

## **DEPARTMENT OF ENERGY TO RECOMMEND RESHAPING NATIONAL ELECTRICITY GRID**

The Department of Energy announced the second installment of its Quadrennial Energy Review (QER 1.2). The QER 1.2 will focus primarily on the U.S. electricity grid with regard to integrating renewables, financing, markets and valuation, resilience, and North American integration, among other grid modernization issues. The effort is aimed to reshape the electricity system from generation to end use through 2040. DOE began a series of public meetings around the country on March 31. The Department is expected to conclude information collection early this summer and make recommendations shortly thereafter.

## **HOMELAND SECURITY/PUBLIC SAFETY**

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### **CRIMINAL JUSTICE REFORM**

A bipartisan criminal justice reform bill has been slowly making its way through the Senate since last October, but has received more attention in recent weeks. *The Sentencing Reform and Corrections Act of 2015* (S.2123) was brought back into the spotlight by impacted stakeholders and the bill's sponsor, Senator Charles Grassley (R-IA). The bill would reduce the scope of certain mandatory drug sentences and allow federal prisoners to earn time credits for completing rehabilitative programs while incarcerated.

Additional amendments were added to the bill by Senator Grassley in an effort to build support from conservative members of the Senate. Some Republicans raised concerns over the bill's potential to qualify some violent criminals for early release. Senator Grassley stated the possibility that parts of the bill, such as provisions allowing offenders caught with firearms in their possession to have their sentences lowered, may be removed in order to gain more bipartisan support. However, Senate Majority Leader Mitch McConnell (R-KY) has not made any statements indicating the bill will be brought to the Senate floor in the near future.

### **DEPARTMENT OF JUSTICE ASSET FORFEITURE PROGRAM/EQUITABLE SHARING PROGRAM**

*The Bipartisan Budget Act of 2015* (P.L. 114-74) and the *Consolidated Appropriations Act of 2016* included rescissions to the Department of Justice (DOJ) Asset Forfeiture Program, including equitable sharing, totaling \$1.2 billion. As such, DOJ temporarily deferred equitable sharing payments, causing significant concern among local law enforcement agencies, many of which had already accounted for this funding within their departmental budgets.

On March 28, DOJ announced it would resume the program and law enforcement agencies would begin receiving equitable sharing payments in April. Payments approved before the December 21 program suspension will be prioritized; payment approved after that day will be paid on a "first in, first out" basis.

The equitable sharing program is a critical tool that authorizes law enforcement agencies to seize certain assets related to criminal activity. The program has become increasingly controversial as it allows local agencies to bypass states and prosecute asset forfeiture cases under federal law, which generally results in a significantly higher percentage of proceeds to the local agencies. Federal forfeiture polices are less restrictive and allow local agencies to seize assets even in circumstances where the individual is ultimately not charged with a crime.

Federal legislation to reform the program is pending, but is not expected to move in this Congress.

### **FEMA'S DISASTER DEDUCTIBLE PROPOSAL**

In response to recommendations from the Government Accountability Office (GAO) and the Department of Homeland Security's (DHS) Office of Inspector General that would raise the threshold for disaster declarations, FEMA published a notice of proposed rulemaking (NPRM) seeking comments on the concept of a disaster deductible for states and local governments. It is important to note that FEMA is not formally proposing the implementation of a deductible, but wanted feedback on the concept.

FEMA is considering the establishment of a disaster deductible, which would require grantees to spend a predetermined amount before receiving assistance under the Public Assistance Program when there is a presidential major disaster declaration. The intent is to incentivize improvements in disaster planning, fiscal capacity for disaster response and recovery, and risk mitigation. Grantees would get credits toward the deductible for taking these actions. The responsibility of meeting the disaster deductible would fall on states, as Public Assistance Program recipients; however, as subrecipients, local governments would likely be impacted as well.

FEMA published an advance notice of proposed rulemaking on January 20 (comments were due March 21). Because it is a proposed rulemaking and not a draft rule, it is very unlikely there could be a final rule on this before the President leaves office.

### **SANCTUARY CITIES**

The threat to withhold federal funding from deemed “sanctuary cities” continues. Leading the effort is Representative John Culberson (R-TX), chairman of the House Appropriations Subcommittee on Commerce, Justice, and Science (CJS), who, in a letter to Attorney General (AG) Loretta Lynch, threatened to limit Department of Justice (DOJ) funding in FY 2017 unless the agency requires cities to certify cooperation with federal immigration enforcement efforts as a qualifier for federal funding. Members of the House Freedom Caucus, led by Representative Paul Gosar (R-AZ), are also advocating for appropriators to defund sanctuary cities, in addition to blocking the President’s executive actions related to immigration and mandating completion of a border fence.

In testimony before the subcommittee in February, AG Lynch said that DOJ will take direct action against sanctuary cities. She testified that if DOJ determines a city or county receiving federal grants is refusing to cooperate with the Department of Homeland Security’s (DHS) Immigration and Customs Enforcement (ICE) agents, these local jurisdictions could lose federal funding and face criminal prosecution. The three federal programs at stake, as noted in Chairman Culberson’s [letter](#) to AG Lynch, include: (1) the Edward Byrne Memorial Justice Assistance Grants (Byrne JAG); (2) the Community Oriented Policing Services (COPS) program; and (3) the State Criminal Alien Assistance Program (SCAAP).

AG Lynch testified: “Particularly where we are dealing with a jurisdiction that essentially is not prone to honoring the ICE detainers — and those vary across the country, they just vary over time and place — our policy is going to be that ICE will instead have the first detainer, and that individual go into ICE custody and deportation.” DHS Secretary Jeh Johnson, who testified separately before Congress in February, has said that local jurisdictions refused some 15,000 DHS requests to hold illegal immigrants in 2014, instead releasing these individuals into communities. Rather than taking custody from a prison, he said that ICE agents had to go out and track them down, costing more money and creating a public safety problem.

In February, Chairman Culberson submitted to DOJ [a list of “sanctuary cities”](#) maintained by the Center for Immigration Studies (CIS). The states of California, Colorado, Connecticut and New Mexico are listed, as well as all county sheriffs within California. CIS identifies over 300 hundred states, counties, cities and jail systems, although many dispute the characterization. AG Lynch informed the Subcommittee that her Agency can take action against jurisdictions that falsely certify that they are in compliance with applicable law. For example, she noted that 8 U.S.C. 1373 requires local and state jurisdictions to share a criminal defendant’s immigration status with federal authorities. Chairman Culberson has also noted

to the press that the AG Office can audit local law enforcement agencies, if a complaint is received that the local jurisdiction is not complying with federal law. He noted that AG Lynch committed her Agency to submitting quarterly reports that explain how DOJ is progressing on the sanctuary issue.

ICE has pleaded for years with DOJ to crackdown on these perceived “sanctuary cities,” but DOJ refused to cooperate under former AG Eric Holder. AG Lynch’s statements to Congress are viewed as a major policy reversal for the Obama Administration. This policy change comes after President Barack Obama threatened to veto a bill last summer in Congress to strip federal grants from sanctuary cities, arguing possible civil rights infringements.

## **IMMIGRATION**

On January 19, the U.S. Supreme Court agreed to review the November ruling by the New Orleans-based 5th U.S. Circuit Court of Appeals that upheld a February 2015 decision by U.S. District Judge to halt the President’s executive order on immigration. They will also review whether the President exceeded his authority under federal laws and the Constitution through these executive orders. The executive actions under review are the expansion of the Deferred Action for Childhood Arrivals (DACA) initiative and the creation of the Deferred Action for Parental Accountability (DAPA) program.

Additionally, on March 17, the House passed a resolution authorizing House Speaker Paul Ryan (R-WI) to appear as amicus curiae on behalf of the House of Representatives before the U.S. Supreme Court in *United States v. Texas*. A 26-state coalition filed brief in March with the U.S. Supreme Court in opposition to the President’s executive orders. These states include: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, Montana, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

A group of 118 cities and counties (which encompass 35 states), the U.S. Conference of Mayors, and the National League of Cities have filed an amicus brief in support of the President’s actions on immigration reform. A ruling on the case is expected to be released by the Supreme Court in June 2016.

## **TAX AND TELECOMMUNICATIONS ISSUES**

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### **INTERNET TAXATION**

In June 2015, Representative Jason Chaffetz (R-UT) introduced the *Remote Transactions Parity Act of 2015* (RTPA/H.R. 2775) which authorizes states to collect remote online sales tax proceeds based on destination sales and use sourcing rules. The RTPA is structurally similar to the *Marketplace Fairness Act* (MFA), but does depart in certain narrow respects in an effort to respond to conservative criticism. The RTPA is supported by a diverse coalition of public and private sector stakeholders, including the Marketplace Fairness Coalition and other entities that traditionally support the MFA. As you will recall, the Senate passed the Marketplace Fairness Act with an overwhelming, bipartisan vote of 69 to 27 in May 2013. It stalled in the House despite several attempts to bring it forward in the past few years.

In recent years, the fate of the MFA/RTPA became entwined with a separate internet-related tax issue, the Internet Tax Freedom Act (ITFA). The Internet Tax Freedom Act bars states from enacting new taxes on internet access. It was implemented 18 years ago to protect the nascent internet, and nine states

were grandfathered under it due to having taxes in place prior to 1998. Growing pressure from wireless and cable trade associations arguing that expiration of the internet tax moratorium would increase the cost of broadband access translated into increasing bipartisan Congressional interest in passing the Permanent Internet Tax Freedom Act (H.R. 235/S. 431).

Last year, the Permanent Internet Tax Freedom Act was attached to an unrelated customs enforcement bill, and, in February 2016, the customs bill passed the Senate and was signed into law (P.L. 114-125). When the legislation was brought to the Senate floor, proponents of the Marketplace Fairness Act reached an agreement with Senator Majority Leader Mitch McConnell (R-KY) allowing the customs bill to move forward in exchange for consideration of the MFA at some point this year.

### **HIGH QUALITY LIQUID ASSETS**

On February 1, the House voted to approve H.R. 2209, bipartisan legislation that would require federal regulators to classify all investment grade, liquid, and readily marketable municipal securities as high quality liquid assets (HQLA). The legislation is necessary to amend the liquidity coverage ratio rule approved by federal regulators, which classifies foreign sovereign debt securities as HQLA while excluding investment grade municipal securities in any of the acceptable investment categories for banks to meet the new liquidity rules.

In September 2014, the Federal Deposit Insurance Company (FDIC), the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency approved a rule establishing minimum liquidity requirements for large banking organizations. The liquidity coverage ratio rule was designed to ensure that large banks maintain liquid assets that can easily be converted to cash during times of national economic crisis. The rule identifies HQLA to meet this requirement, but fails to include municipal securities in the acceptable investment categories. Although the FDIC has since developed a proposed rule to address parts of this issue, the other regulators have not; thus, legislation is necessary.

Proponents of the legislation are actively seeking Senators to introduce a companion bill.

### **MOBILE NOW Act**

Early in March, the Senate Commerce, Science and Transportation Committee voted to approve new, bipartisan legislation, the *MOBILE NOW Act*, which would allocate additional spectrum to private entities to bolster mobile broadband speeds and services. The purpose of the legislation is to help facilitate the efforts of private wireless providers by reallocating unused or underutilized spectrum to such companies, especially now as they work to more broadly deploy next generation 5G networks. The legislation, *Making Opportunities for Broadband Investment and Limiting Excessive And Needless Obstacles to Wireless Act* (S. 2555), now moves to the full Senate where it is expected to pass easily.

As approved by the panel, the bill does not threaten local zoning and authority over the siting of wireless facilities in cities. The earlier version of the legislation proposed a number of changes that would have overturned most of Section 332(c)(7), current law provisions that have been in place for many years and guided the successful deployment of four generations of wireless services in cities. Prior to the markup, local stakeholders, including individual cities and the U.S. Conference of Mayors, expressed opposition to provisions that would overturn longstanding local authorities in favor of a new federal zoning standard. That language was removed from the legislation prior to the markup.

Several pending amendments were modified and accepted during committee action, with one setting forth federally-directed “dig once” requirements that are expected to receive additional review and scrutiny with regards to local impacts once the bill advances to the full Senate.

## **HOUSING AND COMMUNITY DEVELOPMENT**

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### **HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT**

*The Housing Opportunity Through Modernization Act* (H.R. 3700) passed the House on February 2, 2016. The legislation would make several important changes to the operation of housing assistance programs, including:

- Improving the project-basing of vouchers to increase housing options while ensuring choice;
- Changing income reviews to allow residents to hold onto increased earnings for longer periods;
- Imposing housing assistance limits for households with incomes above 120% of the poverty level;
- Streamlining income deductions, while requiring hardship exemptions for negatively impacted families;
- Allowing for expedited inspection processes for units to be rented to families and individuals with vouchers; and
- Updating the Housing for Persons with AIDS (HOPWA) distribution formula.

The bill would also direct the Department of Housing and Urban Development (HUD) to re-open the public comment period on the Continuum of Care funding formula that determines how federal anti-homelessness funds are allocated.

There is no companion bill in the Senate and stakeholders are urging the Senate to take up the House-passed bill.

## **WORKFORCE AND JOB TRAINING**

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### **DEPARTMENT OF LABOR OVERTIME RULE**

On July 6, 2015, the Department of Labor (DOL) published a Notice of Proposed Rulemaking announcing its intent to update regulations that govern which “white collar workers” are entitled to minimum wage and overtime pay protections under the Fair Labor Standards Act (FLSA). These rules follow a memorandum issued by President Barack Obama in March 2014, instructing DOL to reexamine the regulations. DOL’s proposed rule would raise the salary threshold for overtime pay protections from \$455 a week (the equivalent of \$23,660 a year) to about \$970 a week (\$50,440 a year) in 2016.

In response to DOL’s proposed rule for overtime pay, lawmakers in the House and the Senate introduced the *Protecting Workplace Advancement and Opportunity Act* (S. 2707/ H.R. 4773), legislation that ensures DOL pursues a balanced and responsible approach to updating federal overtime rules. The sponsors of the legislation are members of the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor, and Pensions, including Chairmen John Kline (R-MN) and Lamar Alexander (R-TN).

With DOL expected to release a final rule in the coming months, the *Protecting Workplace Advancement and Opportunity Act* will:

- Prevent the Department from finalizing a proposal that will limit opportunities for employees and place significant burdens on job creators;
- Require the Department to fully and accurately consider the economic impact of any rule on small businesses, nonprofits, institutions of higher education, and others who will be affected;
- Ensure future changes to the salary threshold accurately reflect the economic realities facing workers and employers by making clear automatic increases are not allowed under current law; and
- Promote transparency and accountability by requiring any changes to the duties tests be made available for public review and comment.

Earlier this month, DOL sent the rules to the White House's Office of Management and Budget (OMB) for final approval. DOL has received almost 300,000 public comments in response to the proposal.

#### **THE EB-5 REGIONAL CENTER PROGRAM**

The EB-5 visa for immigrant investors was created by the Immigration Act of 1990, and is currently administered by the United States Citizenship and Immigration Services (USCIS). The purpose of the program is to stimulate the U.S. economy through job creation and capital investment by foreign investors. In 1992, Congress created the Immigrant Investor Program, also known as the Regional Center Program. This sets aside EB-5 visas for participants who invest in commercial enterprises associated with regional centers approved by USCIS based on proposals for promoting economic growth.

On December 15, 2015, Congress extended the EB-5 Regional Center Program as part of the FY 2016 omnibus, allowing foreign nationals to utilize regional center investments in petitions filed before September 2016. Congress may address reauthorization and proposed changes to the EB-5 program in 2016, including the regional center program, in the form of individual legislation or a comprehensive immigration reform bill.

#### **WHITE HOUSE YOUTH INITIATIVE AND JOB TRAINING**

The President's FY 2017 Budget includes nearly \$6 billion in new funding to help more than one million young people gain the work experience, skills, and networks that come from having a first job. Following the President's budget proposal, the White House and the Departments of Labor and Education announced their intention to nearly double last year's budget request for supporting young people who are out of school and work. The proposal includes:

- *A new \$5.5 billion proposal to open the door to a first job.* The President's Budget proposes nearly double last year's request for new investments to connect more than one million young people to their first job. It would also create a new \$2 billion competitive grant program designed to re-connect disconnected youth to educational and workforce pathways.
- *The Summer Jobs and Beyond Grant Competition.* The Department of Labor grant competition will award \$20 million in existing funds in the form of approximately 10 grants to communities to implement innovative approaches that connect young people to jobs and career pathways.

- *New proposed investments to give more Americans skills for in-demand jobs.* The President's proposed plan seeks to ensure that our education and training systems do more to help workers keep pace as the job market becomes increasingly complex and dynamic. The plan will address the skills needed to be competitive in a job market driven by globalization, automation, and technological innovation.

## HEALTHCARE

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### OPIOID LEGISLATION AND EXECUTIVE ACTION

On March 10, the Senate overwhelmingly approved legislation to address the opioid epidemic, the *Comprehensive Addiction and Recovery Act (CARA) of 2016* (S. 524) in a 94-1 vote, after Democrats set aside efforts to add \$600 million in emergency supplemental funding to the bill. The bill shifts the emphasis of drug policy from punishment to treatment and redirects the focus of treatment from abstinence towards medication-assisted methods.

The bill redirects funding to drug abuse treatment and prevention programs. It also directs the Department of Health and Human Services (HHS) to convene a Pain Management Best Practices Interagency Task Force, which would develop best practices for pain management and prescription pain medication, as well as a strategy for disseminating such practices. It also authorizes the Attorney General to award grants to address the epidemic, with provisions focused on: prevention and education; law enforcement; treatment and recovery; collateral consequences; services focused on women, families, and veterans; and incentives for state comprehensive initiatives to address abuse.

The timing on House consideration of the bill remains unclear. The House Committee on the Judiciary has not yet scheduled a hearing on the companion legislation, and Chairman Bob Goodlatte (R-VA) is not a cosponsor. Advocates are pushing the House to advance the Senate-passed bill and are circulating a sign-on letter urging the House to bring CARA to the floor before the Memorial Day recess.

In his FY 2017 budget request, President Obama requested \$1.1 billion in new spending related to the opioid epidemic. On March 11, the Department of Health and Human Services announced \$94 million in Affordable Care Act funding to improve and expand delivery of substance abuse services, with a focus on treatment of opioid use disorders in underserved populations. Awards were given to 271 health centers in 45 states, the District of Columbia, and Puerto Rico. The Department of Agriculture (USDA) also announced \$1.4 million available through its Rural Health and Safety Education competitive program to address substance abuse in rural communities.

In addition to the agency funding, on March 29, the White House announced new [Administration actions to combat the opioid epidemic](#):

- A proposal to increase the number of patients to which doctors can provide medication-assisted treatment for opioid addiction from 100 to 200.
- Creation of a task force to address mental health and substance use disorder treatment.
- Implementation of an HHS rule to require Medicaid programs to offer substance abuse and other mental health services on par with medical and surgical coverage.
- Funding of \$11 million to support state expansions of medication-assisted treatment and \$11 million to provide training and make the overdose reversal drug naloxone more accessible to first responders.



- Funding of \$7 million for DOJ's COPS Anti-Heroin Task Force Program to investigate and address the distribution of prescription opioids and heroin. These grants will be provided to law enforcement agencies in states with high rates of treatment admissions for heroin and other opioids.

The President also announced a number of new private sector commitments to address the opioid and heroin epidemic, as well as 60 medical schools committed to requiring students to receive opioid prescription education aligned with new guidance from the CDC.

## **ZIKA**

The President requested \$1.8 billion in FY 2016 emergency appropriations to prepare for and respond to the Zika virus domestically and internationally. The request included \$1.48 billion for the Department of Health and Human Services (HHS), including \$828 million for the CDC, \$250 million for the Centers for Medicare and Medicaid Services, \$200 million for vaccine research and diagnostic development and procurement, and \$210 million for other HHS response activities. The request also included \$335 million for the Agency for International Development and \$41 million for the Department of State.

Congressional lawmakers disagree over whether Ebola-dedicated funds should be utilized to respond to the Zika virus. On February 18, Republican leaders of the House Committee on Appropriations sent a letter to the Office of Management and Budget (OMB) Director Shaun Donovan, stating that the Administration and Congress should pursue the use of unobligated funds, including unobligated Ebola funds, to meet the immediate needs of Zika outbreak response. A March 4 letter authored by 23 Democratic senators and Senator Bernie Sanders (I-VT) urged Appropriations leaders to fully fund the President's request, while advocating against the suggestion that Ebola-dedicated funds could be repurposed for the cause. House Democratic Leader Nancy Pelosi (D-CA) has expressed similar views to the media. Heading into the summer mosquito breeding season, health officials, including the Centers for Disease Control and Prevention, continue to call on Congress to provide emergency funding.

Most recently, House Minority Whip Steny Hoyer (D-MD), House Majority Leader Kevin McCarthy (R-CA), and appropriators met with HHS Secretary Sylvia Mathews Burwell to discuss Zika, but no substantive progress was reported from the meeting.

## **CYBERSECURITY**

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In February, bipartisan lawmakers introduced legislation (S. 2604; H.R. 4651) to establish a national commission that would explore how police can access encrypted data without encroaching on American privacy. The McCaul-Warner commission would consist of 16 members, including tech industry executives, privacy advocates, cryptologists, law enforcement officials, and members of the intelligence community. The Commission would have six months to create an interim report, and a year to deliver its full findings. Its scope would expand beyond encryption, exploring more broadly how authorities can maintain security with the proliferation of modern technology.

After the FBI backed away from pursuing Apple in the U.S. courts, on March 21, House Judiciary Committee Chairman Bob Goodlatte (R-VA), Ranking Member John Conyers (D-MI), House Energy and Commerce Committee Chairman Fred Upton (R-MI), and Ranking Member Frank Pallone, Jr. (D-NJ) announced the creation of an encryption working group to examine the complicated legal and policy issues surrounding encryption. Meanwhile, a long-delayed overhaul of the rules governing how top

national security contractors guard against insider threats is being pushed back to later in 2016. House Judiciary Chairman Goodlatte's office is apparently offering to drop its pursuit of a carve-out for civil agencies in an attempt to rally support for an alternative to a broadly-supported email privacy bill, according to sources briefed on the discussions.

The European Commission and the U.S. Department of Commerce jointly released the [text](#) of the *EU-U.S. Data Privacy Shield Framework* at the end of February. The Commerce Department also released a [fact sheet](#) on the agreement, saying it provides a set of robust and enforceable protections for the personal data of EU citizens. The European Commission also released a fact sheet, available [here](#). The Framework provides transparency on how participating companies use personal data, U.S. government oversight, and increased cooperation with EU data protection authorities. President Barack Obama also signed the *Judicial Redress Act* into law in February, which allows the citizens of certain foreign countries to bring forth civil actions against federal agencies for violations of the *Privacy Act of 1974* related to the unlawful disclosure of records.

The Commerce Department announced a federal grant opportunity for U.S. cities in March, noting that advancing Smart City projects to harness the potential of the Internet to improve and expand the services they deliver to their residents. Specifically, three cities will be selected to receive some assistance in their Smart City projects through a \$300,000 federal funding opportunity from the National Institute of Standards and Technology (NIST). The application deadline for NIST's Replicable Smart City Technologies (RSCT) Cooperative Agreement Program is May 12.

## **TRADE ISSUES**

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While trade is generally a hot-button topic during election years, it is proving especially contentious in this election cycle. Presidential candidates from both parties are seizing on voter backlash against trade, in what one publication characterized as weaponization of the issue. The campaign rhetoric comes just as the Obama Administration is seeking to lock down support for the Trans-Pacific Partnership (TPP), a historic mega-regional trade deal negotiated between the United States and eleven partners across the Asia-Pacific region. The TPP is a central pillar of President Obama's "pivot to Asia," and securing the deal would play a major role in his foreign policy legacy. While the Administration still hopes for a vote on the deal as soon as possible, lawmakers are much more likely to delay any TPP vote until the lame duck session, or potentially beyond.

After a delay tied to provisions unrelated to trade, Congress passed the *Trade Facilitation and Trade Enforcement Act of 2015* (P.L. 114-125) in February. The measure includes various provisions related to customs, trade facilitation, and trade enforcement. U.S. Customs and Border Protection and other agencies are currently working through the bill's various implementation deadlines and other requirements.

### **TRANS-PACIFIC PARTNERSHIP**

The TPP countries formally signed the agreement on February 4, kicking off domestic ratification or acceptance procedures in each capital. Trade agreements are not considered treaties under U.S. law and are instead adopted by both chambers through implementing legislation considered under Trade Promotion Authority (TPA). TPA provides fast-track consideration procedures once the President has submitted his draft implementing legislation to Congress. Lawmakers may not amend or filibuster the bill before they vote.

Obama Administration officials are currently working to address lawmaker concerns with the final agreement, focused especially on five key issues:

1. Data protections for biologics medicines;
2. Data localization requirements applicable to financial services;
3. A carve-out for tobacco companies from the agreement's Investor State Dispute Settlement mechanism;
4. Agricultural market access; and
5. Labor provisions.

House Ways & Means Trade Subcommittee Chairman Dave Reichert (R-WA) announced that Committee Republicans have formed working groups addressing each of the above topics. While the Administration has steadfastly maintained that the TPP deal cannot be renegotiated, they are reportedly working with Members of Congress to address these and other concerns through the implementing legislation and could also be considering side agreements and letters with the other TPP countries, as was the case when President Clinton worked to finalize the North American Free Trade Agreement (NAFTA).

Despite these complications, pro- and anti-TPP groups are mobilizing for a long debate. Industry stakeholders and trade associations have banded together under the U.S. Coalition for TPP to organize advocacy for the deal, including grassroots efforts aimed at promoting the TPP's benefits for states, counties, and local municipalities.

Congressional leaders have not yet confirmed when a vote on the deal may take place and rather remain focused on working with the White House to address their concerns. Administration officials are committed to pushing forward along TPA's timeline so that they are ready whenever a window of opportunity may open, but assert they will work with lawmakers to identify the best time to submit implementing legislation. It remains unlikely that a vote on the TPP deal will take place before the lame-duck session.

#### **TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP**

Though U.S. and European officials, led by U.S. Trade Representative Michael Froman and EU Trade Commissioner Cecilia Malmström, are publicly pushing for completion of the Transatlantic Trade and Investment Partnership (TTIP) before the end of President Obama's time in office, those following negotiations believe such a goal will not be met. The two sides are expected to meet in April for their 13<sup>th</sup> round of negotiations, where they will continue to pursue agreement on a wide range of topics including procurement, regulatory coherence and cooperation, and market access. On March 29, the Bertelsmann Foundation released a study titled "[TTIP Beyond the Beltway](#)," a report of the organization's town hall meetings between Washington trade experts and local stakeholders in five states: Pennsylvania, Texas, Alabama, California, and Massachusetts. The report is meant to inform decision-makers on perspectives outside of Washington as they continue with these negotiations.

#### **MISCELLANEOUS TARIFF BILL**

The Miscellaneous Tariff Bill (MTB) is a legislative package of individual bills that temporarily reduces or eliminates customs duties on imported goods not produced at sufficient quantities in the United States. MTBs aim to lower costs for American manufacturers on raw materials, intermediate products, and

other key inputs. Historically, MTBs were uncontroversial and were regularly passed by Congress. More recently, however, the MTB process has become much less predictable due to arguments – originating primarily from House Republicans – that these measures constitute earmarks otherwise banned under current legislative rules. The last MTB passed by Congress expired at the end of 2012. MTBs are strongly supported by major trade associations like the National Association of Manufacturers, who tout these bills’ benefits to U.S. businesses.

Lawmakers have been working to chart a path forward on MTBs that addresses these concerns. Though unable to reach a compromise as part of a broad customs measure passed earlier this year, House Ways & Means Chairman Kevin Brady (R-TX) has been in talks with House Republicans on a proposed path forward. On March 29, a summary of the Committee’s MTB reform proposal leaked to the press. Under the plan, the MTB process would begin exclusively through petitions made by companies to the United States International Trade Commission. By completely eliminating Member initiation, the proposal claims this new process would be in compliance the moratorium on earmarks. Congressional supporters would like to see the bill move before the July recess.

## **SANCTIONS**

Lawmakers and the Administration also focused their attentions on continued sanctions priorities. Treasury Secretary Jack Lew delivered remarks at the end of March defending the use of sanctions, arguing they add “concentrated and meaningful pressure on governments abusing their own populations,” but are a tool that cannot be used lightly. In February, Congress passed the *North Korea Sanctions and Policy Enhancement Act of 2016*, broadening sanctions related to the country’s nuclear program, cybercrimes, and human rights record.

Republican lawmakers are also increasing pressure on the Administration to pursue new non-nuclear related sanctions against Iran. Senators Kelly Ayotte (R-NH) and Mark Kirk (R-IL) introduced separate bills targeting the government for its ballistic missile testing, human rights record, and support for terrorist activity. Republicans and Democrats alike also reacted negatively to reports that the U.S. Department of the Treasury is considering whether to permit Iran limited use of the U.S. dollar. Despite these concerns, President Obama is still expected to veto any sanctions legislation that may threaten the nuclear agreement negotiated with Iran, though it remains to be seen what, if any, provisions lawmakers may try to attach to “must pass” legislation like the annual *National Defense Authorization Act*.

## **BASE REALIGNMENT AND CLOSURES (BRAC)**

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Congress is once again rejecting efforts by the Obama Administration to undertake a new round of base realignments and closures (BRAC). Despite calls from the Pentagon, lawmakers are not expected to authorize a new BRAC round in this year’s *National Defense Authorization Act* (NDAA), the annual measure authorizing defense programs. However, some on Capitol Hill believe the current BRAC system is outdated and are calling for Congress to have a more active role in the process addressing excess base capacity.

Last year’s NDAA required the Pentagon to prepare an assessment of its excess infrastructure. That report is expected to be transmitted to lawmakers at the beginning of April. While the Army and Air Force each assert excess base capacity across the country, Pentagon officials confirm that the Navy and Marine Corps are more closely aligned with current needs.