



TO: Nick Chiulos, Annette D'Adamo
FROM: Brent R. Heberlee
DATE: February 9, 2017
RE: Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the February 13, 2017, Legislative Committee meeting.

A. Executive Orders

1. Federal Hiring Freeze

President Trump issued a memorandum on January 23rd that calls for an immediate hiring freeze of Federal civilian employees to be applied across the board in the executive branch. The order does not apply to military personnel, and executive department heads may exempt from the hiring freeze any positions that it deems necessary to meet national security or public safety responsibilities.

The Deputy Secretary of Defense released guidance on February 1st regarding implementation of the hiring freeze across the Department of Defense (DOD). The guidance lists over a dozen categories of civilian positions related to DOD's national security mission and public safety responsibilities that are exempt from the hiring freeze. It does not appear that civilian contractors at the Defense Language Institute (DLI) would fall within an exempt category, but it is possible they could be granted an exemption under other authorities outlined in the guidance memorandum. Rep. Panetta's office is working with DLI to determine the potential impact of the freeze on DLI's operations.

2. Immigration

President Trump has issued three immigration-related executive orders since taking office, and three draft orders have been leaked to the press.

Border Security and Immigration Enforcement Improvements (1/25/17)

The order directs the Department of Homeland Security (DHS) to take immediate steps to allocate available funds to start constructing a physical wall on the southern border and to create a long-term funding plan for the wall. Cost estimates for constructing the wall range from \$15 to \$25 billion. The order contemplates a massive expansion of detention, directing DHS to immediately end "catch and release" and ensure that immigrants in removal proceedings are

detained to the maximum extent of the law. The order further directs DHS to immediately construct detention facilities at or near the southern border and to expand “expedited removal” to the maximum extent allowed by law.

Enhancing Public Safety in the Interior of the United States (1/25/17)

The order announces new interior enforcement priorities that have the effect of making every undocumented immigrant in the U.S. a priority for removal. The order directs DHS to hire an additional 10,000 Immigration and Customs Enforcement (ICE) officers to conduct enforcement and removal operations and encourages the expansion of the controversial 287(g) program which empowers state and local law enforcement to act as ICE officers and enforce federal immigration laws. The order authorizes DHS to designate jurisdictions as “sanctuary jurisdictions,” without providing any definition of the term, and directs the Department of Justice (DOJ) and DHS to ensure that such jurisdictions that limit their cooperation with DHS under federal immigration law are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes. The order reinstates the controversial Secure Communities Program and terminates the Priority Enforcement Program which DHS created in its place. Secure Communities required local law enforcement to share with DHS information about individuals in its custody and authorized DHS to issue detainers to local jails and correctional facilities for the purpose of holding an individual beyond the scheduled release date and until ICE could take custody.

Protecting the Nation from Foreign Terrorist Entry Into the United States (1/27/17)

The order suspends the U.S. Refugee Admissions Program for 120 days. In addition, for the current fiscal year, the order reduces the number of refugees to be admitted to the U.S. by more than half from an initial goal set by President Obama of 110,000 to 50,000, dropping U.S. refugee admissions to the lowest level in a decade. The order halts the processing and admission of Syrian refugees indefinitely, until the President determines it is in the national interest to resume the program. The order bans immigrant and nonimmigrant entries, for at least 90 days, for nationals of seven predominately Muslim nations -- Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen.

Multiple legal challenges have been lodged in Federal courts across the country challenging the constitutionality of the order, with the most high profile case being *State of Washington v. Trump*. As of this writing, the 9th Circuit Court of Appeals is poised to issue a ruling on whether to uphold a temporary restraining order issued by a Federal District Court judge in Seattle that imposed a nationwide halt on the order. Regardless of the outcome, the 9th Circuit ruling is expected to be appealed to the Supreme Court.

Protecting American Jobs and Workers by Strengthening the Integrity of Foreign Worker Visa Programs (draft order)

The draft order appears to begin to lay the administrative and policy groundwork for further legislation altering the scope of legal immigration into one that, in the words of the cover memo, “prioritizes the interests of American workers and — to the maximum degree possible — the

jobs, wages, and well-being of those workers.” The order directs DHS to promulgate a regulation that would “restore the integrity of employment-based nonimmigrant worker programs” and to “consider ways” to alter the H-1B program (for technical guest workers) to be “more efficient and ensure that beneficiaries of the program are the best and the brightest.” The order calls on DHS to begin “site visits” at places that employ guest workers with L-1 visas and then to expand the site-visit program to cover all employment-based visa programs within two years. The order requires DHS to “submit to the President a list of options for ensuring the efficient processing of petitions for the H-2A nonimmigrant agricultural visa program, while maintaining programmatic integrity.” Finally, the order calls for a report from the Department of Labor investigating “the extent of any injury to US workers” caused by the employment of foreign workers, and calls on DHS to report regularly on the number of foreigners working in the United States and to “immediately restart work on regular benefit fraud assessments for all immigration benefits categories.”

Protecting Taxpayer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility (draft order)

The draft order directs DHS to issue a rule saying that an immigrant can’t be admitted to the U.S. if he/she is likely to get any public benefit “determined in any way on the basis of income, resources, or financial need.” The order also states that people who use any of those benefits and are in the U.S. on visas would be subject to deportation. The order would require the person who sponsored an immigrant into the U.S. to reimburse the federal government for any benefits the immigrant used. It would direct the government to publish regular reports on the benefits used by immigrants in the U.S. and how that money could be “reinvested” in the inner cities. The order would prevent families from getting the child tax credit if the parents are unauthorized (even if the children are U.S. citizens), and it would prevent an unauthorized immigrant from being eligible for Social Security during the time he was unauthorized (even if he was paying into the system, as many do, using a fake Social Security number).

Ending Unconstitutional, Executive Amnesties (draft order)

The draft order would end the Deferred Action for Childhood Arrivals (DACA) program established by President Obama in 2012, which provides employment authorization and protection from deportation for certain undocumented immigrants who entered the United States before the age of 16 and have deep familial, economic, and social ties to our country. DACA has effectively protected more than 740,000 undocumented immigrants from deportation since 2012. The order states that work permits already issued under the program will remain valid. However, these permits are all already set to expire at some point in the next two years, and once they expire, they will not be renewed. The order would also end the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program, which has been blocked from going into effect by a Federal Court ruling.

B. Legislation

1. Municipal Bonds

For the past several years, the County has closely monitored legislative proposals relating to the tax treatment of municipal bonds. As tax reform and infrastructure discussions advance on Capitol Hill, proposals that would cap certain tax benefits, including the exemption for municipal bond interest, continue to be offered as a way to help address the federal debt and deficit. I recently contacted Rep. Panetta's office to urge him to sign a "Dear Colleague" letter circulating in the House to the Chairman and Ranking Member of the House Ways and Means Committee that supports maintaining the current tax-exempt status of municipal bonds.

2. Secure Rural Schools (SRS) Program

The SRS program, administered by the U.S. Forest Service (USFS), provides assistance to rural counties and school districts affected by the decline in revenue from timber harvests on federal lands. Historically, rural communities and schools have relied on a share of receipts from timber harvests to supplement local funding for education services and roads. During the 1980s, national policies substantially diminished the revenue-generating activity permitted in these forests. The resulting steep decline in timber sales decreased the revenues that rural counties and school districts received from forest management activities.

The SRS program authorization expired at the end of FY2015, causing the USFS to revert to making payments to States and counties under a 1908 law, commonly called the 25% Payments Act, for the 2017 payment year. Monterey County is one of only two counties in the country that receives higher payments under the 1908 law than the SRS program. The County should receive a payment of approximately \$40,000 from the USFS in mid-February.

C. U.S. Forest Service/Nacimiento-Fergusson Road

Nacimiento-Fergusson Road is a 24-mile winding, narrow road that crosses the Los Padres National Forest, connecting California State Route 1 to Mission Road at Fort Hunter-Liggett U.S. military training reservation. The road serves as an alternate route to communities along the central coast, such as Big Sur, Posts, Lucia, Plaskett, and Gorda, during emergency closures of State Route 1. State Route 1 frequently closes during heavy storm events and Nacimiento-Fergusson Road serves as the only alternate access to these coastal communities.

Nacimiento-Fergusson Road is owned by the USFS and maintained by Monterey County under the agreement entered into by both parties in 1975. For the past year, the County worked closely with Rep. Sam Farr's office to encourage the USFS to fund badly needed repair projects on Nacimiento-Fergusson Road. The County recently learned that the USFS has allocated \$250,000 for repair work on the slope failure located approximately 4.2 miles east of State Route 1, and it should begin work as soon as the weather cooperates.

D. NACo Legislative Conference

1. Meeting schedule

We are scheduled to meet with Rep. Jimmy Panetta at 2:00pm on Wednesday, March 1st. I am still in the process of scheduling meetings with the offices of Senators Feinstein and Harris.

2. Briefing sheets

I am preparing briefing materials for our meetings on the following four issues:

- Affordable Care Act (ACA) – Carol Adams with Natividad Medical Center (NMC) will join us in the meetings to discuss the impact of repealing the ACA on NMC's ability to serve low income residents in the County. Our written material will include fact sheets highlighting the negative economic consequences of reversing the Medi-Cal expansion in Monterey County. We will ask our congressional delegation to oppose ACA repeal legislation and to support efforts to increase Disproportionate Share Hospital payments for NMC.
- Immigration – our briefing material will highlight the County's concerns with immigration proposals that threaten the economic and social well-being of County residents and the workforce needs of the agriculture and hospitality industries. We will ask our congressional delegation to oppose President Trump's immigration executive orders (and similar legislative proposals) and to support legislation that reverses Trump's orders.
- Cannabis Banking – our material will discuss the County's establishment of a regulatory framework for the cultivation, sale, and use of medical cannabis and its anticipated adoption of regulations for adult use/recreational cannabis businesses in the near future. It will highlight the critical need for banking services for the cannabis industry in order to promote public safety, economic development, and tax compliance. We will ask our congressional delegation to support legislation that permits financial institutions to provide banking services to the cannabis industry.
- Disaster Funding – our material will provide cost data for the Soberanes Fire and recent winter storms and outline. We will highlight our efforts to date to secure disaster assistance from state and federal programs. We will ask our congressional delegation to support our requests to federal agencies for disaster assistance.