

PRESIDENT TRUMP'S FIRST 100 DAYS



Throughout the 2016 presidential campaign, candidate Donald Trump pledged himself to a government reform agenda, including “drain the swamp,” “America First,” and cutting regulations and taxes. His stated priorities included repealing and replacing the Patient Protection and Affordable Care Act (ACA) also known as Obamacare, aggressively enforcing the nation’s borders and immigration laws, and reversing Obama administration policies designed to combat climate change. Just before his election, he issued a 100-day action plan.¹ Since taking office on January 20, 2017, President Trump has acted on that plan.

In response, California Senate President pro Tempore Kevin de León and other state Democratic leaders have strongly rebuked aspects of President Trump’s agenda as being counter to the state’s economic interests and efforts to improve health care coverage, protect the environment, and seek comprehensive immigration reform. Senate legislation has been introduced to protect California’s laws, and Senate committees are conducting hearings to highlight where the state and the federal government have conflicting viewpoints.

In addition, the Senate Office of Research is monitoring federal issues. This report highlights key actions and events during the Trump administration’s first 100 days.

¹ <https://assets.donaldjtrump.com/landings/contract/O-TRU-102316-Contractv02.pdf> and <https://www.donaldjtrump.com/press-releases/donald-j.-trump-delivers-groundbreaking-contract-for-the-american-vote1>.

100 DAYS OVERVIEW

As of April 29, 2017, President Trump's 100th day in office, he had not signed any major legislation advancing his agenda despite Republicans having control of the presidency and both houses of Congress. Most notably, the ACA health care law has not been replaced. While the House passed its ACA repeal-replace bill that the president endorsed, the Senate is not expected to approve the measure in its current form. Due to the inaction on health care, observers raise doubts about the president's ability to succeed with his next major legislative priority — tax reform.

President Trump signed 29 laws in his first 100 days (see page 41), including an unprecedented 13 laws that overturn Obama-era regulations through the Congressional Review Act (CRA), which allows Congress to disapprove of administrative rules under specified circumstances. Until now, only one rule had ever been disapproved under the CRA since its creation in 1996.

President Trump also signed 32 executive orders in the 100 days, more than other recent presidents (see page 45). The orders reiterate the president's campaign promises, highlighting to the public and relevant federal agencies his official positions on issues. In fact, very few of the orders make significant policy changes. Rather, many of the orders initiate review, a task force, or other process that eventually might result in reform. Others have been blocked by the courts, hindering any changes that could be implemented. Thus, their initial impact seems limited.

The immigration orders are potentially among the most influential and aim to: (1) institute a travel ban on immigrants and refugees from certain countries, (2) specify new priorities for deportation of undocumented immigrants in the country, and (3) impose financial penalties on so-called sanctuary jurisdictions, among other things. Although federal courts have blocked these orders from taking effect in whole or in part, the president and Attorney General Jeff Sessions have sent a clear message to immigration officials and the public that he wants strong enforcement. News reports indicate the administration is deporting undocumented immigrants — some without criminal convictions and many from schools, courthouses, and hospitals — at a rapid pace.

President Trump's early environmental actions have attempted to roll back President Obama's late-term climate and energy-related policies. One of his most significant executive orders directs agencies to unwind climate-change policies related to energy extraction, greenhouse gas emissions, and resource management. Several laws signed

by President Trump nullified President Obama's regulations, including rules that (1) protect waterways from coal industry pollution, (2) require resource management planning on federal lands, and (3) require disclosure of certain payments from resource extraction. Additionally, President Trump is making strides to follow through on his campaign promise to downsize the Environmental Protection Agency (EPA), as demonstrated by his cabinet appointments and proposed budget.

The Senate's recent confirmation of Neil Gorsuch as President Trump's nominee to the U.S. Supreme Court is viewed as a victory for the president. However, all but three Senate Democrats opposed his confirmation. Subsequently, Senate Republicans voted to eliminate the opportunity to filibuster Supreme Court nominees in order to confirm Justice Gorsuch with a majority vote. This is a significant change to long-standing Senate rules.

As of the president's 100th day, all 15 of his cabinet positions are filled. Of six other key senior positions that participate in cabinet meetings, all have been confirmed but one, who is still pending confirmation. (These appointees and some influential White House advisors are displayed at the end of this report.)

The president's appointment of staff to fill positions throughout federal agencies has been slow, and high vacancies at some agencies are reportedly stalling operations. Aside from the cabinet-rank positions, more than 530 key positions require Senate confirmation. Of these, four nominees were confirmed, and 39 are awaiting confirmation, but nominees have not been announced for the other 490 positions.²

The administration wants to significantly reduce the size and operations of many federal agencies and programs, as signaled in the president's preliminary budget plan.³ While the president's fiscal year (FY) 2018 budget proposal is not expected until May, his budget blueprint released in March—known as “the skinny budget”—calls for a \$54 billion increase in discretionary defense spending and a \$54 billion reduction in discretionary non-defense spending that would eliminate or reduce many agencies and programs. Many of the programs are popular with both Republicans and Democrats.

President Trump also proposed cuts totaling \$18 billion to non-defense spending in the current FY 2017, already well under way. At the same time, he requested to increase defense spending by \$30 billion and allocate another \$3 billion for border security. The

² <https://www.washingtonpost.com/graphics/politics/trump-administration-appointee-tracker/database/>.

³ https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf.

recently negotiated FY 2017 Consolidated Appropriations Act (H.R. 244), which the president signed on May 5, 2017, to fund the federal government for the remainder of the fiscal year, does not make his non-defense cuts, but it does provide a \$15 billion increase for defense and an additional \$1.5 billion for border security (none for a U.S.–Mexico border wall).

In addition to domestic matters, President Trump’s 100 days marked significant military action around the world, including in Syria, Afghanistan, and North Korea. Observers question his long-term objectives in these regional conflicts and whether he still supports the more isolationist view he embraced before becoming the commander in chief. As a candidate, he also promised to renegotiate international trade deals to stop practices he believes put the United States at an economic disadvantage; however, his presidential actions on trade so far have been modest.

Finally, President Trump’s 100 days also have been clouded by several widely reported circumstances, including inquiries and investigation into the Russian hacking during the presidential election, questions about ties between the Russian government and the Trump administration and campaign advisors, the administration’s antagonistic relationship with the press and assertions of it publishing “fake news,” media coverage questioning the veracity of some of the president’s statements, and President Trump’s continued use of Twitter as part of the bully pulpit.

How Do Americans Rate President Trump’s Performance During the 100 Days?

According to a recent Gallup poll, the president’s job approval rating is about 42 percent, the lowest of any president in the first 100 days.⁴ According to *Politico*, there is a consistent, deep party-line split with an average of 86 percent of Republicans reporting approval, compared with 10 percent of Democrats and 39 percent of independents.⁵ The president’s approval rating is even lower among Californians, with 31 percent of adults reporting approval, including 8 percent of Democrats, 82 percent of Republicans, and 36 percent of independents, according to a March survey by the Public Policy Institute of California.⁶

⁴ <http://www.gallup.com/poll/201617/gallup-daily-trump-job-approval.aspx> and <http://www.gallup.com/interactives/185273/presidential-job-approval-center.aspx>.

⁵ <http://www.politico.com/story/2017/04/29/trump-poll-ratings-100-days-237768>.

⁶ http://www.ppic.org/content/pubs/survey/S_317MBS.pdf.

REPORT CONTENTS

The rest of this report describes major actions by policy area and events during President Trump’s first 100 days, as well as more details of the House’s ACA replacement legislation. Following the policy sections are a list of legislation signed by the president, a list of key executive actions, a chart of the president’s cabinet and other high-level advisors, and a list of California Senate oversight hearings in this legislative session regarding federal issues.

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HEALTH AND HUMAN SERVICES

Legislation to Repeal/Replace the ACA. Candidate Trump promised to repeal and replace the ACA immediately. Although he did not fulfill that goal within the first 100 days of his presidency, a major step was taken on May 4, 2017, when the House passed H.R. 1628, the American Health Care Act (AHCA), President Trump's and House Republicans' ACA repeal-replace legislation. The House approved the AHCA by a vote of 217–213, with 20 Republicans and all Democrats voting against it. In a related action, the House also approved H.R. 2192, by a vote of 429–0, to repeal an exemption for members of Congress and their staff from the AHCA.

The AHCA rolls back several core features of the ACA. Among other things, it replaces the individual mandate to have health insurance with a continuous coverage requirement, reduces premium subsidies for low-income individuals, and allows states to apply for waivers of some of the ACA's provisions. For example, states could seek waivers to set their own essential health benefits categories and allow insurers to charge higher premiums to older Americans and those with preexisting conditions. In addition, it ends Medicaid as an entitlement program by capping how much states are reimbursed per enrollee and provides states with the option to convert Medicaid to a block grant and institute work requirements for Medicaid recipients. Major provisions of the AHCA are shown on pages 7 and 8.

A previous version of the bill was scheduled for a House vote on March 24, 2017, but House Speaker Paul Ryan (R–WI) canceled it, being unable to reach an agreement that would satisfy moderate and conservative Republicans.⁷ Subsequently, the president and Republicans continued negotiating the bill and added provisions that secured its passage. The provisions were adopted through several amendments, including the MacArthur amendment after Rep. Tom MacArthur (R–NJ), the Upton amendment after Rep. Fred Upton (R–MI), the McSally amendment after Rep. Martha McSally (R–AZ), and the Palmer–Schweikert amendment after Rep. Gary Palmer (R–AL) and Rep. David Schweikert (R–AZ).

⁷ The House drafted the AHCA according to Senate Concurrent Resolution 3, which authorized a process for a FY 2017 budget reconciliation bill to be considered. The provisions of a budget reconciliation bill must substantially impact the budget. The House Budget Committee passed the AHCA on March 16, 2017, on a 19–17 vote, with three Republicans voting with Democrats against the bill. In both the House and the Senate, a majority vote is required to approve a budget reconciliation bill.

AHCA's Major Provisions

- Beginning in 2020, eliminates the Medicaid entitlement and instead converts federal Medicaid funding to a per capita allotment based on a state's spending in 2016 and limits growth of the per capita cap to the medical Consumer Price Index (CPI), and for the elderly and disabled in Medicaid, the CPI plus 1 percent
- Allows states to cover Medicaid expansion enrollees, but at the state's regular federal Medical Assistance Percentage (FMAP), not the enhanced match, which is currently at 95 percent federal match and reduces to 90 percent by 2020
- Specifies states will continue to receive the enhanced federal match for Medicaid expansion enrollees enrolled prior to December 31, 2019, as long as they remain eligible and enrolled
- Creates a new state option of instituting work requirements for able-bodied, childless adults enrolled in Medicaid
- Allows states the option of a Medicaid block grant
- Modifies the ACA premium tax credits for 2018–19 by increasing credit amounts for young adults and decreasing amounts for adults 50 and older with incomes above 150 percent of the federal poverty level and allows tax credits to be used to purchase catastrophic plans
- Encourages the use of health savings accounts by increasing annual tax-free contribution limit and other changes
- Eliminates the tax penalty for not having minimum essential coverage (individual mandate) effective January 1, 2016, and establishes a late enrollment penalty of 30 percent of premium for individuals buying non-group coverage who have not maintained continuous coverage effective in the 2019 plan year
- Repeals the ACA cost-sharing reduction subsidies paid to insurers to lower out-of-pocket costs to enrollees (effective January 1, 2020)
- Starting in 2020, replaces the ACA income-based tax credits, which also varied with the cost of insurance, with flat tax credits adjusted for age, phasing out at incomes between \$75,000 and \$115,000 annually. Credits are \$2,000 per individual up to age 29, rising with age brackets to \$4,000 per individual age 60 and older, significantly below the level of current credits in most parts of California
- Prohibits federal Medicaid funding for Planned Parenthood clinics for one year, effective upon date of enactment, and prohibits tax credits to be used for plans that cover abortion
- Repeals funding for the Prevention and Public Health Fund at the end of 2018

AHCA's Major Provisions (Continued)

- Effective January 1, 2017, repeals most ACA taxes but delays repeal of the additional Medicare payroll tax for high-wage individuals to taxable years after December 31, 2022
- Retains private market rules including prohibition on preexisting condition exclusions, lifetime and annual dollar limits, and extension of dependent coverage to age 26
- Provides \$15 billion in 2018 and 2019 and \$10 billion annually for 2020–26 for a patient and state stability fund. Formula favors non-Medicaid expansion states
- Allows states to apply for three types of federal waivers to:
 - ✓ Charge older Americans higher premiums than the 5:1 age ratio allowed in the AHCA or the 3:1 age ratio limit set in the ACA
 - ✓ Specify its own set of essential health benefits for all purposes in the individual and small-group markets. This not only means that states would be able to define what categories of benefits to be covered by insurers, but also the benefits (the kinds of drugs, for example) that would have to be covered within each category
 - ✓ Permit insurers, under certain conditions, to impose health status underwriting on individuals who do not maintain continuous coverage. This would allow insurers to consider preexisting conditions in setting premiums (MacArthur amendment)
- Proposes a waiver process that is significantly simpler than the current waiver process. Waivers would be automatically approved by the Department of Health and Human Services (HHS) unless they were disapproved within 60 days for noncompliance with the requirements of the statute (MacArthur amendment)
- Adds \$8 billion from 2018 to 2023 to pay the continuous coverage penalties imposed on individuals with preexisting conditions by the MacArthur amendment (Upton amendment)
- Adds \$15 billion for invisible high-risk pools to allow states to reimburse health insurance companies for covering their sicker and more expensive customers (Palmer–Schweikert amendment)
- Adds \$15 billion for mothers and their newborns for behavioral health care (McSally amendment)

A major factor in the debate over the AHCA as it came close to a vote in March was the analysis by the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT). Specifically, CBO and JCT concluded the AHCA would result in 14 million more uninsured Americans in 2018, increasing to 21 million in 2020 and 24 million in 2026. Other key findings from their cost estimate appear below. An updated analysis of the House-passed bill is forthcoming.

CBO/JCT Findings on AHCA (as of March 24, 2017)

- For the 2017–26 period, the act would reduce federal deficits by \$150 billion, primarily by cutting the Medicaid program by \$839 billion and the current ACA means-tested tax credits and cost-sharing reduction payments by \$663 billion (replaced by a \$357 billion fixed-dollar, age-adjusted tax credit program).
- In 2026, there would be 52 million uninsured people in the country, compared with 28 million under current law, largely due to changes in Medicaid enrollment.
- Premiums would increase in 2018 and 2019 by 15 percent to 20 percent higher than what premiums would otherwise have been, due to the projection that most who would drop coverage between 2017 and 2019 would be disproportionately healthy. Starting in 2026, however, average premiums for single policy holders would be about 10 percent lower than under current law.
- The non-group market probably would be stable in most areas under either current law or the legislation.
- In the one-year period in which federal funds for Planned Parenthood would be prohibited, the number of births in the Medicaid program would increase by several thousand, increasing direct spending for Medicaid by \$156 million over 2017–26.

The AHCA would have major impacts on Californians and the state budget. In analyzing the March 24 version of the bill, the California Department of Health Care Services estimated the AHCA would result in almost \$6 billion of costs to the state in 2020, growing to \$24.3 billion by 2027. In addition, the insurance subsidies many Californians receive through the state’s health benefit exchange, Covered California, would be severely reduced, since the AHCA does not take into account the price of health insurance. The result would be a loss of insurance coverage for some portion of the 4 million Californians who receive their coverage through the state’s ACA Medicaid expansion and more than 1 million people who receive subsidies through Covered

California. In addition, because Medicaid funding increases would be restrained, over time California will not receive enough federal funding to serve its beneficiaries as it currently does.

Besides the AHCA, House Republicans' ACA replacement package also includes four other bills that House Majority Leader Kevin McCarthy (R-CA) announced on March 16, 2017. These bills are:

- The Competitive Health Insurance Reform Act (H.R. 372), which eliminates antitrust protection for insurance providers;
- The Small Business Health Fairness Act (H.R. 1101), which allows small businesses to pool together and purchase plans;
- The Protecting Access to Care Act (H.R. 1215), which places limits on health care lawsuits, including a statute of limitation and \$250,000 noneconomic damages cap;
- The Self-Insurance Protection Act (H.R. 1304), which protects workers who get health care coverage from employers that self-insure by providing a backstop on catastrophic losses.

Observers believe the Senate will not pass the AHCA in its current form. Two ACA replacement proposals were introduced in the Senate in January 2017, but they received no hearings and little attention. Senators Susan Collins (R-ME) and Bill Cassidy (R-LA) introduced the Patient Freedom Act, which gives states the option of continuing their ACA Medicaid and exchange programs with slightly reduced funding or flexibility to design an alternative program.⁸ The second proposal, by Sen. Rand Paul (R-KY), would repeal many ACA provisions, including the individual and employer mandates and the essential health benefits insurers must cover. The plan also would change the rules for patients with preexisting conditions, offering them a two-year open-enrollment period to obtain coverage once the law is enacted. The replacement plan would expand the use of health savings accounts, give people tax credits for contributing to the accounts, and waive contribution limits.

⁸ The bill provides states with 95 percent of the amount available from premium tax credits and cost-sharing subsidies and allows states to continue the ACA or create a market-based health insurance system using Roth Health Savings Accounts (HSAs). With respect to Medicaid, the bill does not reduce Medicaid funds available to states and keeps the current ACA-enhanced FMAP, but allows states to use these funds in their market-based system. If a state didn't expand Medicaid under the ACA, the bill provides states with the funds they would have received under the Medicaid expansion for the Roth HSA tax credits. Under either scenario, states would be required to maintain the essential consumer protections, including a prohibition on denying coverage for preexisting conditions, annual or lifetime caps, and allowing adult children to remain on their parents' health plan until age 26.

ACA Executive Order and Centers for Medicare and Medicaid Services' Final Rule.

In addition to the legislative effort to replace the ACA, the Trump administration is pursuing administrative efforts to loosen its requirements. On January 20, 2017, his inauguration day, President Trump issued an executive order intending to give federal agencies broad leeway to “waive, defer, delay or grant exemptions from” requirements of the ACA that impose economic or regulatory burdens on states, families, the health care industry, and others. The ACA, however, was implemented primarily through regulation and guidance. Regulations cannot be rescinded without going through a long process of notice and comment. Guidance can be rewritten but must be consistent with legal and regulatory requirements, so it remains to be seen how this executive order will be implemented.

There are a few key areas that potentially could be impacted. For one, the Trump administration could decline to enforce the ACA’s individual mandate, or add new hardship exemptions. Also, it could drop the appeal to *House v. Burwell*, allowing to stand a federal district court’s decision that found the ACA lacked legal authority to pay insurers billions to reduce consumers’ deductibles and co-payments on the exchanges. Additionally, it could rewrite the state guidance for the Section 1332 ACA waiver states can apply for to give them more flexibility in implementing the health care expansions. For example, some states have wanted to institute work requirements as part of the Medicaid expansion.

Following the executive order, on February 15, 2017, the Internal Revenue Service (IRS) announced it would not reject taxpayers’ 2016 income tax returns that are missing health coverage information. This action by the IRS doesn’t mean it won’t enforce the individual mandate, but it appears to allow individuals to not answer the question of required coverage.

Also related to the executive order, the Centers for Medicare and Medicaid Services (CMS) took a major action in issuing its final marketplace stabilization rule on April 13, 2017.⁹ CMS said the rule is designed to provide “short-term relief for patients and issuers now” but cautioned it would not represent a “long-term cure.” Unless otherwise specified, the rule is effective 60 days after publication and will apply to 2018 health plans. A brief summary of the rule’s major provisions for state-based exchanges is shown on the next page.

⁹ https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-07712.pdf?utm_campaign=pi%20subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email.

Although the rule addresses market stability, Timothy Jost notes in *Health Affairs* that nowhere does it mention the two greatest current threats to the stability of the individual market. The first is whether Congress will appropriate, or the administration will continue to pay, the \$7 billion to \$9 billion in cost-sharing reduction (CSR) payments it owes to insurers. These payments have been called into question by *House v. Price*. Mr. Jost notes, “Without the CSR payments, the individual market will almost certainly destabilize in many states.” Sharing these concerns, House Democratic leader Nancy Pelosi (D-CA) made funding for the payments a high priority in recent negotiations over the FY 2017 omnibus spending bill. While the bill doesn’t include any new funding for this purpose, the Trump administration agreed to continue making the CSR payments.

CMS Final Rule on ACA Market Stabilization

- Reduces the duration of the 2018 federal marketplace enrollment period by half, beginning with the 2018 individual market coverage year, unless an individual is eligible for a special enrollment period. The rule also states that state marketplaces are expected to conform so there is national consistency but provides limited flexibility for 2018.
- Increases preenrollment verification for special enrollment periods for states served by Healthcare.gov. CMS is not requiring state-based exchanges to conduct preenrollment verification but allows states to determine whether and how to implement it.
- Finalizes an increase in the *de minimis* variation in the actuarial values used to determine levels of coverage. The ACA requires insurers in the individual and small-group market to issue plans that fit into one of four levels—platinum, gold, silver, or bronze—based on actuarial value (AV). AV refers to the percentage of the total cost of health care expenses of a standard population borne by the plan rather than the enrollee. The AVs of these categories are 90 percent, 80 percent, 70 percent, and 60 percent. Specifically, the rule amends the definition of “*de minimis*” to a variation of minus 4/plus 2 percentage points rather than plus or minus 2 percentage points, the previous standard, beginning on or after January 1, 2018. CMS says the Office of the Actuary analysis estimated this change will lead to a 0.75 percent reduction in total premiums.
- Allows an issuer, to the extent permitted by state law, to attribute the initial premium payment to any past-due premium amounts owed to that issuer.
- Beginning with the 2018 plan year, relies on state regulators to ensure network adequacy as long as the state has authority to ensure reasonable access to providers and the means to assess network adequacy. In states where the state lacks authority or means to ensure network adequacy, HHS will rely on an insurer’s accreditation (commercial or Medicaid) from an HHS-recognized accreditation body.

Mr. Jost also observes the rule doesn't make clear the administration's intentions about enforcement of the individual mandate. In April, the Treasury Inspector General for Tax Administration released two reports on ACA programs. The reports show individual penalty payments are down significantly from last year.¹⁰ Mr. Jost writes, "The Trump administration has been sending confusing signals as to whether it intends to enforce the requirement, and if people believe that they are no longer required to be insured, healthy people may drop coverage and insurance markets could quickly unravel."¹¹

HHS Appointments. Rep. Tom Price (R-GA), an orthopedic surgeon, was confirmed as secretary of HHS on February 10, 2017, by a vote of 52-47. CMS Administrator Seema Verma was confirmed on March 13, 2017, by a vote of 55-43.

Expedited Approval of Medicaid Section 1115 Waivers. Shortly after, Secretary Price and CMS Administrator Verma sent a letter to state governors indicating HHS will expedite approval of Section 1115 demonstration waiver applications to reshape Medicaid. They wrote, "It is our intent to use existing Section 1115 demonstration authority to review and approve meritorious innovations that build on the human dignity that comes with training, employment and independence." Specifically, they suggest states may consider policies imposing work requirements for certain able-bodied adult beneficiaries, "Health Savings Account-like features," and various cost-sharing policies common in commercial insurance, such as premium payments and emergency room co-payments. Additionally, they encourage the use of waiver authority to address the opioid epidemic and implementation of the Home and Community-Based Services rule.

In response, Senate Finance Committee Ranking Member Ron Wyden (D-OR) and House Energy and Commerce Committee Ranking Member Frank Pallone Jr. (D-NJ) sent a letter to Secretary Price on March 15, 2017, stating their opinion that Medicaid waivers cannot be approved by the agency if they are not in line with the objectives of the program. They called the secretary's announcement an attempt to ration care for Americans.¹²

¹⁰ <http://healthaffairs.org/blog/2017/04/11/treasury-inspector-general-assesses-aca-related-tax-issues/>.

¹¹ <http://healthaffairs.org/blog/2017/04/14/examining-the-final-market-stabilization-rule-whats-there-whats-not-and-how-might-it-work/>.

¹² <https://www.finance.senate.gov/imo/media/doc/Wyden%20Pallone%20Letter%20to%20Price%20on%20Medicaid%20Flexibility%20Authority%20final.pdf>.

Rule Protecting Planned Parenthood Overturned. On April 13, 2017, President Trump signed H.J. Res. 43 (Public Law 115–23), which nullifies an HHS rule regarding sub-recipients of family planning grants. Under the rule, grant recipients may prohibit an entity from receiving a sub-award only for reasons related to the entity’s ability to provide family planning services.¹³ The Obama administration issued the regulation in response to moves by Republican-controlled states to restrict federal grants to Planned Parenthood. H.J. Res. 43 allows states to deny public-health grants to providers because they perform abortions. The resolution passed the Senate with Vice President Mike Pence breaking the 50–50 vote tie.

HHS Programs in the President’s Budget. The president’s FY 2018 budget blueprint has only two pages devoted to HHS programs. It proposes an overall \$15.1 billion decrease (18 percent) from the 2017 level, and there are few details on how this reduction would be structured. Notably, one element is a \$5.8 billion reduction for the National Institutes of Health, with a call to reorganize the agency. Also on health, the blueprint says the administration “supports direct health care services, such as those delivered by community health centers, Ryan White HIV/AIDS providers, and the Indian Health Service” and “strengthens the integrity and sustainability of Medicare and Medicaid by investing in activities to prevent fraud, waste, and abuse and promote high quality and efficient health care.” It also seeks to establish a new fund to rapidly respond to outbreaks such as the Zika virus and create a \$500 million block grant program for states within the Centers for Disease Control and Prevention, though experts say this could slow outbreak control.¹⁴ It specifies a \$403 million reduction in health professions and nursing training programs but says it continues to fund scholarships and loan repayments in exchange for service in areas with a shortage of health professionals. With respect to human services programs, the budget blueprint explicitly calls for cancellation of the HHS Low Income Home Energy Assistance Program and Community Services Block Grant program. It also would eliminate the Interagency Council on Homelessness and the Corporation for Public Broadcasting.

Responding to the Opioid Crisis. On March 29, 2017, the president signed an executive order establishing a commission to study the scope and effectiveness of the federal response to the opioid crisis, but there have been no proposals to address the problem.

Child Care. Early child care and education was listed as a “high priority” in the president’s budget blueprint. Later as part of its announcement on tax reform, the

¹³ <https://www.congress.gov/bill/115th-congress/house-joint-resolution/43?q=%7B%22search%22%3A%5B%2269%22%5D%7D&r=33>.

¹⁴ <http://www.reuters.com/article/us-usa-health-cdc-idUSKBN16O2M6>.

administration stated its intent to provide “tax relief for families with child and dependent care expenses,” but no details were provided. It is unclear whether the president still supports his campaign proposal, which had three elements. The first element is a tax deduction worth the value of the average cost of care in each state based on age for children 13 and younger. The deduction is available to single parents with incomes up to \$250,000 and two parents with incomes up to \$500,000. The plan’s second feature is a tax-preferred savings account that allows tax-free contributions up to \$2,000 per child per year up to age 17. Funds could be used for academic and extracurricular activities, including college tuition. For families with low incomes, the federal government would match 50 percent of the first \$1,000 deposited each year, per child. The final component of the plan is a tax “rebate” offered as a supplement to the federal Earned Income Tax Credit. The rebate would be worth 7.65 percent of the average cost of care and would be limited to families with incomes up to \$62,400 for a two-parent household and \$31,200 for a single-parent household. The California Budget and Policy Center analyzed the proposal and suggested it would be a minor assistance, if anything, to low-income families.¹⁵

Veterans Affairs. On April 27, 2017, President Trump signed an executive order creating the Office of Accountability and Whistleblower Protection within the Department of Veterans Affairs. The new office is intended to assist the secretary in disciplining or terminating employees who have “violated the public’s trust and failed to carry out his or her duties on behalf of veterans,” and to improve the department’s ability “to recruit, reward, and retain high-performing employees.” The order reportedly is similar to the Veterans First Act introduced by Rep. Johnny Isakson (R-GA) last year.

ENVIRONMENT

Environmental Appointments. President Trump’s key picks for environmental positions were all confirmed by the Senate. They are Scott Pruitt, EPA administrator (confirmed on February 17, 2017, by a vote of 52–46); Rick Perry, Department of Energy secretary (confirmed on March 2, 2017, by a vote of 62–37); Ryan Zinke, Department of Interior secretary (confirmed on March 1, 2017, by a vote of 68–31); and Sonny Perdue, Department of Agriculture secretary (confirmed on April 24, 2017, by a vote of 87–11).

Climate Policy. President Trump has vowed to drastically alter the United States’ direction on climate and energy policies. His 100-day action plan committed to lifting the restrictions on the production of American energy reserves and to cancelling billions in payments to United Nations’ (UN) climate-change programs. President Trump

¹⁵ <http://calbudgetcenter.org/blog/president-trumps-child-care-proposal-benefits-struggling-families/>.

signed an executive order on March 28, 2017, that represents his most significant effort yet to roll back climate-change policies. The executive order, “Promoting Energy Independence and Economic Growth,” includes changes such as (1) repealing a policy that encouraged federal regulators to consider climate change in their planning and environmental reviews, (2) rescinding a moratorium on the sale of new rights to extract coal on federal land, (3) altering or discontinuing the metric used to estimate the potential economic damage from climate change, (4) eliminating the 2015 Clean Power Plan that required states to cut greenhouse gas (GHG) emissions from electricity production, and (5) reviewing two rules governing methane emissions from oil and gas wells.

The EPA has begun implementation steps in response to the executive order. For example, the agency has (1) announced it is reviewing the methane emission standards for new and modified oil and gas facilities, (2) withdrawn two proposed rules that would have supplemented the Clean Power Plan final rule and provided support for the development of state plans to reduce GHG emissions from existing power plants, and (3) announced it will be reviewing the fuel economy standards under the Corporate Average Fuel Economy Program and GHG Emissions Standards for motor vehicles.

President Trump also has vowed to pull the United States out of an agreement within the UN Framework Convention on Climate Change dealing with GHG emissions mitigation, commonly referred to as the Paris Agreement. The administration has not taken any action yet to withdraw from the Paris Agreement.

Fossil Fuel Extraction. President Trump promised to lift restrictions on fossil fuel development, and so far this effort has been exemplified with his signing of two bills that rescind new regulations related to fossil fuel extraction. On February 14, 2017, he signed H.J. Res. 41 (Public Law 115–4), which nullifies the “Disclosure of Payments by Resource Extraction Issuers” rule finalized by the Securities and Exchange Commission (SEC) on July 27, 2016. The rule, mandated under the Dodd–Frank Wall Street Reform and Consumer Protection Act, requires resource extraction issuers to disclose payments made to governments for the commercial development of oil, natural gas, or minerals.

On February 16, 2017, President Trump signed H.J. Res. 38 (Public Law 115–5), which nullifies the Stream Protection Rule. This rule was promulgated in December 2016 by the Department of Interior’s Office of Surface Mining Reclamation and Enforcement. The rule targeted coal mining industry practices to protect waterways by requiring companies to avoid mining practices that permanently pollute streams, destroy drinking water sources, increase flood risk and threaten forests, and requiring the

companies to restore streams and return mined areas to the uses they were capable of supporting before mining activities.

President Trump's promise to loosen fossil fuel extraction restrictions has been demonstrated by his allowing energy infrastructure projects, such as the Keystone Pipeline, to move forward. On January 24, 2017, President Trump signed two presidential memoranda intended to expedite the Keystone XL and Dakota Access pipelines. He also signed three additional actions to expedite environmental reviews for "high-priority infrastructure projects," streamline the permitting process for domestic manufacturing, and insist pipeline companies buy materials from U.S. companies.

Moreover, on the heels of President Trump's executive order on energy independence, Interior Secretary Zinke issued a secretarial order on March 29, 2017. The order sets a timetable for review of agency actions that may hamper responsible energy development and reconsideration of regulations related to U.S. oil and natural gas development. Finally, President Trump signed a directive on April 28, 2017, giving oil companies more opportunities to drill offshore, reversing Obama-era policies that restricted the activity.

Federal Lands Protection. President Trump also has started undoing certain environmental protections of federal lands. He signed H.J. Res. 44 (Public Law 115–12) on March 27, 2017. The law revokes the Bureau of Land Management's (BLM) "Planning 2.0" rule aimed at improving how the BLM conducts its large-scale resource management plans by establishing procedures used to prepare, revise, or amend land-use plans to make the process more transparent and responsive to the public.

Furthermore, under President Trump's direction, Interior Secretary Zinke issued a secretarial order to lift the ban on traditional lead-based ammunition and tackle on federal lands on March 2, 2017. Then, on March 29, 2017, he issued another secretarial order to overturn the 2016 moratorium on all new coal leases on federal lands, also ending the programmatic environmental impact statements that were set to be completed by 2019 under the moratorium.

Finally, on April 26, 2017, President Trump ordered the Interior Department to review 20 years' worth of monument designations on federal land across the country. The order signals the beginning of a major review of federal land use and monument designations' impact on employment and land access for industry groups, companies, and individuals.

Water. On February 28, 2017, President Trump signed an executive order to review and potentially undo the EPA's "Waters of the United States" rule. This rule was finalized in 2015 and reinterpreted the Clean Water Act to extend federal protection to small and seasonal waterways. The protections have been critical for water supplies in water-scarce regions of the West, including California. (Also, as noted above, President Trump signed H.J. Res. 38, which nullifies the Stream Protection Rule that protected waterways, including drinking water sources, from mining practices.)

Pesticides and Toxic Waste. Under the Trump administration, the EPA recently has shown more tolerance for allowing toxics and pesticides in the environment. Although the Obama administration proposed to ban a pesticide called chlorpyrifos in 2015, the EPA now says it is reversing course and keeping chlorpyrifos on the market. Additionally, the EPA recently announced it will reconsider the Obama-era Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category rule that set the first federal limits on how much toxic metal can be discharged with power plants' wastewater.

Environmental Programs in the President's Budget. The president's budget blueprint for FY 2018 reinforces his promises to target climate change and environmental protection programs. It downsizes the EPA, shrinking its funding by 31 percent and eliminating a fifth of its workforce. More than 50 EPA programs are targeted for elimination, along with an estimated 3,200 jobs. Eliminated programs include grants that help states and cities fight air pollution, funding for environmental justice, and international climate-change programs. The blueprint also reduces the Office of Research and Development, Superfund cleanup, and the Office of Enforcement and Compliance.

The Departments of Energy and the Interior also are targeted for cuts. The Energy Department's budget would be reduced by 6 percent, while the Interior Department would face a 12 percent reduction. The blueprint suggests eliminating programs such as Energy Star, Weatherization Assistance, Advanced Research Projects Agency–Energy, Advanced Technology Vehicle Manufacturing Program, and Title 17 loan guarantees, as well as eliminating funding for the 49 National Heritage Areas. It also cuts funding for land acquisition and spending on a host of science and climate areas.

Communications. Although President Trump did not make any previous vows regarding communications policy, on April 3, 2017, he signed S.J. Res. 34 (Public Law 115–22), which nullifies the rule submitted by the Federal Communications Commission (FCC) entitled "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services." The rule, published on December 2, 2016,

(1) applies the customer privacy requirements of the Communications Act of 1934 to broadband Internet access service and other telecommunications services, (2) requires telecommunications carriers to inform customers about rights to opt in or opt out of the use or the sharing of their confidential information, (3) adopts data security and breach notification requirements, (4) prohibits broadband service offerings contingent on surrendering privacy rights, and (5) requires disclosures and affirmative consent when a broadband provider offers customers financial incentives in exchange for the provider's right to use a customer's confidential information. The resolution of disapproval will restore the Federal Trade Commission's authority to regulate Internet service providers' privacy practices.

Agriculture. On April 25, 2017, President Trump signed an executive order to establish a task force aimed at supporting America's farmers. The order will eliminate former President Obama's White House Rural Council and requests that the agriculture secretary institute a new, interagency task force that will conduct a 180-day "review of regulation, policy and legislation that necessarily hinders growth of the agriculture sector."

IMMIGRATION

Homeland Security Appointment. The Senate confirmed Gen. John Kelly as secretary of Homeland Security on January 20, 2017, on a vote of 88–11.

Executive Order on Enforcing Immigration Laws. During the election, candidate Trump vowed to "crack down" on illegal immigration immediately upon taking office. On January 25, 2017, President Trump signed two executive orders about immigration. The first order, "Enhancing Public Safety in the Interior of the United States" (the second will be discussed below), identifies a wide range of undocumented individuals as priorities for deportation. This includes individuals who have not only been convicted of a criminal offense but who also have been charged with an offense that has not been resolved or committed acts that constitute a chargeable criminal offense; individuals in possession of false identification and other documents; individuals who have abused receipt of public benefits; as well as those who "in the judgment of an immigration officer, otherwise pose a risk to public safety or national security." Reportedly, this broad range of deportation priorities is very similar to the plan advanced by Kansas Secretary of State Kris Kobach, who is believed to be advising the president on this issue.

The executive order also directs the Department of Homeland Security (DHS) to revoke the Priority Enforcement Program established by the Obama administration and to reinstate the Secure Communities program originally created at the end of the Bush administration and initially enforced vigorously by the Obama administration. The Secure Communities program was responsible for the removal of more than 2 million individuals, far exceeding the removals under the previous administration during the time it was in place.

Additionally, the executive order authorizes the secretary of DHS to designate a jurisdiction as a sanctuary jurisdiction, within the secretary's discretion. Further, it requires the attorney general and the secretary of DHS "in their discretion and to the extent consistent with law" to "ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 [regarding communication between government agencies and the Immigration and Naturalization Service, or ICE] are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary."

Section 1373 states that federal, state, or local government entities and officials "may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from the Immigration and Naturalization Service, information regarding the citizenship or immigration status, lawful or unlawful, of any individual."

Further, the executive order authorizes the hiring of 10,000 additional immigration officers and empowers local law enforcement agencies to perform the functions of immigration officers through 287(g) agreements.

On February 20, 2017, DHS issued a memo with the purpose of implementing President Trump's executive order on immigration enforcement. The main takeaway from this memo is that Deferred Action for Childhood Arrivals and Deferred Action for Parents of Americans and Lawful Permanent Residents will not be rescinded, at least for now, and the Secure Communities program will be reinstated, with the Priority Enforcement Program rescinded. The memo also notes that ICE should immediately develop a hiring plan to fill the additional 10,000 immigration officer positions; however, the administration will need additional appropriations to fill this number of positions.

On March 20, 2017, DHS issued its first weekly report on local law enforcement agencies that failed to comply with ICE detainer requests for the week of January 28–February 3, 2017. Of the jurisdictions listed, several are in California, including the Santa Clarita jail in Alameda, the Madera County Department of Corrections, the Anaheim city jail in Orange County, the Sacramento County jail, the Santa Barbara

County jail, and the Santa Clara County main jail. For local law enforcement, complying with ICE detainer requests is problematic for potential violations of individuals' rights under the U.S. Constitution's Fourth Amendment.

As another apparent follow-up step from the executive order, the U.S. Department of Justice (DOJ) sent a letter on April 21, 2017, to nine "sanctuary" jurisdictions, including the California Board of State and Community Corrections, requesting they certify compliance with Section 1373 by June 30, 2017, or risk forfeiting funds. On April 25, U.S. District Court Judge William Orrick, based in San Francisco, issued a preliminary injunction blocking this administration directive.

Beginning in early February 2017, reports emerged regarding arrests and immigration raids in Southern California. ICE initially would not release or confirm the number of detainees but later reported that more than 150 arrests were made. According to the *Los Angeles Times*, "the agency insisted, however, that the sweep targeted people with criminal records and was no different in size or scope from operations carried out in years past under previous administrations." Senate President pro Tempore de León and Assembly Speaker Anthony Rendon sent a Freedom of Information Act request to ICE, requesting information and documentation that would outline policies of the California ICE field offices related to "sensitive locations" such as schools and courthouses, as well as information regarding detainees' access to legal counsel and other visitors.

Executive Order on Border Security. During his campaign, candidate Trump pledged to "build a wall" between the United States and Mexico and stated that Mexico would pay for it. Mexico's president, Enrique Peña Nieto, has said that Mexico will not pay for the wall. As referenced above, on January 25, 2017, President Trump signed an executive order, "Border Security and Immigration Enforcement Improvements," regarding the immediate construction of the border wall. On February 20, 2017, DHS issued an implementation memo on the executive order directing the department to identify and allocate sources of funding to begin the design and development of the border wall, as well as to hire an additional 5,000 border patrol agents, among other things.

DHS announced on March 22, 2017, that select U.S. companies, as well as international firms, were submitting bids to construct the border wall. The companies will be required to construct prototypes in San Diego that are 30 feet long and 30 feet tall, non-scalable by climbing and "constructed to prevent digging below the wall for at least 6 feet." Additionally, according to the instructions, the side facing the United States should be "aesthetically pleasing in color." Approximately 25 San Diego County companies (out of 565 overall) signed up to compete for the bid.

The total cost of the wall has been estimated at more than \$20 billion. Domestic cuts would be necessary to fund construction of the wall. The Trump administration asked Congress to appropriate funding for the wall as part of FY 2017 appropriations, but that request was rejected. The president has said he will pursue the funding for FY 2018.

Executive Order on Foreign Nationals. On January 27, 2017, President Trump signed an additional immigration-related executive order, “Protecting the Nation From Foreign Terrorist Entry Into the United States,” that attempted to revise the visa process and impose an indefinite ban on refugees from Syria, a 120-day ban on all refugees entering the country, and a temporary ban on six other predominately Muslim countries. During the campaign and in signing the order, President Trump used the term “extreme vetting” to describe the new process instituted for any new visas. The order went into effect immediately, without warnings to travelers or airport personnel, and led to travelers with green cards and visas being detained at airports and sometimes redirected out of the country by U.S. Customs and Border Patrol. There was mass confusion, several protests, and lawsuits filed. Several days after the order went into effect, the administration clarified that it was not meant to impact green card holders.

On February 3, 2017, Seattle Federal District Court Judge James Robart granted a nationwide stay of the executive order. The Trump administration claimed the order was necessary to protect the United States from individuals from seven predominantly Muslim countries—Iran, Syria, Iraq, Somalia, Yemen, Sudan, and Libya. The court found the claim unsupported by the law.

DOJ immediately filed an emergency motion for a stay of Judge Robart’s decision pending appeal, which would result in the district court’s order being immediately lifted; the court rejected the request. The Ninth Circuit Court of Appeals ordered the parties to submit briefs, with oral arguments held on February 7. DOJ had to show (1) that it was likely to succeed on the merits of the appeal, (2) the degree of hardship caused by a stay or its denial, and (3) the public interest in granting or denying the stay. On February 9, 2017, the Ninth Circuit Court of Appeals unanimously (3–0) denied DOJ’s request. Immediately following the decision, President Trump made statements indicating he would appeal.

New Executive Order on Foreign Nationals. On March 6, 2017, the Trump administration released a revised travel ban order under the same name as the first. While the new order was substantially similar, there were some notable differences. One difference was the exemption of Iraq from the list of banned countries, taking it from seven to six Muslim-majority countries and giving a description for why the countries were included in the ban. The second order also specifically exempted legal

permanent residents, as well as current valid visa holders, from the countries. Additionally, it kept in place a temporary suspension (120 days) of the refugee program but did not single out Syria for an indefinite ban. Also, as opposed to the first order, the second did not take effect until 10 days after the president signed it. Both orders called for capping the total number of refugees admitted to 50,000, down from the previous annual cap of 110,000 per fiscal year.

Hawaii was the first state to file a complaint in federal court alleging the order violated the establishment clause of the First Amendment, and as a result, Hawaii would suffer a direct harm by inhibiting “the state businesses and universities to recruit top talent and damages the financial interests of the state, which considers tourism its lead economic driver.” Oral arguments were heard on March 15, 2017, followed by U.S. District Judge Derrick K. Watson granting a temporary restraining order on the travel ban. Judge Watson’s ruling agreed with Hawaii’s assertion that the executive order “violates the establishment clause of the First Amendment because it is essentially a Muslim ban, hurts the ability of state businesses and universities to recruit top talent, and damages the state’s robust tourism industry.” The restraining order is still in place.

As of April 20, 2017, a total of 41,320 refugees have been admitted for this fiscal year, which ends on September 30, 2017. The 50,000 cap is still blocked by the Hawaii court.

PUBLIC SAFETY

Attorney General Appointment. The Senate confirmed Jeff Sessions as the U.S. attorney general on February 8, 2017, by a vote of 52–47. He was sworn in the next day. During the ceremony, President Trump signed four executive orders that are largely inconsequential and only reaffirm practices in place or outline the president’s position on an issue. The orders are “Providing an Order of Succession Within the Department of Justice,” “Enforcing Federal Law With Respect to Transnational Criminal Organizations,” “Preventing Violence Against Federal, State, Tribal, and Local Law Enforcement Officers,” and “A Task Force on Crime Reduction and Public Safety.”

Gun Control Regulation. On February 28, 2017, President Trump signed H.J. Res. 40 (Public Law 115–8), which overturned a rule instituted by President Obama that required the Social Security Administration to report people who receive disability benefits and have a mental health condition to the FBI’s background check system used to determine eligibility for buying a gun. The regulation was part of a series of actions taken by President Obama in response to the mass killing in 2012 at Sandy Hook Elementary School in Newtown, Connecticut.

Consent Decrees. Following a series of officer-involved shootings of minority (and particularly African Americans) unarmed suspects in the recent past, DOJ entered into agreements (referred to as consent decrees) with dozens of law enforcement agencies to address excessive force policies and improve relations between police departments and the communities they serve. On March 31, 2017, Attorney General Sessions issued a memo ordering a review of the consent decrees and sought a 90-day delay through the courts in going forward with them.

Possible Changes to Federal Criminal Sentencing, Particularly Drug Crimes. Attorney General Sessions indicated on March 8, 2017, that he intends to make changes to policies within DOJ regarding violent crime and drug offenses. Two memos were issued to federal prosecutors by former Attorney General Eric Holder, one in 2010 that directed prosecutors to back away “from prior directions that prosecutors seek the most serious viable charges in every case,” and a second memo in 2013 that called for “prosecutors to avoid seeking mandatory minimum sentences in some cases by leaving the quantity of drugs seized out of charging documents.” In a memo Attorney General Sessions sent on March 8, 2017, to federal prosecutors nationwide, he encourages prosecutors to “employ the full complement of federal law to address the problem of violent crime in your district.” The memo continues “further guidance and support in executing this priority—including an updated memo on charging for all criminal cases—will be forthcoming.”

CIVIL RIGHTS

Bathroom Regulations for Transgender Students. On February 22, 2017, the Trump administration issued a directive rescinding protections for transgender students that allowed them to use bathrooms corresponding with their gender identity.

Voter Identification Law. On February 27, 2017, DOJ filed papers in federal court withdrawing its claim that a Texas voter identification law passed in 2011, which requires voters to present a specific form of government-issued photo identification (such as a driver’s license, military ID card, U.S. passport or citizenship certificate) to cast a ballot in the state, intentionally discriminates against African American and Latino voters. Subsequently, California Secretary of State Alex Padilla and Attorney General Xavier Becerra issued a joint statement on March 1, 2017, criticizing DOJ’s decision to withdraw its claim as “an abdication of its responsibility to vigorously enforce the Voting Rights Act.”

JUDICIARY

New Supreme Court Justice Neil Gorsuch. On January 31, 2017, President Trump announced his selection of Colorado federal appeals court judge Neil Gorsuch to fill the Supreme Court vacancy left by the passing of Justice Antonin Scalia in February 2016. Judge Gorsuch is a graduate of Columbia University and Harvard Law School and was a Marshall scholar at Oxford. Upon graduation from law school, Judge Gorsuch clerked for Supreme Court Justices Byron White and Anthony M. Kennedy. Before being appointed as a judge, he was partner at a top litigation firm. In addition to being the youngest nominee since Justice Clarence Thomas in 1991, Judge Gorsuch also is the first former clerk to sit on the bench with the justice for whom he clerked. Supreme Court justices are lifetime appointments.

After sending the Supreme Court nomination of Judge Gorsuch to the Senate floor for a vote on April 4, 2017, Senate Democrats began to filibuster the nomination. Under the traditional rules of the Senate, Senate Majority Leader Mitch McConnell (R-KY) made a motion to invoke cloture on the debate. Going into the vote, Democrats had secured enough votes to fight cloture, which traditionally required 60 votes. The vote failed with 55 senators voting for cloture and 45 voting against cloture. Once this was finalized, Senator McConnell (who voted “no” on cloture as a maneuver to then make a motion for reconsideration) began the process to undo the Senate rule on filibuster of a Supreme Court nominee. The rule was overturned, making Supreme Court nominees subject only to a majority vote. The rule change is viewed as a major turn in the traditions of the Senate, and many senators expressed frustration and dismay at the change.

On April 7, 2017, the Senate voted 54–45 to confirm Judge Gorsuch’s nomination to the Supreme Court. A few days later, Neil Gorsuch was sworn in as the newest Supreme Court justice, bringing the court back to its full bench of nine members.

FOREIGN AFFAIRS

Meetings With Foreign Leaders and Diplomats. Since taking office, President Trump has had face-to-face meetings with Prime Minister Theresa May of the United Kingdom, Prime Minister Justin Trudeau of Canada, Chancellor Angela Merkel of Germany, President Xi Jinping of China, Prime Minister Shinzō Abe of Japan, Prime Minister Benjamin Netanyahu of Israel, Taoiseach Enda Kenny of Ireland, President Abdel Fattah al-Sisi of Egypt, and King Abdullah II of Jordan. He also has had telephone conversations with French President François Hollande, Australian Prime Minister

Malcolm Turnbull, Mexican President Enrique Peña Nieto, and Russian President Vladimir Putin.

Russian Hacking During the 2016 Presidential Election. In early January 2017, before President Trump was sworn in to office, reports emerged confirming Russian interference in the 2016 presidential election. In a declassified intelligence report ordered by President Obama, conclusive evidence showed Russian President Putin personally ordered “an influence campaign in 2016 aimed at the U.S. Presidential election,” with the intended purpose of not only denigrating Hillary Clinton but also of developing a “a clear preference for President-elect Trump.” After President Trump made several public denials of the legitimacy of the report, he eventually stated there is a valid basis for the findings.

Russian Ties to the Trump Administration. In addition to the election interference, there were revelations in the early weeks of the Trump presidency about ties between Russia and Trump campaign officials and administration appointees. The most notable ties were between Trump’s national security advisor, Michael Flynn, and the Russian ambassador to the United States, which ultimately led to Mr. Flynn’s resignation. Since then, several other ties between Mr. Flynn and the Russian government have become public. Some of President Trump’s advisers during his campaign, Carter Page, Roger Stone, and Paul Manafort, also have been publicly linked to Russia either through business connections or Russian officials. According to news reports, Carter Page was linked to the Russian government and met with Russian officials during the campaign. These connections are still being investigated. In the House, Rep. Jason Chaffetz (R–UT) and Rep. Devin Nunes (R–CA), chairs of the House Oversight and Government Reform Committee and the Select Committee on Intelligence, respectively, came under scrutiny for their failure to initiate a public investigation into these ties or any other financial ties the Trump administration might have to the Russian government. However, the Senate Intelligence Committee on March 29, 2017, vowed a bipartisan, complete, and thorough investigation into the Russian election interference, as well as any ties to President Trump and his administration.

Syria. Following years of civil war in Syria, a chemical attack on civilians allegedly carried out by Bashar al-Assad’s regime led to more than 70 deaths, including to those of babies and young children. The event caused international outrage and prompted the Trump administration to take immediate military action against the Assad regime. On April 6, 2017, President Trump announced that the United States launched a military strike of nearly 60 missiles at a Syrian air base, allegedly the base that carried out the chemical attack.

North Korea. In early April 2017, U.S. intelligence reports suggested North Korea was preparing to conduct its sixth nuclear weapons test on April 15. In response, President Trump said he would send a naval “armada” toward the region to prevent it. While North Korea did not execute a nuclear test, it did conduct a failed missile launch and pledged to continue firing missiles “weekly” to defy the threats by the United States. Since neither side is backing down, the United States has deployed several naval ships to the region.

Afghanistan. President Trump authorized the use of the largest non-nuclear bomb ever created (more than 21,000 pounds) to be dropped on the Islamic State in Iraq and Syria hideout tunnels in Afghanistan on April 13, 2017.

LABOR AND EMPLOYMENT

Labor Secretary Appointment. After former CKE Restaurants CEO Andrew Puzder withdrew his nomination for labor secretary in February, the president nominated Alexander Acosta for the position. The Senate confirmed his appointment on April 27, 2017, by a vote of 60–38. Mr. Acosta is dean of Florida International University College of Law. He served as assistant attorney general for the Justice Department’s Civil Rights Division under President George W. Bush and also is a past member of the National Labor Relations Board.

Fiduciary Duty Rule. On February 3, 2017, the president issued a memorandum that effectively delayed implementation of a Department of Labor (DOL) final rule governing financial advisors. Known as the fiduciary duty rule, the rule was to be effective in April 2017; it was first issued by the Obama administration in April 2016. The rule provides that under the Employee Retirement Income Security Act (ERISA), retirement advisors must act in the best interests of their clients. The presidential memorandum directs DOL to conduct an economic and legal analysis of the regulation and rescind the rule if it is inconsistent with the Trump administration’s priorities. The rule’s implementation is delayed for further impact assessment until June 9, 2017, and with a new labor secretary taking the helm soon, the rule could be delayed further or rescinded.

H-1B Visas. The president also took executive action on a foreign worker visa program known as H-1B that allows employers who cannot obtain highly specialized business skills and abilities from the U.S. workforce to hire foreign qualified individuals. He signed the executive order, “Buy American and Hire American,” on April 18, 2017. The order directs the attorney general and the

secretaries of State, Labor, and Homeland Security to review the visa program and propose reforms to ensure H-1B visas are awarded appropriately and do not displace qualified U.S. workers. Program participation is capped at 85,000 annually. It is unclear how many of the visas are for foreign workers sponsored by California's employers, but given the state's robust information technology sector, the numbers are assumed to be large.

Labor and Employment Programs in the President's Budget. President Trump's budget blueprint for FY 2018 seeks an overall cut of \$2.6 billion (21 percent) to DOL's budget. It eliminates the Senior Community Service Employment Program, which helps low-income seniors find work, closing certain Job Corps centers for disadvantaged youth, and eliminating grants that help nonprofits and public entities pay for health and safety training.

As part of Homeland Security's budget, the president proposes to augment funding for implementation of a mandatory national E-Verify program for employers to determine whether new employees are eligible to work in the United States. Currently, federal E-Verify is voluntary for employers unless they operate in a state that requires it. In California, Labor Code §2812 prohibits state and local government from requiring an employer to use an electronic employment verification system, including E-Verify, except when required by federal law or as a condition of receiving federal funds. Thus, if E-Verify is federally mandated, California's employers likely would have to comply with it under existing state law.

Labor and Employment Rules Overturned. A number of labor and employment rules have been overturned in the president's 100 days. H.J. Res. 37 (Public Law 115-11), signed by the president on March 27, 2017, repeals a rule interpreting the Obama executive order known as Fair Pay and Safe Workplaces requiring that all federal contractors bidding on contracts of more than \$500,000 report past labor law violations from the last three years. The rule applied to businesses contracting with the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration. Also on March 27, President Trump issued an executive order that repealed three federal contractor compliance rules, including the Fair Pay and Safe Workplaces executive order.

H.J. Res. 83 (Public Law 115-21), signed by the president on April 3, 2017, repeals an Occupational Safety and Health Administration (OSHA) regulation—known as the “Volks” rule—providing that employers can be cited for failing to maintain a record of injuries and illnesses for up to five years. In California, Cal/OSHA's record-keeping

standards require that employers with more than 10 employees—unless in exempted industries—maintain a record of work-related injuries and illnesses for five years. H.J. Res. 42 (Public Law 115–17), signed by the president on March 31, 2017, repeals a DOL rule that narrowly limits the circumstances under which drug testing could be carried out by states in administering their unemployment insurance systems. Repeal of this rule means that states will have discretion to determine the scope of their drug-testing programs for unemployment insurance applicants.

H.J. Res. 66 and 67 relate to state and local government-run retirement savings plans for private-sector workers. The resolutions overturn the DOL “safe harbor” rule clarifying that state-administered savings plans like California’s Secure Choice program and similar local government (city and county) plans do not constitute a “pension plan” under ERISA and are therefore exempt. H.J. Res. 67 (Public Law 115–24), repealing the safe harbor rule for local government-run plans, was signed by the president on April 13, 2017. H.J. Res. 66, pertaining to state-run savings arrangements, passed the House on February 15, 2017, and the Senate on May 3, 2017 (after the president’s 100 days). Even if the president signs this measure (which is expected), state-administered retirement savings programs, such as California’s Secure Choice, will go forward because states will revert to the original ERISA exemption guidance from 1975.

EDUCATION

Education Appointments. Betsy DeVos, a school voucher activist, was confirmed as secretary of education on February 7, 2017, by a vote of 51–50. Two Republican senators voted “no,” necessitating Vice President Pence to cast a tie-breaking vote, the first time a vice president has decided a confirmation vote.

To date, hiring at the Department of Education (ED) has been slow. Fourteen senior positions that require Senate confirmation are still vacant. The only presidential nomination so far has been Carlos Muñoz for general counsel. Mr. Muñoz represented Florida State University in a lawsuit brought by a student who accused former quarterback Jameis Winston of sexual assault in 2012. Mr. Muñoz’s appointment has prompted concerns about his possible influence on Title IX gender equity enforcement.

In early April, Secretary DeVos announced the names of some key personnel who will serve in leadership positions at the department. DeVos’ senior counsel is Robert Eitel, who served as a lawyer at ED under President George W. Bush and recently was general counsel for Bridgepoint Education. Bridgepoint, an operator of for-profit

colleges, recently was investigated and fined by ED, which determined Bridgepoint miscalculated the refund of federal aid to students.

Legislation and Policy Direction. President Trump has yet to provide any detailed education policy proposals. In his February address to the joint session of Congress, the president reaffirmed his commitment for school choice by asking Congress to pass a funding bill for disadvantaged youth to attend any school—whether it be public, private, charter, or religious. In the speech, he honored a former student who utilized Florida’s Tax Credit Scholarship Program to attend a private Christian school. This is a program Secretary DeVos has frequently praised, and *Politico* believes the Trump administration’s efforts to expand school choice may be patterned on Florida’s tax-credit model.¹⁶

On March 27, 2017, President Trump signed two resolutions that overturn education regulations issued by the Obama administration:

- H.J. Res. 57 (Public Law 115–13) repeals the 2016 rule implementing the accountability, data reporting, and state plan provisions of the Every Student Succeeds Act.
- H.J. Res. 58 (Public Law 115–14) repeals the 2016 rule imposing new standards on teacher education and preparation.

As part of candidate Trump’s 100-day action plan, he pledged to work with Congress within his first 100 days in office to pass certain legislation, including the School Choice and Education Opportunity Act and the Affordable Childcare and Eldercare Act. Such legislation has yet to be introduced.

Other actions the administration has taken appear to support a reduced federal role in education policy. As noted earlier in this report, President Trump rescinded the Obama administration’s directives and guidance regarding protections for transgender students, saying states and local school districts should establish education policy. Further, in April, Secretary DeVos formally withdrew a series of directives that outlined a new system for collecting payments from federal student loan borrowers and imposed customer service standards on loan servicers. DeVos wrote that the former program lacked consistent objectives and was subject to changing requirements and moving deadlines.

¹⁶ <http://www.politico.com/story/2017/03/devos-becomes-saleswoman-in-chief-for-school-choice-236276>.

On April 26, 2017, the president signed an executive order directing the education secretary, within the next 300 days, to review Obama-era regulations and guidance for school districts and modify or repeal measures deemed a federal overreach.

A department task force headed by ED's counsel, Mr. Eitel, will lead the review and develop a report of the task force findings.

Education Programs in the President's Budget. In the president's budget blueprint for FY 2018, he reduces or eliminates several education grant programs totaling \$3.7 billion. This includes elimination of the 21st Century Community Learning Centers Program, which provides before- and after-school and summer programs for working families, and the Supporting Effective Instruction State Grants (Title II, Part A of the Every Student Succeeds Act), which provides funding for preparing, training, and retaining teachers and school leaders. Should the final budget eliminate these grants, California stands to lose \$133 million and \$250 million in 2018, respectively.¹⁷

Additionally, the blueprint supports elimination of the Federal Supplemental Educational Opportunity Grant (FSEOG) program reserved for higher education students with the greatest financial need. The program provides students with up to \$4,000 in need-based grant aid for higher education and leverages institutional dollars, as well. In 2015–16, more than 200,000 California students were FSEOG recipients and the state received more than \$83 million for the program. The blueprint also cancels nearly \$4 billion in Pell Grant discretionary funding that many had hoped would be used to restore year-round Pell Grants for students taking courses over the summer. Finally, it aims to reduce federal work-study programs and cut more than \$170 million from federal programs that improve access to college for low-income and first-generation students. However, more recently, the FY 2017 Consolidated Appropriations Act, which funds the federal government through the end of September, contains a provision restoring year-round Pell Grants and provides a slight boost in funding for programs providing access to college for underrepresented students.

Also notable, the budget blueprint seeks an increase of \$1.4 billion for charter school and school choice initiatives without providing any details for how school districts would implement them.

¹⁷ According to 2017 data published by Federal Funds Information for States.

TRANSPORTATION, HOUSING, AND INFRASTRUCTURE

Transportation and Housing Appointments. Former Labor Secretary Elaine Chao was confirmed to be secretary of the Department of Transportation (DOT) on January 31, 2017, on a vote of 93–6. The president nominated Derek Kan as undersecretary of transportation for policy, and he is pending confirmation by the Senate. Mr. Kan, a general manager for Lyft, based in Los Angeles, also serves on the board of directors for Amtrak. President Trump has yet to nominate any of the remaining 16 sub-cabinet level DOT positions subject to confirmation.

Retired neurosurgeon Dr. Ben Carson was confirmed as secretary of the Department of Housing and Urban Development (HUD) on March 2, 2017, on a vote of 58–41. President Trump has yet to nominate any of the 12 sub-cabinet level HUD positions subject to confirmation.

Transportation and Housing Programs in the President's Budget. The president's budget blueprint for FY 2018 proposes major cuts to both DOT and HUD. The vast majority of federal transportation funding comes from the Highway Trust Fund and Airport Improvement Fund, which are not subject to the annual budget act. However, the budget proposes a cut of \$2.4 billion (13 percent) to DOT's discretionary budget, compared with the 2017 funding level. It proposes to reduce popular programs such as Essential Air Service subsidies, the Transportation Investment Generating Economic Recovery discretionary grant program, and the Federal Transit Administration's (FTA) Capital Investment Program (New Starts). The blueprint also proposes a cut of \$6.2 billion (13 percent) to HUD's budget, compared with 2017 funding levels. It seeks to eliminate funding for Community Development Block Grants, the HOME Investment Partnerships Program, and other popular programs that address the affordable housing crisis.

Caltrain Modernization. One early action taken by the Trump administration that could have a significant impact on transportation in California was the decision by FTA in February to delay the release of \$647 million in funding for Caltrain, the federal contribution to a \$2 billion project to electrify the train line between San Francisco and San Jose. The funds would come from FTA's Capital Investment Program, which, notably, President Trump's budget blueprint proposes to phase out. Nevertheless, even the blueprint suggests that projects with full funding agreements would be funded, and the Caltrain modernization project falls into this category.

In delaying release of the funds, FTA indicated it needed “additional time to complete review of this significant commitment of federal resources,” and it can make a final decision following the release of President Trump’s full FY 2018 budget. However, it is notable that the delay occurred shortly after California’s Republican congressional delegation wrote a letter to the administration requesting that it block the funds in an effort to halt the state’s controversial high-speed rail project. The Caltrain project is separate from high-speed rail, though the two systems are planned to eventually share the same corridor.

Infrastructure Funding. Throughout his campaign and since taking office, President Trump repeatedly has discussed a \$1 trillion infrastructure funding proposal. However, to date, few details and no concrete proposals have emerged. Office of Management and Budget (OMB) Director Mick Mulvaney indicated on April 20, 2017, that the eventual proposal could include about \$200 billion in public funds, suggesting these funds could leverage private capital at a rate of 5–1. Notably, a funding proposal based on such a model likely would be applicable only to certain types of infrastructure investments (i.e., water infrastructure, toll facilities, or other revenue-generating projects) that could attract private capital. Such a funding model likely would not work to address maintenance and rehabilitation of existing roads, bridges, and other facilities because most of these projects would not generate significant revenue.

TAX REFORM

Budget and Treasury Appointments. The Senate confirmed Mick Mulvaney as director of OMB on February 16, 2017, by a vote of 51–49. Additionally, Steven Mnuchin was confirmed as treasury secretary on February 13, 2017, by a vote of 53–47.

The President’s Tax Plan. Candidate Trump pledged to work with Congress to accomplish comprehensive tax reform, including simplifying the tax code and cutting individual and corporate taxes. As president-elect, he released an informal tax plan long after House Republicans had released their own more detailed proposal.¹⁸ But in the president’s first 100 days, there has been no major action on tax reform. Just days before his 100th day, on April 26, 2017, President Trump released a brief outline of his plan, described in the text box on the next page. Lacking in details, the outline identifies his priorities that will be a basis for future negotiations. Treasury Secretary Mnuchin and National Economic Council Director Gary Cohn recently said they will convene

¹⁸ A chart comparing the House GOP plan and the president’s earlier campaign plan to current tax law can be obtained at <https://www.bna.com/taxplancomparison/>.

stakeholder meetings while negotiations with Congress continue. The administration wants to complete tax reform by the end of this year.

President Trump's Priorities for Tax Reform

Individual Tax Reform

- Reduce to three tax brackets (at 10 percent, 25 percent, and 35 percent) from the seven tax brackets under existing law (but income levels for the new brackets are not specified)
- Double the standard deduction (up to \$24,000 for a married couple)
- Provide tax relief for families with children or dependents (but type of relief is unspecified)
- Repeal the Alternative Minimum Tax
- Repeal the estate tax
- Repeal the ACA's 3.8 percent investment gains tax
- Eliminate most deductions (including the state and local tax deduction), with the exception of the mortgage interest and charitable gift deductions

Business Tax Reform

- Reduce the corporate tax rate from 35 percent to 15 percent
- Subject "pass-through" entities (LLCs, S corporations, partnerships, and sole proprietorships) to the same 15 percent tax rate
- Include a one-time tax on overseas profits at a rate to be determined, to entice companies to repatriate these funds
- Transition to a territorial tax system exempting company earnings abroad from taxation

Notably absent from the president's tax outline is a border adjustment tax, a key part of the House GOP's earlier proposal.¹⁹ Nor does the outline mention infrastructure spending, which the administration previously said might be part of its tax package.

Compared to his earlier plan, the president seems to be placing more emphasis now on tax cuts. The nonpartisan Committee for a Responsible Federal Budget (CRFB) estimates that, based on the current level of details, the president's plan could result in between \$3 trillion and \$7 trillion of revenue loss to the federal government over the next decade. While studies have shown tax cuts can lead to short-term economic

¹⁹ A border adjustment tax is a destination-based cash flow tax, which levies taxes on goods based on where they are consumed, rather than where they are produced, essentially taxing imported goods while exempting exported goods. Instead of a border adjustment tax, President Trump instead has promoted a "reciprocal tax." While he did not elaborate, many economists believe this is a call for import tariffs on other countries at the same rate they impose on U.S. exports. Whether a border adjustment or a reciprocal tax is implemented, both outcomes likely will result in increased prices of imported goods that will be passed on to consumers.

benefits due to increased spending and job growth, if adequate revenue is not generated to offset the cuts, the increasing federal deficit would lead to negative economic consequences in the long run. Secretary Mnuchin has said the economic growth spurred by the tax cuts will more than make up for the revenue loss, but the CRFB projects that the 4.5 percent sustained growth rate the country would need to pay for the entire tax plan over the next decade is simply unfeasible.

Republicans had planned to take up tax reform after first repealing and replacing the ACA health care law. The AHCA, which passed the House on May 4, 2017, includes various tax cuts as part of its ACA repeal/replace approach. Some experts have argued that enacting such tax cuts would lower the tax base and make it easier to pass deficit-neutral tax reform.

Executive Order on Tax Regulations. On April 21, 2017, President Trump signed an executive order that directs the Treasury Department to review all tax regulations issued since January 1, 2016, and report within 60 days on regulations that impose an undue financial burden on taxpayers, add undue complexity, or exceed the statutory authority of the IRS. Additionally, the order directs the treasury secretary to delay or suspend the implementation date of the rules and/or modify them, if permitted. Experts believe the order is aimed at corporate taxes; among the most significant rules at risk are some that crack down on corporate “tax inversions,” a method corporations use to pay lower taxes by merging with companies in countries with lower tax rates.

TRADE

Commerce and Trade Appointments. Wilbur Ross was confirmed as the secretary of commerce on February 27, 2017, by a vote of 72–27. Secretary Ross is a billionaire investor, who during his confirmation hearing identified the renegotiation of the North Atlantic Free Trade Agreement (NAFTA) as his top priority, echoing one of the president’s campaign promises. For U.S. trade representative (USTR), a cabinet-level position, President Trump nominated Robert Lighthizer, a trade lawyer and former deputy trade representative. Mr. Lighthizer’s appointment has bipartisan support in the Senate, but his confirmation is on hold to determine if he needs a waiver due to past work representing a foreign government.

Trade Agreements. On January 23, 2017, President Trump issued a memorandum triggering the formal withdrawal of the United States from the Trans-Pacific Partnership (TPP), a trade deal negotiated during the Obama administration and including, among other countries, Australia, Canada, Japan, Malaysia, Mexico, and

New Zealand. While the TPP had received criticism from both sides of the aisle, the TPP likely would have benefited California's economy, particularly in the agriculture and technology sectors. Instead, the presidential memorandum directs the USTR to pursue "bilateral trade negotiations to promote American industry, protect American workers, and raise American wages."

Regarding NAFTA, the administration sent a preliminary letter to Congress that outlines its goals in renegotiating this agreement with Canada and Mexico. A formal letter, statutorily required to trigger the renegotiation process, is expected to be submitted to Congress soon, pending Mr. Lighthizer's confirmation. The initial letter does not indicate that the president will abandon the agreement altogether, as he previously stated. As cited by the press, the letter says the United States should "seek to level the playing field on tax treatment." Some observers are interpreting this as potentially imposing duties on Canadian and Mexican goods, as candidate Trump had called for across-the-board tariffs on Mexican imports. Such a policy could have an immediate negative impact on California's economic relationship with Mexico.

Since the letter was released, several White House officials and the president also have criticized Canadian trade practices. For instance, on April 24, 2017, the Commerce Department announced it will levy tariffs on Canadian softwood lumber imports up to 24 percent, arguing the Canadian government unfairly subsidizes its lumber industry.²⁰

Finally, President Trump has softened his stance on China. During the campaign, he had pledged to label China as a currency manipulator, an action many experts believe could lead to a costly trade war with China. The Treasury Department's first currency report declined to label China a currency manipulator, instead indicating that China's currency practices and those of five other countries (Japan, Germany, South Korea, Taiwan, and Switzerland) should be monitored.

Executive Actions. In his 100 days, the president signed three executive orders and two presidential memoranda that call for reports or recommendations regarding trade, which potentially could provide the administration with justification for more aggressive negotiation and enforcement of trade deals in the future. Specifically, the president's actions:

²⁰ While the full effects of this tariff remain to be seen, the National Association of Home Builders (NAHB) fears it will increase the cost of lumber, with nearly a third of the lumber used in U.S. home building having originated in Canada, and that cost will be passed onto consumers. According to the NAHB analysis, the cost of a new home is expected to increase by \$1,236, on average, with the new tariffs in place.

- Require the Department of Commerce and the USTR to report on U.S. trade deficits, assessing the major causes of the deficits and identifying potentially unfair trade practices that may be contributing to them (March 31, 2017)
- Require DHS, in coordination with the Treasury and Commerce departments, to develop policy recommendations to enhance the enforcement of violations of U.S. trade law and the collection of antidumping duties (March 31, 2017)
- Require all agencies to assess their existing monitoring and enforcement of “Buy American” laws in their procurement procedures and develop and recommend policies to ensure federal procurements maximize the use of materials produced in the United States (April 18, 2017)
- Direct the secretary of commerce to conduct an investigation to determine the effects of steel imports on national security and recommend countermeasures should it find instances where national security is endangered (April 20, 2017)
- Direct the secretary of commerce to conduct an investigation to determine the effects of aluminum imports on national security and recommend countermeasures should it find instances where national security is endangered (April 27, 2017)

MARIJUANA ENFORCEMENT

Based on his past comments, candidate Trump seemed to embrace the Obama administration’s stance on marijuana enforcement, which was one of noninterference with states that have legalized and properly regulated marijuana use (this is described in what is known as the Cole Memo).²¹ However, it is still unclear what official position the Trump administration will take on marijuana enforcement. At one point, Attorney General Sessions made public comments that signaled a potential curb on recreational use. The attorney general is known for his past strong opposition to the Obama administration’s enforcement policy. But more recently, he indicated that the DOJ may in fact continue implementing the Cole Memo; this remains to be seen.

²¹ In 2015, legislation was passed in California to establish a robust state licensing and regulatory structure for medical marijuana. Following that, in November 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act, legalizing the recreational use of marijuana. California is one of seven states and the District of Columbia that authorize adult recreational use and 29 states that authorize medical use in some form. Additionally, recent polls place support for legalizing recreational use of marijuana at all-time highs, 60 percent or higher (CBS News, Gallup, October 2016.) However, marijuana use is still illegal under federal law and is considered a Schedule 1 drug under the Controlled Substances Act.

BANKING AND CONSUMER PROTECTION

Dodd–Frank Act. Candidate Trump promised major Wall Street reform, pledging to overturn some or all of the Dodd–Frank Wall Street Reform and Consumer Protection Act, a comprehensive banking reform package enacted in response to the 2008 financial crisis. A central piece of this reform was the creation of the Consumer Financial Protection Bureau (CFPB) which is responsible for enforcing federal consumer protection laws in the financial sector; it has jurisdiction over banks, securities firms, payday lenders, and other financial institutions.

While the Dodd–Frank Act and the CFPB have been frequent targets of criticism from President Trump and his officials, little action has been taken so far to scale them back. The president signed an executive order on February 3, 2017, outlining a set of “Core Principles” for regulating financial systems. In addition, Rep. Jeb Hensarling (R–TX), chairman of the House Financial Services Committee, has positioned himself as the likely architect of Dodd–Frank reform. He has held several committee hearings on the issues, including a hearing on April 26, 2017, to discuss his new draft bill (expected to be introduced soon).²²

Additionally, on April 21, 2017, President Trump signed two presidential memoranda triggering the review and suspension of certain aspects of the Dodd–Frank Act. The first concerns the Orderly Liquidation Authority (OLA), which establishes a process by which the treasury secretary can quickly liquidate a large financial company that is close to failing, bypassing traditional bankruptcy procedures. The memo directs the secretary to cease using this authority while its effects on the financial stability of the United States are reviewed. Critics of the OLA have argued it encourages banks to take more risks than they otherwise would.

The second memo concerns the Financial Stability Oversight Council, which has the authority to designate financial institutions as systemically important to the financial system, colloquially referred to as “too big to fail.” Such a designation subjects these institutions to additional federal oversight. As with the OLA, critics have argued that this encourages risky behavior by financial institutions. The memo directs the treasury secretary to suspend the systemically important designation pending a review of the designation process.

²² https://financialservices.house.gov/uploadedfiles/choice_2.0_discussion_draft.pdf.

Ultimately, while California has the authority to make changes to some financial services such as payday lending, the federal government maintains fairly broad authority to preempt states with respect to regulating banking organizations.

Consumer Protection and Transparency Rules Overturned. As noted previously in the report, President Trump and Congress have rolled back several Obama administration rules pertaining to consumer protection and transparency, including DOL’s fiduciary duty rule, (see page 27), SEC’s rule (see H.J. Res. 41 on page 16), and the FCC’s broadband communications rule (see S.J. Res. 34 on page 18).

GOVERNMENT EFFICIENCY AND REGULATORY REFORM

President Trump wants to broadly reduce government regulation. During a press conference on January 23, 2017, he said, “We are going to be cutting regulation massively. The problem with the regulation you have right now is that you can’t do anything. We think we can cut regulations by 75 percent. Maybe more.”

Previous administrations have also sought regulatory reform, but President Trump has a very different approach. On January 30, 2017, he issued an executive order that requires agencies to identify two regulations to eliminate for every new regulation and offset costs from new regulations by reducing costs in existing regulations to prevent any net cost increase. Rules pertaining to military, national security, foreign affairs, and agency management are excluded. The potential impact of this order is unclear. The administration is clearly telling federal agencies to reduce regulation, but by definition, regulations are designed to implement statutory requirements. Additionally, the Brookings Institute observed, “The number of regulations is not the key. It’s how onerous regulations are.”²³ Others have noted that repealing regulations to offset the cost of a new regulation requires a major analysis to establish the costs of existing regulations, since post-implementation costs may differ from pre-implementation cost estimates.²⁴

On February 24, 2017, the president signed an executive order that requires each agency to designate a regulatory reform officer within 60 days, charged with leading a review of regulations and submitting recommendations for modification and repeal. The officers are responsible for composing a list of regulations to repeal within 90 days.

²³ https://www.washingtonpost.com/news/energy-environment/wp/2017/01/30/trump-wants-to-cut-two-regulations-on-businesses-for-every-new-one-imposed/?utm_term=.3b426470c6c4.

²⁴ <http://www.rff.org/research/publications/trump-s-regulatory-reform-process-analytical-hurdles-and-missing-benefits>.

Regulations believed to limit job creation will be targeted. To repeal a regulation, an agency must abide by the same notice and comment rules as during adoption of a regulation, which typically takes one year.

Improving Government Efficiency. On March 13, 2017, President Trump signed an executive order that seeks to restructure the executive branch. Currently, the Federal Register lists 440 federal agencies. The order requires OMB to develop a plan by March 2018 to “reorganize governmental functions and eliminate unnecessary agencies” to cut down on spending and promote “efficiency, effectiveness and accountability of that agency.” The president alone has little power to reorganize executive agencies without the support of Congress. Historians have commented that every past president since President Roosevelt has attempted and failed in similar reform efforts.

SIGNED LEGISLATION

Within his first 100 days in office, President Trump signed 29 laws, including 13 laws that overturn agency regulations pursuant to the Congressional Review Act and 16 other laws.

Congressional Review Act Resolutions

H.J. Res. 67—Joint resolution disapproving the rule submitted by the Department of Labor relating to savings arrangements established by qualified state political subdivisions for nongovernmental employees (Public Law 115–24). *Signed on April 13, 2017*

H.J. Res. 43—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of the final rule submitted by secretary of Health and Human Services relating to compliance with Title X requirements by project recipients in selecting subrecipients (Public Law 115–23). *Signed on April 13, 2017*

S.J. Res. 34—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of the rule submitted by the Federal Communications Commission relating to “protecting the Privacy of Customers of Broadband and Other Telecommunications Services”(Public Law 115–22). *Signed on April 3, 2017*

H.J. Res. 83—Joint resolution nullifying the Department of Labor’s rule titled “Clarification of Employer’s Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness”(Public Law 115–21). *Signed on April 3, 2017*

H.J. Res. 69—Joint resolution nullifying the Department of the Interior’s Fish and Wildlife Service’s final rule relating to non-subsistence takings of wildlife on national wildlife refuges in Alaska (Public Law 115–20). *Signed on April 3, 2017*

H.J. Res. 42—Joint resolution disapproving the rule submitted by the Department of Labor relating to drug testing of unemployment compensation applicants (Public Law 115–17). *Signed on March 31, 2017*

H.J. Res. 58—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of the rule submitted by the Department of Education relating to teacher preparation issues (Public Law 115–14). *Signed on March 27, 2017*

H.J. Res. 57—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of the rule submitted by the Department of Education relating to accountability and state plans under the Elementary and Secondary Education Act of 1965 (Public Law 115–13). *Signed on March 27, 2017*

H.J. Res. 44—Joint resolution disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land-use plans pursuant to the federal Land Policy and Management Act of 1976 (Public Law 115–12). *Signed on March 27, 2017*

H.J. Res. 37—Joint resolution disapproving the rule submitted by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration relating to the Federal Acquisition Regulation (Public Law 115–11). *Signed on March 27, 2017*

H.J. Res. 40—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of the rule submitted by the Social Security Administration relating to Implementation of the National Instant Criminal Background Check System Improvement Amendments Act of 2007 (Public Law 115–8). *Signed on February 28, 2017*

H.J. Res. 38—Joint resolution disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule (Public Law 115–5). *Signed on February 16, 2017*

H.J. Res. 41—Joint resolution providing for congressional disapproval under Chapter 8 of Title 5, U.S. Code, of a rule submitted by the Securities and Exchange Commission relating to “Disclosure of Payments by Resource Extraction Issuers” (Public Law 115–4). *Signed on February 14, 2017*

Other Legislation

S.J. Res. 36—Joint resolution providing for the appointment of Roger W. Ferguson as a citizen regent of the Board of Regents of the Smithsonian Institution (Public Law 115–29). *Signed on April 19, 2017*

S.J. Res. 35—Joint resolution providing for the appointment of Michael Govan as a citizen regent of the Board of Regents of the Smithsonian Institution (Public Law 115–28). *Signed on April 19, 2017*

S.J. Res. 30—Joint resolution providing for the reappointment of Steve Case as a citizen regent of the Board of Regents of the Smithsonian Institution (Public Law 115–27).
Signed on April 19, 2017

S. 544—Act amending the Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program and for other purposes (Public Law 115–26). *Signed on April 19, 2017*

H.R. 353—Weather Research and Forecasting Innovation Act of 2017 (Public Law 115–25). *Signed on April 18, 2017*

H.R. 1228—Act providing for the appointment of members of the board of directors of the Office of Compliance to replace members whose terms expire during 2017 and for other purposes (Public Law 115–19). *Signed on April 3, 2017*

S.J. Res. 1—Joint resolution approving the location of a memorial to commemorate and honor members of the Armed Forces who served on active duty in support of Operation Desert Storm or Operation Desert Shield (Public Law 115–18). *Signed on March 31, 2017*

H.R. 1362—Act naming the Department of Veterans Affairs (VA) community-based outpatient clinic in Pago Pago, American Samoa, the Faleomavaega Eni Fa’aua’a Hunkin VA Clinic (Public Law 115–16). *Signed on March 31, 2017*

S. 305—Vietnam War Veterans Recognition Act of 2017 (Public Law 115–15).
Signed on March 28, 2017

S. 442—National Aeronautics and Space Administration Transition Authorization Act of 2017 (Public Law 115–10). *Signed on March 21, 2017*

H.R. 609—Designating the Department of Veterans Affairs health care center in Center Township, Butler County, PA, as the Abie Abraham VA Clinic (Public Law 115–9).
Signed on March 13, 2017

H.R. 321—Inspiring the Next Space Pioneers, Innovators, Researchers, and Explorers Women Act (Public Law 115–7). *Signed on February 28, 2017*

H.R. 255—Promoting Women in Entrepreneurship Act (Public Law 115–6).
Signed on February 28, 2017

H.R. 72—Government Accountability Office Access and Oversight Act of 2017 (Public Law 115–3). *Signed on January 31, 2017*

S. 84—Bill providing an exception to a limitation against appointment of persons as Secretary of Defense within seven years of relief from active duty as a regular commissioned officer of the Armed Forces (Public Law 115–2).
Signed on January 20, 2017

H.R. 39—Tested Ability to Leverage Exceptional National Talent Act of 2017 (Public Law 115–1). *Signed on January 20, 2017*

EXECUTIVE ACTIONS

Subject Matter	Policy Area	Type of Action and Date <small>(click for document)</small>
Promotion of agriculture and rural prosperity	Agriculture	Executive Order 13790 (April 25, 2017)
President Trump's proposed budget	Budget	Memorandum (March 16, 2017)
White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities	Education	Executive Order 13779 (February 28, 2017)
Review of education regulations and guidance	Education	Executive Order 13791 (April 26, 2017)
Construction of Keystone XL Pipeline	Energy	Memorandum (January 24, 2017)
Construction of Dakota Access Pipeline	Energy	Memorandum (January 24, 2017)
Review of regulations that potentially burden domestic energy production by canceling several of President Obama's climate-change policies	Energy/ Climate Change	Executive Order 13783 (March 28, 2017)
Promotion of the use of American materials for all new pipeline construction	Energy/ Commerce	Memorandum (January 24, 2017)
Expedition of environmental reviews and approvals for high-priority infrastructure projects	Environment	Executive Order 13766 (January 24, 2017)
Review of the Clean Water Act, determining areas that are federally protected	Environment	Executive Order 13778 (February 28, 2017)
Review of federal monument designations under the Antiquities Act	Environment	Executive Order 13792 (April 26, 2017)
Expansion of offshore drilling	Environment	Executive Order 13795 (April 28, 2017)
Hiring freeze on federal workforce for 90 days	Executive Branch	Memorandum (January 23, 2017)
Comprehensive plan for reorganizing the executive branch by reviewing agencies to cut or downsize	Executive Branch	Executive Order 13781 (March 13, 2017)

Subject Matter	Policy Area	Type of Action and Date (click for document)
Establish the White House Office of American Innovation	Executive Branch	Memorandum (March 27, 2017)
Identification and reduction of tax regulatory burdens	Finance	Executive Order 13789 (April 21, 2017)
Assessment of the Financial Stability Oversight Council's process of designating financial firms "systemically important" (i.e., "too big to fail")	Finance	Memorandum (April 21, 2017)
Review of the Orderly Liquidation Authority, which provides a process to quickly liquidate a large financial company that is close to failing	Finance	Memorandum (April 21, 2017)
Funding ban on organizations promoting abortion practices internationally ("Mexico City" policy)	Foreign Aid	Memorandum (January 23, 2017)
Continuation of the declaration of emergency in South Sudan	Foreign Aid	Memorandum (March 23, 2017)
States and federal agencies have broad leeway to waive or delay requirements of ACA	Health	Executive Order 13765 (January 20, 2017)
Establishment of the Commission on Combating Drug Addiction and the Opioid Crisis	Health	Executive Order 13784 (March 28, 2017)
Support for the Global Magnitsky Human Rights Accountability Act	Human Rights	Memorandum (April 20, 2017)
Construction of a southern border wall, additional detention facilities, and amplification of law enforcement to enforce federal immigration priorities	Immigration	Executive Order 13767 (January 25, 2017)
Expanded categories of individuals as priorities for deportation and a threat of federal funding cuts to jurisdictions that do not comply with immigration laws (i.e., sanctuary cities)	Immigration	Executive Order 13768 (January 25, 2017)
Immediate suspension of entry of citizens from seven Muslim nations for 90 days, suspension of U.S. refugee program for 120 days and an indefinite ban on refugees from Syria, with priority given to minority religions from identified nations, institution of "extreme" vetting, and overall reevaluation of visa and refugee programs	Immigration	Executive Order 13769 (January 27, 2017)

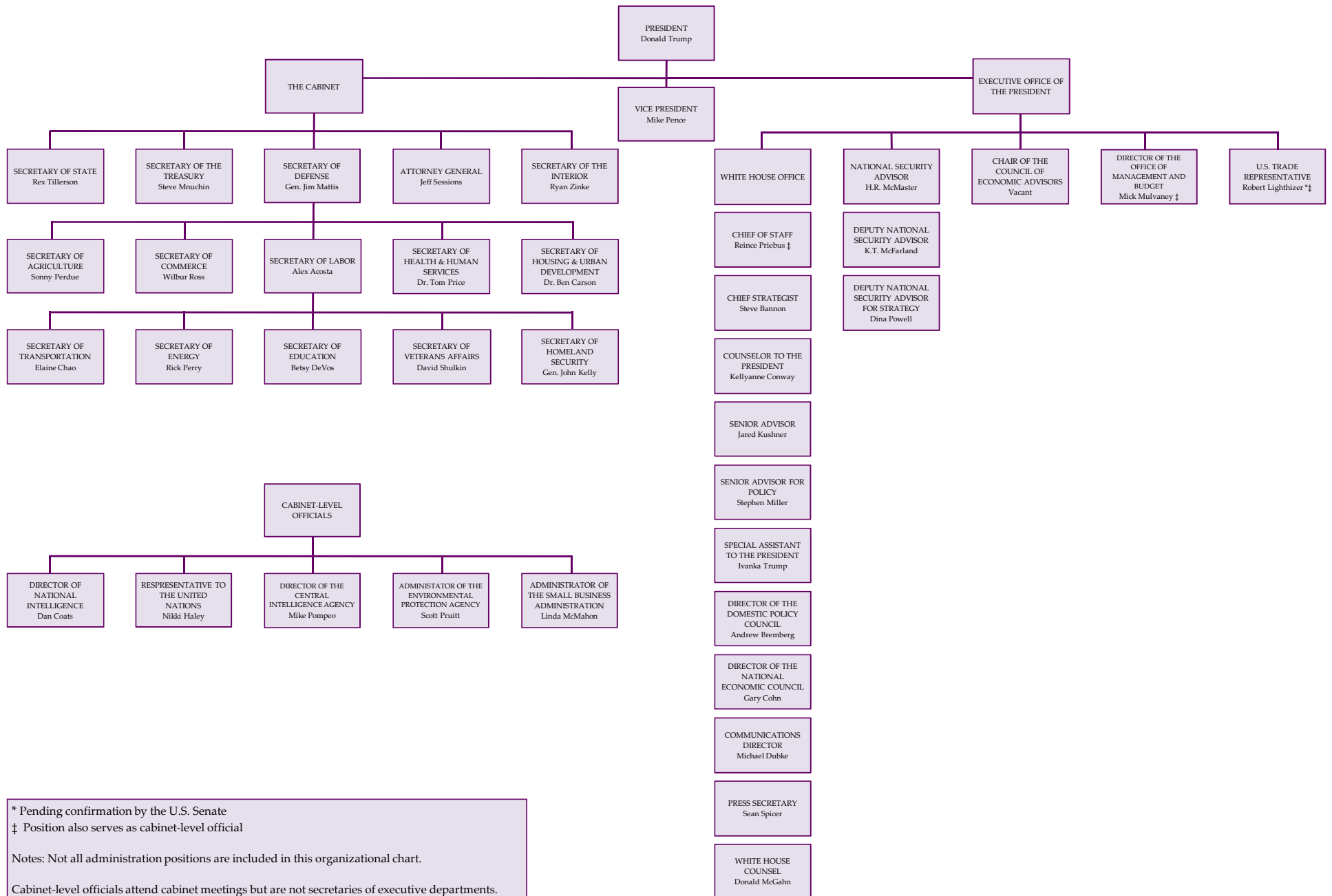
Subject Matter	Policy Area	Type of Action and Date (click for document)
Delayed suspension of entry of citizens from six Muslim nations for 90 days and suspension of the U.S. refugee program for 120 days, institution of “extreme” vetting, and overall reevaluation of visa and refugee programs	Immigration	Executive Order 13780 (March 6, 2017)
Guidance for State Department and Department of Homeland Security to implement “extreme” vetting and overall strengthening of screening procedures	Immigration	Memorandum (March 6, 2017)
Revision to the order of succession within the Department of Justice	Justice	Executive Order 13775 (February 9, 2017)
Further revision to the order of succession within the Department of Justice	Justice	Executive Order 13787 (March 31, 2017)
Review of the fiduciary duty rule, which requires financial advisers to serve their clients’ best interests	Labor	Memorandum (February 3, 2017)
Revocation of President Obama’s executive orders promoting fair pay and safe workplaces	Labor	Executive Order 13782 (March 27, 2017)
Promotion of domestic manufacturing via faster permitting and less regulation	Labor/ Commerce	Memorandum (January 24, 2017)
Review of the H-1B visa program and directive to federal agencies to maximize purchases of American products	Labor/ Commerce	Executive Order 13788 (April 18, 2017)
Lobbying ban on every executive appointee for five years	Lobbying/ Ethics	Executive Order 13770 (January 28, 2017)
Readiness review of U.S. military and Ballistic Missile Defense System	National Defense	Memorandum (January 27, 2017)
Reorganization of the National Security and Homeland Security Councils to include the assistant to the president and chief strategist as a permanent member of the principles committee and remove the Joint Chiefs of Staff from regular attendance at meetings	National Defense	Memorandum (January 28, 2017)
Plan to Defeat the Islamic State of Iraq and Syria	National Defense	Memorandum (January 28, 2017)
Delegation of presidential powers in the National Defense Authorization Act to Secretary of State Tillerson	National Defense	Memorandum (March 20, 2017)
Enhanced coordination to counter transnational criminal organizations and international trafficking	Public Safety	Executive Order 13773 (February 9, 2017)

Subject Matter	Policy Area	Type of Action and Date (click for document)
Enhanced protection for law enforcement officers by increased funds to agencies and heightened penalties for crimes committed against officers	Public Safety	Executive Order 13774 (February 9, 2017)
Creation of a task force to reduce violent crime, illegal immigration, and drug trafficking	Public Safety	Executive Order 13776 (February 9, 2017)
Freeze on all pending regulations until reviewed by the new administration	Regulatory	Memorandum (January 20, 2017)
Regulatory reform by repealing two rules per new regulation implemented and prohibiting net spending increases	Regulatory	Executive Order 13771 (January 30, 2017)
Establishment of “Core Principles” of financial regulation, promoting deregulation of Wall Street to promote global competitiveness	Regulatory	Executive Order 13772 (February 3, 2017)
New regulatory reform officers within federal agencies will make recommendations for reducing regulation	Regulatory	Executive Order 13777 (February 24, 2017)
Withdrawal from Trans-Pacific Partnership	Trade	Memorandum (January 23, 2017)
Enhanced enforcement of violations of trade and customs laws and collection of antidumping and countervailing duties	Trade	Executive Order 13785 (March 31, 2017)
Omnibus report on significant trade deficits	Trade	Executive Order 13786 (March 31, 2017)
Investigation of steel imports and threats to national security	Trade	Memorandum (April 20, 2017)
Establishment of the Office of Trade and Manufacturing Policy	Trade	Executive Order 13797 (April 29, 2017)
Assessment of trade and investment agreements	Trade	Executive Order 13796 (April 29, 2017)
Investigation of aluminum imports and threats to national security	Trade	Memorandum (April 27, 2007)
Establishment of the Office of Improving Accountability and Whistleblower Protection	Veterans Affairs	Executive Order 13793 (April 27, 2017)

CALIFORNIA SENATE OVERSIGHT HEARINGS ON FEDERAL ISSUES

- Senate Health Committee—“The Affordable Care Act in California: What’s at Stake,” January 19, 2017
- Senate Environmental Quality Committee—“The Federal Clean Air Act: California’s Waivers: How California’s Strict Air Quality Standards Have Created Economic Growth and Improved Public Health,” February 22, 2017
- Senate Judiciary Committee—“Due Process of Law—Fundamental Principle of Justice for All,” February 28, 2017
- Senate Health Committee—“The American Health Care Act in California: What’s at Stake,” March 24, 2017

THE PRESIDENT'S CABINET AND OTHER ADVISORS



* Pending confirmation by the U.S. Senate
 ‡ Position also serves as cabinet-level official

Notes: Not all administration positions are included in this organizational chart.
 Cabinet-level officials attend cabinet meetings but are not secretaries of executive departments.

The California Senate Office of Research (SOR) prepared this report at the request of Senate President pro Tempore Kevin de León. The report was prepared by Elizabeth Dietzen Olsen, Kim Flores, Lisa Giroux, Paul Jacobs, Megan Lane, Ted Link-Oberstar, Jody Martin, Julianne McCall, Sara Noceto, Ken Spence, Meg Svoboda, and John Thompson. SOR is a nonpartisan office charged with serving the research needs of the California State Senate and assisting Senate members and committees with the development of effective public policy. It was established by the Senate Rules Committee in 1969. For more information, please visit www.sor.senate.ca.gov or call (916) 651-1500.