

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
Santa Clara Valley Transportation Authority

DATE: January 26, 2009

SUBJECT: Weekly Legislative Update: Week of January 19, 2009

FEDERAL

President Obama's Inauguration: Barack Obama assumed the full weight of the presidency with a nod to his unique place in history, a list of economic and foreign policy problems to fix, and a vow to “begin again the work of remaking America.” The nation’s 44th President said, “The challenges we face are real. They are serious and they are many. They will not be met easily or in a short span of time. But know this, America—they will be met.”

Looking west from the Capitol at a record crowd of about 1.8 million people who swarmed Washington’s National Mall, President Obama pledged to right an economy that lost 2.6 million jobs last year and begin withdrawing U.S. troops from Iraq. Doing that, he stated, would require choosing “unity of purpose over conflict and discord.”

The noontime inauguration of the nation’s first African-American President marked a transfer of power from the stalwart conservatism of George W. Bush to the government activism embraced by Obama and Vice President Joe Biden of Delaware. The new President pledged to create jobs, rebuild roads, and transform schools. “We will harness the sun and the winds and the soil to fuel our cars and run our factories,” he commented. The 47-year-old President also served notice that unlike Bush, whose war on Islamic terrorism included tactics likened to torture, “we reject as false the choice between our safety and our ideals.” He offered “a new way forward” to the Muslim world “based on mutual interest and mutual respect.”

Though his reflections on Bush’s tenure were harsh, the passing of the torch was amicable. It began with morning coffee at the White House and ended as the ex-President boarded a helicopter that would launch his journey home to Texas. The Obamas then walked parts of the Pennsylvania Avenue parade route from the Capitol to the White House, watched the parade slip into darkness and attended Inaugural Balls well into the night. Now, the hard task of governing begins.

President Obama's Inauguration Speech: In the opening lines of his inaugural address, President Obama turned toward his predecessor and thanked him “for his service to our nation” and his “generosity and cooperation” during the transition period since November’s election. In the 18-minute speech that followed, however, he delivered what amounted to a searing indictment of the Bush Presidency. From the economy to national security, the use of science to the distribution of wealth, President Obama promised that a new day with sharply different policies and priorities was about to begin. “That we are in the midst of crisis is now well-understood,” he said as Bush sat a few feet away from him on the Capitol platform. “Starting today, we must pick ourselves up, dust ourselves off and begin again the work of remaking America.”

Not since Franklin Roosevelt rebuked Herbert Hoover in 1933 has an incoming president offered such a stinging critique of the outgoing one in his inaugural address. The economic crisis is a result of “greed and irresponsibility on the part of some,” President Obama said at one point. At another, he commented that the success of the economy depended “not just on the size of our gross domestic product, but on the reach of our prosperity”—a reference to the growing gap between rich and poor even when the economy was robust in recent years. And in a line that brought a reaction from the enormous audience on the National Mall, he declared, “As for our common defense, we reject as false the choice between our safety and our ideals.”

Obama and Bush have differed on anti-terrorism policies, including the U.S. prison at Guantanamo Bay and “enhanced” interrogation techniques that the Obama team views as torture. In his first week, President Obama is expected to sign an executive order to close Guantanamo, despite Bush’s warnings that such “tools” have prevented attacks on American soil.

There was also a swipe at the bitter partisan battles that have shaped Washington politics, as the new President proclaimed an end to “the petty grievances and false promises, the recriminations and worn out dogmas, that for far too long have strangled our politics.”

In the speech that launched his tenure in the Oval Office, President Obama offered a stern assessment of the nation’s plight, and the time and effort it would take to recover. His tone was more cautionary than triumphant, the language plainspoken, the sentences short. While there were inspirational words, the address amounted to a warning that it was time for all Americans to get to work in what he dubbed “a new era of responsibility.”

Former President Bush's Farewell Address: Former President Bush used his farewell address to stress that the nation has not suffered a major terrorist attack since September 11, 2001. However, the threat remains, he said, and will be President Obama’s biggest challenge. Bush, who listed the Iraq war as one of his efforts to combat terrorism, acknowledged that he understands that there is disagreement with some of the “tough decisions” that he made while in office. “But I hope you can agree that I was willing to make the tough decisions,” he commented.

Speaking to about 200 guests in the East Room of the White House, Bush extended his best wishes to President Obama and his family. The election of the nation’s first African-American

President, he said, “reflects the enduring promise of our land” and is “a moment of hope and pride for our whole nation.”

Bush acknowledged experiencing setbacks during his eight-years in the White House, but also listed accomplishments, including the creation of a U.S. Department of Homeland Security, new counterterrorism surveillance laws, the “No Child Left Behind” education bill, prescription drug assistance, and the addition of conservative Justices John Roberts and Samuel Alito to the U.S. Supreme Court. He lamented the financial crisis and pointed out that “we took decisive measures” to prop up the struggling credit markets. “The toll would be far worse if we had not acted,” he noted.

Financial Markets: The Senate voted to release the remaining \$350 billion of the historic \$700 billion financial rescue law, despite objections from GOP lawmakers who called the law a failure. Senators voted 52-42 against blocking the money. Thirty-three Republicans opposed the aid, along with eight Democrats and one Independent.

The vote was a victory for President Obama, who personally lobbied senators for the funds. “I know this wasn’t an easy vote because of the frustration so many of us share about how the first half of this plan was implemented,” he said. “There was too little transparency and accountability.” In a letter to Congress, President Obama vowed to use \$50 billion to \$100 billion of the funds to prevent home foreclosures, require assisted banks to disclose more data, and work to increase lending. He acknowledged anger over the fact that part of the initial \$350 billion was used to bail out the auto industry, saying he would not use the funds “to implement an industrial policy.”

Congress approved the \$700 billion rescue package in October, after Treasury Secretary Henry Paulson and Federal Reserve Chairman Ben Bernanke said it was crucial to prevent a financial meltdown. Paulson said he would use the money to buy troubled assets weighing down the balance sheets of financial firms. However, rather than buying assets, Paulson ended up using \$192 billion to shore up 257 banks. He claimed that this move helped to stabilize the financial markets, but lawmakers were incensed.

STATE

State of the State Speech: Calling for “a year of political courage,” Gov. Arnold Schwarzenegger asked for nothing in his State of the State speech except for a solution to California’s deepening budget woes. In a 13-minute emotional pitch to lawmakers to act now on passing the budget, he commented, “I will not give the traditional State of the State address today because the reality is that our state is incapacitated until we resolve the budget crisis. The truth is that California is in a state of emergency. Addressing this emergency is the first and greatest thing we must do for the people. The \$42 billion deficit is a rock upon our chest, and we cannot breathe until we get it off.”

Gov. Schwarzenegger said he would not deliver the traditional laundry list of gubernatorial goals that usually populate State-of-the-State speeches until he and legislative leaders have reached an agreement on a plan to close the deficit that California faces over the rest of this fiscal year and

the one that begins on July 1. “It doesn’t make any sense to talk about education, infrastructure, water, health care reform, and all these things when we have this huge budget deficit. I will talk about my vision for all of these things ... and more ... as soon as we get the budget done. When the budget agreement is reached, when some of the raw emotions have passed, I will send to the Legislature the package of legislative goals and proposals that a Governor traditionally sends.”

On-again, off-again negotiations over deficit-closing plans have dragged on since last fall, and three plans have been shot down either by Republican legislative intransigence over tax increases, Democratic legislative refusal to make deeper cuts or waive environmental rules on public works projects, or gubernatorial vetoes. The Governor’s latest plan proposes \$17.4 billion in spending cuts, \$14.3 billion in revenue increases, and \$10 billion in borrowing to close the shortfall through June 2010.

In his sixth, and next-to-last, annual kick-off speech, Gov. Schwarzenegger told other constitutional officers, lawmakers and onlookers in the Assembly Chambers that the inability to solve the fiscal crisis has resulted in the suspension of state funding for 2,000 construction projects around the state that were already underway. The projects stopped when state officials determined that California might need to divert money for them to pay ongoing operating expenses for schools and other vital state services. “So now, the bulldozers are silent. The nail guns are still. The cement trucks are parked. This disruption has stopped work on levees, schools, roads, everything,” the Governor said. “It has thrown thousands and thousands of people out of work at a time when our unemployment rate is rising.”

The seemingly intractable budget crisis has generated much academic, journalistic and political debate on whether the state is endemically ungovernable, and needs a fundamental structural makeover, possibly through a constitutional convention. Gov. Schwarzenegger alluded to that debate in his State of the State address, saying, “People are asking if California is governable. They wonder about the need for a constitutional convention. They don’t understand how we could have let political dysfunction paralyze our state for so long. It’s not that California is ungovernable. It’s that for too long we have been split by ideology. Conan’s sword could not have cleaved our political system in two as cleanly as our own political parties have done. Over time, ours has become a system where rigid ideology has been rewarded and pragmatic compromise has been punished.”

Gov. Schwarzenegger won voter approval last year of a measure that shifts the redrawing of legislative districts every 10 years to an independent commission. He is toying with additional ballot initiatives, including non-partisan legislative primaries that would allow moderates and independents to exert more influence. And in his State of the State speech, he hinted that withholding pay for legislators if they stall on the budget might be one of those measures. “In the last 20 years of budgeting, only four budgets have been on time,” he noted. “We should make a commitment that legislators—and the governor, too—lose per diem expenses and our paychecks for every day the budget goes past the constitutional deadline of June 15th. I mean, if you call a taxi and the taxi doesn’t come, you don’t pay the driver. If the people’s work is not getting done, the people’s representatives should not get paid either. That is common sense in the real world.”

State Budget: Controller John Chiang said California’s cash crunch would allow him to make school, college and some welfare payments, but would force him to delay \$3-plus billion in other payments, including those for state income tax refunds, and many health and welfare programs. “For months, I have warned state leaders that our cash flow will be in serious danger this spring,” Chiang pointed out. “Without corrective action from the Governor and Legislature, there is no way to make it through February unscathed.”

Although the state would be just \$346 million short of cash needed to make all payments in February, Chiang said he is deferring about one-third of the total to preserve cash for education, debt service and other payments that are deemed by the state Constitution, federal law or court rulings as having first claim on available cash. “I take this action with great reluctance,” he commented. “I know it will put many California families who rightfully expect their state tax refunds in a desperate position. Individuals who already are vulnerable will be hit hard. Small businesses that don’t get paid may have to lay off more workers. Rather than helping stimulate the economy, withholding money from Californians will prolong our pain and delay our economic recovery.”

In addition, Chiang announced that he has launched a special working group with the financial industry to study how California will issue IOUs if it runs out of cash next month. The group’s aim is to identify and work out potential problems that could arise with IOUs before they start circulating. IOUs have caused headaches for the state in the past. California issued \$350 million worth of IOUs to 100,000 recipients in 1992 during a budget impasse between then-Gov. Pete Wilson and the Legislature. A four-year legal battle ensued after some workers had trouble cashing them. The dispute was settled in 1996 with some state workers getting paid time off for the inconvenience that they experienced. So far, individual banks statewide have not decided yet whether they will accept the state IOUs this time around.

Finally, the Schwarzenegger Administration is preparing legislative language to postpone payments of Highway User Tax Account gas tax funds until mid-April. These funds, which are used for local street/road projects in cities and counties, would be repaid in September or October of this year. This move would “free up” approximately \$750 million for the state as it struggles to maintain cash flow through the remainder of the current fiscal year. Furthermore, the proposal would delay the 4th quarter disbursement of the county/city portion of Proposition 42 local street/road payments that are normally due in June, with a repayment scheduled for October.

NOTE: Also contributing to this report were Susan Lent with Akin, Gump, Strauss, Hauer & Feld; Mark Watts with California Strategies; and Scott Haywood, VTA’s Policy and Community Relations Manager.