**Trump Administration Begins Rollback of DACA Program —
What Happens Now?**

By Ball/Frost Group, LLC

On Tuesday September 5th, Attorney General Jeff Sessions announced that the Deferred Action for Childhood Arrivals (DACA) program would be ended with a six-month delay to allow the Congress time to act on a replacement. The DACA program began in 2012. Under the administration's action, the Department of Homeland Security will no longer accept new DACA applications, and those who currently hold a DACA permit will not be able to renew them if they expire after March 5, 2018. Prior to this action, DACA protections are renewable indefinitely, as long as the applicant is not convicted of a crime. DACA does not provide a path to citizenship and does not allow recipients to vote.

The elimination of the DACA program had been a major campaign pledge from candidate Trump, but there was hope for DACA supporters when the President indicated over the last few months that he was undecided on how to handle the program and that he would "act with much heart" in deciding what action to take. The action by the Justice Department, with the issue being kicked to the Congress, has now created a major political battle and thrown one more contentious issue into the lap of a Congress that has a series of critical issues facing in the final months of the session. These issues include disaster funding for the Houston area as a result of Hurricane Harvey, an extension of the debt ceiling (which will need Democratic votes to pass), tax reform and perhaps one more effort at health care reform.

United States Senator Dick Durbin (D-Ill.) on Sunday said this week's pressure on the Trump administration to either defend or rescind the DACA program is a "crisis manufactured by Republicans." September 5th was the deadline given to the President to act on DACA before a group of eight attorneys general would file suit in federal court on the DACA program. In a series of tweets calling for President Trump to defend the program, Durbin warned of the consequences of ending it. Raising the main argument for maintaining the program, Durbin tweeted "I call on @POTUS to keep his promise to Dreamers and #defendDACA. #DACA protects 800,000 young immigrants who are American in every way except their immigration status."

Is Congress Likely to Act?

The decision to push the DACA program off for six months and allow the Congress time to enact a successor policy had long been the approach many members of Congress supported. There are supporters of DACA in both

parties and many have worked together on legislation that would maintain the program. Both leaders, Senator McConnell and Speaker Paul Ryan have both expressed sympathy for the plight of the "Dreamers." However, there are very few important issues in Washington DC that are dealt with without the inevitable attachment of additional trade-off issues being added as a point of leverage. As an example, Republican Tom Cotton (R—Arkansas) has openly floated the trade-off of protecting DACA recipients in trade for the Democrats support for the funding for a boarder wall or a tougher set of immigration laws. Democrats in both houses have quickly stated that Dreamers are not to be used as a bargaining chip. Still there are other members of Congress that are looking for a more independent solution. A coalition of senators, including Lindsey Graham (R—South Carolina), Lisa Murkowski (R—Alaska), Jeff Flake (R—Arizona) and Dick Durbin, have introduced a bi-partisan bill that could serve as the outline for a final compromise.

In addition, there were 46 Republican members of Congress who sent tweets over the weekend seeking a legislative solution to the DACA repeal. Even with this bi-partisan group seeking a stand-alone solution to the DACA repeal, well connected immigration advocates are predicting a "30—70 percent chance" that Congress will successfully pass legislation that would essentially codify DACA. This same advocate indicated to Politico that "I just don't think we can make the mistake of assuming the opposition isn't formidable, even if we have some conservative support." However, given the important leverage and political consequences the issue brings, a negotiated deal is, far more likely.

With a DACA Repeal in the Balance, What Will California be doing?

It seems that California has been preparing for the Trump Administration's real of DACA for months. When Governor Brown appointed Congressman Xavier Becerra as the new Attorney General, the Congressman made it clear that he would represent the state in court in an effort to support and protect California's recipients of DACA. Both he and the Governor have expressed their willingness to fight this battle publicly and in the courts. Attorney General Becerra has indicated in recent days in interviews that he is "prepared to use every tool at our disposal and look at every option available to us to try to protect people who built California. We are prepared to defend the DACA program in court. However, the path to defending the program is likely to be challenging. The state's legal authority, however, could be limited in an effort to impact national immigration policy. But, California will no doubt be joined by attorneys generals in many other states, including New York.

On a different but complementary action, Mr. Becerra sued the Justice Department in August over the Trump Administration's plan to cut off millions of dollars in federal funding to so-called sanctuary cities unless they began to cooperate with federal immigration agents. California's suit argues that the threat made by Attorney General Jeff Sessions, undermines public safety and violates the Constitution. Mr. Sessions has bluntly stated that "if local governments wanted the Justice Department's money, they had to agree to allow federal immigration agents to interview immigrants at their jails and to give federal authorities 48 hours' notice before releasing anyone with potential immigration violations." Mr. Sessions accuses officials in sanctuary cities of protecting dangerous criminals from immigration authorities. To counter-argue Mr. Session's point, officials in sanctuary cities have stated that their communities are safer when immigrants trust local authorities to report crimes and serve as witness without fear of deportation.

According to the Justice Department, their immigrant policy is to focus on illegal immigrants that have a criminal record or a history of violence. Where the DACA students fall into this priority list is not yet known. The California Legislature's efforts on issues like creating sanctuary state status is still moving. Governor Brown, while expressing some concerns about the bill, has been talking with Senate President Pro Tem Kevin De Leon, author of SB 54. In October, SB 54 could be signed into law which could make it much harder for DACA recipients to be deported. Additionally, there seems to be a strong push by California's institutions of higher education to keep the door open to DACA students. "Our doors will be wide open for all eligible undocumented students. They are welcome and wanted" stated Long Beach State University President Jane Close Conoley. Currently, it is estimated that 72,300 undocumented students are enrolled at UC, CSU and the community colleges systems.

Summary

Now that the Trump Administration has moved to eliminate the DACA program, it is not time to assume the worst. There is significant support for the DACA recipients including some of the largest businesses in the nation, including Apple and Google. Additionally, there are two Republican California Congressional representatives, Jeff Denham (R–Modesto) and David Valadeo (R–Hanford) that have actively supported the DACA program. The National Republican Congressional Campaign Committee is well aware that the DACA issue could cause significant losses for Republicans in the House in 2018. While the reauthorizing the DACA program will be difficult and could get leveraged over a series of other issues, there is a strong chance that the

program will be maintained. We will keep everyone informed as this process plays itself out.