



**To:** Members of the RCRC Board of Directors  
**From:** Staci Heaton, Acting Vice President Governmental Affairs  
Sheryl Cohen, Partner, American Continental Group  
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**Date:** April 26, 2021  
**Re:** State and Federal Legislative Update

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### **Summary**

This memo provides an update on issues being addressed at the state and federal level.

### **State Legislative Update**

The Legislature reconvened from Spring Recess on April 5, 2021 and continues to move bills through their house of origin. Members of the Assembly were informally asked to limit the number of introduced bills to twelve; however, many members have far surpassed that number. Indications are that Assembly committees will not be granting hearings for a number of bills due to coronavirus (COVID-19) related restrictions on hearing rooms and public comment capacity. California continues to grapple with the spread of COVID-19, and the Legislature continues to focus on COVID-19 relief efforts as well as addressing homelessness/housing and wildfire prevention measures.

Policy committees must pass all fiscal bills in their house of origin by April 30, 2021, and non-fiscal bills by May 7, 2021. Assembly and Senate Appropriations Committees must pass fiscal bills to their respective floors by May 21, 2021, and bills must pass their house of origin by June 4, 2021.

A number of bills have been introduced and are at various stages in their houses of origin. These include:

- Assembly Bill 9 (Wood) which would codify the Regional Forest and Fire Capacity program at the Department of Conservation.
- Assembly Bill 37 (Berman) which would make California a statewide universal vote-by-mail state.
- Assembly Bill 332 (Quirk) which allows for the alternative management of treated wood waste.
- Assembly Bill 339 (Lee) which adds onerous requirements to the Brown Act for local agencies related to participation in public meetings.

- Assembly Bill 1344 (Arambula) which exempts needle and syringe exchange programs from provisions of the California Environmental Quality Act. The bill previously would have exempted those programs from public nuisance claims, to which RCRC was opposed, but was amended to remove RCRC's opposition.
- Senate Bill 55 (Stern) which would have prohibited all commercial and residential development in Very High Fire Hazards Severity Zones and State Responsibility Areas. This measure has become a two-year bill.
- Senate Bill 99 (Dodd) which creates a grant program to help local governments develop community energy resiliency plans and expedite the permitting of distributed energy resources to improve local power resiliency.
- Senate Bill 261 (Allen) which sets additional regional targets for reductions in vehicle miles traveled by 2035.

### **Federal Legislative Update**

#### **The American Rescue Plan**

On March 12, 2021, Congress sent the final \$1.9 billion COVID-19 relief proposal, the American Rescue Plan (ARP), to President Biden for his signature after months of deliberation. The President promptly signed the bill into law. The near 700-page bill contains funding for a wide number of items – unemployment assistance, direct payment of monies to qualified residents, and monies for economic development to name just a few.

For RCRC, perhaps the most important aspect of ARP is the component that provides state and local financial assistance. There were some noteworthy last-minute changes to the state and local funding as it secured passage in the U.S. Senate. Most notably, there will be \$65.1 billion in direct, flexible aid for every county, parish, and borough in the U.S. A county's allocation will be distributed in two tranches with states and localities receiving 50 percent of the funds up front (most likely to arrive into county coffers in mid-to-late May) and the remaining amount made available 12 months later. Localities with a high proportion of unemployed individuals could be eligible to receive their first and second allotments simultaneously. This eligibility for a state to receive its second tranche of funding based on unemployment will come at the discretion of U.S. Treasury Secretary, Janet Yellen. A County Allocation Projections Spreadsheet provided by the National Association of Counties can be found [here](#).

In addition, ARP includes a \$10 billion fund for state broadband infrastructure projects. It is unclear how these monies will be fully allocated; however, each state will receive a minimum of \$100 million with the remaining balance allocated under a complex formula.

Also, the relief package contains a new \$2 billion annual public lands program. This program was championed by Senate Finance Chair Ron Wyden (D-Oregon) for "communities and tribal governments that have historically been harmed by federal government policies." The new program will include \$1.5 billion for eligible counties and \$500 million for tribes over the next two years and, "takes into account economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic

indicators, over the 20-year period ending with September 30, 2021.” Senator Wyden will work with Finance Committee Ranking Member Mike Crapo (R-Idaho), U.S. Treasury Secretary Janet Yellen, and counties to set up the new program to make payments based on economic conditions in each county. Notably for RCRC, these eligible revenue share counties include public land counties that receive Payments in Lieu of-Taxes and Secure Rural Schools payments, with \$750 million allotted each year for federal Fiscal Years 2022 and 2023.

The ARP will also provide California with:

- Approximately \$15 billion to help California’s K-12 schools reopen safely and comply with CDC guidelines.
- \$5 billion to California colleges and universities, half of which must go to emergency financial aid to students.
- \$3.8 billion to stabilize California’s childcare sector and make childcare more affordable for families.
- \$4.6 billion to ensure access to safe, reliable transit services in California.

### The American Jobs Plan

Subsequent to signing the ARP, President Biden released his comprehensive infrastructure and climate proposal, the American Jobs Plan (AJP). The AJP represents a one-time, large-scale investment in infrastructure, covering policy on transportation infrastructure, climate change, rural broadband, the electric grid, workforce development, and clean drinking water. The AJP would amount to an investment of about 1 percent of the gross domestic product per year over eight years.

Notably, a vehicle miles traveled (VMT) tax was not included in President Biden’s plan as an option to pay for the \$2.25 trillion package. Nevertheless, this plan merely serves to table-set negotiations between Congressional Democrats and Republicans and does not represent the final proposal that will be enacted. Therefore, a VMT is still likely to be debated and even possibly enacted as Congress begins its formal negotiations on a final package.

On the Republican side, on April 22, 2021, Senators Shelley Moore Capito (R-West Virginia), Roger Wicker (R-Mississippi), Pat Toomey (R-Pennsylvania), and John Barrasso (R-Wyoming) unveiled the Senate Republican counterproposal to President Biden’s \$2 trillion infrastructure plan. The counteroffer, which would carry a \$568 billion price tag over five years, targets more traditional infrastructure projects, including \$299 billion for roads and bridges, \$61 billion for public transit systems, \$20 billion for rail, \$35 billion for drinking and wastewater, \$13 billion for safety, \$17 billion for ports and inland waterways, \$44 billion for airports, and \$14 billion for water storage. The framework also includes \$65 billion for broadband infrastructure, the only “non-traditional” infrastructure item included in the proposal. The framework released by GOP lawmakers proposes paying for the plan by repurposing unused federal spending from prior COVID-19 relief packages as well as through new user fees imposed on those who use the infrastructure. The specifics of this pay-for proposal and how it relates to other congressional calls for a

VMT tax remain unclear, however the Republican proposal would also include user fees for electric vehicles which some Democrats oppose.

This Republican proposal is unlikely to be entertained by Democrats due to its shortfalls both in terms of amount spent and priorities addressed. Nevertheless, some Democrats have expressed an interest in dividing the White House's infrastructure plans into two bills, one of which might be designed to attract bipartisan support. This latest GOP proposal does include improvements to public transit systems, wastewater infrastructure, and broadband — a slight nod to a more expansive definition of infrastructure favored by Democrats.

Additionally, a second economic proposal, *The American Family Plan*, will be released in the coming days and is expected to include a number of priorities critical to congressional Democrats, such as a major expansion in health insurance coverage, subsidies for childcare and free access to community colleges, among other measures.

#### The Highway Trust Fund and Possible Vehicle Miles Traveled Tax

On April 14, 2021, the Senate Committee on Environment and Public Works held a hearing on the, "Long-term Solvency of the Highway Trust Fund: Lessons Learned from the Surface Transportation System Funding Alternatives Program and Other User-based Revenue Solutions, and How Funding Uncertainty Affects the Highway Programs." The hearing largely focused on the failures of the current highway trust fund system and what steps can be taken to ensure an equitable and resilient future transportation system in the US.

Witnesses generally agreed that the current highway trust fund system needs to be greatly reformed and restructured in order to pay for current operations as well as be expanded to support of the large-scale infrastructure projects that have been discussed as part of President Biden's American Rescue Plan. Witnesses spoke at length about a VMT tax, the various state pilot programs and implementation challenges they have faced, privacy concerns that need to be addressed, as well as the successes of these programs and how their results can lead to a future federal pilot program. Additional discussion surrounded the use of private funds to offset traditional government investment in infrastructure projects as well as the necessity to ensure equity for rural and low-income residents in any future pay-for structure.

A VMT tax is expected to be negotiated as part of President Biden's American Jobs Plan.

#### US Forest Service Chief Warns House Appropriators of Wildfires

On April 15, 2021, U.S. Forest Service Chief Victoria Christiansen appeared before the House Appropriations Committee's Interior-Environment subcommittee to discuss the Biden administration's fiscal 2022 budget request for the agency. [During her testimony](#), Christiansen highlighted that it will take a significant increase in resources to affect a "paradigm shift" in reducing wildfire risk, but that every dollar spent on fire prevention saves \$35 in suppression costs and wildfire-related losses. Chief Christiansen added that the Forest Service is anticipating another long and arduous fire season in 2021 coming

off of very difficult 2020 that combined a harsh fire season with the additional challenges of fighting fire during a pandemic.

#### Removal of SALT Tax Deduction

On April 19, 2021, Representative Josh Gottheimer (D-New Jersey) — one of the leading advocates for the repeal of the cap on the state and local tax (SALT) deductions — stated that the repeal of SALT deductions “could be offset by cracking down on tax cheats,” the first proposal from Democrats as a way to pay for the loss of tax revenue generated under the current cap. Gottheimer stated that increasing funding for the Internal Revenue Service to boost enforcement efforts, could yield enough money to pay for reinstating the full SALT deduction as well as a portion of President Biden’s \$2.25 trillion infrastructure package.

Additionally, in April 2021, a group of California House Democrats sent a [letter](#) to President Biden urging him to undo the cap on SALT deductions in his infrastructure legislation. The letter from the California delegation follows a separate letter sent from the New York House delegation earlier last week. However, while the New York lawmakers threatened to oppose the infrastructure bill entirely if it does not repeal the SALT deduction cap, the California Democrats stopped short of making a similar threat in their letter while advocating for the cap's removal. Forty-one House Democrats from California — all but Speaker Nancy Pelosi — signed onto the letter.

#### Cannabis Banking Legislation Passes the House

On April 19, 2021, the House passed the [SAFE Banking Act](#) by a vote of 321-101. The bill would allow banks and financial institutions to legally work with cannabis businesses in states where marijuana is legalized. It also confirms that proceeds from legitimate cannabis businesses will not be considered illegal and directs federal regulators to craft rules for how they would supervise such banking activity. The legislation now heads to the Senate, where Senate Majority Leader Chuck Schumer (D-New York) has said it will receive a vote and has himself expressed his support for the bill on numerous occasions. However, even if the bill is able to pass the extremely slim margins of the Senate, President Biden has not yet committed to signing it into law. On Tuesday, White House Press Secretary Jen Psaki declined to say whether President Biden would sign or veto the bill, noting that his cannabis policy position is at odds with broader criminal justice proposals that congressional Democratic leaders are working on. White House Press Secretary Psaki states: “The president supports leaving decisions regarding legalization for recreational use up to the states, rescheduling cannabis as a Schedule II drug so researchers can study its positive and negative impacts and, at the federal level, he supports decriminalizing marijuana use and automatically expunging any prior criminal records.”

#### California Senators Support Using COVID-19 Relief for Local Governments, Special Districts

Earlier in April 2021, Senators Dianne Feinstein and Alex Padilla sent a [letter](#) to California state government leaders encouraging them to use funds from the recently passed COVID-19 relief bill, the American Rescue Plan, to support special districts and other

units of state and local government. It is projected that California's special districts will have a budget shortfall of at least \$2.4 billion by the end of 2021.

**Staff Recommendation**

Information only. RCRC staff continues to work on state legislative items that impact California's rural counties. Also, RCRC's federal advocacy team continues to engage on issues of importance at the federal level.