PARAGON
GOVERNMENT RELATIONS

FEDERAL LEGISLATIVE UPDATE

SEPTEMBER 2021

PREPARED FOR THE CALIFORNIA STATE ASSOCIATION OF COUNTIES

The 117th Congress is currently in recess, with members of the Senate and House scheduled to return to Capitol Hill on September 13 and 20, respectively. Following the summer break, both chambers are expected to begin consideration of a $3.5 trillion spending measure that will embody much of President Joe Biden's economic agenda, known as the *American Families Plan* (AFP).

In August, both chambers approved along party lines a fiscal year 2022 budget resolution (S Con Res 14) that includes language directing authorizing committees to turn the tax and spending framework of the AFP into legislative text. All told, a dozen House committees and 13 committees in the Senate have jurisdiction over the various policy matters that are addressed in the budget resolution. Once the individual bills have been written, and subsequently combined into a single package, congressional Democrats plan to use the filibuster-proof budget reconciliation process to advance the legislation.

In addition to the reconciliation bill, the House is expected to act on the Senate's $1.2 trillion infrastructure measure. The bipartisan legislation (HR 3684), which was cleared by the upper chamber on August 10, includes a large infusion of new investment for roads, bridges, ports, broadband, aviation, and other infrastructure. While some lawmakers in the House favor taking an up or down vote on the Senate bill, a number of members want to make substantive changes to the measure, including adding key elements of the House-passed surface transportation package (the *INVEST in America Act*). Notably, House Speaker Nancy Pelosi (D-CA) has committed to holding a vote on an infrastructure bill by September 27.

To follow is a topline summary of the investments that are expected to be part of the forthcoming $3.5 trillion AFP legislation. Also included in this report is a summary of the Senate infrastructure bill, as well as a status report on a number of other key issues.

FY 2022 BUDGET RESOLUTION/AFP INVESTMENTS

Child Care – The AFP calls for providing direct support to families to ensure that low- and middle-income families spend no more than seven percent of their income on child care, and that the child care they access is of high-quality. The plan also would ensure that child care workers receive a minimum wage of $15 an hour.

Nutrition Programs – The administration is proposing $45 billion to expand nutrition benefits for low-income children by increasing access to the summer meals program and expanding free school meals for children in high-poverty school districts. The plan also would make individuals convicted of drug offenses eligible for SNAP benefits after their incarceration.

Tax Credits – The proposal would extend key tax cuts included in the *American Rescue Plan Act* (ARPA) that benefit lower- and middle-income workers and families, including the Child Tax Credit through 2025, the Earned Income Tax Credit, and the Child and Dependent Care Tax Credit. The proposal also would extend the expanded health insurance tax credits that were included in ARPA.

Paid Family and Medical Leave – The White House plans call for the creation of a national paid family and medical leave program. Pursuant to the proposal, leave could be used to care for a new child, deal with a personal or family illness, bereavement, or another serious reason. The $225 billion investment would guarantee up to 12 weeks of paid leave by the tenth year of the program (and three days for bereavement annually to begin in the first year). Workers would be eligible for up to $4,000 a month. At a minimum, employees would receive at least two-thirds of their average weekly wages. In addition, the proposal calls on Congress to approve legislation (HR 2465; S 1195) that would require certain employers to allow their employees to accrue seven days of paid sick leave annually.

Universal Pre-School – President Biden is requesting $200 billion to provide free universal pre-school for all three- and four-year-olds. The plan would be in partnership with states and would focus on high-need areas. It should be noted that the proposal would provide that employees participating in pre-school and Head Start programs receive a minimum wage of $15 per hour.

Free Community College – The plan includes $109 billion to provide two years of free community college to all Americans, including "Dreamers."

Housing Investments – The administration has called for investing $213 billion through a range of programs to produce, preserve, and retrofit more than two million affordable and sustainable places to live. House Financial Services Committee Chairwoman Maxine Waters (D-CA) has introduced a number of bills that encompass the proposals, including the *Housing is Infrastructure Act* (HR 4497) and the *Ending Homelessness Act* (HR 4496).

Medicaid Home and Community Based Care – The Biden jobs plan includes a $400 billion initiative to expand access to home and community-based care services for aging Americans and persons with disabilities so that they may remain in their homes instead of residing in a long-term care facility.

Immigration/Farm Workforce Modernization Act – The Senate budget resolution instructs the Judiciary Committee to write language for the forthcoming reconciliation bill that would provide lawful permanent resident status for certain qualified immigrants, namely agricultural and other essential workers, Dreamers, and individuals with Temporary Protected Status (TPS). The language is expected to reflect key terms of the *Farm Workforce Modernization Act*, which would authorize a Certified Agricultural Worker program for undocumented individuals. Under the program, workers would be eligible to earn permanent legal status for themselves and their dependent family members through continued agricultural employment.

It should be noted that the Senate parliamentarian is responsible for reviewing the legislative text that will be produced by the various authorizing committees and must make a determination regarding which provisions are eligible to be included in the final reconciliation package. Per the rules governing the reconciliation process, it remains unclear whether any of the pending changes to immigration law will be retained in the final bill.

SENATE INFRASTRUCTURE INVESTMENT AND JOBS ACT

After months of negotiations, the Senate approved on August 10 a massive bipartisan infrastructure bill (HR 3684). The legislation, entitled the *Infrastructure Investment and Jobs Act*, was cleared on a 69-30 vote, with 19 Republicans joining the entire Senate Democratic Caucus in supporting the measure.

The legislation includes a five-year, $383.4 billion surface transportation reauthorization measure, as well as funding for a broad array of infrastructure priorities, including: water, broadband, rail, aviation, grid infrastructure, resiliency, and electric vehicles. All told, the bill would invest $550 billion in new spending over five years, and approximately $1.2 trillion over an eight-year timeframe.

The legislation's newly authorized spending would be partially offset by extending the annual sequestration of mandatory funding, blocking a drug rebate rule, selling oil from the Strategic Petroleum Reserve, and requiring transactions of certain digital assets to be reported to the IRS, among other pay-fors. According to the Congressional Budget Office (CBO), the bill would add an estimated $256 billion to projected deficits over the 2021-2031 period. Notably, the CBO did not estimate how the macroeconomic effects of the legislation would impact the federal budget.

SURFACE TRANSPORTATION

For fiscal years 2022 through 2026, HR 3684 would provide $273.15 billion in Highway Trust Fund (HTF) contract authority for highways, roads and bridges. Funds would be apportioned to states through nine core highway formula programs, as follows:

FEDERAL AID HIGHWAY PROGRAMS	Five-Year Funding Total
National Highway Performance Program	$148 billion
Surface Transportation Block Grant Program	$72 billion*
Highway Safety Improvement Program	$15.56 billion
Congestion Mitigation and Air Quality	$13.2 billion
PROTECT Program**	$7.3 billion
National Highway Freight Program	$7.15 billion
Carbon Reduction Program**	$6.41 billion
Metropolitan Planning	$2.28 billion
Railway-Highway Crossing Program	$1.23 billion

**Represents total funding before Transportation Alternatives Program (TAP) set-aside.*
***The Promoting Resilient Operations for Transformative, Efficient and Cost Saving Transportation (PROTECT) Program and the Carbon Reduction Program represent new core programs.*

Surface Transportation Block Grant Program (STBGP)
The STBGP provides one of the most flexible federal highway funding sources for counties to support and maintain locally owned and/or operated transportation infrastructure, including roads and bridges. Under HR 3684, several new types of projects would be eligible for STBGP dollars, including resiliency improvements, wildlife collision mitigation measures, the installation of electric vehicle charging infrastructure, and measures to protect a transportation facility from cyber threats.

In addition, the bill would increase the amount of STBGP funds set aside for local off-system bridges (up from 15 percent to 20 percent of a state's FY 2009 share of Highway Bridge Program funding). This would translate into a $1.035 billion annual investment for off-system bridges (or $5.18 billion over five years). *Please see the following section for additional information on bridge funding.*

HR 3684 also would increase funding for the Transportation Alternatives Program (TAP) (for a total of $7.2 billion over five years). Under the bill, 10 percent of a state's entire STBGP allocation – before other set-asides – would be allocated for TAP. States also would be required to sub-allocate 59 percent of TAP funds to local governments based on population (up from 50 percent), with an option for states to sub-allocate up to 100 percent. TAP funds can be used to carry out projects that include planning, design and construction of trails, environmental mitigation activities to address stormwater management, and the construction of overlooks, among other uses.

Bridge Investment
The Senate infrastructure measure would authorize a total of $43.265 billion for a new Bridge Investment Program (BIP). Of the total, $27.5 billion would be HTF *formula* funding to states and $15.765 billion would be authorized for competitive grants ($9.235 billion in guaranteed appropriations, $3.265 billion from the HTF, and $3.265 would be available in future years from the General Fund). The federal share would be up to 50 percent for large projects (those that cost more than $100 million) and 80 percent for other projects.

With regard to the $27.5 billion formula portion of the BIP, funds would be allocated to states based on their relative share of costs to: *replace all bridges in poor condition* (75 percent of the formula); and, *rehabilitate/repair all bridges in fair condition* (25 percent of the formula). As is the case with the STBGP, 15 percent of BIP funds would be set-aside for off-system bridges.

Other Key FHWA Programs in HR 3684

- **Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grants** – The bill includes a total of $12.5 billion for RAISE grants, referred to in HR 3684 as National Infrastructure Investments ($7.5 billion for projects with significant local or regional effects and $5 billion for multimodal projects of national or regional significance).
- **Infrastructure for Rebuilding America (INFRA) Grant Program** – The legislation provides $8 billion for INFRA grants over five years ($3.2 billion in appropriated funding and $4.8 billion from the HTF) to support highway and rail projects of regional and national economic significance.
- **Rural Surface Transportation Grant Program*** – HR 3684 would establish a Rural Surface Transportation Grant Program, which would be funded at $2 billion over five years. The bill defines a rural area as "an area outside an urbanized area with a population over 200,000." Eligible counties could apply directly to USDOT for these funds to carry out a wide variety of

highway and bridge projects that increase connectivity, improve safety, and facilitate the movement of goods and people at a federal cost share of 80 percent. Counties could also bundle projects.

- **National Infrastructure Project Assistance Grant Program*** – The program, funded at a total of $10 billion, would support multi-modal, multi-jurisdictional projects of national or regional significance.
- **Stopping Threats on Pedestrians*** – The bill would establish a $25 million grant program, funded at 100 percent federal share, to address threats to pedestrians.
- **Wildlife Crossings Pilot Program*** – Under the $350 million program, local governments could apply for grants to carry out projects that reduce wildlife collisions and/or improve habitat connectivity.
- **Reconnecting Communities Pilot Program*** – The $1 billion program would focus on removing or mitigating physical infrastructure barriers, including within communities, to improve accessibility and facilitate economic development.

*Represents ***new*** grant program.

Public Transit

HR 3684 includes $69.9 billion in contract authority from the mass transit account of the HTF from fiscal 2022 through 2026. The fiscal 2022 allocation would be $13.4 billion, compared with $10.2 billion for fiscal 2021. Funding allocations over the five-year period include:

- $33.5 billion for Urbanized Area Formula Grants;
- $18.4 billion for the State of Good Repair Grants Program for upgrading older rail and bus systems in urbanized areas;
- $4.58 billion for public transportation in rural areas;
- $3.16 billion for bus and facility formula grants;
- $2.34 billion for low- or zero-emission bus grants. At least 5% would be used for training workers to use the buses; and,
- $1.94 billion for improving transit services for seniors and individuals with disabilities in urbanized and rural areas.

The bill also would provide *additional* appropriations for key transit programs, including $8 billion for the Capital Investment Grant Program and $10.25 billion for FTA Transit Infrastructure Grants.

Manual on Uniform Traffic Control Devices (MUTCD)

HR 3684 directs the Department of Transportation to update the MUTCD within 18 months of bill enactment and every four years thereafter. Notably, the legislation would eliminate the current requirement that local roads need to conform to State standards and would instead allow local governments to use the roadway design of their choice, as long as it is approved by the FHWA.

AVIATION

HR 3684 includes $15 billion over five years for the Airport Improvement Program (AIP) and would be distributed annually in the following manner:

- no more than $2.4 billion through formulas to primary airports;
- no more than $500 million apportioned for general aviation and commercial service airports; and,
- $20 million for recipients of contract tower program competitive awards.

The bill also would create a new "groundside" competitive grant program for airport improvements. The program would provide $1 billion annually over five years for competitive awards to carry out projects to improve aging infrastructure of airport terminals, including on-airport rail access projects and relocating, reconstructing, repairing or improving airport-owned traffic control towers. The federal cost share would total 80 percent for large and medium-size airports and 95 percent for small and non-primary airports. Projects that would increase access and capacity would be prioritized.

BROADBAND

The infrastructure package includes a total of $65 billion in funding for broadband infrastructure, including the following:

Broadband Equity, Access and Deployment Program ($42.45 billion) – Under the program, states would make competitive grants to entities to carry out broadband infrastructure, data collection, mapping, and adoption projects. Pursuant to HR 3684, each state would receive a minimum of $100 million, with the remaining funds allocated based on each state's relative number of unserved and high-cost locations. All qualifying projects would need to meet a minimum download/upload standard of 100/20 megabits per second. In order to increase broadband affordability, all grant recipients would be required to offer a low-cost plan option.

Notably, the legislation would require each state to submit a five-year action plan, which would need to be "informed by collaboration with local and regional entities."

Enabling Middle Mile Broadband Infrastructure ($1 billion) – The bill would create a grant program for the construction, improvement or acquisition of middle-mile infrastructure, defined as "any infrastructure that does not connect directly to an end-user location, including an anchor institution." Counties would be eligible to receive a direct grant.

Digital Equity Competitive Grant Program ($1.25 billion) – The bill provides $250 million annually for competitive grants to counties and other public and nonprofit entities for a wide range of digital inclusion and broadband adoption activities.

State Digital Equity Capacity Grant Program ($1.5 billion) – HR 3684 would create a State Digital Equity Capacity Program to support implementation and digital inclusion initiatives. Funds would be distributed to states based on population, demographics, and the availability and adoption of broadband. Counties and other entities would be eligible to receive subgrants under the program.

Affordable Connectivity Program ($14.2 billion) – The legislation would make the FCC's Emergency Broadband Benefit program permanent. The program provides a $30 per-month voucher for low-income families to use toward any broadband service plan.

ENERGY TITLE – RESILIENCY, GRID INFRASTRUCTURE, WILDFIRES, AND WESTERN WATER INFRASTRUCTURE

HR 3684 includes funding to address deficiencies in grid infrastructure, resiliency, wildfire risk reduction, and western water infrastructure. Among other investments, the bill would provide $73 billion to upgrade the nation’s power infrastructure, including funds to build thousands of miles of new transmission lines to facilitate the expansion of renewable energy.

Resiliency – The package includes $1 billion for FEMA’s Building Resilient Infrastructure and Communities (BRIC) grant program. The proposal also would provide $500 million for a new program within FEMA that would help states establish revolving loan funds that could be used by local governments to carry out mitigation projects that reduce natural disaster risk. Additionally, the legislation would modify the *Stafford Act* to expand eligibilities within the Hazard Mitigation Grant Program (HMGP) to include the replacement or installation of wildfire resilient electrical transmissions or utility poles.

Wildfire Risk Reduction – HR 3684 would authorize nearly $3.4 billion for the Department of the Interior and the U.S. Forest Service to conduct various forest management activities, including hazardous fuels reduction, controlled burns, community wildfire defense grants, landscape forest restoration projects, and additional firefighting resources. In addition, the bill includes $5 billion for utilities to bury power lines and install fire-resistant technologies to reduce wildfires.

Western Water Infrastructure – The legislation would dedicate a total of $8.3 billion for various programs and projects under the purview of the Interior Department, including: $3.2 billion to address aging infrastructure; $1.15 billion for water storage and conveyance projects; $1 billion for water recycling; $1 billion for rural water investments; $500 million for dam safety; and, $250 million for desalination. The bill also includes $300 million for the Drought Contingency Plan.

Finally, the Energy portion of the legislation includes language that would reauthorize the Secure Rural Schools (SRS) program for an additional three years. The program, which is currently expired, provides assistance to rural counties and school districts affected by the decline in revenue from timber harvests on federal lands.

CLEAN WATER AND DRINKING WATER INFRASTRUCTURE

HR 3684 would provide $55 billion for clean water and drinking water investment, including significant new funding for the Drinking Water and Clean Water State Revolving Funds. Under the bill, the minimum percentage of DWSRF dollars that would need to be allocated to disadvantaged communities would increase from six to 12 percent. Furthermore, a state would be required to use a minimum of 10 percent of the CWSRF for grants, negative interest loans, and loan forgiveness, or to buy, refinance or restructure debt for disadvantaged communities.

HR 3684 also includes a total of $15 billion over five years for loans and grants to replace lead service lines. Pursuant to the legislation, 49 percent of funds provided to states in the form of capitalization grants would be made available to counties and other local governments. Additional funding would be provided to further address emerging contaminants in drinking water, with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

ARPA RECOVERY FUND – IMPLEMENTATION UPDATE

In late May, the U.S. Department of the Treasury published guidance that governs the implementation of the *American Rescue Plan Act’s* (ARPA) Coronavirus State and Local Fiscal Recovery Funds. All told, ARPA provides $350 billion in flexible funding for state, local, territorial and tribal governments to respond to and recover from the COVID-19 pandemic.

The Department's Recovery Fund guidance was released in the form of an Interim Final Rule (IFR) and became effective on May 17. It should be noted that stakeholders had the opportunity to weigh in on all aspects of the Rule, with comments due to the Department no later than July 16. Treasury's Office of Recovery Programs is currently reviewing stakeholder comments to the IRF and is expected to release a Final Rule this fall.

In the meantime, the Department has issued a series of Recovery Fund FAQs, with the most recent additions to the document uploaded on July 19.

Fiscal Year 2022 Appropriations Update

The House has made considerable progress next year's budget, having approved nine of the 12 appropriations bills for the fiscal year that begins October 1. Only the Commerce-Justice-Science, Homeland Security, and Defense spending measures have yet to see floor action.

In total, House appropriators are authorized to spend up to $1.5 trillion in fiscal year 2022 (up from $1.4 trillion in regular appropriations that were approved by Congress for the current fiscal year). The 2022 total generally reflects the discretionary spending request that President Biden submitted to Congress earlier this year.

In the Senate, the Appropriations Committee has approved just three of the 12 annual spending bills. The panel is expected to mark up the balance of its FY 22 appropriations measures when lawmakers return from their summer recess.

Resiliency

Earlier this year, Senators Dianne Feinstein (D-CA) and Alex Padilla (D-CA) introduced legislation (S 1855) – the *Wildfire Emergency Act of 2021* – that aims to reduce catastrophic wildfires. A House companion measure (HR 3534) is sponsored by a group of California Democrats led by Congressman Jimmy Panetta (D-CA). The bill utilizes a three-pronged approach to tackle the increasing wildfire threat, namely large-scale forest restoration projects, hardening of critical infrastructure, and increased training of key fire response personnel.

Senator Feinstein has also reintroduced legislation (S 1734) that would provide the U.S. Forest Service with additional tools to help prevent catastrophic wildfires from becoming more frequent. Among other things, S 1734 would increase the pace and scale of controlled burns, create a technically skilled preseason controlled burn workforce, and give states more flexibility to regulate controlled burns in winter months. It should be noted that elements of both S 1855 and S 1734 have been incorporated into the aforementioned *Infrastructure Investment and Jobs Act*.

As Congress continues to debate these and other legislative solutions to address the growing wildfire threat, Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) and Ranking Member John Barrasso (R-WY) have called on the Biden administration to administratively implement proactive forest management policies that improve the health and resiliency of forests, communities, and the climate. Specifically, the senators requested that the administration direct the U.S. Department of Agriculture and the Department of the Interior to produce a publicly available report detailing what additional actions the agencies can take to prevent catastrophic wildfires, identify any potential challenges, and describe what it would take to see that vision through to completion.

For his part, President Biden announced additional actions that the administration is undertaking to combat deadly wildfires. For starters, the president will increase the amount of funding set aside for FEMA's BRIC program to $1 billion, up from $500 million in the previous fiscal year. The BRIC program, which was created by the *Disaster Recovery Reform Act* (DRRA; PL 115-254), helps communities prepare for and become more resilient to wildfires and other natural disasters. It should be noted that the White House will target approximately 40 percent of the additional money to disadvantaged areas. The administration also pledged to make substantial investments in firefighter personnel, increase Federal firefighter pay and provide access to retention incentives, and extend the hiring of temporary firefighters to ensure a more effective response throughout this year's fire season.

GOP Proposes Forest Management Reforms

In late July, House Natural Resources Committee Ranking Member Bruce Westerman (R-AR) reintroduced comprehensive legislation – the *Resilient Federal Forests Act* (HR 4614) – that would reform federal forest management policy. The bill would accomplish this largely by streamlining the environmental review process for certain projects on federal lands, reducing frivolous lawsuits, and increasing the pace and scale of critical forest restoration projects. Westerman was joined by 73 other House lawmakers, though Congressman Henry Cuellar (D-TX) is the only Democrat to cosponsor the measure. It should be noted that a previous iteration of the *Resilient Federal Forests Act* passed the House under GOP control in 2015 and 2017 (largely along party lines), but the legislation never advanced in the Senate. Absent significant changes, it is unlikely that House Democratic leaders will consider the proposal.

In addition, several GOP lawmakers have introduced more piecemeal reforms. Congressman Matt Rosendale (R-MT) has introduced legislation – the *Forest Litigation Reform Act* (HR 4579) – that would streamline the litigation process for forest projects. The bill also would create an alternative dispute process to resolve claims against forestry management projects to be resolved through arbitration. Another measure, titled the *SALVAGE Act,* would expedite salvage and reforestation operations on federal lands by creating a categorical exclusion from environmental assessments and environmental impact statements. Finally, Congressman Mike Garcia (R-CA) recently introduced legislation – the *PROTECT Act* – that would authorize a 10,000 acre categorical exclusion under NEPA to address insects and disease, reduce hazardous fuels loads, protect municipal water sources and increase water yield, improve critical habitat and facilitate native species restoration, and remove dead or dying trees. The legislation would incentivize collaboration by allowing categorical exclusions of up to 30,000 acres for collaborative projects.

PILT and Secure Rural Schools

In late June, the Interior Department distributed approximately $529 million (up from $517 million last year) to over 1,900 local governments under the Payments-in-Lieu-of-Taxes (PILT) program. In all, 57 California counties received nearly $56 million this year, up from $54.6 million in fiscal year 2020. With regard to fiscal year 2022, the House has endorsed an additional year of funding as part of its Interior spending bill (HR 4502). The Senate has yet to unveil its fiscal year 2022 Interior funding measure, though the chamber has been supportive of such extensions in the past.

With regard to the Secure Rural Schools program, the U.S. Forest Service issued more than $193.4 million in payments to eligible counties earlier this year, with California counties receiving over $23.5 million. It should be noted that the program is currently expired, and unless it's extended, these will be the final payments. However, as reported above, the bipartisan infrastructure package would reauthorize SRS for an additional three years. The measure also would end the annual five-percent reduction in payments and increase funding for the next three years to fiscal year 2017 levels.

Finally, the *American Rescue Plan Act* provides an additional $1.5 billion for eligible revenue sharing counties. Pursuant to the law, $750 million will be allocated to counties in FY 2022 and $750 million will be allocated in FY 2023. The Treasury Department is responsible for determining the funding formula used to distribute these funds to public lands counties. In developing the formula, the Department must take into consideration the economic conditions of each eligible county using measurements of poverty rates, household income, land values, unemployment rates, and other economic indicators over the 20-year period ending with September 30, 2021.

Eligible counties will be able to use the funds for any governmental purpose, except for a lobbying activity. The Act also requires counties to submit periodic reports to the Treasury Department providing a detailed accounting of the funding uses, as well as additional information that the Department may require for program administration. These funds are supplemental and are not a replacement for PILT or SRS.

VOCA Fix Legislation Enacted into Law

Earlier this summer, the Senate unanimously approved CSAC-supported legislation known as the *VOCA Fix to Sustain the Crime Victims Fund Act* (*VOCA Fix Act*). The bill (HR 1652/S 611), which the House cleared on a bipartisan vote earlier in the year, was signed into law by President Biden on July 22.

The Act boosts the amount of funding available for *Victims of Crime Act* (VOCA) grants by redirecting criminal settlements from Federal non-prosecution and deferred prosecution agreements into the Crime Victims Fund (CVF). The new funding mechanism is expected to result in the deposit of an additional $4 to $7 billion into the CVF over the course of the next several years. VOCA funds can be used to support a variety of victim assistance programs, including domestic violence shelters, child abuse treatment programs, elder fraud and abuse services, rape crisis centers, and legal services.

Additionally, the *VOCA Fix Act* increases the percentage that state compensation programs are reimbursed by the Federal government – from 60 to 75 percent – and allows states to apply for a no-cost extension for VOCA assistance grants. The new law also will give states the authority to waive subgrantee match requirements for VOCA assistance grants.

Justice Department Reverses Trump-era Limits on SCAAP

In a major victory for California's counties, the U.S. Department of Justice (DOJ) rescinded earlier this year a series of grant funding conditions that the Trump administration sought to place on the State Criminal Alien Assistance Program (SCAAP). The now-repealed changes, which were slated to go into effect this year, would have precluded California's counties from seeking federal SCAAP reimbursement for the costs of incarcerating undocumented criminals.

It should be noted that DOJ's actions are the result of a Department-wide review that was initiated earlier this year pursuant to President Biden's Executive Order (EO) on the Revision of Civil Immigration Enforcement Policies and Priorities. In that particular EO, the president instructed DOJ and other relevant departments to review any previous administration policies that imposed immigration law-related conditions on certain federal grant programs. Many of those controversial policies have been extensively litigated, including the Trump administration's efforts to restrict Byrne-Justice Assistance Grant (JAG) and Community Oriented Policing Services (COPS) funding to so-called "sanctuary cities."

Cannabis Policy

This summer, Senate Majority Leader Chuck Schumer (D-NY) unveiled a comprehensive cannabis reform proposal – the *Cannabis Administration and Opportunity Act* – that would legalize and regulate the drug at the federal level. Specifically, the draft bill, which is co-sponsored by Senators Cory Booker (D-NJ) and Ron Wyden (D-OR), would require the U.S. Attorney General to remove cannabis from federal drug schedules under the *Controlled Substances Act* within 60 days of the bill's enactment. Beyond ending the prohibition on cannabis, the discussion draft proposes to expunge nonviolent federal cannabis-related criminal records and create a pathway for resentencing.

The bill also would impose a federal tax on cannabis products with the proceeds designated for various programs in communities that have been the most impacted by drugs. The tax would start at 10 percent in the first year, gradually increasing to 25 percent in the fourth year. Starting in year five, the tax would be a "per-ounce or per-milligram of THC amount determined by the Secretary of the Treasury equal to 25 percent of the prevailing price of cannabis sold in the United States in the prior year." Small cannabis businesses – defined as those with less than $20 million in sales annually – would be eligible for a 50 percent reduction in their tax rate.

The *Cannabis Administration and Opportunity Act* also lays out a structure for how businesses would be approved and regulated. Additionally, the measure would transfer regulatory authority over cannabis from the Drug Enforcement Administration (DEA) to the Food and Drug Administration (FDA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Earlier this year, the House voted 321-101 to approve legislation that would help state-legal cannabis and ancillary businesses gain improved access to financial services. The legislation, known as the *SAFE Banking Act* (HR 1996), would exempt depository institutions and their employees from federal prosecution or investigation solely for providing banking services to a state-legal cannabis-related business. In addition, the measure would clarify that the safe harbor protections would extend to hemp and cannabidiol (CBD) companies.

It should be noted that the vote marked the fourth time that the chamber has approved the legislation. It was previously cleared as a standalone measure in 2019 and then twice more as part of COVID-19 relief legislation. However, the legislation has yet to move forward in the Senate. For his part, Senate Banking Committee Chairman Sherrod Brown (D-OH) has expressed a willingness to consider the legislation, but has indicated that he would only do so if it was accompanied with sentencing reform for drug offenses.

We hope this information is useful to California county officials. If you have any questions or comments, please feel free to contact us.