

-----  
1909 K Street, NW  
12th Floor  
Washington, DC 20006-1157  
TEL 202.661.2200  
FAX 202.661.2299  
www.ballardspahr.com

Brent R. Heberlee  
Tel: 202.661.2249  
Fax: 202.661.2299  
heberlee@ballardspahr.com

**MEMORANDUM**

**TO** Monterey County Board of Supervisors

**FROM** Brent R. Heberlee

**DATE** December 20, 2021

**RE** Legislative Program: 2021 Federal Advocacy Report

-----

Introduction

With President Biden taking control of the reins of power in the White House in January 2021, this past year has had the feel of a return to normalcy, albeit in the context of a seemingly never-ending pandemic. Not surprisingly, the President's domestic priorities largely were tied to addressing the health and economic consequences of the COVID-19 pandemic. Razor thin Democratic majorities in the House and Senate proved challenging for the President to advance his legislative agenda in Congress.

The enactment of the American Rescue Plan Act (ARPA) and the Infrastructure Investment and Jobs Act (IIJA) represented two significant legislative victories for President Biden and Monterey County. With a combined total of nearly \$3 trillion in spending on a wide range of programs targeted to state and local governments, businesses, and individuals, these two new laws will result in Monterey County receiving well over \$100 million in new assistance over the next several years.

In addition to my advocacy on ARPA and IIJA, I worked closely with the Legislative Committee and county staff to address many of our federal policy priorities with the County's congressional delegation. Following is a summary of the County's federal advocacy efforts with which I was involved and policy updates on key federal legislative, budgetary, and regulatory issues included in the 2021 Legislative Program.

### Engagement with Monterey County Officials

- **BOS COVID-19 Briefings:** I provided weekly updates to the Board of Supervisors on the federal response to COVID-19 and legislative and regulatory matters impacted by the pandemic.
- **BOS Legislative Workshop:** I attended the Board's Legislative Workshop in January. I assisted County staff with the preparation of issue briefs for the meeting and secured attendance of representatives of the County's congressional delegation, including Rep. Jimmy Panetta.
- **Legislative Committee:** I provided monthly written and oral reports to the Legislative Committee on federal matters impacting the County.
- **Pandemic Disparate Impact:** I provided a written and oral update to the County's PDI team on federal issues to be included in the report to the BOS.

### Summary of Legislative Accomplishments

- **American Rescue Plan Act**

ARPA was signed into law on March 11, 2021, providing an additional \$1.9 trillion for COVID-19 relief efforts. Including ARPA, Congress has enacted six COVID-19 relief measures providing over \$5.5 trillion in assistance since the onset of the pandemic. Throughout the development and consideration of ARPA by Congress, the County advocated for direct, flexible assistance to local governments to address budgetary impacts caused by the pandemic. Our advocacy highlighted the disparate health and economic impacts of the pandemic on communities of color in the County. Many of the County's legislative priorities were funded through ARPA, including the following programs:

- **Local Fiscal Recovery Fund:** The County's advocacy for direct, flexible funding for pandemic response needs and revenue replacement for local governments resulted in a new Treasury Department program that will provide Monterey County with **\$84.3 million** for a variety of local programs and needs. The County continues to advocate for legislation that would provide additional flexibility for how these recovery funds may be spent.
- **Vaccines:** \$14 billion to speed up the distribution and administration of COVID-19 vaccines across the country. The funding supports the development of community vaccination centers, as well as mobile vaccination units that can go into hard-to-reach areas. The measure also includes \$8.5 billion for the CDC to prepare, promote, administer, monitor, and track vaccines. Among other things, this funding can be used to support state and local public health departments.
- **Testing:** \$47.8 billion for a national testing strategy, with funding for rapid tests, community-based testing sites, and expanding lab capacity. California is expected to receive approximately \$3.2 billion.

- **Public Health Workforce:** \$7.66 billion for a public health jobs program that will allow public health departments to hire new, full-time public health workers. California is projected to receive approximately \$800 million.
  - **FEMA Disaster Relief Fund:** \$50 billion to help replenish FEMA's Disaster Relief Fund. The dollars will be available to reimburse state and local governments for various COVID-19-related costs, including vaccination efforts, deployment of the National Guard, and personal protective equipment. Funding will remain available through September 30, 2025. The funding also can be used to provide financial assistance for pandemic-related funeral expenses with a 100% federal cost-share.
  - **Supplemental Nutrition Assistance Program/Pandemic EBT:** Extends the 15 percent increase in the Supplemental Nutrition Assistance Program (SNAP/CalFresh) for an additional three months (to September 30, 2021). Extends the EBT benefit for youth eligible for school meals through any school year during a designated public health emergency and the following summer period.
  - **Child Tax Credit:** Makes the Child Tax Credit fully refundable and authorizes \$300 monthly payments for children under the age of six and \$250 monthly payments for those six to seventeen years of age.
  - **Child Care:** Provides a total of nearly \$39 billion in emergency funds for the Child Care Development Block Grant program, of which nearly \$15 billion is for child care subsidies through FY 2024. The remaining \$24 billion will be available to states to make stabilization subgrants directly to child care providers to assist in maintaining operations.
  - **Housing and Homelessness:** Provides an additional \$21.6 billion for emergency rental assistance, on top of the \$25 billion that Congress appropriated in December 2020. Monterey County's direct allocation for this program is approximately **\$23 million**. The legislation also allocated \$5 billion to entities serving individuals at risk or currently experiencing homelessness.
  - **Distance Learning:** Establishes a \$7.17 billion Emergency Connectivity Fund, which will provide support to eligible schools and libraries to provide, among other things, eligible connected devices, internet service, and hotspots to students and teachers for internet use at home.
  - **Small Business Assistance:** Provides over \$50 billion in economic relief through several SBA programs to businesses that are currently experiencing a temporary loss of revenue due to COVID-19.
- **Infrastructure Investment and Jobs Act**

IIJA was signed into law on November 15, 2021, providing \$973 billion in infrastructure funding over five years, including \$550 billion in new investments for all modes of transportation, water, power and energy, environmental remediation, public lands,

broadband and resilience. Most of the funding made available will be provided to states through existing formula grants, with suballocations made to counties based on population. Counties will also be eligible to apply for dozens of new, competitive grant programs. Throughout the consideration of IIJA in Congress, my advocacy focused on working with NACo to support robust funding levels for infrastructure grant programs that benefit counties. Following is a summary of key provisions of IIJA:

- **Surface Transportation**

IIJA provides significant new investment for local transportation priorities, including a five-year, \$383.4 billion reauthorization of highway, transit, and safety programs. Key transportation highlights include:

- **Core Highway Program Investment:** \$273.15 billion in Highway Trust Fund contract authority for highways, roads, and bridges, a roughly 21.3 percent increase over the *FAST Act*. Funds will be apportioned to states over five years through nine core highway formula programs.
- **Bridge Investment:** \$43.3 billion for a *new* Bridge Investment Program (BIP), of which \$27.5 billion is *formula* funding to states and \$15.8 billion is for competitive grants. Fifteen percent of BIP formula funds are reserved for local off-system bridge projects.
- **Surface Transportation Block Grant Program (STBG):** Adds new eligibilities to the STBG Program, including electric vehicle charging infrastructure and vehicle-to-grid infrastructure, installation and deployment of intelligent transportation technologies, projects that facilitate intermodal connections between emerging transportation technologies, resilience features, cybersecurity protections, waterfront infrastructure projects and projects to enhance travel and tourism.
- **Significant Discretionary Grant Program Funding:** Provides \$210 billion for key discretionary grant programs funded through the Department of Transportation, including grants for bridge repair, pedestrian safety, EV charging and refueling infrastructure, resiliency of coastal infrastructure, healthy streets/urban heat centers, at-grade railroad crossings, and safe streets for cyclists.
- **Public Transit** – \$69.9 billion for mass transit, including significant funding for Urbanized Area Formula Grants, State of Good Repair Grants Program, public transportation in rural areas, and bus/bus facility formula grants, among other key transit investments.

- **Broadband**

IIJA includes a total of \$65 billion in funding for broadband infrastructure, including \$42.45 billion for the Broadband Equity, Access and Deployment Program for states to make competitive grants to entities to carry out broadband infrastructure, data collection, mapping, and adoption projects. IIJA also includes \$1 billion for Enabling Middle Mile Broadband Infrastructure; \$1.25 billion for the Digital Equity Competitive Grant

Program; and, \$14.2 billion to make the FCC's Emergency Broadband Benefit program permanent, which provides \$30 per-month vouchers for low-income families to use toward any broadband service plan.

- **Clean Water and Drinking Water Infrastructure**

IIJA includes \$55 billion for clean water and drinking water investment, including significant new funding for the Drinking Water and Clean Water State Revolving Funds. The bill also provides a total of \$15 billion over five years for loans and grants to replace lead service lines. In addition, 49 percent of funds provided to states in the form of capitalization grants will be made available to counties and other local governments. Additional funding is included to further address emerging contaminants in drinking water, with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

- **Resiliency**

Among other investments, IIJA includes \$1 billion for FEMA's Building Resilient Infrastructure and Communities (BRIC) grant program. The bill also provides \$500 million for a new program within FEMA that will help states establish revolving loan funds that could be used by local governments to carry out mitigation projects that reduce natural disaster risk.

- **Wildfire Risk Reduction**

IIJA authorizes 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**

IIJA dedicates \$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.

- **Energy and Sustainability**

IIJA provides funding for a Weatherization Assistance Program (\$3.5 billion); Carbon Utilization Program (\$310 million); Energy Efficiency and Conservation Block Grant Program (\$550 million); and Brownfields Restoration Projects (\$1.2 billion). Counties are eligible applicants for each of these grant programs.

- **Cybersecurity**

IIJA provides \$1.3 billion for a new State and Local Cybersecurity Grant Program. Counties are eligible for these funds as subgrantees of states following apportionments made to states by the U.S. Department of Homeland Security based on total population and rural population figures.

- **Community Project Funding**

The County submitted nearly two dozen community project funding requests to our congressional delegation as part of the FY2022 appropriations process. Our \$2 million request for a Homeless Youth Housing Campus project remains under consideration as Congress attempts to complete action on the FY2022 appropriations bills.

- **Immigration**

The County supported targeted and comprehensive immigration reform legislation that provides a pathway to citizenship for Dreamers and other undocumented immigrants. Several attempts to include immigration reform provisions in Senate budget reconciliation legislation have failed, complicating the path forward for the remainder of this Congress.

- **Health**

The Monterey County Health Department (MCHD) pursued a competitive grant opportunity that I had identified through the HHS Office of Minority Health that resulted in an award in June of \$3,952,437 to support the VIDA Project and other COVID-19 mitigation measures in racial and ethnic minority populations.

Through ARPA, MCHD received an award in March from HRSA in the amount of \$7,369,500 to support and expand COVID-19 vaccination, testing, and treatment for vulnerable populations; deliver needed preventive and primary health care services to those at higher risk for COVID-19; and expand health centers' operational capacity during the pandemic and beyond.

- **Voting Rights**

On August 24, 2021, the House considered and passed the John Lewis Voting Rights Advancement Act of 2021, which would restore key protections of the Voting Rights Act of 1965 (VRA) that were gutted by the Supreme Court in the 2013 *Shelby County v. Holder* decision and more recently in the 2021 *Brnovich v. DNC* decision. The bill aims to protect voters from discrimination by restoring and strengthening the protections of the VRA. The bill remains stalled in the Senate after several unsuccessful attempts to garner the ten Republican votes needed for the bill to advance.

- **Cannabis**

The House twice passed the Secure and Fair Enforcement (SAFE) Banking Act of 2021 with bipartisan majorities, initially as a standalone bill and again as part of the National Defense Authorization Act (NDAA). The County has supported this bill for the past five years, which would shield banks and credit unions from federal penalties if they choose to provide

services to legitimate cannabis-related businesses. The SAFE Banking Act was ultimately dropped from the NDAA and remains stuck in the Senate due to disagreement over broader cannabis legalization issues.

- **Veterans**

I have been active in the County's effort to establish a State Veterans Home in Monterey County through meetings with our federal and state delegations, the Legislative Committee, and county staff. To date, my advocacy and research have focused on the VA grant program that provides participating states with up to 65% of the cost to construct state homes.

### Outlook for 2022

As is the case in every even-numbered year, the federal legislative agenda will be shaped by the elections in November. With the exception of the FY2023 budget, Congress is unlikely to tackle any significant legislative proposals after the first half of the year.

The \$1.7 trillion climate and social spending proposal known as the Build Back Better Act (BBB), one of President Biden's top legislative priorities in 2021, is the number one piece of unfinished business that Congress will address in early 2022, followed closely by completion of the FY2022 appropriations bills. BBB was dealt a significant blow on December 19, 2021, when Senator Joe Manchin (D-WV) revealed that he would not vote for the bill, at least in its current form, leaving Democrats one vote short of a simple majority needed to pass the legislation under special budget rules. The path forward in the Senate for BBB is unclear, but it may lead to scaling back the overall cost of the bill or breaking it up into smaller pieces to satisfy the concerns of Senator Manchin. Neither of these options are good for Democrats, with each having negative political ramifications for certain blocks of the Democratic caucus.

The Senate is also planning to revisit voting rights legislation early in 2022, but the outcome is likely to be the same. The desire to use voting rights legislation as a means of reforming the Senate filibuster has broad appeal with the Democratic caucus, but without the support of Senators Manchin and Sinema (D-AZ) it is not a viable strategy.

House Democrats have seen 21 of their fellow members announce that they will not run for re-election in November, and more are likely to follow. House Republicans, anticipating a return to power in 2023, have already begun developing a Biden administration oversight agenda designed to weaken the President's re-election chances in 2024.