

REPORT

Report: Governmental Affairs Legislative and Funding Update (**Government Affairs**)

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SUMMARY

This report provides an informational update and snapshot of the major legislative and funding issues of relevance to the Port of Oakland that are being considered in the federal and State capitals. As the legislative process is very dynamic, please note that some aspects of this update and any related analysis may change significantly from the time of report submission (week of April 26) to the date of the May 13 Board presentation, and staff will be available to provide further updates and information at that time.

Federal Update

With the signing of President Biden's \$1.9 trillion American Rescue Plan on March 11, 2021, the focus of most federal and congressional leaders has now pivoted to the prospect of a major infrastructure package being considered this year. On March 31, the President unveiled the broad contours of the American Jobs Plan (AJP), a \$2.29 trillion, 8-year proposal to invest in and modernize large segments of the nation's infrastructure. Unlike many previous infrastructure funding proposals, the American Jobs Plan broadly defines the concept of federal physical infrastructure investments well beyond highways, roads and bridges. Below is a summary of some of the areas of proposed investments most relevant to the Port's general areas of focus:

Transportation

- The plan provides \$620 billion for transportation
 - That includes \$115 billion to improve bridges, highways, roads and \$20 billion for road safety, which will upgrade 20,000 miles of roads and highways
 - \$85 billion to modernize public transportation
 - \$80 billion for Amtrak
 - \$25 billion for airport-related infrastructure and funding programs, including investments in the FAA NextGen Air Traffic Control modernization program
 - \$17 billion for ports, inland waterways and ferries, including the creation of a Healthy Ports Initiative which would most likely be based out of the Environmental Protection Agency

- \$20 billion for transportation projects for disadvantaged communities

Electric Vehicles

- \$174 billion of the transportation funding for electric vehicles, including sales rebates and tax incentives for consumers to buy American-made cars
- Provide grants to state and local governments and the private sector for 500,000 charging stations by 2030

Workforce Development

- \$100 billion for workforce-development programs, including training for those who have lost their jobs, as well as apprenticeship initiatives

Research and Development

- \$180 billion to upgrade the country's research infrastructure and labs at universities and federal agencies. The funding would also be directed toward climate-science research and addressing gender and racial inequalities in the science, math and technology fields

Manufacturing

- \$300 billion initiative to boost American manufacturing
- \$50 billion in semiconductor manufacturing and research
- \$50 billion for the National Science Foundation to create a technology directorate, modeled after the Endless Frontiers Act
- \$50 billion to create a new office at the Department of Commerce dedicated to monitoring domestic industrial capacity and investments to support production of critical goods

Electric Grid

- \$100 billion to build a more resilient electric grid
- 10-year extension and phase-down of an expanded, refundable investment tax credit and production tax credit for renewable energy generation and storage
- The plan calls for high labor standards and allowing workers on the projects to join unions and bargain collectively. The goal is to move toward 100% carbon-pollution free power by 2035. The plan also directs \$16 billion to clean up abandoned mines and gas wells.

Clean Water

- \$45 billion to eliminate lead pipes nationwide
- \$56 billion in grants and low-cost loans to states, tribes, territories and disadvantaged communities to improve water systems
- \$10 billion would be spent on a Civilian Climate Corps that employs Americans in conservation work on public lands and waters

Analysis of the American Jobs Plan and Next Steps

Broadly considered as an infrastructure package, there is much in the AJP that could conceivably flow down to local agencies in the way of policy and funding support for Port of

Oakland priorities. The nation's freight system is in dire need of a sustained and multi-year federal investment, and the Plan provides the intent to address key areas of transportation deficiencies that would likely benefit freight initiatives. The additional funding and revenue allocations highlighted for the aviation sector could also conceivably mean more infrastructure and capital projects being supported by the Federal Aviation Administration through the Airport Improvement Program, which is authorized separately and does not expire until late 2023 (and is not being proposed for amendment at this time in the Plan). The focus on Electric Vehicles (EVs) and EV charging capacity, the resiliency and modernization of the electrical grid, upgrades to clean water (including stormwater and sewer) systems, and workforce development initiatives also all broadly align with the Port's policy and funding priorities.

The main areas of congressional disagreement as the Plan moves to Capitol Hill are three-fold: 1) the scope and scale of what is defined as essential infrastructure; 2) the overall cost of the Plan and the proposed corporate tax rate increases that would likely fund much of the \$2.29 trillion price tag; and 3) the legislative process that will be utilized to consider passage of the final elements that comprise the Plan's spending priorities (i.e., via "budget reconciliation" which can allow for a narrow passage of a funding package but may also constrain any new policy changes or programs that might otherwise be desired as part of the Plan's goals).

On April 22, Senate Republicans offered a proposal to counter the President's infrastructure investment plan. The Republican plan, which outlines principles for paying for the proposal such as taxing electric cars and repurposing unspent COVID-19 relief funds, proposes \$568 billion in investment over five years and limits funding to "traditional" transportation programs such as roads and bridges, public transit, rail, airports, ports and inland waterways.

With a Presidential announcement scheduled for the week of April 26 for a reported \$1.5 trillion-plus American Families Plan focusing on expanding access to health care, childcare and pre-kindergarten, paid family leave, and tuition-free community college, among other domestic priorities, the legislative process has just begun and the ultimate prioritization and viability of the President's policy and funding initiatives on Capitol Hill will be tested in the coming months.

Surface Transportation Reauthorization Legislation

Somewhat lost amid the larger infrastructure funding discussion is the need for Congress to consider the reauthorization of the highway and transit spending programs at the U.S. Department of Transportation. These congressionally-authorized programs allow for approximately \$60 billion per year in federal transportation spending and the current legislative authorization expires in September 2021. The Chairman of the House Transportation & Infrastructure Committee, Rep. Peter DeFazio, has indicated that he intends to propose multi-year surface transportation legislation that will reflect in many ways the ambitious transportation and infrastructure goals of the American Jobs Plan, including a focus on climate change investments.

This bill will also re-introduce a reformed and scaled-back process of congressionally-directed spending (“earmarks”) which could conceivably assist in facilitating bipartisan passage of a transportation legislative package. Port staff have submitted some candidate transportation projects to our congressional delegation for funding consideration – while keeping in mind that the funding availability for local projects for each Member of Congress is extremely limited.

FY22 Appropriations Process

Apart from the American Jobs Plan and the multi-year surface transportation legislation, Port priorities and critical funding initiatives are also reflected in the annual appropriations process, which must be approved every year by Congress by September 30. The Port, along with our trade associations and related stakeholders, continues to advocate for robust funding levels for some of the following key programs and priorities:

- Federal Aviation Administration Airport Improvement Program, which provides yearly entitlement and discretionary funding assistance to infrastructure at OAK.
- Distribution of revenue derived from the Harbor Maintenance Trust Fund to the U.S. Army Corps of Engineers, which provides annual support for maintenance dredging activities of the federal navigation channels serving the seaport.
- Continued funding for USDOT competitive discretionary grant programs such as INFRA (Infrastructure for Rebuilding America), the Port Infrastructure Development Program (PIDP), and RAISE (Rebuilding American Infrastructure with Sustainability and Equity; formerly known as TIGER and BUILD) which have supported freight-related initiatives in previous funding cycles and now include a renewed emphasis in the Biden Administration on climate change resiliency, environmental sustainability, and equity for historically disadvantaged communities.

As with the surface transportation legislation, limited funding availability and eligibility has been resumed for Congressional Funding Priorities (“earmarks”) and Port staff have also submitted a range of candidate projects to our congressional delegation for limited funding consideration within the annual appropriations process. We will also continue to advocate on behalf of initiatives throughout the annual appropriations process that reflect sustained commitments and funding dedicated for climate change initiatives, diesel emissions reductions, and infrastructure resiliency for our capital programs.

State Update

State revenues have remained strong during the pandemic, with the State Department of Finance reporting as of late April that general fund revenues are nearly \$17 billion ahead of previous projections. This is mainly due to both corporate and personal income tax receipts coming in well above prior expectations.

The strong revenue picture does not immediately translate into a windfall for every legislative spending priority, however, as K-12 schools and community colleges are guaranteed roughly 40 percent of general fund revenues. Lawmakers have proposed a range of proposals to expand health care and social services with some of the additional money, while the State is also constitutionally obligated to put more funding into reserves and may also even

be faced with a need to return a portion of the revenues to taxpayers due to a decades-old voter-approved proposition limiting State spending (referred to as the “Gann Limit”).

The Governor will be unveiling his May budget revision by May 15, which will include the Department of Finance’s updated revenues and spending projections. This budget revision will then inform the Legislature’s deliberations before the June 15 deadline to pass the overall state budget. Port leaders throughout the state, including Oakland leadership, are working to support an initiative championed by the Lt. Governor and State Controller to have the State distribute a portion of the federal pandemic relief funding to public ports that have seen significant revenue impacts due to the drop in tourism and visitor-serving activities on the waterfront. Staff will be available to provide an update on these efforts during the May 13 Board Meeting.

Executive Orders

In 2019 and 2020, Governor Newsom issued two related Executive Orders (N-19-19 and N-79-20) focusing on aggressive implementation of climate change priorities by various state agencies. The 2019 Order directed state agencies, including the California State Transportation Agency and the California Air Resources Board, to align existing State resources and funding programs in support of climate change adaptation priorities and the reduction of greenhouse gas emissions from transportation sources. It also directed the Air Resources Board to explore new regulations focused on emissions created by the transportation sector.

The 2020 Order set even more ambitious goals with a framework to require all new car sales in the state to be zero-emission by 2035, with the inclusion of heavy-duty drayage trucks in the same timeframe. At the same time the Governor also proposed a \$1.5 billion funding initiative for zero-emissions vehicles and related charging infrastructure, with an indeterminate amount allocated for the heavy-duty transportation sector.

Within the shadow of various Agency activities in support of the implementation of these Orders, as well as the ongoing and yearly legislative process, the Port continues to highlight the need for the following key priorities that are essential to meeting both our commercial objectives and our ambitious environmental and sustainable growth goals:

- Enhanced statewide partnership and a coordinated approach for funding and regulatory actions in order to minimize national competitive impacts (including the adoption of state environmental goals at the federal level)
- Increased funding and support for heavy-duty zero-emissions equipment for public agencies and their customers/tenants
- Increased funding and support for critical infrastructure, including initiatives to enhance the reliability of the electrical grid