



COUNCIL *on* FOUNDATIONS

Policy Update: Connecting the Dots between the Biden Administration & Philanthropy

[Event Page: Recording, Resources, etc.](#)

0:02

Good afternoon, everyone, or good morning, depending on where you're joining us from. Very happy you're with us today. We will get started in just a moment.

0:33

Welcome, everyone, to the Council on Foundations Webinar Series. As you're getting settled down, we want to share a gentle reminder about our Leading together conference. It is going to be not your typical Zoom call experience with us on virtual this year. It's going to be June 14 to the 17th, and registration is now open. So, we encourage you to go to cof.org/leading-together to join us and register today.

1:02

Great. Well, we're happy you're here today. We're going to be talking about the policy uptake, connecting the dots between the Biden Administration's policy, proposals and philanthropy.

13:01

Now, I would like to pass you over to our moderator, this afternoon, Stephanie Powers.

3:07

Thank you, Manuela. And good afternoon, everyone.

3:10

I am Stephanie Powers, Senior Advisor for Public Policy and Partnerships at the Council on Foundations.

3:19

And thank you for joining us at this policy update policy update. It is an opportunity for council members to have access to our Capitol Hill consultants and our longtime partner at the National Council for non-profits is with us today too, and we are very grateful that they are with us today.

3:38

This is your opportunity to talk to the experts. These are the folks that walk the halls of Congress every day, even though nobody is actually walking the halls of Congress, I don't think. Please be prepared to throw some good questions at them, this is your chance to talk to the experts.

3:58

So, a lot is happening in Washington.

4:00

These days, we have seen important legislative action with the passage of another major covered relief package earlier this year, and now the proposals are becoming more plentiful about investments in the nation's infrastructure.

4:16

And we now have a president who considers investing in human needs, an important facet of America's infrastructure.

4:23

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Certainly our sector is enthused to hear this.

4:27

Our agenda today will give you the opportunity to learn how the American rescue plan will impact your communities and particularly the non-profit sector.

4:37

We will show you the key pillars of the new infrastructure proposals.

4:41

The American Jobs Plan announced by President Biden on March 31st, the budget proposal, and what the buzz is on Capitol Hill about possible tax law changes that could impact donors and charitable giving.

4:57

And throughout our discussions, our speakers will suggest where you can be active and what to activate over, as these proposals unfold over the coming months.

5:09

So I'm going to introduce our panelists now.

5:12

Each one will sort through one of the major policy actions, with a brief overview.

5:20

Then address your questions as we go along. So, you can put your questions in the chat box. We'll keep an eye on those and answer them as they seem relevant to the conversation, and some we may hold some until the end.

5:33

I wanted to also tell you that we are using slides today to help to convey, hopefully in a cogent way a lot of information that will be relevant in the coming weeks.

5:45

So use them as a reference after this session, and as Manuela's said, they will be e-mailed to you with a link of the recording of the webinar afterwards.

5:56

So I'd like to first introduce David Thompson, who is the Vice President of Public Policy at the National Council of Non-profits.

6:03

David's going to take us through the key elements of the American Rescue Plan, which is the last relief bill.

6:11

There are various parts of this legislation that impact non-profit grantees and actually present potential for philanthropy partnerships with local governments on equitable vaccine distribution and getting kids back into classrooms and broadband equity, and just generally the path to a more inclusive economic recovery.

6:33



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Arshi ... is a partner at Akin Gump Strauss Hauer and Feld, and will give us an overview of the president's infrastructure proposals and his budget priorities and where these proposals are expected to go.

6:47

And as you will see, everything has a name and everything as a “plan” of some sort.

6:53

And Ken Kies is the Managing Director of the Federal Policy Group.

6:58

And Ken will show us how the various conversations are shaping up on possible tax reform actions proposed both by the administration and members of Congress who are activated on tax issues.

7:12

So, with this, I'm going to turn it over to David to get us started with the American Rescue Plan.

7:19

Thank you, Stephanie, and I'm honored to be here with Ken and Arshi. And all of you, I understand that most of the audience, most of you today are from community foundations. So I will try to shape my commentary there.

7:32

And all the items in the American Rescue plan that I'm focusing on do relate to charitable non-profits, either as operations or the people were helping us serve the people we serve.

7:45

And I will try to make a point of highlighting areas where we will, where we, I will ask you as private foundation, too, spread the word to your grantees. Some of this is very timely.

7:59

Some of this, the clock is ticking. And most importantly, all of this is on that chart, that grid that you see there.

8:07

That is, means the detail. From there, I think the code, the section page section numbers are there, so you don't have to take notes, copious notes, Please listen and think to yourself, how can I use this for my organization? Or how can I tell others?

8:24

That's the introduction. So if we go to the first big issue in the American Rescue Plan Act. The Act itself a gazillion pages, \$2 trillion. And it does, it does relate to all the things that Stephanie said, so vaccines.

8:40

And the extended unemployment and a lot of other things that affect society broadly have an impact on different sub sectors of the community, and virus response. I'm not going to go through all of those.

8:55

Instead, talking about 6 or 7 direct subsidy areas.



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9:00

I'm going to spend most of my time on this first one and my last slide, because those are the ones that need action as quickly as possible.

9:08

Paycheck protection program.

9:09

I don't know if anyone knows this, but that was non-profits were not included in the first round of the Cares Act when it was first drafted.

9:18

And non-profits, the coalition of non-profits that came together had to fight like crazy to get 501 C three properly included in the act. So, we've had to fight for anything and everything we've gotten. None of it's been handed to us. But the good news is, the non-profit community and philanthropy have been working closely together since the beginning of the pandemic to accomplish some pretty impressive things.

9:42

Paycheck Protection Program is an impressive thing in the most recent act, signed into law on March 11th.

9:50

Key Detail is that non-profits that were expressly excluded. Charitable non-profits there were expressly excluded those with more than 500 employees.

9:58

Many of them, finally were included brought into the tent.

10:02

Those that have 500 or 500 or fewer employees per location, this is the restaurant rule. Imagine the YMCA of New York has 22 locations, 6800 employees.

10:15

They were in a world of hurt. They needed paycheck protection program loans and grants, and they didn't get it because of the 500 employee rule. That was fixed in the American rescue plan.

10:25

so that if you have multiple locations with 500, more than 500 total, but fewer than 500 per location, you could apply for a first draft of the very first time.

10:36

And there's a rule of 300 employees for the second draw the PPP loans. What's important is that the per location rules applied there, as well, to an employee and a non-profit charitable organization with 400 employees, could now apply if it has multiple locations.

10:53

Many hundreds, maybe thousands of charitable organizations are now able to access this. The Act did include more money into the page, that protection program, And a subsequent act extended the program. It was supposed to expire on March 31st. It was extended to May 31st, but great big flashing caveat. the money is running out.

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Insiders at the Department of Small Business Administration believe the money will run out.

11:23

All the money that's been allocated for the program will expire, will run out, B will be lent out.

11:30

Next week, first week of May, maybe the second week, but time is running out right now. I'm happy if you stop listening to me, go fill out an application because time's running out.

11:40

You can listen to the recording afterwards, but for those who are still here, on that same page.

11:46

there's the Shuttered Venue program, standard venue operated program. I'm not going into great detail for that.

11:54

The non-profits that are affected our performance venues, that's the orchestra's, the theaters they are allowed to apply, was opened yesterday at noon. When I checked at noon on yesterday, I was 7000 in line.

12:11

Taken a while to get started.

12:13

The reason I'm bringing it up on this page for paycheck protection program is that blockchain was changed so that the.

12:22

Law has been changed so that employers can apply, employers can apply for both the Patient Protection program, get a grant and Shudder venues program own rule. You could not do that new room you can. There's a balancing out, you can't get more than the shutters venues program. But still, it was so that non-profits and employers would not have to wait and hedge their bets as to which one was going to work. That's all I have on that page. Next slide, please.

12:49

I'll pick up the pace on these slides. Next one is the Employer Retention Tax Credit.

12:54

This is another one that is related to overlaps with the Patient Protection Program. Again. If you are an, if you're a public charity and I believe this applies to private foundations to about keeping employees on the payroll? You can get a refundable Payroll tax credit. Most folks, A tax credit non-profits or income tax exempt, why does this matter? This is a refundable payroll tax credit. We do pay payroll taxes and we can get back 100% of the value of the credit refundable payroll tax credit. I've been calling the most beautiful forward phrase in the non-profit language best, and only by the most beautiful three word phrase in the non-profit lingo, which is general operating support.

13:40

Profitable payroll tax credit of vital importance, and for those who are advising non-profits or check for yourself.



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13:49

Here's an example. My wife runs a small non-profit in DC.

13:52

They've got a Paycheck Protection Program loan that's been forgiven last year for \$200,000. And they've gone back and successfully received the employee retention tax credit of \$79,000. So this later, if you ignore the EITC, you leave an important money on the table.

14:11

You can see the qualifiers, they're not as good a credit, not as beneficial credit for 2020, but you can retroactively apply for it.

14:20

You can't overlap the two salaries. But it's an important benefit. And the for 2021 it's a better program better credit. To help you retain employees eligibility relates to full shutdown.

14:36

Partial shut down, there's a declining value as to how much you can claim, a lot more detail on our website and we have a blog post on the subject from a few weeks ago that is on our website and a new ones coming out on Monday that explains all of this in more detail. Next slide, please.

14:53

This is the Employee, the Economic Injury, Disaster Loan. This was expanded renewed.

14:59

It's been around for a long time, predates the The pandemic the idea that non-profits and the one thing that non-profits could you couldn't access with the Small Business Administration historically in the American Rescue Plan Act. They added the re re upped restored the \$10000 grants only for small employers non-profit and for-profit alike in low-income communities.

15:25

Subsequently, the Small Business Administration has increased how much you can get under an EIDM loan or time period, as well as, You can get up to a half a million dollars.

15:37

This is alone, is not a grant, so it's not everyone's first option is mostly just about everybody last option, but it is money, there's a delay, and when you have to start paying back, but it is a valuable option when you have a grantee who is saying you've already maxed out and who's saying they need money, you can recommend recommend this as an as an option. Next slide, please.

16:01

The covert sick paid sick leave, and family leave, you'll recall back in the beginning of the pandemic.

16:07

The American American Family Families First Act created a mandated paid leave program requirement for employers of 500 or fewer employees, and had the refundable payroll tax credits for how much, for providing the benefit, providing the paid leave.

16:27

The tax credits were renewed, and the value for per employee was increased.

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16:36

Most recently, last week, the President announced, and the IRS issued a fact sheet, saying that you can use this four paid leave for people to encourage people to go take paid leave to get their vaccination. Didn't apply to me, but last Thursday, it took me five hours to drive to Warrenton in Virginia to get a shot and then stuck in traffic coming back. So, it could end up being a significant half day or a quarter day, five hours of work. So it's substantive. And it's a way of helping employers provide paid leave, encouraging people to get vaccinations withdrawal for, most importantly, there is not a mandate. There's the voluntary paid leave, but there's not a mandate. Next slide, please.

17:27

OK, here we go. This is the one I would like folks to really start imagining the law creates.

17:34

Provides the American rescue plan, provide \$350 billion to state and local and tribal and territorial governments. It's broken down a formula based on population plus number of people who are unemployed. And is this is a lot of money, billions, billions for most, many billions, for most state. Most importantly, the reason we bring it up is that it says expressly in the statute to be used for systems to non-profits.

18:04

No question about it.

18:05

Non-profits aren't eligible to receive these subject areas that we've identified, and it can be used. a state and local government can create a grant program. Several of your state, your community foundation has worked with your state or your communities to create great grant programs for non-profits. And know that New Hampshire and Delaware community foundations were highly active in this area. We can do that, again.

18:30

You can do that again, working with your state and local governments can also be used for unemployment insurance.

18:36

I didn't have a slide on unemployment insurance, but many of you may be contributing employers where you have employees and you contributed to the state unemployment system or you may be a reimbursing employer.

18:48

That means that you're, you've opted out of the state system, your employees get paid unemployment, and then you reimburse the state. That's why it's called reimbursing the cares act. Put a 50% increase on that. The American Red, The year encoded bill gave a, raise that two to 75%. And that was, I'm sorry. It was raised to 75% in the American rescue plan starting April first and ending September sixth. But that's not enough for the reimbursing employers. We had a lot of money on having to pay had to pay a lot of money to the stage.

19:23



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Last year, we weren't retroactive continuing past September sick is important, and states can contribute to the unemployment system. So this is an area of great concern to many non-profits that had to lay off workers and pay unemployment direct out of pocket unemployment.

19:40

And that can be used to hire non-profits to do more work, whether it's childcare, whether it's a wide variety of issues. Existing contracts. You can pay the bills to non-profits, which a lot of taxis in the States are slower. Or they can hire non-profits to do more, and that's what this money can be used. The only way that's going to happen, though, is by advocating with the, with the mayor, with the governor, with the legislature's, going hand in hand, philanthropy, and non-profit saying, this is what the community needs and we need your help. I'll stop there.

20:14

Thanks, David. We did get a question. I think you answered it throughout, but I'm going to pose it again.

20:21

Somebody was asking about, what might be some recommended areas that grantmakers might want to find that are least impacted by these funds.

20:33

And I know that you've talked about general ops support as being a critical area that foundations really need to assess, what the stability of their non-profit community is and just start and to put money into that.

20:51

That general operating grants would be helpful.

20:57

Ongoing.

20:58

Is there anything like around food assistance, food insecurity?

21:03

I know there's a lot of money in there for childcare, et cetera, but then, again, it may be that a lot of these organizations don't have the upfront capital to do things. And that could be helpful, too.

21:15

Many areas and the best thing to do in my mind is, what is your focus area? Where is your foundations expertise?

21:24

And then focus on the grantees. What, what are their needs?

21:27

General operating support will always be a knee jerk action. Answer from the summer suffering, Haven't have had to lay off.

21:35



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Funds to bring back key staff or bring back an additional staff to do more, would be very helpful or it may be helping to pay down debt or provide variety of thing rather than re-invent yourself. I know that the Arts Groups have had to shut down.

21:52

Perhaps, funding for technology, because arts in particular, cultural have transitioned to technology, maybe, that technology support is needed.

22:01

Depending on the non-profit, if you deal with homeless people, you need money for PPE. Everyone needs money from patrons for personal protection equipment.

22:11

So, it's, every, not every non-profit needs money for resources, for different things, maybe salary, bump to pay salaries, to upgrade technology, equipment, should have just said ask grantees, ask them now, and just ask them in the spirit of treating grantees, you know, as peers and partners.

22:38

And I would add, please share these highlights with, You don't have to use my materials. Do let them know, there is relief available. This is not boondoggle, or money just thrown at it.

22:52

This is money for specific, uh, needed activities. Please do share past. I don't pass it on.

23:01

Yeah. And I do think I'm going to move to Arshi next. But I want one more thing that I'd like to say.

23:06

And I think I would like to really emphasize that collaboration and communication with your local government, on what their role is. What are they seeing as the gaps?

23:15

What do they think they can't cover?

23:19

And really, maybe work hand in glove to make sure that there is more equity, and that there is perhaps a more comprehensive rollout of these programs.

23:31

Thanks very much. Archie, I'm going to move to you next and talk about upcoming proposals and infrastructure.

23:38

Thanks, Stephanie. I think I'm going to start off talking a little bit about the underlying dynamic in Washington, in terms of what drove many of the policies that David discussed, and where we're going in. The next phase of the legislative agenda. And I have Ken Kies here to keep me honest, I'm going to start out with kind of a Democratic view of the world, and I'm sure he'll have additional thoughts and ways of looking at things.

24:03



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So, from a political perspective, as we started out this year, I mean, I think there were three main drivers that, that come to mind.

24:11

one was the Georgia Run Off Elections, and obviously, that change the dynamic, in Washington, basically, we, we went to unified, Democratic control, but with very tight margins, but that did open up a whole new avenue on the policymaking front, and it really did no result. And, of course, correction, in terms of the art of the possible.

24:35

Around the same time, on a less positive note, for, I think, from my perspective, and I think for the country's sake, was that was the January sixth Capital Siege.

24:45

And I raised that only because there is a bit of a overhang I think, from that incident, and namely, not only what the members of Congress experienced.

24:56

But I think there was a sense that this whole pushing back on the election and the validity of the election some of those votes post siege that were taken to cast doubt on whether the election was, you know, was free and fair. I think robbed a lot of the members of Congress in a way that just has impacted their approach. I think we do see something more of a big and bold and aggressive democratic chorus in a way that that was not necessarily the case post-election.

25:33

So I think it did shift the landscape significantly and then of course, something that is so obvious but it just is such a huge shift. And worldview is how the pandemic impacted kinda the policy making landscape. So, that was basically directly in terms of everything that was done on the healthcare side but also Exasperate exacerbating issues of race and equity.

25:58

So, for us, from a policy perspective, I think the, the frame to kind of take a step back and look at it is that the the first package was very much about stamping out the pandemic and helping those disproportionately impacted. And, David talked a lot about, about those policies, whether it was small business, whether it was individuals on web UI, benefits, et cetera.

26:24

Then, also, obviously, the vaccine testing at a to state and local governments. So, all of that kind of work together as a first phase.

26:34

Now, we founder find ourselves very much in a world where Democrats are grappling with how to rebuild in a post pandemic world. And so that's, that's in many ways, why we get an overly expansive discussion or definition of infrastructure because it's all about rebuilding, rebuilding, not only roads, bridges.

26:59

And, you know, kind of traditional infrastructure, but it's also about broadband, in terms of making sure that folks are have access to the technologies, they they need to survive and an advanced economically in this new world order.



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27:17

And then we also saw many issues, I think, significantly on equity and racial disparities, That really, on the democratic side, became front and center in terms of how there were so many individuals and families who are able to manage and function, you know, relatively easily in a pandemic, despite the personal challenges. But on the economic side, it was a very different world than those who were frontline workers and had to deal with those realities day to day. So, I think that, though, that, that impact in that frame continues, and then, I think, too, I would just say that.

27:59

it has an impact. The other piece that I would also flag for the, for the group, is this whole integration of climate considerations into infrastructure.

28:10

I think, in prior, you know, I think, we saw this last summer with the House Democratic package that passed, that really integrated the, the notion of climate and infrastructure just being linked, and, and the need to act in concert to address both.

28:31

So, I think that, when you look at climate and the equity piece, I think we're in uncharted waters on the equity discussion.

28:38

I think they're there, in some ways, there's a recognition of the issue in terms of enacting policies that promote equity. A lot of is being written as we speak but what does that mean on a tangible level?

28:58

So, with that, I would say that we see that's a whole new front on the policy front, both on climate. We're kind of, we're a little bit further along, because obviously climate has been an issue that Democrats and Republicans, to some extent, have focused on, for quite some time. But the equity piece, in terms of the way the President has really integrated that into voltage infrastructure, proposal. But also, just going forward, as the Administration as a whole, and we've seen that on climate as well, creates additional kind of changes in terms of how this whole infrastructure debate will play out.

29:34

We also saw these, these themes integrated into the administration skinny budget, and I'll talk about that a little bit later, but I didn't want to I didn't want to take a pause and turn to David, in case he wanted to highlight any specific policies in the infrastructure package that might make sense.

29:52

You have on your screen, had on the prior screen, the stress, the emphasis on broadband, that is a bipartisan issue to not the broad non-profit community.

30:03

The charitable community has come out in support of broadband for a variety of reasons that we're doing, we're using broadband right now. The charitable non-profit need to communicate. We've discovered throughout the pandemic that it is needed, desperately needed in



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communities throughout the country. And as needed for the people we serve, whether it's kids in school, school from home, whether it's reaching out to the hundred low-income communities that were the individuals we're dealing with, we needed to support. It's also a bipartisan and rural areas are left out non-profits or rural areas, so it's vital there.

30:43

And it's a bipartisan issue that can bring people together and a lot of these very caustic antagonistic nasty issues. This is one that non-profit community is jumping on.

30:57

Also strategically, substantively, but strategically as well, because if we can get people agreeing on this one, can we then move on to the next one?

31:05

Which the non-profit community tends to, and Schiff insist on being in the middle, being the Safe Haven and being non partisan, bipartisan, but non partisan. So, there's a strategic decision for the broadband as well.

31:21

Yeah, and I think on the broadband piece, it's a great example of bipartisan goals. We see this in infrastructure as well. There's a, there's a bipartisan agreement that something needs to be done.

31:33

But, of course, there's a, there's a different approach on the size, scope revenue.

31:39

And when you look at Broadband, I think what we'll see play out there specifically is a, a discussion on, you know, the that last mile and how the government deploys resources. In terms of making sure, you know, the one, the one piece that has already started bubbling up is at what level of speeds and technology should be available in those rural areas. So, it's something that will continue to play out as we as we go forward. And I think that that actually is a good segue into, into where do things stand now on Capitol Hill.

32:15

Obviously, the president has released his package. He also is about to release the personal, individual side of infrastructure via a Congressional address, his first. So, that will be something, if the Phase two of this package, I think that when you think when we think about the process going forward.

32:39

There has been a lot of discussion about how the American rescue plan was so seamless and how it moved quickly, and How and how the administration was able to pass it via reconciliation. Which is a, which is a complicated and challenging.

32:58

Vehicle for this type of legislation. I think it's really important to remember that that was the product of 10 months of House and Senate work last year.

33:08

So, you know, that was something that a lot of these these policies got refined. They got litigated. And when the president was able to take office, if there was there was a very seamless



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approach because all of that work had been done on infrastructure there. because infrastructure means so much. In this context, we have the traditional set of infrastructure, as you saw on the slides. But we also do have the Broad Handpiece.

33:35

We have the the technological piece we have, you know, whether it's national grid, whether it's climate.

33:43

There's so many different aspects of what this will look like that there's still a lot to be litigated. What we do know right now is that regular order will have its day.

33:57

And we, we expect, in the House of Representatives for committees to start convening markup, starting with the, the, the Transportation and Infrastructure Committee.

34:08

And, you know, there is still some hope, both in the House and Senate, of a bipartisan approach, but, as I said, I think that we saw earlier this week, and can can talk a little bit about this in a few minutes, But, we did see the republican's release a release, a package, but I think on the Democratic side, it certainly wasn't a, wasn't as robust as as they would have liked.

34:35

But I think that's a good example of where we stand on this process, is that I don't think there's necessarily has to be one Bill. And I think that there's a recognition on the Hill, particularly amongst Democrats.

34:48

Democratic leadership is that the first step of this process should be to see if the art of the possible, on a bipartisan approach. So, I think that is why the regular order aspect will continue.

35:01

We'll continue to see on the democratic side, this whole notion of infrastructure and the definition being stretched to the limit.

35:08

Ultimately, this is going to be about rebuilding in a post pandemic world.

35:13

And then I think, you know, going back to the theme of bipartisanship and I'll try I'll turn it over to Ken for for a few minutes to get his take on this.

35:21

But, you know, from my perspective, I think we have two openings on bipartisanship.

35:25

Is this initial phase, as, as the House and Senate, go through regular order in the committees. And I think there we also, upcoming, in September, we do have the expiration of the Surface Transportation authorization.

35:40



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So I think, you know, in the middle, we are probably going to see you know, a potential shift to: reconciliation reconciliation package. And I think once reconciliation budget, reconciliation gets invoked in. just a quick refresher on budget reconciliation. It certainly is an aspect that has been a vehicle that allows allows something to pass and be fast tracked in the Senate with a majority vote. But it also has a very set of very specific set of rules that make enacting actual policy much more difficult. So, it's much better suited for tax relief versus, you know, some of the infrastructure pieces that that many of the, the, the chairs of jurisdiction would like to pass. I'm gonna turn it over to Ken for a quick talk about the Republican Take, so we can keep me honest.

36:42

OK, what I said was it's not about keeping our She honest, because she is honest.

36:48

It's about just sharing another part of the picture, which is: we all have to be sort of honest ourselves That the two sides are pretty far apart.

37:02

The President's proposal is two point sixty five trillion over eight years.

37:06

What the Republicans have rose is around \$600 billion.

37:11

And substantively, what the Republicans have proposed is largely what they would consider to be traditional infrastructure, which is roads and bridges.

37:21

And as are she, candidly, admitted or shared the president's first infrastructure bill does have an expansive view of what is infrastructure.

37:33

So there's a real challenge here And RC's point about January six is very is a very sound one.

37:42

We would be misleading you if we didn't say there's still a lot of tension up there between the two parties.

37:49

And it's not just because the election, there's that it's people asked me if I ever seen it more partisan than this. And I said, well, I have, I wasn't around for the Civil War.

37:59

But other than that, it, it's not pretty.

38:03

So getting these pieces of legislation done, This is going to be very challenging.

38:09

And both sides have got to figure out where they're going to be on this.

38:13

There's a very real possibility. We could have two more reconciliation bills.

38:18



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Speaker Pelosi has talked about a two bills strategy which is that the first next reconciliation bill would be, the pieces that she's talking about.

38:30

And the target is to try and finish that by the August recess, which will itself be a challenge because the Chairman of the House Budget Committee yesterday Congressman Yarmuth said he doesn't expect the Biden budget, the big budget, to be sent to the Hill until about Memorial Day.

38:48

And I'm going to talk about tax provisions in a minute.

38:52

If the budget doesn't get sent up to Memorial Day, that's really putting things in a tight timeframe for the House to finish it in June, the Senate to try and do it in July.

39:02

Have a conference and get it done by the August recess.

39:05

And then she's mentioned September, which is itself complicated because we're gonna need to increase the debt ceiling, reauthorize, the highway program, and pass a Continuing Resolution to fund the federal government for the next fiscal year. That begins October one. And meanwhile, the House and Senate will be currently scheduled to be in session in September nine days in 12 days.

39:25

That's it because of both the Labor Day holiday and the Jewish holidays. So then, I have the really bad news for you, which is we look beyond September.

39:36

And if we are still on this to build strategy, it's when they will pivot.

39:42

The administration will pivot to what's going to be discussed in the President's Speech tomorrow and the tax provisions that I'm going to talk about, and that could be in October, November, December timeframe, So I've always said, and this year, it could be very true if you want to know when Congress is going to adjourn for the year. Just pull out the calendar for December and figure out, what is the Friday before Christmas? And, that's as good a prediction, as you can make. Now, there is a minority view, and when I say minority, it's not Democrat Republican.

40:13

There's a minority view among the downtown community in Washington that some and Durbin talked about this just yesterday, that somehow, this is all going to come together in a single bill.

40:26

That is a daunting prospect, I mean, in terms of being able to pass with the narrow margins in the House and the Senate, but just keep an eye out for that.

40:37

because that could be a game changer in terms of timing, but also the challenge of a passage. So, back to you, Arshi.



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40:47

Yeah, I mean, I think the point on the to build strategy, versus the one, the one bill strategy, was actually, the next point I was going to raise. Um, you know, I think the timeline, and it's unfortunate, because I do think it illustrates the divide, in terms of lack of communication between both sides right now. So I think when we'll hear about the July, August kind of timeline, that the Democrats have put out there, that's not necessarily a reconciliation bill.

41:16

I think the goal here is to see, potentially, is there, is there a possibility of a smaller bill on a bipartisan basis now? Of course. Or, you know, there's, there's very thoughts on, whether, you know, there is, it makes sense politically, for either side to do a smaller bill as a first step.

41:35

But I think that is kind of the goal number one, is to pass a bill, regular order, gets a conference, and see the art of the possible. Of course, the reconciliation aspect of it, this is kind of a back pocket piece. I think, when we look at timeline, I think we should look at this as a fluid timeline. We're at the beginning of this process. I mean, to kill tens point on the on the budget.

41:58

You know, we've had the release of a skinny budget, and that's only really, honestly, I think, from my perspective, relevant to start that discussion on reconciliation, but I think, there has been a decision. Nothing, I do know. There's been a decision by both Leader Schumer and speaker Pelosi to take a pause there. Initially, see what these bipartisan discussions can for, you know, come to pass in terms of a first bill.

42:24

I think in terms of when you look at, whether it's infrastructure in a traditional way, and then, obviously, the President's going to roll out this whole other package. I think the 1 versus 2 packages.

42:36

I think the the, the bigger issue here was, I think, from the Democratic perspective, there was a sense that probably easier to find common ground on things like roads, bridges, broadband, that every member, regardless of party can agree to let you start talking about, you know, you know, childcare tax credit, when, you know, childcare credits for the total tax credit. All of these kind of other pieces of the pie. The eight strengthening the ACA, it got it gets a lot more complicated, really fast. So I think that was the notion of separating the both.

43:13

So I think we should probably expect that there is a very strong likelihood that they they kind of re re-emerge as one. If there doesn't look like there's any art of the possible on a smaller, bipartisan package.

43:29

So can I interrupt you for just a moment.

43:34

And because our audience is probably whirling from all this process talk in Washington I wanted just to go back to this slide this American Families Plan slide that you have here. some of these terms I think are probably confusing to folks that don't work here in Washington.



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43:57

Is this the budget plan that we're talking about or is this the human infrastructure Plan?

44:04

Because there was a talk about the physical infrastructure and then the human infrastructure. Can you just clarify what that is?

44:11

Yes, that's fair.

44:12

And I think, you know, what we've seen in Washington is there, I think people are still, if the nomenclature is still evolving on the second package, I think what this slide represents is basically an outline of what, what has been discussed in terms of what we think the president may roll out this week and enjoy his addressed. And I think what, you know, the really important aspect of that is, whether you look at the infrastructure package, whether you look at the tax offsets that Ken is going to talk about, or whether you look at this. It's going to be a beginning of the discussion, And it's more of a, you know, a marker. and Congress will very much make its own. So for example on there is a sense from you know, some House Democrats including the speaker that she really wants to include something on negotiating drug prices.

45:10

And include that in some sort of effort.

45:13

So I think your question is it is a good one in the sense that when we think about rebuilding in a post pandemic world, this package or packages, you know whether it could be a smaller, initial bipartisan package followed by a bigger, Democratic only package.

45:34

I think what we, what we can expect is that it's a movingly legislative vehicle and there is going to be a lot of time and energy on Capitol Hill to add add, there's a lot of pent up demand on policy.

45:49

So, what's outlined there is very much a kind of a starting point of what Biden President Biden may be raising this week, and then it'll continue to get solidified and refined on the Hill.

46:02

Great. Thank you. Thanks very much. And, we there's a lot to continue talking about over the coming weeks and months, certainly.

46:11

I can I'm going to turn to you now and maybe you can give us a quick run through here on what might happen in the tax side.

46:19

OK. So, in a way, my job is a lot easier than ...

46:23

because the Tax Proposals that President Biden ran on, I have to say it was the most transparent tax presidential platform that I've seen.



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46:37

In decades, they were very clear in terms of what the President was running on and what he plans to propose.

46:46

And, what I'm going to go through here just take a quick rundown of the very specific proposals that were included in the in the Biden Presidential Campaign Tax Platform.

46:59

I refer your attention to a more detailed document that I put out, which analyzes in significant detail the proposals that President Biden ran on. So, again, more transparency than I, I think I can remember in terms of presidential campaign.

47:18

So, just looking at this chart, that the top rate on individuals would go from where it is currently, which is 40.4%.

47:30

And that's includes the 3.8% Medicare surtax, It would go to 43.4%. So basically return to pre 2017 Act rates. You can see where the breakpoints are. I won't go through those, The P's limitation.

47:51

name for Congressman Peas is a limitation on the use of itemized deductions.

47:56

Just in terms of history, my wife worked for Congressman piece and she was from his district, and he was one of the nicest guys ever in Congress. The next item down the value of Itemized Deductions, this is a big deal.

48:10

To the philanthropic community, it would cap the value of itemized deductions at the 20% rate. Now what does that mean? Let me just give you a very simple explanation.

48:23

If the top marginal rate to the taxpayers at as say, 40% in the taxpayer, makes a thousand dollar charitable contribution, that would reduce the taxpayers taxes by \$400, which is 40%.

48:39

If you cap the benefit of the itemized deductions at 28%, even though the taxpayer is at the 40% marginal rate bracket, the value of the deduction is \$280, 28% of the one thousand dollars.

48:54

I'm sure most many people on this call know there's a very vigorous effort underway by the Philanthropic Concertos community telling the Biden Administration if you plan to make this proposal and they I'm fully confident they do.

49:09

Charitable giving should not be affected, but that's a fairly big deal.

49:13

Next item that threw it down is a provision that was in the 2017 Act at a place for pass, through businesses like partnerships, subchapter S, entities and so on.

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49:26

It was an attempt to give benefits to those entities, to reflect the fact that the top corporate rate that applies to corporations, upgraded taxpayers, was going from 35 to 21%. And we'll talk very little bit at the end about what's the proposal that by the Administration has with respect to that 21% corporate rate.

49:47

So, if you can go to the next chart, what you will see is some other significant proposals.

49:56

The by the administration, would propose limiting the value of contributions to 401 K plans to the 26% marginal rate brackett.

50:08

In other words, they would replace the exclusion from income that would benefit you. What you're over, your marginal rate is with a 26% tax credit, so it's similar to the cap on itemized deductions. It just goes about it in a slightly different way.

50:23

The next item down is a very substantial proposal, but I'm here to tell you, it's not likely to actually advance this year, it, under current law, Your Social Security tax, both the employer employer, employee share applies only up to the first 137,700 of income.

50:45

The bind proposal would eliminate that cap above 400,000.

50:51

I won't get into the nitty gritty of reconciliation, but you can't do tax changes that affect the Social Security system in reconciliation because of the way the reconciliation rules work. And so we've heard very little about this proposal since the beginning of the year. I'll be very surprised if we see it actually advance here.

51:13

Earned Income Tax Credit, there is an intention to both extend it to child childless workers, over age 65 and possibly other substantial expansions of the earned income tax credit basis step up, you hear a lot about this. Actually, it's been in the news the last couple days.

51:35

Under current law, if you're dying leave assets to your heirs, their tax basis is set at the fair market value at the time of your death.

51:44

So that means if they then sell the asset, they only have a taxable gain if the value of the asset is in excess of what it was at the time of your death.

51:54

President Biden campaigned on this very specifically said he thinks that's the wrong policy and it would eliminate step up in basis at death. So when somebody dies and leaves acid to their heirs.

52:07

The tax base is that The heirs would assume, would be the basis that deceased and had this is kind of a big deal when we talk about the capital Gains Proposal. So let's go to the next slide.



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52:23

And there it is, the Capital Gains Proposal.

52:26

It, the president, is proposing to eliminate the preferential rate on capital gains, which is currently taxes capital gains at 23 point a, and would instead tax capital gains for those with incomes above one million, at the same rate that applies to ordinary income or wage income, which would be 43.4%.

52:47

The reason the step up in basis is a big deal, is if the Joint Committee on Taxation, where to estimate. And that's who estimates revenue changes. It's a non partisan staff on the Hill.

52:59

If they were to estimate the Capital Gains increase from 23.8 to 43.4 on a standalone basis, they would probably predict it would lose revenue.

53:09

And the reason is they're estimating model says the rate to maximize capital gain revenue, which is based on a whole lot of economic assumptions, is 28%.

53:21

So if you go all the way to 43.4%, they probably would estimate this would lose revenue if you combine it with the carryover basis, it debt.

53:31

The combination of the two probably raises revenue so they normally wouldn't things are connected, they are very connected, OK?

53:40

Next step, child and dependent Care credit.

53:44

Almost certainly, we will see some very significant increases in that propose.

53:49

And just in terms of the Wednesday's speech, don't necessarily expect to see all of this detail. We expect to see a fact sheet out of the White House, probably tomorrow, morning, but when we're really going to see a detail on this, is when they send up the big budget. And at the time, Treasury sends up a thing called the Green Book.

54:08

Absolutely, name, because it has a green cover.

54:12

But, more importantly, it contains the detailed explanations of the Administration's tax proposals.

54:18

And again, we may not see that until until the end of May. Well, stacks has gotten a lot of attention.

54:24



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Particularly because the Senator Elizabeth Warren so further by the administration, is shown no interest in it, Next item up, the salt Deduction, for those of you in blue states. This is a big deal.

54:39

2017 and kept the stability of state and local taxes at 10000 per year.

54:45

There is enormous pressure coming from, particularly Members of Congress in the blue states that have higher taxes.

54:53

two, eliminate the cap or substantially raise it.

54:58

It is a very tricky issue politically, because when you strip away all the rhetoric, does really only benefit high income taxpayers in the Arts Urban.

55:09

Brookings Tax Policy Center issued a report a couple of days ago.

55:13

That shows if the distributional profile of who benefits from eliminating the cap, 49% of the benefit goes to taxpayers with over one million of income.

55:25

Another 45% of it goes to taxpayers with income between 700,000.

55:32

So this one is really tricky from a political perspective.

55:37

The likes of George Will, in the Washington Post editorial page at both come out against it, so is the New York Times, but do not underestimate the political strength behind trying to do this.

55:48

Particularly, in the case of both Senator Schumer and Speaker Pelosi, OK, Estate tax almost, certainly.

55:56

Well, the Biden Plan actually didn't have proposals under, the estate tax, is expected by many that. The rate will go up above the current level, 40%, and the exemption level, which is currently eleven point three million per joints for spouse, is going to go down.

56:15

Lot of questions about effective dates on that, which we don't have answers to.

56:20

Similarly, a lot of questions about the capital gain increase, whether it will apply to sales on or after some date soon.

56:29

one just little comment I'll make, and I'm almost done here is last Thursday, the New York Times, ran a piece with unnamed sources, saying the Biden administration was going to support an increase in the capital gains tax.



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56:41

And the Dow plunged 300 points to which most of us said, he announced this six months ago.

56:48

How is this news?

56:50

But this shows you the market is irrational.

56:54

And as a lot of people that apparently don't read much, but the next day, Friday, the market went back up.

57:01

So, apparently, those people that hadn't actually bothered to read it and realized, Oh, he proposed that, six months ago. I was reacting like that on Thursday.

57:10

OK, last item, uh, last slide, and that is, I mentioned, the corporate rate.

57:19

The President has proposed raising the rate to 28%. Remember, prior to 2017, it was 35%.

57:25

There were a number of people who thought going to 21 was too low: the people felt it was just fine. President has proposed 28.

57:33

It's pretty clear from listening to people like Senator Mansion, Senator Cinema, and other, actually other Senate Democrats.

57:43

The lowest the highest, is probably going to go, is 25%.

57:47

Now, this is a big deal, because for every 1%, that you raise the corporate rate, over a 10 year period, it raises about 100 billion.

57:58

So if instead of going from 21, 2 28, you go from 21 to 25.

58:05

That's \$300 billion.

58:07

And Archie and I really didn't talk much about this, but just, let me put this on your radar screen.

58:13

The federal debt ceiling will probably have to be raised in September.

58:18

It will probably be one of the most contentious debt ceiling fate's we've seen in a long time, and I have to say Republicans and Democrats sort of lost track of the debt in the last year or so, perhaps for good reasons.

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58:32

But in the month of March, the federal debt for the federal government for one month, was \$660 billion. That's 660 billion, I think.

58:44

And so these hundred billions that we're talking about here could be very meaningful. And we could have a very exciting September over the debt ceiling. In addition to everything else that our Sheen of our I have already talked about that Congress is going to be wrestling with, so, Stephanie, back to you. Thank you. Yeah, I was gonna say Shades of the Fiscal cliff, again, right.

59:06

I'll be in September. Just quickly can, there was a question that came in, and I think this goes refers back to the charitable deduction.

59:19

Somebody asked, it's at 28% of HEI, don't you still get the five year carry forward?

59:26

Just that, it makes sense to you, know, does eat? You would get the five year carry forward.

59:33

But just to be clear, again, to use my simple example, if you make a thousand dollar contribution, and the tax benefits capped at 28%, your total tax benefit is \$280.

59:48

You don't get to carry forward anything, because you didn't get a deduction at the top marginal rate of 40%.

59:56

So the carry forward provisions and the capping provision are kinda independent of one another. So, so if if you had more charitable deductions, and you're able to even claim, because of your amount of AGI, yes, you can have the carry forward.

1:00:12

But just to be clear, the 28% cap, it caps the value of the charitable deduction, sort of permanently to use.

1:00:22

I don't know if that's a good way to describe it, but it, but it, it limits the value of that deduction to that 28%, which again, an one thousand dollars contribution would be \$280.

1:00:34

And so, the carry forward provisions sort of independent of that.

1:00:39

Great, thanks.

1:00:42

We're gonna wrap this now, because we are almost out of time.

1:00:45

But what I did want to do is, I was just want to do a little lightning round with all of you on this particular question.

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1:00:55

And then, for more technical questions, after, for our audience, If you want to write back to us at GOVT@cof.org, you can get back to me, and we'll get some of your questions, your specific questions answered.

1:01:11

But in the Lightning Round, I wonder if each one of you and me starting with David, what is it that foundations can do right now? What's the message to deliver to their Members of Congress?

1:01:30

Will know tomorrow whether the cap on itemized deductions and 11 minus deductions is proposed. That is something that the entire non-profit, community, and charitable come together, we've been fighting, and since Obama proposed in 2009. So we know how to fight to push back against that. And it's not about Austin is not about the, the value of the deductions, about the people being fed, the people being housed because of these donations and to make put it clearly there.

1:02:00

But I can, I extend the Lightening to go.

1:02:04

We can't just focus on Congress because the \$350 billion in state and local funds goes through the state and local governments.

1:02:14

That's where philanthropy can connect mayors with non-profits.

1:02:19

That's where community foundations can connect, as, as you said, Stephanie, identifying local needs, that money is there to be spent, and minus will be spent smartly and properly working with the organization dedicated to the public good in communities.

1:02:35

Thank you. I appreciate that. And I just want to tell our members on the call that the council has initiated discussions with the National Association of Counties and the National League of Cities on this very topic to see if we can come together. And think about how, as two national associations, we can do more to get our members together. Are she turning to you? What should they be telling their members of Congress?

1:03:00

Yeah, So just building on David's point, I mean, I would echo those, I would say. really focusing on the local level, I think in this environment, we've really seen members of Congress put things through a lens of how does this impact my district specifically? And this is going to be the margins are tight, this is going to be a member level decision. At some level, it's going to be a political decision in terms of, you know, how they prioritize, what they want in the package, and what they don't want in the package. So, it'll be member by number, and we need to engage at the local level.

1:03:33

Great, Ken.



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1:03:35

OK, so, picking up on David's point, I would only say it a little slightly different way, which is Keep it Simple, stupid, Which is it exempt?

1:03:44

Charitable contributions from any cap on itemized deductions, period, end of discussion.

1:03:49

And if you want to engage a little further point out charitable deductions, or not like, state and local taxes, you have to pay your state and local tax.

1:04:00

Charitable deductions are discretionary.

1:04:03

And so, if you, any economists, well, worth his salt, no pun intended, will tell you that if you kept the benefit of itemized deductions into 28% rate, you will see a decline in charitable giving. It's just that simple. And the only debate really among the economists is how profound the decline will be. So I'm with David on this one.

1:04:26

Great, thank you very much. And I'm going to turn it back to you to close us out and we want to thank everyone for attending, and we will be doing this again.

1:04:37

Thank you so much, Stephanie, thank you so much Arshi, David, and Ken for joining us today. This was an incredible conversation, I know. Our members and sector appreciates it, and again, thank you so much Stephanie and our internal council team, Jen, at all, for making this happen. As Stephanie shared, please share any additional questions that you have to ... dot org, so they can get those answers to you. Quick, quick, quick reminders before you hop off, for those of you that are still here, we have our grantmakers, Salary and Benefits Survey that came out for 2021, and it's now available, so please go online to ..., copy for yourself.

1:05:20

We also want to you, if to, join us at the Council. So, if you have any questions about Membership, please visit us at ... dot org slash membership. We would love to bring you into our council membership, Family Community. Lastly, about the leading together, as I mentioned at the beginning, please visit us, and we would love to see you at our conference in June. And thank you again, all for joining us. This has been incredible conversation. We're very happy you're with us today, and could join us for any questions about future Council webinars. We encourage you to go to ... dot org slash council to also see recordings of past webinar recordings. Thank you again, everyone. We hope you have a wonderful rest of your day and week. Thank you all. Have a great day.

1:06:06

Good by.

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