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Congress of the United States
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COMMITTEE ON THE JUDICIARY
ANTITRUST, COMMERCIAL AND ADMINISTRATIVE LAW
COURTS, INTELLECTUAL PROPERTY, AND THE INTERNET
COMMITTEE ON HOMELAND SECURITY
BORDER SECURITY, FACILITATION, AND OPERATIONS
OVERSIGHT, MANAGEMENT, AND ACCOUNTABILITY

April 22, 2021

The Honorable Joseph Biden
President of the United States
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden,

We write to urge your administration to immediately suspend on grounds of unconstitutionality Section 9901(c)(2)(A) of the American Rescue Plan Act of 2021, which effectively bans states from reducing their own taxes through 2024. Thirteen state attorneys general have sued to invalidate this provision on grounds that it unlawfully commandeers state taxing authority. We urge you not to wait to be told by our courts that this abuse of state sovereignty cannot stand, but instead to stop implementation now in order to avoid the damage that will otherwise occur pending judgment.

The so-called American Rescue Plan Act takes \$1.9 trillion from Americans' hands (or, more precisely, from the hands of their children and grandchildren via more national debt) to fund a massive expansion of the federal government, rooted in socialism. The predictable results will include a return to stagnant wages, less credit available for small businesses, depressed job and economic growth, stunted innovation, and the erosion of savers' nest eggs by way of inflation. If those prospects were not bad enough, the bill pairs the states' share of the funds spent with an audacious crippling of state authority to stimulate future economic growth and prosperity among their own citizens via tax cuts.

This overreaching prohibition promises to aggrandize federal power while derailing state efforts through tax policy to help families weather the pandemic, expand educational choice to ameliorate lockdown harms, and strengthen vulnerable small businesses and the jobs they provide. Ironically, these benefits of prospective state tax reform, which Congressional Democrats have now banned, closely match the stated goals of the State Fiscal Recovery funds in the Act, which were to temper the pandemic's "negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries..." What could possibly justify hobbling the states' efforts to accomplish the same objectives through the policies they choose to enact?

Beyond the abysmal policy implications, this provision is an unconstitutional abuse of power by your administration and Congressional Democrats and a violation of the rights of state governments in our federal system. Thanks to the educational work of the American Legislative

Exchange Council¹ and other leaders and organizations at the national and state level², this assault on federalism has been exposed, and state attorneys general are responding. We support state-led efforts to challenge this reckless provision, and urge prompt passage of legislation from Sen. Mike Braun (R-IN)³ and Rep. Dan Bishop (R-NC)⁴ to repeal it.

There is never a time to lock in high tax rates, fuel a socialist expansion of the federal government, and prevent states from reducing tax burdens, but certainly not amid a fledgling recovery from a tragic pandemic. We urge your administration to see reason, support repeal, and in the interim, let it be known that this unconstitutional policy will not be enforced.

Sincerely,



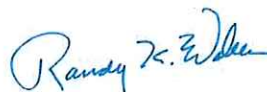
Dan Bishop
Member of Congress



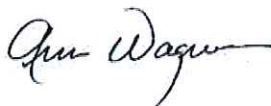
Ted Budd
Member of Congress



Scott Perry
Member of Congress



Randy K. Weber
Member of Congress



Ann Wagner
Member of Congress



Yvette Herrell
Member of Congress

¹ American Legislative Exchange Council, Jonathan Williams, March 15, 2021 "Were Future State Tax Cuts Just Cancelled by Uncle Sam?" <https://www.alec.org/article/were-future-state-tax-cuts-just-cancelled-by-uncle-sam/>

² American Legislative Exchange Council to Congress, March 17, 2021 "Coalition of National and State-Based Organizations to Congress: Fix the Ban on State Tax Cuts" <https://www.alec.org/app/uploads/2021/03/2021-03-17-SIGNED-Coalition-Letter-Fix-the-Ban-on-State-Tax-Cuts.pdf>

³ Senator Braun, March 11, 2021 "Braun introduces fix to stop Democrats from banning state tax cuts" <https://www.braun.senate.gov/braun-introduces-fix-stop-democrats-banning-state-tax-cuts>

⁴ Rep. Dan Bishop, March 18, 2021 "Bishop Introduces Bill to Repeal Democrats' Misguided Ban on State Tax Cuts"

<https://danbishop.house.gov/media/press-releases/bishop-introduces-bill-repeal-democrats-misguided-ban-state-tax-cuts>



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