



Policy Resolution Group Reconciliation & Infrastructure Update

October 29, 2021

Please find below the latest addition of the Policy Resolution Group's FY2022 Budget Reconciliation & Infrastructure Update.

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A Note from PRG's Madam Policy Podcast

Carla Frisch is passionate about climate policy. A ten-year veteran of the Department of Energy, Carla brought this passion home when she rejoined the Department earlier this year as Acting Executive Director of the Office of Policy. Carla joined hosts Dee Martin (@[edeemartin](#)) and Christine Wyman (@[cgwyman23](#)) on Madam Policy (@[madampolicy](#)) to discuss all things climate, both professionally and personally. In this episode you will hear: how national climate targets are driving DOE's comprehensive and all-in approach to climate; how clean energy technology and investments can drive the U.S. economy; the importance of climate provisions in the Bipartisan Infrastructure Framework and reconciliation process; and Carla's take on the value of staying true to your career goals and path. A must listen in advance of COP-26!

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State of Infrastructure and Reconciliation Negotiations

After months of protracted backdoor negotiations and lack of public progress, Democratic lawmakers appeared to make a breakthrough on Thursday; President Biden announced a framework for a \$1.75 trillion reconciliation deal and the House Rules Committee released its 1,684 page proposed legislative text for H.R. 5376, the Build Back Better Act. However, there are still significant hurdles that must be overcome and Democratic lawmakers face the reality that this proposed bill text will

almost certainly be modified significantly before it becomes law. Moderate Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) declined to endorse the White House’s proposed framework, leaving House progressives furious and increasingly concerned that their legislative priorities will be scaled back even further. Despite Speaker of the House Nancy Pelosi’s (D-CA) efforts to hold a vote on the bipartisan infrastructure bill on Thursday evening, progressives remained steadfast in their demands that the infrastructure bill be advanced alongside the reconciliation package and blocked the vote. The next weeks will be critical as the White House seeks to nail down support from moderate Senators in order to unlock the rest of its agenda, but continued progress on the design of the legislation signals that Democrats are likely on track to advance the bipartisan infrastructure bill and a modified version of the reconciliation package by the end of the year.

The White House framework includes the following overviews of policy and offset proposals, saying that “The plan is more than fully paid for by asking the wealthiest Americans and most profitable corporations to pay their fair share. It does not raise taxes on small business and anyone making less than \$400,000 per year.”

Policy	\$ billion
Child Care and Preschool	400
Home Care	150
Child Tax & Earned Income Tax Credits	200
Clean Energy and Climate Investments	555
ACA Credits, Including in Uncovered States	130
Medicare Hearing	35
Housing	150
Higher Ed and Workforce	40
Equity & Other Investments	90
Total	1750
<i>Immigration</i>	<i>100</i>

Offsets – Estimates, Subject to Confirmation	\$ billion
15% Corporate Minimum Tax on Large Corporations	325
Stock Buybacks Tax	125
Corporate International Reform to Stop Rewarding Companies That Ship Jobs and Profits Overseas	350
AGI Surcharge on the Top 0.02%	230
Close Medicare Tax Loophole for Wealthy	250
Limit Business Losses for the Wealthy	170
IRS Investments to Close the Tax Gap	400
Prescription Drugs: Repeal Rebate Rule	145
Up to a Total of:	1995

Investments in Clean Energy and Combatting Climate Change include:

- Clean Energy Tax Credits (\$320 billion): Ten-year expanded tax credits for utility-scale and residential clean energy, transmission and storage, clean passenger and commercial vehicles, and clean energy manufacturing.

- Resilience Investments (\$105 billion): Investments and incentives to address extreme weather (wildfires, droughts, and hurricanes, including in forestry, wetlands, and agriculture), legacy pollution in communities, and a Civilian Climate Corps.
- Investments and Incentives for Clean Energy Technology, Manufacturing, and Supply Chains (\$110 billion): Targeted incentives to spur new domestic supply chains and technologies, like solar, batteries, and advanced materials, while boosting the competitiveness of existing industries, like steel, cement, and aluminum.
- Clean Energy procurement (\$20 billion): Provide incentives for government to be a purchaser of next gen technologies, including long-duration storage, small modular reactors, and clean construction materials.

The Methane Fee Returns From the Dead with Christine Wyman

Over the last few weeks, as it became more certain that the Clean Electricity Performance Program would not survive in the reconciliation bill, there was still uncertainty as to the fate of the methane fee. In fact, at some points during the last week, the methane fee appeared dead. Yet in true Halloween spirit, it continues to live on, with slight variations from the version considered by the House Energy and Commerce intended to appease the many opponents of the methane fee. It remains unclear whether the revisions go far enough, and what additional changes we may see.

Based on the draft text released, the revised methane fee—now referred to as a “waste reduction charge”—would still apply to Greenhouse Gas Reporting Subpart W facilities, to include offshore and onshore natural gas production, processing, gathering, transmission, compression equipment, storage, and LNG import and export equipment.

One of the most significant changes to the methane fee in the draft text is how the fee amount is calculated. The fee itself would scale up over time, starting at \$900 in 2023, rising to \$1,200 in 2024, and then \$1,500 in 2025. This fee would be imposed on entities based on the amount of their reported Subpart W emissions that exceed a waste emissions threshold as defined for the following categories:

- Petroleum and Natural Gas Production: Reported tons of emissions that exceed 0.2 percent of natural gas sent to sale from the facility or 10 metric tons of methane per million barrels of oil sent from the facility if the facility did not send natural gas for sale.
- Nonproduction Petroleum and Natural Gas Systems: Reported tons of methane emissions that exceed 0.05 percent of the natural gas sent to sale from the facility.
- Natural Gas Transmission: Reported tons of methane emissions that exceed 0.11 percent of the natural gas sent to sale from the facility.

By basing the fee on the emissions that exceed a specific threshold, in theory entities can avoid the fee by keeping their emissions below the threshold. This would be supported by Subpart W revisions to ensure reporting accurately reflects emissions from the facility. Production facilities would not be responsible for emissions caused by unreasonable delays in the environmental permitting of gathering lines.

There is strong support for and against inclusion of the methane fee, and it remains unclear whether the revisions intended to scale back the fee are enough to appease opponents. The backdrop of high natural gas prices and a cold winter creates additional political complications for a methane fee, even if pared down.

Perspectives on Tax Reconciliation from Timothy Urban

A Report Card for the Democratic Majority: Due to the breathless minute-by-minute reporting on the ups and downs of the tax legislative process, with a heavy focus on the drama and personalities, it may be unclear how the Build Back Better (BBB) tax package matches up with the President's tax policy themes enunciated during the recent presidential campaign. Here is an Executive Summary (TLDR) for those who don't want to read to the end: Even considering the razor slim majorities the President has to deal with, the most recent budget reconciliation tax framework does a decent job of checking the boxes on many of the most important Democratic tax policy themes.

Wins: Campaign promises related to incentivizing more green energy and dramatically reducing carbon emissions have been fulfilled in spades. The BBB draft contains \$300+ billion in production and investment tax credits for wind, solar, hydrogen energy, electric and hydrogen commercial and personal highway vehicles, and biofuel and alternative fuels for cars, trucks and aircraft. Activity stimulated by these credits and other provisions in the BBB bill is estimated to reduce GHG emissions in 2030 by more than 1 billion tons, including 73% of the President's emissions reduction goals for the electric sector.

Similarly, we can comfortably assert that Democrats have included a down payment on their "on-shoring" agenda by including several domestic manufacturing credits (semiconductor manufacturing property, wind and solar energy property manufacturing incentives); they have required eligible clean fuels to be produced domestically; they have provided \$4,500 in bonus tax credits for EVs manufactured in the U.S. by unionized laborers, and the bill drafters have interwoven rules requiring use of domestic content into a number of green energy incentives.

Another clear win for the President's campaign commitments - the beefing up of labor protections, can be found in the drafting of the green energy credits. Under the new tax regime, which is a radical departure from the conventional mechanisms of these credits, the so-called base credit levels are set at a relatively low rate, and clean energy developers aiming to obtain the full credit must also comply with both prevailing wage and apprentice hiring rules.

Income inequality, a traditional sore spot for progressives that may have been exacerbated during the Trump administration during debate over the TCJA, has also been addressed by inclusion of a new surtax on the wealthy, which would be applied on top of the top 37% income tax rate on taxpayers with incomes above \$10 million. Estimators suggest the new surtax will raise approximately \$230 billion over ten years, which lawmakers are using to offset green energy and human infrastructure provisions.

Some of the Items on the Cutting Room Floor: As with all legislation crafted to navigate thin, fractious majorities, there are campaign proposals that lack sufficient support, or may specifically antagonize certain key Democrats (e.g. Senator Manchin). Reversing the marquee 2017 Tax Cuts and Job Act business tax relief provisions is probably the most noteworthy example of this genre. While the President did roll out an aggressive package of corporate raisers in the Treasury Green Book, it looks unlikely that final legislation will increase corporate tax rates (although there will be several compromise options like the new alternative minimum tax included), or take aim at many of the

other targets of the progressives' wrath (e.g. billionaires' unrealized gains). Repeal of oil and gas tax incentives constitutes another issue set that remains almost completely undisturbed. The so-called Obama oil and gas revenue raisers, including tax treatment of intangible drilling costs (IDCs); percentage depletion; repeal of MLP treatment for fossil fuel entities; LIFO inventory accounting, and others all showed up in the Biden/Treasury Green Book - but have not been included in the latest draft of the budget reconciliation legislation.

Conclusion: Until congressional leaders announce they have secured the votes necessary in both Chambers to pass the bill, almost anything can happen. Some changes, like modifications to the TCJA SALT limitation, may be required to bring the last groups of stragglers into the fold. But, if you assume that the enacted public law will largely resemble the BBB draft that we have, the President will be within his rights to advertise this package as a significant, once-in-a-decade kind of bill that is consistent with his vision and his promises.

Liam Donovan's Bottom Line

The Bottom Line: Déjà Vu, With A Twist. Twice in the past month President Biden has traveled to Capitol Hill in an effort to break the intramural impasse holding up his agenda; twice House leadership has sprung into action, seeking to hand the White House a bipartisan legislative victory; and twice the longtime Senate veteran headed back to 1600 Pennsylvania Avenue without bending Congress to his will. But even as you'd be forgiven for checking the calendar to make sure it wasn't late September, Democrats find themselves in a far better position on their signature social spending and climate package today than they did a month ago.

As was the case in September, the nominal forcing mechanism leadership hoped to rely on was the expiration of the surface transportation authorization on October 31. But with a September cash infusion shoring up the Highway Trust Fund, this deadline became far less relevant than two key political drivers occurring next week on opposite sides of the pond. Voters head to the polls next Tuesday in Virginia, a state Biden carried by 10 points, but where recent polls show Republicans even or better, in a gubernatorial race watched closely by the Beltway in its own backyard. An upset would further complicate the ongoing effort to pass the biggest, most progressive bill possible, making a framework agreement a highly coveted insurance policy. And as the President heads to the COP26 U.N. Climate Conference in Glasgow, such a framework would bolster the commitment Biden has made to reduce U.S. emissions by 2030.

On Wednesday, President Biden addressed the House Democratic Caucus to announce his revised Build Back Better framework, but stopped short of explicitly calling for them to vote for the bipartisan infrastructure bill (BIF), once again outsourcing the bad cop routine to Speaker Pelosi. House progressives immediately demanded to see text before considering such a vote, stuck to their desire to vote on the two bills at the same time, and cast a wary eye on the conspicuous silence from the Senate's two moderate holdouts. When they did finally release statements on the framework, several hours later, neither said the unequivocal words progressives were looking to hear, merely pointing to "progress" and "good faith." The decision to avoid supporting the framework outright tapped into the very mistrust that has driven progressives to date, and the mid-day arrival of draft text was not enough to move them off of their position. Leadership reluctantly settled for a short term extension of the highway authorization to sync up with the government funding deadline of December 3, and pledged to try again next week.

While the vote gambit was a flop, the White House did manage to win unilateral support for the framework from the Congressional Progressive Caucus, who pledged to vote for both bills as soon as

next week. Likewise, the constellation of liberal stakeholder groups chimed in with varying levels of enthusiasm. This alone gives them reason to feel good about the framework effort, and their ability to close the deal if and when Senators Sinema and Manchin publicly sign on. When and how they can win such assurances remains unclear.

The good news for Democrats is that—barring any late hiccups or curveballs by Senators Sinema or Manchin—the new BIF deadline gives them time to finalize text, work out any remaining disagreements, receive official scores, and secure the blessing of the Senate parliamentarian. The optimistic case would be voting on final passage by Thanksgiving recess. House leaders expressed hope that they could vote on the BIF next week if they get BBB assurances from the Senate. Without such an endorsement, it seems likely that the drafting process will continue in the coming weeks with the infrastructure bill remaining on ice.

While the precise path forward is not necessarily any clearer than it was a month ago, and still depends in a large part on cooperation from individual members who have been anything but accommodating, the goal line is increasingly visible, and we have a newly granular sense of what is likely to end up in the eventual compromise.

Follow Liam on Twitter: [@LPDonovan](https://twitter.com/LPDonovan)

The Rundown with Yasmin Nelson

The Rundown: Building Back and Forth. The past two weeks have been a whirlwind for those paying attention to the ins and outs of President Biden’s Build Back Better economic agenda. Progressive and Moderate Democrats have combed through almost every promise President Biden made on the campaign trail, to come up with a much smaller, condensed version of his Build Back Better vision. The goal was to have at least a BBB framework and the final passage of the Bipartisan Infrastructure bill before President Biden left for the COP26 Climate Summit in Glasgow.

That audacious deadline left Democrats scrambling to fill the nearly \$1 trillion fiscal gap after Senator Sinema scrapped proposals to raise the individual, corporate, and capital gains tax rates to pay for the bill. Shortly after, Senators Wyden, Warren, and King, proposed taxing billionaires at 5% on income over \$10 million and an additional 3% on gross income over \$25 million.

This week, Senator Manchin took a turn at nixing a major Progressive policy: paid family medical leave (PFML). It sent many Senators including Gillibrand and Murray, into a complete full court press to get Manchin back on board with the proposal. Both Senators Gillibrand and Murray were seen on the Senate floor cornering Manchin after he stated his opposition in having PFML in the BBB framework. As of now, the provision is not included in the bill.

However, all of the back and forth has finally paid off— we have BBB bill text! The \$1.7-1.85 trillion bill includes major investments in childcare, clean energy and climate, housing, and healthcare for seniors. It’s offset by ensuring corporations pay a minimum tax, taxing the top 0.02%, closing tax loopholes, and investing in closing the tax gap at the IRS.

Done, right? Well, not exactly. Although there is bill text, a section by section, and messaging materials for the BBB, there’s still some haggling left. Progressive Democrats don’t seem to trust that Moderate Democrats will hold to their good faith negotiations, because they don’t believe the framework is finalized. Once the BBB framework is also ready to be voted on, then Progressives say they will also vote on the infrastructure package. The two are intrinsically linked.

Follow Yasmin on Twitter: [@YasminRNelson](#)

Document Library

Background Material

For the Congressional Research Service report on “The Senate’s ‘Byrd Rule’” click [HERE](#).

Build Back Better Act

For the House Rules Committee text of the Build Back Better Act click [HERE](#).

For the Build Back Better Act Section by Section click [HERE](#).

For the Build Back Better Framework Fact Sheet click [HERE](#).

For the Build Back Better Framework click [HERE](#).

Provisional Text

For a preliminary budget reconciliation framework signed by Sen. Joe Manchin (D-WV) and Sen. Majority Leader Chuck Schumer (D-NY) on July 28 click [HERE](#).

For the House Committee on the Budget’s full text of the Build Back Better Act click [HERE](#).

- For Part 1 of the House Committee on the Budget’s report on the Build Back Better Act click [HERE](#).
- For Part 2 of the House Committee on the Budget’s report on the Build Back Better Act click [HERE](#).
- For Part 3 of the House Committee on the Budget’s report on the Build Back Better Act click [HERE](#).

For the summary of the Senate budget resolution click [HERE](#).

- For the text of the Senate budget resolution click [HERE](#).
- For the committee print to accompany the FY22 budget resolution click [HERE](#).
- For Senate Majority Leader Chuck Schumer’s (D-NY) dear colleague letter regarding the climate impacts of the budget resolution click [HERE](#).

For the summary of the House budget resolution click [HERE](#).

- For the text of House Resolution advancing the bipartisan infrastructure agreement, the Senate budget resolution, and H.R. 4 the John R. Lewis Voting Rights Advancement Act of 2021 click [HERE](#).

For a summary of Sen. Ron Wyden’s (D-OR) proposals for tighter tax rules on partnerships and an excise tax on stock buybacks click [HERE](#).

- For the text of Sen. Wyden’s proposals click [HERE](#).

Markups

Agriculture: For the text of the House Agriculture Committee print containing legislative proposals click [HERE](#).

- For a summary of the proposals click [HERE](#).

Education and Labor: For the text of the House Committee on Education & Labor print containing legislative proposals click [HERE](#).

- For an amendment in the nature of a substitute offered by Chairman Bobby Scott (D-VA) click [HERE](#).

Energy and Commerce: For a fact sheet of the House Committee on Energy and Commerce markup of the Build Back Better Act click [HERE](#).

- For a memorandum on the markup click [HERE](#).
- For Subtitle A on Air Pollution click [HERE](#).
- For Subtitle B on Hazardous Materials click [HERE](#).
- For Subtitle C on Drinking Water click [HERE](#).
- For Subtitle D on Energy click [HERE](#).
- For Subtitle E on Drug Pricing click [HERE](#).
- For Subtitle F on Affordable Care Coverage click [HERE](#).
- For Subtitle G on Medicaid click [HERE](#).
- For subtitle H on CHIP click [HERE](#).
- For subtitle I on Medicare click [HERE](#).
- For subtitle J on Public Health click [HERE](#).
- For subtitle K on Next Generation 9-1-1 click [HERE](#).
- For subtitle L on Wireless Connectivity click [HERE](#).
- For subtitle M on Distance Learning click [HERE](#).
- For subtitle N on the Manufacturing Supply Chain click [HERE](#).
- For subtitle O on FTC Privacy Enforcement click [HERE](#).
- For subtitle P on the Department of Commerce Inspector General click [HERE](#).
- For a full committee action summary click [HERE](#).

Financial Services: For the text of the House Committee on Financial Services click [HERE](#).

- For an amendment in the nature of substitute offered by Chairwoman Maxine Waters (D-CA) click [HERE](#).
- For the committee Memorandum click [HERE](#).
- For the text of H.R. 5195, the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2021” click [HERE](#).
- For the text of H.R. 5196, the “Expediting Assistance to Renters and Landlords Act of 2021” click [HERE](#).

Homeland Security: For the committee print of the reconciliation of the House Homeland Security Committee print containing legislative proposals click [HERE](#).

- For the amendments adopted click [HERE](#).

Judiciary: For the text of the House Committee on the Judiciary print containing legislative proposals click [HERE](#).

- For an amendment in the nature of a substitute offered by Chairman Jerrold Nadler (D-NY) click [HERE](#).

Natural Resources: For the text of the House Natural Resources Committee print containing legislative proposals click [HERE](#).

Science, Space, and Technology: For the committee print of the House Science, Space, and Technology Committee print containing legislative proposals click [HERE](#).

- For an amendment in the nature of a substitute offered by Chairwoman Eddie Bernice Johnson (D-TX) click [HERE](#).

Small Business: For the text of the House Committee on Small Business print containing legislative proposals click [HERE](#).

- For an amendment in the nature of a substitute offered by Chairwoman Nydia Velázquez (D-NY) click [HERE](#).

Transportation and Infrastructure: For the text of the House Transportation and Infrastructure Committee print containing legislative proposals click [HERE](#).

- For the amendment in nature of a substitute click [HERE](#).

Ways and Means: For a summary of the House Ways and Means Committee markup of the Build Back Better Act click [HERE](#).

- For a memorandum on the markup click [HERE](#).
- For a section-by-section summary of subtitles A-E click [HERE](#).
 - For Subtitle A on Universal Paid Family and Medical Leave click [HERE](#).
 - For Subtitle B on Retirement click [HERE](#).
 - For Subtitle C on Child Care Access and Equity click [HERE](#).
 - For Subtitle D on Trade Adjustment Assistance click [HERE](#).
 - For Subtitle E, Part 1 on Health Careers click [HERE](#). For Part 2 on Elder Justice click [HERE](#). For Part 3 on Skilled Nursing Facilities click [HERE](#). For Part 4 on Medicare Dental, Hearing, and Vision Coverage click [HERE](#).
- For a section-by-section summary of Subtitle F-J click [HERE](#).
 - For legislative recommendations relating to infrastructure financing, green energy, social safety net, and prescription drugs click [HERE](#).
 - For the estimated budgetary effects of the revenue provisions from the Joint Committee on Taxation click [HERE](#).
 - For the estimated distributional effects of the revenue provisions from the Joint Committee on Taxation click [HERE](#).
 - For a description of the Chairman’s Amendment in the Nature of a Substitute from the Joint Committee on Taxation click [HERE](#).
 - For a summary of Subtitle F on Infrastructure from the Joint Committee on Taxation click [HERE](#).
 - For a summary of Subtitle G on Green Energy from the Joint Committee on Taxation click [HERE](#).
 - For a summary of Subtitle H on the Social Safety Net from the Joint Committee on Taxation click [HERE](#).
 - For a summary of Subtitle J on Drug Pricing from the Joint Committee on Taxation click [HERE](#).
- For a section-by-section summary of Subtitle I click [HERE](#).
 - For legislative recommendations relating to Funding Our Priorities click [HERE](#).
- For the Joint Committee on Taxation’s estimated budgetary effects of legislative recommendations relating to infrastructure financing and community development, green energy, social safety net, responsibly funding our priorities, and drug pricing click [HERE](#).
- For the final vote results click [HERE](#).

Letters

For a letter for Senate Majority Leader Chuck Schumer on the environmental benefits of the infrastructure bill and reconciliation bill see [HERE](#).

For Senator Joe Manchin's Opinion piece calling for a strategic pause on spending click [HERE](#).

For a letter from Rep. Stephanie Murphy (D-FL) and Rep. Henry Cuellar (D-TX) rejecting deficit spending except on climate policy click [HERE](#).

For a letter from Democrats calling for increased support for biofuels click [HERE](#).

For a letter from House Democrats supporting the Polluter Pays Climate Fund Act click [HERE](#).

For a letter from House Democrats supporting an array of international tax provisions see [HERE](#).

For a letter from Democratic governors supporting the budget reconciliation bill click [HERE](#).

For an endorsement of the environmental provisions from a coalition of environmental groups see [HERE](#).

For a letter from the United Mine Workers of America opposing the initial proposal for a Clean Electricity Standard click [HERE](#).

For a letter from America's Power opposing the Clean Electricity Performance Program click [HERE](#).

For a letter from the National Rural Electric Cooperative Association opposing the Clean Electricity Performance Program click [HERE](#).

For a letter from the American Public Power Association opposing the Clean Electricity Performance Program click [HERE](#).

For a letter from America Electric Power opposing the Clean Electricity Performance Program click [HERE](#).

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