



Policy Resolution Group Reconciliation & Infrastructure Update

September 24, 2021

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

Included in this newsletter are sections on:

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State of Infrastructure and Reconciliation Negotiations

Congressional negotiations over the bipartisan infrastructure bill and budget reconciliation deal encountered significant hurdles this week, as intraparty disputes between the moderate and progressive wings of the Democratic party threaten to derail President Biden's domestic agenda. These fights occur in the shadow of a potential government shutdown on October 1 and potential breach of the debt ceiling in mid-October.

Speaker Nancy Pelosi (D-CA) had initially committed that the House would vote on the bipartisan infrastructure bill and the partisan reconciliation package on September 27, but this timeline hangs in suspense owing to internal discord among the Democratic Party. About half of the 96-member Congressional Progressive Caucus, led by Rep. Pramila Jayapal (D-WA), have vowed that they will refuse to vote for the infrastructure bill unless it is brought alongside a reconciliation package that includes their climate and social safety net priorities. However, Sen. Joe Manchin (D-WV), the crucial vote in the Senate, has continued to express his opposition to the \$3.5 trillion price tag and the centerpiece of the reconciliation climate provisions, the Clean Electricity Performance Program that would aim to transition the United States to 80% clean electricity by 2030. President Biden met with Democratic lawmakers from both wings of the party this week to facilitate negotiations over the reconciliation package, yet talks failed to make significant progress as Sen. Manchin declined to indicate a price tag he would support.

On Thursday, September 23, Senate Majority Leader Chuck Schumer (D-NY) and Speaker Pelosi announced that the White House and Democratic leadership had agreed to a “framework” of pay-fors for a reconciliation package, but they refused to provide further details on what programs would be included or how much revenue they would raise. Relatively few key Democrats were privy to the meetings or the agreed upon framework, sowing further doubt as to the ability of Democratic leadership to achieve agreement in time to pass both bills by Monday. The House Budget Committee will hold a markup of the House reconciliation package on Saturday, September 25. Speaker Pelosi has promised a vote next week. It is unclear what steps she will take to get there, but a floor vote would require a markup at the Rules Committee, where significant changes would be required both to bring the bill into compliance with the various committee instructions, and, with only three votes to spare, those needed to cobble together the necessary support.

At this rate, a consensus reconciliation package cannot be ready in time for the scheduled infrastructure vote on Monday the 27th, meaning progressives would have to be satisfied with public displays of progress, and promises of a prompt vote on a to-be-determined reconciliation bill. With Congress facing a series of policy cliffs, backroom negotiations could proceed quickly if all parties engage, but the infrastructure and reconciliation bills face an uncertain future as leadership struggles to pin down key Senate holdouts on their specific demands, a necessary step before consensus can be reached among competing Democratic factions in the House and Senate.

Constitutionally, the bill must originate in the House, but with a narrow majority reluctant to vote until it knows what can clear the Senate, all eyes are on the upper chamber. That may change as leadership grows increasingly restless—perhaps with moderates pledging to support a House marker on reconciliation in exchange for passing the infrastructure bill. In the meantime that means everyone is waiting on Senators Manchin and Sinema for an affirmative indication of what can muster 50 votes. Until they decide to bargain in earnest, the holding pattern is likely to continue.

Liam Donovan’s Bottom Line

Liam Donovan’s Bottom Line: CBDR: Constant bearing, decreasing range. That’s the theme for Congressional Democrats heading into next week, careening toward critical deadlines—self-imposed and otherwise—with no sign of course-correction or meaningful progress. First up, Democrats must maneuver their way through (or around) a previous commitment made by Speaker Pelosi to pass the bipartisan infrastructure bill by Monday, September 27. This had been a concession (a “clarification” in her terms) to House moderates required to win their votes for the budget resolution and unlock the reconciliation process. But the certain date for the infrastructure vote immediately prompted progressives to dig in further on their demand that reconciliation pass first, creating an untenable timeline for achieving both, despite leadership assurances to the contrary. With rhetoric heating up this week as the deadline approached, President Biden summoned the various factions from both chambers to the White House to stop the public ultimatums and coordinate a path forward. While the meeting seemingly succeeded in turning down the temperature, it did not yield any substantive breakthroughs, nor clear timeline for reaching internal agreement.

What ensued can best be described as a choreographed effort by Democratic leaders to project some semblance of progress and momentum, however contrived or illusory. First, the joint announcement of an agreement on a “framework” for revenue options to finance whatever topline amount can be agreed upon. This was ultimately revealed to be a tentative agreement between the tax committee Chairmen that simply affirmed the universe of pay-fors under consideration, with very little definitely ruled out. Next, they announced a markup of the reconciliation bill in the House Budget committee for Saturday, a formal step in the process that essentially combines the 13 “legislative

recommendations” into a single package without making the requisite substantive changes that will be needed before it comes to the floor. Finally, Speaker Pelosi announced in a Dear Colleague letter to the caucus her intention to “move forward to pass [both] bills next week.” While this stops short of a commitment to hold a floor vote on the reconciliation bill next week, that is the strong implication. It remains unclear what, if anything, the House could do to muster 218 votes at this point, and specific commitments from the Senate seem highly unlikely in that timeframe, putting this push into direct conflict with previous promises Pelosi has made, that the House would only vote on something that “will pass the Senate,” and that she would not force members to vote on “a bill with a higher topline than would be passed by the Senate.” Whether this gambit succeeds remains to be seen, but underscores Leadership’s desire to pass the bipartisan infrastructure bill on Monday—or at least avoid a defeat that would further erode intra-caucus trust and goodwill. The key is putting on a public show that is convincing enough to allow progressives to save face despite falling short of their demands. If the whip count comes up short, Speaker Pelosi is likely to table to vote rather than risk a failure that could further poison the well. Either way, short of public commitments from Senators Manchin and Sinema, we remain far away from the endgame, which will involve significant haggling over the ultimate scope and scale of the bill. Indeed, passage of the bipartisan bill could actually prolong the process, as the holdouts could feel even less pressure to come to the bargaining table without their top priority in peril.

All of this is playing out with the backdrop of an emerging crisis over a possible government shutdown and a potential default. The House this week passed a short term continuing resolution (CR) to fund the government through early December and suspend the debt ceiling until the end of 2022 that is doomed to fail in the Senate, but that delays the decision on how to proceed until Monday night, three days before the deadline. It is likely that a clean CR will be passed in short order, but a brief lapse is not out of the question. Either way, the debt limit brinkmanship will continue, with presumed late October X-date for a default still not specified. With Republicans remaining united in their insistence that Democrats avail themselves of their ability to do this themselves through the reconciliation process, the most likely resolution is for the budget resolution to be amended, which would allow the majority to pass an increase on a party-line basis, whether as part of the broader reconciliation package (unlikely given time constraints) or as a stand-alone bill. This would throw a wrench into already-fraught political balancing act, and likely cost them an additional two weeks in a rapidly disappearing calendar. Other options range from unlikely to fanciful, including an ongoing game of chicken that could end in default, a change to the filibuster that would allow for the vote without GOP help, or constitutionally novel ideas like minting a platinum coin. And while a default would not be desirable for either side, who would be blamed is less relevant than the fact such an unprecedented economic shock would be untenable for the White House, to say nothing of its legislative agenda. At best, Democrats can hope to emerge from this process united against a common foe, a welcome respite after months of intramural scuffles.

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

Listen Here: This week on [The Lobby Shop Podcast](#), [Josh Zive](#), [Liam Donovan](#), and [Paul Nathanson](#) recap key pieces of legislation currently under consideration and speculate on what could come next for the bipartisan infrastructure bill and controversial reconciliation package working their way through Congress. Tune in to find out what factors could affect the trajectory of these bills.

Listen [HERE!](#)

The Breakdown with Yasmin Nelson

The Breakdown: Much to be done, not much time to do it. The debt limit expires at the end of the October, government funding is needed to keep the lights on, surface transportation funding needs to be reauthorized, in addition to several other Democratic priorities that need to be addressed like reproductive choice, civil rights, and immigration reform. House Democrats passed a budget package to avoid a government shutdown and debt limit crisis, but the outlook in the Senate is unclear as Democrats need Republican votes to get to 60. Notwithstanding years of bipartisan negotiations on the debt limit, Senate Minority Leader McConnell (R-KY) has contended that Democrats should pass it without GOP support this year. The reason? Democrats are using the partisan budget reconciliation process to enact their progressive priorities without Republican participation.

Top of mind for most is the September 27 date that Speaker Pelosi set for votes on the bipartisan infrastructure and the budget reconciliation packages. That's about 4 days away with no agreement on how moderate and progressive Democrats will move the bills in tandem. On Wednesday night, President Biden used his diplomatic skills domestically by hosting three separate meetings with Democrats at the White House on how to move his ambitious domestic agenda forward. One with Democratic leadership, another with moderate Democrats, and the last of the three with progressive Democrats. The theme for moderates: what is the number you can live with? Or better yet—vote for passage. Moderates didn't bite. According to Jen Psaki, White House Press Secretary, there was "a lot of agreement" on the goals but "we need to figure out what the path forward is." It's pretty clear that \$3.5 trillion cannot be the floor and in fact maybe the very high ceiling. I am expecting a number around \$2 trillion. We will see.

Now, perhaps more than ever, is the time for off committee House members to start sharing how they feel about the text of the budget reconciliation package. In an effort to gain support from other Congressional Black Caucus members, Congresswoman Alma Adams (D-NC) called for the opposition to the reconciliation package unless changes are made to include more spending for Historically Black Colleges and Universities.

And if this wasn't enough, there's an increasing number of Republicans who are starting to vocalize their opposition to the bipartisan infrastructure package. As the Senate-passed bill sits on the House docket, less than 12 House Republicans are slated to vote in support of the \$550 billion infrastructure package. There would be more support for the bipartisan infrastructure package if it was a standalone bill (read: if there was no budget reconciliation bill). However, we know that Speaker Pelosi and Democratic leadership is sticking to the bills being linked. If I was a betting woman, both bills pass with just enough support and neither party runs away with everything, but will be able to walk away with something to tout in midterms. Timing as to when this occurs is still up in the air, but we will know more in the next 72 hours.

Follow Yasmin on Twitter: [@YasminRNelson](https://twitter.com/YasminRNelson)

Christine Wyman and What's Next for the Clean Electricity Performance Program

In the days following the House Energy and Commerce's reconciliation markup, scrutiny and criticism of the Clean Electricity Performance Program (CEPP)—the combination payment and penalty designed to deploy clean electricity—has intensified.

Although a well-designed CEPP can properly incentivize new clean electric generation and facilitate the U.S.'s pathway to a clean energy future, as drafted, it will require adjustments to certain critical

design features in order to achieve its goals—most importantly the 4% annual increase (which appears well beyond what is achievable) and the penalty provisions (which would create an ever-growing clean electricity goal). Utility and consumer groups alike have raised red flags on the potential impacts to reliability and consumer prices, as well as unintended consequences of increasing the time and cost of clean electricity deployment.

Setting the policy concerns aside, there is also some question as to whether the CEPP will survive the Senate Parliamentarian’s scrutiny under the Senate Byrd Rule—scrutiny that Senator John Cornyn (R-TX) has called for. Earlier this week, the Senate Parliamentarian rejected Democrat’s inclusion of immigration reform in the partisan reconciliation pathway as a policy change that substantially outweighs the budgetary impact of that change. That decision, although specific to the immigration legislation, cautions Democrats from using the reconciliation process for important policy changes, which could then be undone by a subsequent reconciliation process. Although the CEPP was designed with the Senate Byrd Rules in mind, the Senate Parliamentarian’s reasoning could result in a similar outcome for the CEPP.

But if the CEPP cannot survive, what could Senate Democrats include to fill the void in reaching their climate goals? One possibility receiving attention is the one-time third rail of climate policy—a carbon tax or “carbon pricing” as included in recent Democratic briefing materials. Although Senator Manchin has been quite critical of the Democrat’s climate policies in the partisan reconciliation bill, in the past Manchin has voted not to take a tool like a carbon tax off the table, possibly leaving the door open to whether a carbon tax of appropriate size and scope could win Senator Manchin’s vote.

Document Library

Background Material

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

Provisional Text

For the House Committee on the Budget’s full text of 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 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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