



Policy Resolution Group Reconciliation & Infrastructure Update

December 10, 2021

PRG will send a separate alert when the Senate version of the Build Back Better Act is released.

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

Included in this newsletter are sections on:

- State of Infrastructure and Reconciliation Negotiations
- Liam Donovan's Bottom Line
- Document Library

State of Infrastructure and Reconciliation Negotiations

This week, Senators continued to hold closed door meetings on the Build Back Better Act and the Senate Parliamentarian continued her scrub of the text to determine which sections violate the "Byrd rule" that requires all provisions in the reconciliation bill to directly affect outlays or revenue. While Senate Majority Leader Chuck Schumer (D-NY) insists that the Senate will pass the bill before the New Year, there is almost no chance of that expedited timeline coming to fruition owing to continued disagreements with Senator Joe Manchin (D-WV) and assorted procedural delays. Senator Manchin has reiterated his concerns over inflation, his opposition to green tax incentives that he believes would disadvantage his constituents, and his disapproval of social spending programs such as the child tax credit. Democrats will likely need to alter the bill text in order to win Senator Manchin's support, but he has repeatedly indicated he does not feel time-pressured to complete the legislation within the next month. Without the 50th vote in the Senate secured, debates over the Build Back Better Act will likely proceed into 2022, after which we can expect even more modifications to the bill as currently drafted.

Liam Donovan's Bottom Line

Senator Majority Leader Chuck Schumer and his party made impressive strides this week to keep the possibility of passing the Build Back Better Act this year alive. They'll still need a Christmas miracle to pull it off.

As we laid out last week, BBB timing has been clouded in part as a matter of sequence, as the reconciliation bill was quickly eclipsed by several must-pass measures upon Congress' return from the Thanksgiving break. Government funding, the federal debt limit, and the annual defense authorization bill (NDAA) all faced December deadlines, statutory and otherwise, that required Congressional attention. With the passage of a fast track procedure for a debt lift, and a bipartisan, bicameral deal on NDAA, all three of these items are now on track to be resolved by next week, something that was necessary if not sufficient to clear the decks for BBB consideration.

But clearing out the legislative underbrush is just one of three areas where Democrats need significant movement. The second is procedural, as the parliamentarian seeks to adjudicate questions of what programs and language are allowable in the BBB under Senate reconciliation rules. And while these talks have heated up in recent days, they remain partisan and preliminary, with guidance coming only after Republicans have their opportunity to counter, and, if needed, both sides appear before the parliamentarian for the formal "Byrd bath." Democrats hope to have this process sewn up by the end of next week, which would be needed to meet their Christmas goal.

Before they move to the floor, Democrats must have their product vetted by the parliamentarian, scored by the Congressional Budget Office, and "touch the bases" with their Republican counterparts in lieu of a committee markup process. Thus far they have reportedly transmitted 8 of 12 committee recommendations, with the weightier pieces still outstanding, though the single biggest chunk in Senate Finance is expected soon. Here again, the pace nominally leaves the window open for consideration this year, but by itself is not sufficient to have any confidence in the ambitious timetable.

The third element, and the obvious wild card, is coming up with a substantive deal that can not only win the support of all 50 Senators to move forward with, but that they will band together to protect against the inevitable onslaught of carefully calibrated GOP amendments meant to score political points and inject poison pills. This is where Democrats remain stuck, with little evident progress in recent weeks, and more strident public concerns being aired by Senator Joe Manchin (D-WV), the linchpin for any consensus, though far from the only member seeking changes.

The iteration of the bill being scrubbed by the parliamentarian and calculated by the scorekeepers is **not** a version of the bill that stands to win 50 votes, and will largely resemble the House-passed package at the outset. Which is to say that more changes are coming, and if they aren't made in short order, and to the mutual satisfaction of the entire caucus, it's hard to see how Schumer would be in a position to move forward before the holiday break.

Working backwards, can Manchin be persuaded to cooperate in the next week as would be required to begin the process before Christmas? His public comments this week should give anyone pause, as he expressed broad concerns with the bill's changes to the federal tax structure, delivery of social services, and approach to climate, and stressed the need to take the time to get it right. Just today, a new consumer price index (CPI) print with ugly monthly inflation numbers—the highest since 1982—further validated Manchin's longstanding concerns about the pace and scale of federal spending, while a CBO analysis showing the ten-year cost of BBB programs if they are extended (as intended) stands to add fuel to Manchin's stated concerns about the bill's "real cost." While media outlets have largely run with the \$1.7 trillion "net outlays" figure produced by CBO, Manchin stated this week that he pegs the House bill at \$2.2 trillion, its gross cost, which he said was achieved only by "chang[ing]... the amount of time they're gonna pay for it." Assuaging

Manchin, whose desired topline has long been \$1.5 trillion, is almost certain to require significant trimming, if not outright legislative surgery, further casting the December timetable in doubt.

Should the debate stretch into 2022, the biggest issue for Democrats is the lapse in the expanded child tax credit (CTC) and a disruption in its monthly payments. If the bill is not enacted by December 28th, according to Congressional tax writers, the January checks will not go out on time. This expiration is the closest thing to a forcing mechanism Democrats have, though Manchin has downplayed the stakes, citing the underlying CTC. The debate over the state and local tax deduction (SALT) could also be scrambled by slipping into next year, though first quarter enactment will still allow for retroactive relief.

Barring some unforeseen breakthrough, Schumer will reach a key decision point at the end of next week, where he will either have to hit the pause button and send his members home for the holidays, or roll the dice and see if they dare vote down a motion to proceed. The latter seems exceptionally risky, and therefore unlikely, and even a vote to begin debate doesn't guarantee passage by Christmas. The House has already voted with its feet, with next week's debt limit vote expected to be its last action of the year. If Senators aren't ready to vote on the BBB, pressure tactics to keep them here the week of Christmas won't go over well if they are merely processing nominations.

As we saw with the House in September (and October), leadership has to keep its foot on the rhetorical gas, insisting on the improbable until it proves impossible. Self-imposed deadlines have not fared well in this process, and we expect this one to be no different. Expect Schumer to cite great progress in vetting, scoring, and otherwise readying the Senate bill for consideration, declare victory, and resolve to finish their work in the new year.

Document Library

Bill Text and Summaries

For the House Committee on Rules information page on the Build Back Better Act, including recordings of committee meetings and proposed amendments click [HERE](#).

House Bill Text and Comparisons:

- For the House Rules Committee Print of the Build Back Better Act released on November 3 click [HERE](#).
- For the 1st Manager's Amendment adopted and agreed to on November 6, 2021 click [HERE](#).
- For the 2nd Manager's Amendment adopted and agreed to on November 18, 2021 click [HERE](#).
- For a comparative print between the November 3 print and the October 28 print click [HERE](#).
- For a comparative print between the November 3 print and the initial text of H.R. 5376 click [HERE](#).
- For the House Committee on Rules page on the Build Back Better Act, including announcements, videos, bill text, amendments, and votes click [HERE](#).

Senate Bill Text:

- For the Senate legislative text for “Title IV - Committee on Banking, Housing, and Urban Affairs” click [HERE](#).
- For the Senate legislative text for “Title VIII - Committee on Commerce, Science, and Transportation” click [HERE](#).
- For the Senate legislative text for “Title IX - Committee on Indian Affairs” click [HERE](#).
- For the Senate legislative text for “Title X - Committee on Small Business and Entrepreneurship” click [HERE](#).
- For the Senate legislative text for “Title XI - Committee on Veterans' Affairs” click [HERE](#).

Summaries and Fact Sheets:

- For a section-by-section summary of the Build Back Better Act click [HERE](#).
- For a fact sheet on the agriculture provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the homeland security provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the science, space, and technology provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the energy & commerce provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the judiciary provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the small business provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the education & labor provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the natural resources provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the financial services provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the oversight and reform provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the transportation & infrastructure provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the veterans’ affairs provisions in the Build Back Better Act click [HERE](#).
- For a fact sheet on the ways & means provisions in the Build Back Better Act click [HERE](#).

Budgetary Effects

For the Congressional Budget Office’s summary of the cost estimate for H.R. 5376, the Build Back Better Act, click [HERE](#).

For a December 8 update from the Congressional Budget Office on the budgetary effects of the Build Back Better Act, click [HERE](#).

For the Congressional Budget Office’s report on the budgetary effects of making specified policies in the Build Back Better Act permanent, click [HERE](#).

House bill:

- For the Congressional Budget Office’s estimated budgetary effects of the Homeland Security provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Small Business provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Veterans Affairs provisions in the Build Back Better Act click [HERE](#).

- For the Congressional Budget Office’s estimated budgetary effects of the Science, Space, and Technology provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Transportation and Infrastructure provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Oversight and Reform provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Financial Services provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Energy and Commerce provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Judiciary provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Ways and Means provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Education and Labor provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Natural Resources provisions in the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Agriculture provisions in the Build Back Better Act click [HERE](#).

Senate bill:

- For the Congressional Budget Office’s estimated budgetary effects of the Senate’s “Title IV - Committee on Banking, Housing, and Urban Affairs” of the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Senate’s “Title VIII - Committee on Commerce, Science, and Transportation” of the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Senate’s “Title IX - Committee on Indian Affairs” of the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Senate’s “Title X - Committee on Small Business and Entrepreneurship” of the Build Back Better Act click [HERE](#).
- For the Congressional Budget Office’s estimated budgetary effects of the Senate’s “Title XI - Committee on Veterans' Affairs” of the Build Back Better Act click [HERE](#).

Other Budgetary Estimates:

- For the Joint Committee on Taxation’s Estimated Budget Effects of the Build Back Better Act click [HERE](#).
- For the White House’s preliminary budgetary estimates of the Build Back Better Act click [HERE](#).
- For a Dear Colleague Letter from the Speaker of the House issued on November 4 regarding the preliminary budget estimate of the Build Back Better Act click [HERE](#).

October 28 Text

For the House Rules Committee Print of the Build Back Better Act released on October 28 click [HERE](#).

For a section-by-section summary of the Build Back Better Act click [HERE](#).

For the Build Back Better Framework released on October 28 click [HERE](#).

For the White House fact sheet on the Build Back Better Framework released on October 28 click [HERE](#).

September 27 Text

For the text of H.R. 5376 the Build Back Better Act as reported by the House Committee on the Budget on September 27 click [HERE](#).

For the report from the Committee on the Budget to accompany H.R. 5376 click [HERE](#).

Background Material

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

bracewell.com

policyresolutiongroup.com



Bracewell LLP makes this information available for educational purposes. This information does not offer specific legal advice or create an attorney-client relationship with the firm. Do not use this information as a substitute for specific legal advice. Attorney advertising.

Bracewell is a leading law and government relations firm primarily serving the energy, infrastructure, finance and technology sectors throughout the world.

Our industry focus results in comprehensive state-of-the-art knowledge of the commercial, legal and governmental challenges faced by our clients and enables us to provide innovative solutions to facilitate transactions and resolve disputes.

If you are an EU citizen and would like to be forgotten, please click [here](#).

Texas

New York

Washington, DC

Connecticut

Seattle

Dubai

London