



## ABC's Weekly Federal Legislative Update August 10, 2020

### Introduction

Negotiations continue over the newest Coronavirus relief package after two weeks of acrimony. This past weekend, President Trump took executive action by issuing orders to divert disaster funding to augment unemployment insurance and well as suspending collection of payroll taxes for some workers. It's still unclear if these actions are legal but regardless, they will most likely prompt a proposal from House and Senate Democrats hopefully ultimately resulting in an agreement passed by Congress. Below is news from Washington, D.C.

### Administration

### Congress

#### COVID 19 Relief Talks

***The following two stories provide updates on the on-going negotiations on Congress' latest COVID 19 relief package. As of August 7, the two parties were at an impasse.***

Geof Koss of E&E Daily wrote on August 7, "Senators left the Capitol yesterday under a cloud of uncertainty as talks on another package of COVID-19 relief continue to make little headway.

"Majority Leader Mitch McConnell (R-KY) told senators he would give them 24 hours' notice if a deal on pandemic aid should emerge but insisted he would keep the chamber in session in the meantime.

"The Senate will be convening on Monday, and I will be right here in Washington," he said. "The House has already skipped town, but the Senate won't adjourn for August unless and until the Democrats demonstrate they will never let an agreement materialize."

"But the prospects for a deal remain murky, with top Trump administration negotiators emerging from a three-hour meeting with Democratic leaders last night saying the two sides continue to be at odds over key issues.

"I would say we're closer on a lot of issues; we're still very far apart on some very significant issues," Treasury Secretary Steven Mnuchin told reporters afterward, adding that there would have to be "significant compromises on some big issues" to get a broad deal done.

"Funding for state and local governments — a top Democratic priority — was one area where the two sides are "very far apart," Mnuchin said.

"Democrats and Republicans are also at odds over whether to cut enhanced unemployment benefits that are already expired, as well as the size of the package.

"Democrats additionally are resisting GOP "skinny" offers that address only some of the multiple issues in need of attention from the pandemic.

"White House chief of staff Mark Meadows said Democrats had shown little willingness to deal during the meeting, which Trump dialed in to several times.

"I would think that the compromises that Secretary Mnuchin and I put forth on behalf of the president are significantly greater than the compromises that we saw from the other side of the negotiating table," Meadows said.

"He said Trump remains ready to take executive action if necessary but would prefer a legislative solution. "We're willing to stay engaged, but I can tell you that the differences are still significant."

'Sophie's Choice'

"Democratic leaders said it was the White House's proposals that were insufficient, with House Speaker Nancy Pelosi (D-CA) likening them to a "Sophie's Choice."

"Not enough money for food, nothing for housing in terms of rentals, a moratorium that's nice, but it's not money for rent; it isn't," she told reporters.

"Not enough money for money in the pockets of the American people who really need this, who through no fault of their own [are] out of work. And certainly ... when they said a skinny proposal, it was anorexic."

"Senate Minority Leader Chuck Schumer (D-NY) said the administration rebuffed several offers to "meet us in the middle."

"They said, 'No, it has to be mostly in our direction,'" he said.

"Schumer called on the White House to continue talks instead of issuing executive orders, which he said "will leave millions of people out."

"It will be litigated, it won't be effective, and things will get worse," he said.

## Co-op relief

“While current pandemic negotiations are focused on broader economic and health issues, members continue to press for the inclusion of relief for rural electric cooperatives in the next package.

“Earlier this week, 22 House members from both parties urged the chamber's leaders to include legislation, H.R. 7483, in the next relief package.

“It would allow rural co-ops to refinance existing Agriculture Department Rural Utilities Service loans with current low interest rates without facing prepayment penalties.

"Providing this opportunity to refinance existing loans will reduce debt burdens on rural electric and broadband providers and unleash needed infrastructure investments in rural communities," wrote the members, led by Representatives Vicky Hartzler (R-MO) and Tom O'Halleran (D-AZ).

“The National Rural Electric Cooperative Association, which supports the legislation, estimates it could save co-ops more than \$10 billion by repricing \$42 billion in RUS-backed loans at current interest rates — or about \$2 million annually per co-op with typical RUS debt.

"America's electric cooperatives face significant financial shortfalls due to the ongoing pandemic," said NRECA CEO Jim Matheson in a statement when the bill was introduced last month.

"Economic development has been part of electric co-ops' DNA for decades and that element of community leadership will be critical as communities rebound from the public health emergency," he added. "This essential legislation will give co-ops the flexibility to manage financial shortfalls and focus on the long-term stability of the communities they serve."

## COVID 19 Relief Talks

Geof Koss of E&E News PM wrote on August 3, “The Sierra Club is launching a digital advertising campaign to push clean energy tax credits into the struggling talks over a new phase of COVID-19 assistance.

“It comes as administration and congressional leaders continue meeting on Capitol Hill with the goal of reaching an elusive compromise.

“The five-figure campaign unveiled today encourages voters in Maine, Georgia, North Carolina, South Dakota, South Carolina, Illinois and Michigan to pressure congressional leaders to extend the production and investment tax credits beyond the current phase-down schedule.

“Additionally, the group wants lawmakers to revive the "1603" program from the 2009 economic stimulus, which allowed a portion of the tax credits to be received as cash grants.

“Clean energy backers have repeatedly called for Congress in recent weeks to convert the PTC and ITC into direct payments to help the embattled sector, which has seen tax equity markets freeze up from the pandemic.

“The ad highlights the more than half-million clean energy jobs that have been lost from COVID-19.

"Many of these workers can safely get back to work, but you and your colleagues in Congress must help them get there — by passing tax policies in the COVID bill the Senate is currently considering that will help stabilize their industry and get projects and work back on track," states the ad.

"Measures that would support a strong clean energy workforce amidst this crisis include delaying the phase down of existing tax credits for solar, wind, and energy efficiency; providing direct pay for existing tax credits; and expanding the incentives for electric vehicles, offshore wind, and energy storage," the ad also says.

“In a statement, the Sierra Club noted that clean energy jobs outpace the fossil fuel sector.

"Clean energy workers have worked tirelessly during this awful pandemic to keep our lights on, and now it's time for their country to treat them with the same dedication they've shown us," said Melinda Pierce, the Sierra Club's legislative director.

"Over the past decade, clean energy workers have become a large, essential section of America's workforce, which has transformed thousands of local economies for the better, protected our air and water quality, and led the fight against climate change," she added.

'Ridiculous stuff'

“Energy policy has largely been sidelined in the COVID-19 talks, although the House last month passed a \$1.5 trillion infrastructure bill, H.R. 2, that includes a sweeping clean energy tax title.

“Republicans continue to slam Democrats for bringing elements of the Green New Deal into the COVID-19 legislative arena.

“In an interview on Fox News earlier today, House Minority Whip Steve Scalise (R-LA) accused Democrats of pushing "the Green New Deal kind of thing where you're telling airplanes what kind of carbon emissions they have to have."

"I mean, every airplane I've flown on in the last few weeks is barely half-full," Scalise said. "They're just struggling to stay alive, and they're telling them they have to reconfigure the engines and put solar panels on the airplanes. I mean, this is ridiculous stuff."

"However, Democrats in the current pandemic talks are focused on the \$3 trillion "Heroes Act" the House passed in May, which includes hundreds of billions of dollars for state and local governments, health care, and extending unemployment benefits that expired at the end of July.

"The roughly \$1 trillion Senate GOP COVID-19 package unveiled last week includes more than \$100 billion to help schools reopen this fall, more direct payments for individuals, small-business assistance, and a liability shield to protect schools and businesses from pandemic-related litigation.

"It also includes a handful of energy and environmental provisions, including critical minerals language, an injection of funds for low-income heating and cooling assistance, and \$307 million for pandemic efforts at the Department of Energy.

#### Environmental justice

"House and Senate Democrats who lead environmental justice efforts in both chambers slammed the GOP proposal, known as the "Health, Economic Assistance, Liability Protection and Schools (HEALS) Act."

"The COVID-19 pandemic has raged on across this country, killing more than 150,000 Americans and causing unprecedented crises — one of public health and one of economic devastation," Sens. Tammy Duckworth (D-IL), Cory Booker (D-NJ) and Tom Carper (D-DE) said in a statement. They lead the Senate's Environmental Justice Caucus.

"And sadly, yet unsurprisingly, the most fatal impacts fall on our lower-income communities, communities of color, and Tribal and indigenous communities."

"The "HEALS Act" "lacks compassion, resources and support for environmental justice communities," continued the joint statement, also signed by the heads of the House's United for Climate and Environmental Justice Task Force, Representatives Donald McEachin (D-VA), Nanette Diaz Barragán (D-CA) and Pramila Jayapal (D-WA).

"Not only does this proposal fail to extend enhanced unemployment benefits, it also lacks emergency drinking water funding and adequate funding for the Low Income Housing Energy Assistance Program. During a national crisis like this, no family should have to worry about their utilities being cut off, but without investing in these programs that is what will happen in households across this country."

“The pressure comes as Speaker Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) were scheduled to meet this afternoon with top administration officials to continue the struggling pandemic relief talks.”

### Biofuels Advocates Pursue Multiple Strategies for Relief

***The fight for a properly functioning RFS continues. The following story outlines biofuels advocates most recent efforts to shore up the RFS.***

On August 6, Marc Heller of E&E Daily published, “A fight for the biofuel industry continues on multiple fronts this week, as allies in Congress push for a piece of the next pandemic relief bill and keep pressure on EPA Administrator Andrew Wheeler to maintain ethanol requirements for refineries.

“In the latest gesture, Iowa Republican Sens. Chuck Grassley and Joni Ernst each voted against Mark Menezes' nomination as deputy secretary of Energy on Tuesday, citing concerns over the Trump administration's policy on biofuel-blending waivers.

“Menezes was confirmed on a 79-16 vote, with Ernst and Grassley the only Republicans in opposition. The senators then wrote to Menezes, complaining about DOE's willingness to consider refineries' petitions for retroactive waivers going back several years.

“DOE doesn't make the decision but analyzes and scores the petitions for consideration by EPA.

“Exemptions are spelled out in the Clean Air Act, and companies are allowed to seek them retroactively, officials have said — a point Wheeler emphasized in a call about a month ago with the Iowa senators, according to Grassley.

“Ernst and Grassley's move comes as biofuel supporters in Congress, as well as the industry, urge lawmakers to provide specific assistance to producers in the next pandemic-related bill, although there's been little indication such a provision is coming.

“Grassley, speaking to agriculture reporters Tuesday, said the \$20 billion in agriculture assistance outlined in a Senate Republican pandemic relief bill isn't specific enough toward biofuels, as it says only that the Department of Agriculture would provide help to agricultural “processors.”

“Absent clear direction from Congress about how to distribute such aid, Grassley said, Agriculture Secretary Sonny Perdue “seems to be in a quandary,” though he doesn't oppose helping biofuel producers.

"It's hard to persuade Perdue, Grassley said, because other "processors" are likely to clamor for help, too.

"In addition, Grassley said, he's not sure agriculture will receive help if divided lawmakers simply ram through a "skinny" bill that's focused on high-profile issues such as unemployment insurance.

"USDA, in a statement to E&E News, emphasized the department's efforts so far to distribute assistance widely.

"Among other challenges, the department said, some of the commodities targeted by the first round of aid, through the Coronavirus Aid, Relief and Economic Security Act, aren't traditionally covered by many commodity programs, adding complexity.

"Given all the uncertainty and volatile market conditions, conservative assumptions were used in developing [the Coronavirus Food Assistance Program] to make sure we were able to cover COVID-19 impacts in all production agriculture sectors and focused on only the first quarter and a small portion of the second quarter," a USDA spokesperson said.

"In addition, USDA said, leftover funds from the first round can be used for additional needs related to COVID-19 into next year.

"The "Heroes Act," which House Democrats are using as the basis for negotiations with Senate Republicans, includes some aid for biofuel producers.

"Petroleum companies, affected themselves by the coronavirus downturn, haven't complained about potential assistance for biofuels. But refiners have defended the waiver requests, which predated to the pandemic, are more closely related to litigation on the issue.

"To refining industry groups, requiring plants to blend ethanol is an economic burden, especially when prices for renewable fuel credits run high. Refineries buy credits to show compliance with the renewable fuel standard.

"Blending requirements already in place for refineries demand more ethanol than they can produce, according to the Fueling American Jobs Coalition, an industry group opposed to the mandate. In practice, the group said, companies will have to import biofuel to meet the volume requirements.

"In the call with reporters, Grassley said he's been told DOE has reviewed 57 waiver requests, leaving the matter to Wheeler. The senator said he doesn't expect the administrator to make an announcement before the end of a 90-day review period provided in the regulations."

[Tax Policy](#)

***Last week, reporters from E&E Daily were able to speak with House Ways and Means Committee Chairman Richie Neal (D-MA). Below, he shares his thoughts about what renewable energy tax policy could look like under a Biden Administration.***

E&E Daily reporters Geof Koss and Timothy Cama published on August 5, "The chairman of the House Ways and Means Committee conceded yesterday that a sweeping clean energy tax package that passed the House last month may have to wait for a change in administration.

"Citing conversations with advisers to former Vice President Joe Biden's presidential campaign, Representative Richard Neal (D-MA) said the "Growing Renewable Energy and Efficiency Now (GREEN) Act" would get a friendly reception by a Biden administration.

"If Trump doesn't want to do infrastructure with the 'GREEN Act' included, Biden will do it," Neal told E&E News in a phone interview.

"The bill, folded into the \$1.5 trillion infrastructure package that passed the House in early July, responds to pent-up frustration by clean energy advocates over the stalemate on energy taxes in recent months.

"It would extend the renewable and investment tax credits beyond the current phaseout dates, expand incentives for electric vehicles, create a new energy storage credit and revive crucial lapsed energy efficiency credits, among other provisions.

"Neal yesterday called it "the most assertive use of legislative tax policy in American history to address renewable energy."

"If you look at the 'GREEN Act' and you consider the tax structure for wind, solar and battery storage, it is very successful," he said. "And it's really important to remember here, it actually passed the House of Representatives."

"But as long as Trump is in the White House, Neal conceded "it's unlikely" the bill will find its way into law.

"He slammed Trump's repeated pledges to do major infrastructure legislation on the campaign trail in 2016.

"Here we are four years later — it seems to me the promise is pretty vacuous," Neal said, pointing to the House's infrastructure package, which also includes a multiyear extension of federal surface transportation programs slated to expire next month.

"Part of our strategy was we kept prodding and prodding the administration," Neal recounted. "They kept saying they wanted it. And it just didn't happen. I actually met with [Transportation Secretary] Elaine Chao and his daughter [Ivanka Trump] to talk



about it. The truth is that we're no closer to it today than we were when we met with them a couple years ago."

"Although environmentalists and clean energy sectors continue to try to push taxes into the current negotiations on COVID-19 relief, both clean energy and infrastructure provisions do not appear to be under discussion between top congressional Democrats and Trump administration officials.

"The Treasury Department, in response to the pandemic, gave renewable energy companies more time to qualify for the production and investment tax credits.

"Yesterday, a bipartisan group of senators — including Kevin Cramer (R-ND) and Sheldon Whitehouse (D-RI) — asked Treasury to do the same with the 45Q carbon capture incentive.

"The action Treasury has taken on behalf of renewable energy projects should be replicated for carbon sequestration projects seeking to utilize the 45Q credit," said the letter."

## **Other**

### [Campaign 2020: 8 Vice President Candidates on Energy and the Environment](#)

Timothy Cama of [E&E Daily](#) wrote on August 3, "Joe Biden could announce his running mate as soon as today, and the contenders would bring a wide range of energy and environment policy records.

"Biden, the presumptive Democratic nominee to take on President Trump in November, told reporters he'll announce the choice this week.

"Running mates are usually announced shortly before the party's national convention; the Democrats' event is scheduled for Aug. 17-20 in Milwaukee.

"The former vice president to President Obama already committed earlier this year to picking a woman, and it appears a woman of color is likely. If elected, she would be the first female vice president.

"Candidates pick running mates for a wide range of reasons, including appealing to a demographic the presidential candidate needs help with or a record that would better round out the ticket.

"Here are some of the names Biden is likely considering, and their records on energy and environment policy.

## **Kamala Harris**

“Harris, a former presidential candidate and California's junior senator, has often brought up her previous career as a prosecutor, including California's attorney general, to demonstrate her environmental credentials.

"People who profit off of harmful behaviors, when you take away that money, because you take them to court and sue them as I have done, it's extraordinary how they will change behaviors. They have to be held accountable. And maybe this is the prosecutor in me," she said during a CNN town hall last year.

“She also incorrectly said she had sued Exxon Mobil Corp. over climate change; she in fact only investigated the oil giant.

“Harris put out a climate plan before the town hall that didn't get much of a reception from environmentalists.

“It included taxing carbon emissions, stopping fossil fuel extraction on federal land, and ending oil and natural gas subsidies, with an emphasis on front-line and minority communities that bear an unequal brunt of the impacts of pollution.

“But while environmental groups have generally been pleased with her, they haven't seen her put an emphasis on climate and other related issues.

“Harris served on the Environment and Public Works Committee for about a year after coming to the Senate in 2017 but left to join the Judiciary Committee.

“She has in part used that perch, and her other time in the Senate, to push environmental justice, as well as issues unique to California, which has long suffered from air pollution and has taken extraordinary measures to clean up its environment.

“Harris regularly defends the Golden State's ability to set its own greenhouse gas emissions standards for cars.

### **Tammy Duckworth**

“Duckworth, a senator from Illinois, has in recent years made environmental justice one of her top priorities, including launching the Senate's Environmental Justice Caucus last year alongside Senators Tom Carper (D-DE) and Cory Booker (D-NJ). Her concern initially stemmed largely from pollution in Chicago's South Side.

"The statistics are just devastating. We have located our most polluting industries in Black and brown communities, so those same communities literally are dumped on over and over again," she told E&E News recently.

“Duckworth sits on the Senate Democrats' Special Committee on the Climate Crisis and has frequently used her spot on the Environment and Public Works Committee to lob

harsh questions at Trump administration officials, including EPA Administrator Andrew Wheeler, often resulting in dramatic clashes.

“She's an Army veteran, and her work on the Senate Armed Services Committee has included pushing the military to help clean up per- and polyfluoroalkyl substances contamination it's responsible for, and trying to reduce other forms of pollution from the armed forces. She's also a strong supporter of clean energy and other top environmental wishes.

### **Susan Rice**

“Rice, national security adviser under President Obama, would bring a diplomatic and national security background to the Democratic ticket.

“Biden has pledged immediate action on climate diplomacy if elected, including reentering the Paris Agreement, increasing world leaders' pledges under the pact, taking on China's pollution and convincing Brazil to stop deforestation in the Amazon.

"It's not that we didn't see climate change coming. It's that for the better part of three decades we failed, repeatedly, to treat this challenge with the seriousness and the urgency it deserves," she said at a Stanford University event in 2015, weeks before world leaders met to hash out what became the Paris Agreement.

"As an international community, we succumbed to divisive global politics that set developing countries against industrialized nations and stymied international consensus on climate change," she said.

“Last year, she named Paris as a top part of Obama's foreign policy legacy, along with other international pacts like the Iran deal.

"We effectively brought allies and partners together to address those complex challenges and did so even as we had to confront many of them simultaneously," she said at a Council on Foreign Relations event.

### **Elizabeth Warren**

“Warren was one of the leading progressive candidates in the 2020 Democratic presidential primary before dropping out this year.

“The Massachusetts senator's campaign was characterized in part by her extensive publication of policy plans, and the environment was no exception.

“She had plans on clean electricity, regenerative agriculture, protecting public lands, green manufacturing, green jobs, a "Blue New Deal" to protect oceans and environmental justice, among other topics.

“Many parts of her proposals, like her path toward 100% greenhouse gas-free electricity by 2035, have made their way into Biden's plans.

“Warren came to the Senate in 2013 from a financial policy background, having been the main architect of the Consumer Financial Protection Bureau.

“That finance background has been featured in many of her proposals, including a longtime push in the Senate to increase the disclosures companies have to make about how they contribute to climate change and how much of a risk climate is to them.

### **Karen Bass**

“Biden would likely please environmentalists if he chose Bass, a five-term congresswoman from California.

“She is the chairwoman of the Congressional Black Caucus and has an 88% lifetime score from the League of Conservation Voters. She supports the Green New Deal resolution and the "Energy Innovation and Carbon Dividend Act."

“Bass represents a Los Angeles district, giving her a front-row seat to Southern California's air pollution problems and how they intersect with racism.

“She's a former physician's assistant, which exposed her to some of the health problems that pollution brings.

### **Michelle Lujan Grisham**

“Lujan Grisham, the governor of New Mexico, has gotten attention throughout Biden's selection process for her experience in health policy, including stints as New Mexico's health secretary and top official on aging. That could be valuable as Biden works to demonstrate an ability to take on the COVID-19 pandemic.

“When Lujan Grisham took over as governor from Republican Susana Martinez in 2019, environmental policy was one area where she looked for a sharp turnaround.

“She quickly joined New Mexico to the U.S. Climate Alliance, making a nonbinding commitment to the Paris Agreement. She also called on lawmakers to pass legislation to move the state toward zero-carbon electricity and signed their legislation to do so, the Energy Transition Act, after it passed.

"When we were presented the chance to move toward cleaner sources of energy, we took it, boldly charting a course to a carbon-free future, permanently centering our commitment to lower emissions and setting an example for other states," Lujan Grisham said at the time.

“She also moved to align New Mexico's auto greenhouse gas emissions standards with California and to break from the Trump administration's rollback of federal rules.

“But Lujan Grisham could come under criticism for her friendliness to the oil and natural gas industry. She's praised the industry for its economic contributions to New Mexico and for the revenue it contributes to state coffers.

### **Val Demings**

“Demings largely rose to national fame for her role as one of the House managers for Trump's impeachment process last year.

“But her history as a former police chief of Orlando, Fla., might hurt her vice presidential chances in a time when progressives are increasingly calling attention to police misconduct and racism.

“Demings holds a 96% lifetime score with the League of Conservation Voters. And though her central Florida district is one of the few in the Sunshine State without a coastline, she has been outspoken on many of the environmental issues important to coastal areas, like preventing offshore drilling in waters near the state and fighting both the causes and effects of climate change and rising sea levels.

### **Gretchen Whitmer**

“Whitmer has gotten significant attention for her actions during the COVID-19 pandemic as Michigan's governor. She was an early and aggressive champion of lockdown orders, leading to criticism and threats of violence from some opponents.

“She had a number of high-profile clashes with Trump, who called her "that woman from Michigan," regarding her policies to crack down on the disease.

“Like Lujan Grisham, Whitmer took over the governorship in 2019 from a Republican. After taking office, she joined Michigan into the U.S. Climate Alliance and tried unsuccessfully to abolish regulatory review panels that she said were dominated by polluting industries.

“Whitmer has been a leading proponent of shutting down Enbridge Inc.'s Line 5 oil pipeline under the Straits of Mackinac, and has been working to fulfill her 2018 campaign promise to significantly improve infrastructure across the state — or "fix the damn roads," as she says.”