



## ABC's Weekly Federal Legislative Update September 14, 2020

### Introduction

The House and Senate are in session this week. On the House's agenda are bills relating to education and labor. The Senate will take up more of President Trump's nominations. Both bodies will be working on a stop gap measure to fund the federal government beyond the start of the new fiscal year. Below is news from Washington, D.C.

### Administration

#### [D.C. Circuits Fall Line Up Including the RFS](#)

***The D.C. Circuit Court will hear a number of important environmental cases this fall, including the RFS Power Coalition's suit against the EPA for lack of RINs generated from renewable electricity in the 2019 RVO.***

Pamela Kin of [Greenwire](#) wrote on September 8, "The nation's most prominent court of appeals is facing a jam-packed environmental docket this fall.

"The U.S. Court of Appeals for the District of Columbia Circuit has blocked off an entire morning in October to hear arguments in a blockbuster challenge to the Trump administration's rescission of Obama-era rules for carbon dioxide emissions from power plants.

"But before that, the court will spend September hashing out disputes over truck trailer emissions standards, environmental cleanups, ozone rules and biofuels.

"The D.C. Circuit will hear each case remotely, as the courthouse remains closed due to the ongoing coronavirus pandemic.

"Here's a look at five environmental cases on the D.C. Circuit's fall calendar:

[Hazardous waste cleanups Argument date: Sept. 9](#)

“A New Jersey-based pesticide manufacturer will appear virtually before the D.C. Circuit tomorrow to argue that EPA got it wrong when it targeted a 1.5-mile stormwater conveyance as a high-priority site under the Comprehensive Environmental Response, Compensation and Liability Act.

“Pierson's Creek, which forms part of an industrial wastewater system for Newark, does not meet the criteria for designation on the National Priorities List, Troy Chemical Corp. will argue to the court. The firm's primary manufacturing facility is located on the Superfund site, which is estimated to contain thousands of pounds of mercury after decades of pollution.

“*Troy Chemical v. EPA* has been at the D.C. Circuit since 2014, the year the government designated the Pierson's Creek site. The litigation had been on hold while Troy Chemical and EPA worked on the listing, but the court issued an order last year resuming proceedings in the case.

“EPA will defend its scoring of the site's threat to wetlands and food sources for people who fish in the contaminated area.

#### Truck trailer emissions Argument date: Sept. 15

“After a three-year freeze, legal wrangling over emissions standards for truck trailers is back on track in the D.C. Circuit.

“During oral arguments in *Truck Trailer Manufacturers Association Inc. v. EPA*, a panel of judges will consider whether the Obama administration overstepped when it introduced fuel economy standards for heavy-duty trailers hauled by tractors and large trucks.

“Under President Trump, EPA and the National Highway Traffic Safety Administration said they would reconsider the validity of the standards, which were part of a rule governing emissions from medium- and heavy-duty vehicles through 2027. The standards are set to take effect early next year, and the agencies have yet to reach a determination.

“The Truck Trailer Manufacturers Association, which will argue that trailers are not vehicles with fuel economy to regulate, told the D.C. Circuit it could "no longer afford to wait" for the court to weigh in.

“The Trump administration will defend the agencies' earlier conclusion that trailers constitute vehicles subject to federal regulation.

#### Ozone standards Argument date: Sept. 22

“EPA's action on ozone, the key ingredient in smog, is once again in the spotlight at the D.C. Circuit this year.

“In *Sierra Club v. EPA*, the court will scrutinize environmentalists' argument that the Obama EPA broke the law in 2015 when it created a loophole in its ozone standards to allow large industrial facilities to choose their own starting point for emissions reductions and to rely on previously implemented controls to demonstrate compliance.

“EPA will defend its implementation of the Clean Air Act's National Ambient Air Quality Standards for ozone as a proper exercise of the agency's statutory authority.

#### Renewable fuels Argument date: Sept. 25

“Small biofuel retailers this fall will take aim at what they argue is EPA's failure to set proper volume requirements for the percentage of transportation fuel that must contain renewable fuel.

“By setting the 2019 volume limits too low, challengers in *Growth Energy v. EPA* contend, the federal government has suppressed demand for their industry's product and jeopardized their investments and operations.

“Environmental petitioners in the case will also raise claims that the federal government ignored the impact that renewable fuel production has on vulnerable plants and animals.

“EPA has argued that the D.C. Circuit should scrap the trade groups' challenges as meritless and contends that the environmental groups lack standing to bring their claims before the court.

#### EPA carbon rule Argument date: Oct. 8

“Environmental groups, blue states and health advocates will argue that the Trump administration flouted the law when it rolled back the Obama-era Clean Power Plan, which aimed to reduce carbon dioxide emissions from power plants.

“Conservative groups have also joined the fray to argue that Trump's EPA did not go far enough with its rollback.

“Lawyers for the Trump administration are expected to defend its Affordable Clean Energy rule as a proper application of EPA's Clean Air Act authority.

“The D.C. Circuit heard seven hours of oral argument on the Clean Power Plan in September 2016 before the Trump administration stepped in and upended the regulation.

“If Democratic nominee Joe Biden wins the White House this fall, his administration could choose to walk back the Trump rule, prompting a fresh round of legal wrangling.”

[Federal Energy Regulatory Commission](#)

***The following story contains recent statements of FERC Chairman Chatterjee on distributed energy resources.***

On September 11, Arianna Skibell of [Energywire](#) submitted, “Neil Chatterjee, chairman of the Federal Energy Regulatory Commission, is turning his attention to breaking down barriers for distributed energy resources like rooftop solar to participate in wholesale power markets.

“The long-anticipated move could deliver a boost to budding energy technologies and help the industry compete as a larger-scale resource for the electric grid.

"What to watch next: @FERC's open proceeding to break down market barriers to aggregated #distributed #energy resources — another energy #gamechanger. Stay tuned!" wrote the Republican chairman on Twitter on Wednesday.

“The tweet followed comments Chatterjee made earlier this week suggesting that changing market rules to accommodate distributed energy resources, or DERs, would “build on” FERC's 2018 rule, Order No. 841, which axed market hurdles for energy storage technologies like batteries. A federal court recently upheld the storage rule, which Chatterjee said he considers the crown jewel of his FERC legacy.

“Jeff Dennis, managing director and general counsel for Advanced Energy Economy, said finalizing FERC's broader DER proposal, which has faced delays since it was introduced in 2016, would be “most welcome.”

“With 1,300 days passed since the rule was first proposed, the time for action is now,” he said.

“Finalizing this rule would also be a welcome departure from FERC's recent actions targeting state clean energy policies, which have erected new barriers to advanced energy in wholesale markets, causing states and other stakeholders to question the value of competitive wholesale markets altogether,” he said.

“Last week, the commission blocked proposed market changes by New York's grid operator aimed at better aligning with the state's clean energy goals.

“The commission also came under fire late last year when it issued an order that opponents said hamstrung renewable and nuclear energy resources' ability to compete in capacity markets run by PJM Interconnection LLC, the nation's largest grid operator.

“While the commission argued that the changes were needed to ensure that competitive markets were not suppressed by any individual state's policy goals, the move prompted many states to weigh a market exit.

“Chatterjee has consistently defended his record on renewables, calling the commission “fuel neutral.”

“Todd Snitchler, president and CEO of the Electric Power Supply Association, said looking closely at whether artificial market barriers to DERs exist is a "reasonable next step" in FERC's efforts to adapt to emerging technologies, but stressed the importance of fuel neutrality.

"EPSA supports regulatory frameworks for all assets that are resource neutral and ensure reliability of the bulk power system," he said in an emailed statement. "Collecting input from all stakeholders in a proposed rule process increases the likelihood that FERC will be able to strike the right balance to support competition, put all resources on an equal footing, and ensure system reliability."

“The proposed storage rule and accompanying DER proposal were in the works at FERC when Chatterjee took the helm in 2017. Climate hawks Sens. Sheldon Whitehouse of Rhode Island and Ed Markey of Massachusetts, both Democrats, delayed Chatterjee's confirmation until they gained assurance he would not delay the proposed market rule changes.

"Mr. Chatterjee agreed that the Commission should not give short shrift to our renewable energy industry, and that this rule, which is almost done, would not be unduly delayed," Whitehouse said at the time. "He heard our concerns and I will hold him to that commitment."

“Whitehouse said he was "pleased" to see the commission move forward with energy storage. "Now, it's time for Commissioner Chatterjee to deliver on his commitment and finalize the distributed energy resources rule," Whitehouse said in an emailed statement.

“Chris Villarreal, an associate fellow at the R Street Institute and independent consultant, said one of the concerns around finishing the proposed rule is that since FERC initiated the process, the DER technology and landscape have grown and changed, leaving aspects of the docket "stale."

"This portion of that docket has been sitting out there for a long time," he said. "Still, there's a lot of uncertainty that could be addressed with a FERC order. Removing the uncertainty for [regional transmission organizations] would definitely be a benefit."

## **Congress**

### [Four Issues to Watch as Congress Returns](#)

***The story below contains update on the fall Congressional agenda.***

E&E Daily reporters Geof Koss and George Cahlink published on September 8, “Against a backdrop of election-year politics and acrimony between the two parties, lawmakers

will return to the Capitol today facing a crush of unfinished business — and a hard deadline.

“But it remains to be seen whether the Sept. 30 end of the fiscal year will foster agreement to head off a government shutdown and extend crucial federal programs slated to lapse at the end of the month, including surface transportation authorities and federal flood insurance.

“Adding further complexity to the mix is the stalled negotiations on another phase of COVID-19 pandemic relief, which collapsed last month after Democrats and the administration parted ways over the cost of the package.

“Neither side has since publicly shown they're willing to budge in the standoff, but with just weeks to head off a shutdown before the extended October recess, a stopgap spending measure is likely to be intertwined with the relief talks.

“Senator John Cornyn (R-TX) told E&E News last week that he expects Congress to provide pandemic relief later this month as it also seeks to avert a government shutdown before the new fiscal year begins on Oct. 1.

"One thing that we know we're going to have to do before the end of the month is pass a continuing resolution. And that could well break the impasse on the next COVID-19 installment," he said.

“Negotiations will also continue on a new Water Resources Development Act and the National Defense Authorization Act — both of which will likely have to be finalized in a post-election, lame-duck session.

“Here are the issues to watch in the days and weeks ahead:

### Pandemic

“Although it's not tied to a deadline, efforts to provide additional COVID-19 relief are expected to be front and center.

“While there's bipartisan sentiment that more pandemic assistance is overdue, there's little agreement between the two sides on how much and what form that relief should take.

“House Speaker Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) have been unyielding in their demand that the White House agree to a \$2.2 trillion package — a more than \$1 trillion cut from the \$3.4 trillion "Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act" that passed the House in May.

“The Trump administration is hewing to the \$1 trillion "Health, Economic Assistance, Liability Protection and Schools (HEALS) Act" unveiled by Senate Republicans in late July.

But the Senate GOP may also try to pass, as soon as this week, a simplified pandemic bill.

“Pelosi on Friday accused Republicans of showing "utter contempt for the lives and livelihoods of millions of Americans" by walking away from the table.

"The White House and Senate Republicans have made clear that they still do not comprehend the scale of this disaster or the urgent needs of our communities and the American people," she said.

“But in an appearance before the House Select Subcommittee on Coronavirus Crisis last week, Treasury Secretary Steven Mnuchin argued that Congress should enact whatever relief it can agree on now while continuing talks on other issues.

"I think the issue is not what is the top line," Mnuchin said. "I think the issue is we need support quickly ... and if we need to do more, we can come back."

“Mnuchin, who along with White House chief of staff Mark Meadows has led negotiations with Democrats, testified a deal should include "substantial funds" for schools, testing and vaccines, small businesses, and more unemployment benefits, along with liability protection for schools and industry.

“The administration is continuing to resist another top Democratic demand — hundreds of billions of dollars in emergency aid for states and local governments.

“President Trump yesterday accused Democrats of not wanting a deal. "I am taking the high road. I'm taking the high road by not seeing them," said Trump.

“While House Democrats have passed a climate-friendly \$1.5 trillion infrastructure package, H.R. 2, as well as hundreds of billions of dollars in emergency spending for COVID-19, energy-specific relief appears to be largely out of the mix of issues under consideration.

“Still, Cornyn said last week that some of the provisions in S. 4041, which he introduced in June to aid the energy industry, could be part of the pandemic package. That measure would temporarily allow oil and gas companies some tax and royalty relief.

“Cornyn also said the Senate Finance Committee is eyeing including business tax provisions that would help energy companies maintain current assets and "monetize" tax credits.

“A proposal, H.R. 7734, floated in July by Representative Jodey Arrington (R-TX) and backed by industry interests, would allow a number of general business credits — including the renewable production and investment tax credits — to be temporarily monetized to provide liquidity during the pandemic.

“Cornyn said, "We're basically looking to throw a lifeline to the energy sector during a time when they are catching it from all sides."

“But, he added, "The most important thing we can do is get our economy back into a more normal supply-demand situation."

“Representative Greg Walden (R-OR), the ranking member on the House Energy and Commerce Committee, told E&E News last week he believes there "has been some movement" toward a pandemic deal, but he did not know the specifics. Like Cornyn, he predicted it would be coupled with stopgap spending legislation.

"It wouldn't surprise me if something comes together," Walden said. "It'll by historic standards be huge, but by COVID standards not \$5 trillion."

### Appropriations

“Tough negotiations also lie ahead for a continuing resolution to head off a government shutdown on Sept. 30.

“Pelosi and Mnuchin have agreed to push a "clean" stopgap measure in order to sidestep controversies that could spark a shutdown, Mnuchin told Fox News over the weekend.

“But Hill staffers say key details remain unresolved, including the duration of a stopgap spending measure and whether to include anomalies to fund certain programs that otherwise would lapse if they're not included in a deal.

“A Trump administration-backed list of asks circulating on Capitol Hill includes an extension of the National Flood Insurance Program for the duration of fiscal 2021, as well as extensions of current highway spending programs. Also, lawmakers from Texas and Louisiana asked appropriators in a letter last week to approve emergency supplemental funds.

“Should a stopgap extend current funding past the election, Congress may have time to cobble together and pass a funding package for the rest of fiscal 2021.

“However, there currently are no talks on a broader spending deal in part because the Senate has not passed any of the 12 annual spending bills.

“The House has passed 10 spending bills, including hundreds of billions of dollars for federal agencies to respond to COVID-19, but Republicans have shown little enthusiasm for the push.

“Talks are unlikely to commence in earnest until after the results of November's elections are known and lawmakers know what the balance of power will look like next year.



## Infrastructure

"House and Senate staff have begun early discussions on what will make its way into a final water projects and infrastructure bill, with hopes of getting a bill passed before the election.

"Aides are focused on two bills in particular: the "Water Resources Development Act of 2020," H.R. 7575, which passed the House in July, and S. 3591, which passed the Senate Environment and Public Works Committee in May.

"The House hopes to soon begin conversations with the Senate to combine these bipartisan proposals with the House-passed WRDA bill and send a proposal to the president for his signature this fall," said a Democratic House aide.

"The water projects bills have moved forward easily because of bipartisan commitments to leave out controversial provisions.

"Sources said they expect the final compromise to include significantly more money for the Clean Water State Revolving Fund, EPA grants for sewer overflow and stormwater reuse, and EPA's Water Infrastructure Finance and Innovation Act funding, as well as other grants.

"Also expected to be included is new money for clean water resiliency and watershed-based projects, and language that calls upon the Army Corps of Engineers to consider natural formations and features when boosting coastal resiliency and restoration from the threat of climate change.

"Senate Environment and Public Works Chairman John Barrasso (R-WY) was hoping to merge his water projects bill with drinking water and highway legislation for a broad infrastructure title.

"But the Senate's highway legislation, S. 2302, passed the EPW Committee but has failed to advance beyond that, and time appears to be running out for any major action on infrastructure this year, particularly with uniform opposition from the Senate GOP to the House's H.R. 2.

"Last month, House Transportation and Infrastructure Chairman Peter DeFazio (D-OR) said he expected Congress to pass a short-term, stopgap highway reauthorization.

## NDA

"A deal on the fiscal 2021 National Defense Authorization Act will, like previous years, hinge on several high-profile energy and environmental issues.

"The Senate version of the NDAA includes bipartisan nuclear energy and carbon capture legislation, along with language on climate vulnerabilities and to expand sanctions

against the Nord Stream 2 natural gas pipeline from Russia into Germany. The House NDAA includes broad wilderness and outdoor recreation legislation, including a ban on uranium mining outside Grand Canyon National Park.

“Both bills include provisions to address contamination from per- and polyfluoroalkyl substances, known as PFAS.

“The House version would authorize \$1.5 billion for PFAS remediation on military installations and include a provision requiring the Department of Defense to use the most stringent standards for cleanup.

“Aides for both the House and Senate Armed Services committees say staff-level talks are starting as Congress returns to work.”

*Reporters Hannah Northey and Manuel Quiñones contributed.*

## **Other**

### [Campaign 2020: Climate Advisers Take Key Role in Biden Transition Team](#)

Timothy Cama of [E&E Daily](#) wrote on September 8, “Democratic presidential nominee Joe Biden is filling out his transition team, adding staff and advisers to prepare the transition of power, should he defeat President Trump in November.

“The team includes a pair of key advisers who have played major roles in developing Biden's climate change and clean energy policies: Cecilia Martinez, executive director at the Center for Earth, Energy and Democracy and a University of Delaware research professor, and Lonnie Stephenson, president of the International Brotherhood of Electrical Workers.

“The four co-chairs, 15 advisory board members and eight staff members announced Saturday are a major addition to the team led by Ted Kaufman, a longtime political adviser to Biden. The team previously had only a handful of members.

“We are preparing for this transition amid the backdrop of a global health crisis and struggling economy. This is a transition like no other, and the team being assembled will help Joe Biden meet the urgent challenges facing our country on day one,” Kaufman said in a statement accompanying the announcement.

“The co-chairs, advisory board, and senior staff are a diverse group of experts who are committed to helping a possible Biden-Harris administration beat the public health crisis and put Americans back to work in good-paying jobs.”

“Martinez and Stephenson both serve on Biden's Climate Engagement Advisory Council, established in July to help him craft environmental policy, and both contributed to his

\$2 trillion clean energy plan the campaign unveiled earlier this summer. Stephenson's union was one of the first major energy unions to back Biden, with a February endorsement before the primaries started.

“Other major figures include Co-chairwoman New Mexico Gov. Michelle Lujan Grisham, who has presented herself as a national leader on state clean energy policies; Co-chairman Representative Cedric Richmond of Louisiana; adviser Pete Buttigieg, the former mayor of South Bend, Ind., and a former presidential candidate; and adviser Susan Rice, a former national security adviser to President Obama.

“Biden's transition team, which is formally a separate entity from the campaign, has not yet named staff to lead transition efforts for specific agencies.

“The team also signed last week a memorandum of understanding with the General Services Administration, a formal agreement that establishes it as Biden's transition operation and gives it access to certain federal resources including office space.

“The process was established in 2012 to help ensure a smooth transition of power, and both Trump and Democrat Hillary Clinton participated in it in 2016.”

*This story also appears in Climatewire.*

### [Campaign 2020: How a Democratic Victory Might Shape Climate Policy](#)

On September 11, Nick Sobczyk of [E&E Daily](#) reported, “The 2020 election was always going to be an inflection point for U.S. climate change policy, but a pandemic and a bad economy suggest 2021 might not work out as the Democrats had planned.

“Former Vice President Joe Biden is running on the most ambitious climate platform ever for a major party candidate, and Democratic leaders in the House and Senate pledged yesterday to make climate change a top priority if they control both chambers next year.

“House Speaker Nancy Pelosi (D-CA) said it would be “an early part of the agenda.”

“A pandemic descends upon you and eclipses everything,” she said. “Preserving the planet for future generations is the challenge to this generation.”

“A second term for President Trump, on the other hand, could solidify regulatory rollbacks and divert the country even further from the emissions reductions that scientists say will be needed to stop catastrophic climate change.

“But come January, the COVID-19 pandemic will almost certainly still be the nation's most pressing issue, and the economy is not likely to have recovered.

“Congressional Democrats have spent more than a year on laying the groundwork for climate policy, but it all makes for an uncertain outlook over the coming months and sets up echoes of 2009, when President Obama's first task was to work on a historic stimulus bill to rescue the foundered economy.

"There are some parallels," Representative Sean Casten (D-IL), a member of the House Select Committee on the Climate Crisis, said in a recent interview. "We've now finished up a report from the select climate committee, much as we had before Waxman-Markey."

“But now, Casten added, "we've got a much more comprehensive view."

“The Obama administration and a Democratic Congress in 2009 produced the American Recovery and Reinvestment Act (ARRA), an economic stimulus package that was arguably the most ambitious clean energy bill in American history.

“But Democrats were unable to push through their marquee attempt to tackle climate change when the full Senate failed to take up Waxman-Markey — the House-passed 2009 cap-and-trade bill sponsored by then-Representatives. Henry Waxman (D-CA) and Ed Markey (D-MA).

“This time around, a Biden administration's first task would almost certainly be economic recovery. The former vice president and his surrogates have pledged to make climate an integral part of their economic revival plans under the banner of "Build Back Better," a slogan repeated throughout last month's Democratic National Convention.

“To that end, Senate Minority Leader Chuck Schumer (D-NY) yesterday outlined a plan, dubbed "Transform, Heal and Renew by Investing in a Vibrant Economy" or "THRIVE," to include climate action in a sweeping economic recovery package.

“The plan calls for limiting global temperature increases to 1.5 degrees Celsius and proposes gigantic investments in clean energy.

"We can't solve the climate crisis by relying on the same methods that fueled it in the first place, a system that prioritizes corporate polluters instead of workers and exposes the most vulnerable to the most pollution," Schumer said during a press conference yesterday.

"If I become majority leader next year, you can be sure we'll make it a top priority to pass a just economic renewable bill following the principles of 'THRIVE' to confront climate change, economic inequality and racial injustice," said Schumer.

“Democrats are unlikely in any scenario to have close to 60 votes in the Senate, raising the possibility of eliminating the filibuster or passing their major agenda items through budget reconciliation.

“But the difference heading into 2021, Democrats, activists and observers said, is that the climate movement is much bigger and has a real coalition of voters behind it.

“That means there would be pressure from activists and voters to act on the ambitions laid down in climate policy visions from the House Select Committee on the Climate Crisis, the Senate Democrats' Special Committee on the Climate Crisis and Biden's campaign.

"Much like the ARRA was a climate bill in some ways, I think the stimulus that we'd see in the Biden-Harris administration would be quite focused on climate change among other priorities," said Leah Stokes, a professor at the University of California, Santa Barbara, who tracks climate politics.

“At the same time, she said, "the climate movement was not nearly as widespread back then as it is now."

"We have the youth climate movement, which is extremely strong and very morally powerful, so I think that's a big change," Stokes said.

'Enormous opportunity'

“A Biden administration could move without Congress to undo many of the regulatory changes made under Trump, including the rollback of Obama's methane regulations and vehicle fuel efficiency standards.

“His administration would also likely rejoin the Paris climate agreement and appoint climate-friendly leaders at EPA and the Interior Department.

“But on Capitol Hill, climate policy early next year could be heavily influenced by the immediacy of the pandemic, said Paul Bledsoe, a strategic adviser at the Progressive Policy Institute.

"Should Biden win and Democrats take back the Senate, the economic crisis is going to drive the nature of the climate change legislative response toward a focus on job-creating, government investment in infrastructure and clean energy infrastructure," said Bledsoe, who is also on the executive council of Clean Energy for Biden.

“Indeed, Biden's rhetoric has so far focused on a jobs-centered approach to climate policy, and Democratic lawmakers said they expect any Biden-led stimulus and jobs proposal to be heavy on green infrastructure and climate.

"We can, and we will, deal with climate change," Biden said in a speech at the Democratic National Convention last month. "It's not only a crisis, it's an enormous opportunity: an opportunity for America to lead the world in clean energy and create millions of new, good-paying jobs in the process."

"Pelosi yesterday said, "When Joe Biden says 'Build Back Better,' that better includes building back in the way that is resilient, green, that protects the planet. I don't know if it's one bill or it permeates a number of bills, but it is absolutely a priority."

"Casten similarly said a new administration could offer a chance for "once-in-a-generation conversations about infrastructure."

"And not just because our infrastructure is long overdue for modernization but because we're going to have a lot of households out of cash, we're going to have a lot of small businesses that are belly up, we're going to have municipalities that have spent all their rainy day funds, and we're going to have negative borrowing costs for the United States government as far as the eye can see," he said.

"It's an area where Biden has experience. As vice president, he was widely seen as instrumental to engaging with Congress and ultimately passing the American Recovery and Reinvestment Act.

"I think we're always going to be focused on creating jobs," said Representative Donald McEachin (D-VA), a member of the House select committee.

"But that doesn't mean that jobs and the pandemic will suck up all the oxygen, he added.

"I used to say that before we can really move forward on climate, we have to elevate it to a kitchen table issue," McEachin said. "It might not quite be at the kitchen table yet, but it's pretty doggone close."

Plans, plans and more plans

"Democrats have a list of policy bills, outlines and ideas that go beyond the immediate response to COVID-19.

"The House Select Committee on the Climate Crisis and the Senate Democrats' Special Committee on the Climate Crisis each released reports this summer that offer a menu of policy options across economic sectors.

"Biden's climate plan also offers its own \$2 trillion guide that informs much of the rhetoric and campaign trail salesmanship in the upper echelons of the party.

"The various proposals are different, but they are not contradictory," said Senator Brian Schatz (D-HI), chairman of the Democrats' special committee in the Senate.

"It is very easy to imagine how the Biden plan could accommodate the work that's been done in the House and the Senate, and likewise, it's very easy to imagine how we could get to a consensus within the Senate using some of the principles articulated in the Biden plan."

“The House Energy and Commerce Committee earlier this year offered a lengthy draft climate bill, the "Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act," that would establish a federal clean energy standard, form a national climate bank and boost funding authorizations for a variety of programs. The House Natural Resources Committee has advanced H.R. 5435, which would temporarily halt new fossil fuel leases on public lands and reach net-zero carbon emissions from public lands and waters by 2040. And the House has already passed a massive \$1.5 trillion infrastructure bill, H.R. 2, that includes big investments in clean energy and drinking water.

“Given all that groundwork, Natural Resources Chairman Raúl Grijalva (D-Ariz.) said he expects much of the impetus for climate policy next year to come from the House.

"It's difficult for me to say it's going to be one comprehensive thing. Is it going to be the mythical Green New Deal? Is it going to be whatever the select committee did? Is it going to be parts and parcels that get cobbled together into one big one?" Grijalva said. "I don't know."

“There are also major unanswered questions. Democrats are generally divided about the role of nuclear power and natural gas in the clean energy transition, though the plans from Biden and congressional Democrats all leave the door open for developing nuclear and carbon capture and storage.

“And while much of the advocacy over the last decade has focused on carbon taxes and fees as an anchor to a major climate bill, the idea has become less essential.

“The House select committee report, for instance, notes that carbon pricing is not a "silver bullet" and does not enumerate a specific plan to tax carbon.

“Rather, the document focuses on standards — a clean energy standard to decarbonize the power sector by 2040 and a zero-emissions vehicle standard to ensure all light-duty cars and trucks sold are zero-carbon vehicles by 2035.

“The Senate panel's report is similarly open-ended about carbon taxes. It recommends "a federal clean energy standard, emission standards, a carbon price, and/or other market mechanisms to ensure the rapid adoption and scale-up of proven technologies today."

“Biden's climate plan doesn't even mention the policy, nor does the wide-ranging climate bill put out earlier this year by Democrats on the House Energy and Commerce Committee.

"There's been a big change," said UC Santa Barbara's Stokes. "We had like 30 years of economists saying that we just had to put a price on carbon, and maybe they would have been right in 1990, or 2000, or any of the other years where they tried to do it."

“But Stokes added, “The problem is, there's so little time left on the clock, and a carbon price sends pretty weak signals throughout the economy to change behavior.”

“Overall, though, the party is relatively unified on climate heading into next year, said McEachin.

“Biden's campaign engaged with a unity task force with representatives for Senator Bernie Sanders (I-VT), including Representative Alexandria Ocasio-Cortez (D-NY) and Varshini Prakash, executive director of the Sunrise Movement.

“It spurred his campaign to put out an even more ambitious climate plan. While progressives still have gripes with the party's centrist members on climate, McEachin said the divides are overstated.

“I think there's an amazing amount of unity in the party, period, but particularly along the lines of the environment,” said McEachin, who sat on the unity task force for Biden.

“The Sanders people obviously had their viewpoints and the Biden people had their viewpoints, but at the end of the day, they were easily synthesized together, and I think we've come up with a great plan to move America forward.”

'Big enough to make a difference'

“The Senate, of course, remains a hurdle, given that Republicans could block Democratic bills if they hang on to more than 40 seats in November.

“Much of the debate in the activist community has focused on building climate legislation that could pass the upper chamber after getting rid of the filibuster or through budget reconciliation, a process that allows for passage of certain budgetary measures with a simple majority.

“Schumer has said that tossing out the filibuster is on the table should his party take back the majority, but Senate Democrats have also not entirely put aside the possibility of working with Republicans.

“We've had constructive conversations, but I don't know whether they will result in anything,” Schatz said. “We are extending our hand and engaged in a dialogue, but our approach doesn't entirely rest on whether or not Republicans participate.”

“Still, most Democrats are careful to keep quiet about their postelection plans, and there may be some opportunity to move energy and climate legislation before the election.

“House leadership is looking to put together a package of energy innovation bills and Department of Energy authorization boosts to mirror the Senate energy bill that's been in limbo since March.



"The most we can hope for here is R&D money, investments that I think are very important to the storage issue and to the energy efficiency issue, perhaps a reauthorization of [Advanced Research Projects Agency-Energy] and weatherization programs," said Representative Paul Tonko (D-NY), chairman of the Energy and Commerce Subcommittee on Environment and Climate Change.

"All those low-hanging fruit bills are good, they move us in the right direction, but we have significant work to do after that," Tonko added.

"In the meantime, Democratic lawmakers said their jobs for the next few months will include sales and education to set up for a potential Biden presidency.

"And ultimately, Schatz said his guiding principle for climate policy heading into next year is not ideology or a specific type of policy, but rather whether it is "big enough to make a difference and solve this planetary crisis."

"I have no religion on this," Schatz said. "I just want to get something done that is equal to the moment."