



## ABC's Weekly Federal Legislative Update June 1, 2021

### Introduction

The House and Senate are out of session this week. President Biden continues to push his infrastructure package but Administration officials are starting to indicate that time is running out for a bipartisan agreement.

### Administration

#### President Biden's Budget

***President Biden released his FY 2022 budget last week. Below are priority areas related to energy and the environment.***

George Cahlink of [E&E Daily](#) wrote on May 27, "Energy and environmental priorities for the Biden administration will become clearer when the White House releases its full fiscal 2022 budget request tomorrow morning.

"Earlier this spring, President Biden outlined a \$1.52 trillion discretionary spending plan for fiscal 2022, which would be a \$118 billion — 8.8% — increase over current funding.

"But that preliminary text offered mainly top-line proposals for agencies, with this week's blueprint set to contain the traditional breakdowns of program and project spending as well as tax proposals.

"Here are five areas to watch as Biden details his budget plan:

#### Pushing the innovation agenda

"The White House will spell out where it intends to target \$8 billion in clean energy research and development dollars, a 27% increase over current spending that has support from both parties.

"Climate goals are really dependent on getting these technologies developed and then deployed," said Dan Byers, vice president for climate and technology at the U.S. Chamber of Commerce's Global Energy Institute.

"Byers said he expects programs authorized in last year's bipartisan Energy Act to begin providing funding for many clean energy initiatives. The legislation, the first significant update of energy policy in more than a decade that passed as part of the year-end omnibus, focused on "innovation" technologies to help reduce emissions.

"Byers said among the areas where the Chamber would like to see more research and development spending is on carbon capture, nuclear and energy storage technologies.

"Senator Brian Schatz (D-HI), an appropriator, said he would go even further and double Biden's initial proposed spending for the Advanced Research Projects Agency-Energy to \$1 billion.

"There's always the question of how much you can reasonably expand, but when we asked, they felt they could double in size and still keep the quality of research," he added.

"Schatz said he also favors Biden proposals for creating new ARPA agencies focused on ocean and climate research that should be fleshed out in the request. "I think it's a good model," he added.

#### Conservation push

"Expect the White House to highlight several new and expanded conservation efforts.

"Fiscal 2022 marks the first year Congress will be required to spend \$900 million annually on the Land and Water Conservation Fund, under the Great American Outdoors Act that Congress passed last year.

"Those dollars will automatically be included in the mandatory budget. Biden already has jettisoned controversial Trump administration policies that would have handed state and local officials some veto power over LWCF land acquisitions. Lawmakers are eager to begin shaping how the LWCF dollars are spent.

"Think about the infrastructure debate going on in this country. Why not start with our national parks?" said Senator Steve Daines (R-MT), a major backer of the Great American Outdoors Act.

"The senator said he has already been working with national park superintendents to determine what projects can tap into LWCF funds, including efforts aimed at upgrading water systems and employee housing at parks.

“Biden also is likely to offer more spending details on his "30x30" plan, an initiative for preserving 30% of U.S. lands and water by 2030. His budget outline suggested \$200 million would go toward "science-based" conservation work tied to 30x30.

“Unlike the LWCF funding, though, there is already growing opposition to 30x30 from Republicans, particularly House conservatives, who dismiss it as a federal "land grab" that could expand if more dollars go toward it.

#### Infrastructure ideas

“Lawmakers continue to hash out a multitrillion-dollar infrastructure bill on Capitol Hill. But expect the budget to highlight where the White House would like some of those dollars to go.

“Senate Environment and Public Works Chair Tom Carper (D-DE), whose committee advanced a \$350 billion surface transportation bill yesterday that will be part of any broader infrastructure deal, said he expects the fiscal 2022 budget to make some initial investments aimed at electric vehicles.

“Carper wants the budget request to offer a down payment for \$2.5 billion for alternative fuel corridors along the national highway system and build out EV charging infrastructure across the country over several years sought in the surface transportation bill.

"It would be nice to see some proposal from the administration that would really help us focus on the largest sources of carbon emissions in our country, and that is mobile emissions," said Carper, referring to his push to build 500,000 new EV charging stations.

“However. Senator John Kennedy (R-LA), the ranking member on the Energy-Water Appropriations Subcommittee, echoed a point increasingly common in the GOP that he's skeptical of any infrastructure spending, including on EVs, that goes beyond traditional projects.

“Biden "wants the Green New Deal, but that is not infrastructure. Infrastructure is road, bridges, ports, sewer, broadband," he added.

“One infrastructure area overlooked in Biden's first budget offering that could emerge with more funding this week is grid security.

“Lawmakers from both parties and the Energy Department have signaled more must be done at the federal level to protect critical infrastructure, in the wake of the recent ransomware attack on the Colonial pipeline.

#### Taxing details

“The White House's budget will offer the clearest picture yet for how it will pay for infrastructure and other priorities.

“Biden seems likely to align himself with Senate Finance Democrats who yesterday passed a revenue bill that would restore an Obama-era clean energy tax break, known as 48C advanced energy manufacturing credit (*see related story*). It would do so by eliminating or consolidating dozens of energy tax breaks, including repealing fossil fuel breaks.

“The administration would find an ally among green groups, who praised the Democrats' tax package yesterday as "visionary legislation" that will accelerate the nation's transition to clean energy and create well-paying clean energy jobs.

“Kennedy said he expects the budget to end most fossil fuel tax breaks as Democrats have proposed in the past.

"Biden loves taxes like the devil loves sin," he added.

“Republicans will work with fossil fuel groups, including the American Petroleum Institute and the Independent Petroleum Association of America, against ending the favorable tax treatment by arguing oil- and gas-related companies employ 11 million workers domestically.

#### Environmental justice

“Greens are thrilled that Biden is proposing billions of dollars in new spending on climate initiatives for fiscal 2022, but they want to be sure that money goes toward environmental justice, or EJ, efforts in hard-hit communities.

"What we are particularly looking at is that the money is funded around communities of color and those disproportionately impacted by the cumulative impacts of climate change and environmental pollution," said Kirin Kennedy, deputy legislative director for the Sierra Club.

“Kennedy anticipates about half of EPA's estimated \$2 billion, or a 21% increase over current spending, will go toward EJ programs. She said those should include funds for clean water and clean air grant programs and Superfund and brownfields cleanup efforts.

“Lawmakers are also keeping tabs on the administration's progress in meeting EJ goals, some of which will come in the budget.

“Representative Nanette Barragán (D-CA), a member of the Energy and Commerce Committee who leads the Congressional Hispanic Caucus climate change task force, wrote along with 13 other CHC members to the White House this week, backing its

Justice40 plan that calls for 40% of all climate investments to go to disadvantaged communities.

“The letter noted the fiscal 2022 EJ budget initiatives at EPA would overwhelmingly benefit EJ communities, including Latinos.

"Every dollar spent through this initiative will help the administration meet its goal. This prioritization of equity and justice should be a priority whenever possible for newly created programs," the letter said.

### [Agriculture Nominee Dodges Questions on Carbon as a Commodity](#)

***The nominee for USDA general counsel testified before the Senate Agriculture Committee last week as a part of her nomination process. The role of the Commodity Credit Corporation in carbon markets arose in questions.***

On May 28, Marc Heller of [E&E Daily](#) reported, “President Biden's nominee to lead the Agriculture Department's legal office sidestepped questions from Republicans yesterday on whether carbon could be considered a commodity, an issue that many environmental advocates see as an opportunity to take action on climate change.

“At a hearing of the Senate Agriculture Committee, Janie Simms Hipp, the nominee for USDA general counsel, declined to answer specifically a question from Senator John Hoeven (R-ND) on the role of the department's Commodity Credit Corp. in carbon markets.

“The issue is a sore point among Republican lawmakers, who say CCC can't legally declare carbon a commodity and establish a carbon bank, which might offer benefits to producers who become involved in markets.

“Hoeven is among lawmakers who say CCC can't legally do so without congressional approval; some lawmakers also say they worry a carbon program could take resources away from more traditional farm needs at USDA.

"I believe that the CCC has tremendous authorities," Hipp said. But she added that she hasn't looked deeply into the legal questions and would keep up a conversation on the issue.

“Hipp also declined to say, in response to a question from Sen. Roger Marshall (R-Kan.), whether she considers carbon a commodity — a matter that she said she'd follow up on with Marshall.

“Senate Democrats intend to bring to the floor a bill, S. 1251, that provides incentives for farmers to capture carbon through soil practices and other measures.

The measure has enjoyed wide bipartisan support, though it sidesteps the issue of carbon as a commodity, an idea Republicans have been cool to. The House is working on similar legislation.

#### RFS questions

“As USDA's top lawyer, Hipp would handle the agency's role in promoting biofuels, an issue that sometimes puts the agency at odds with EPA.

“The federal renewable fuel standard gives EPA primary authority on setting minimum volumes of biofuel for blending into the nation's gas supply — but USDA and the Energy Department play consulting roles. Hipp promised to be a voice at the table as agencies craft biofuel regulations.

“I promise to you that I will be a big voice at the interdepartmental table,” Hipp said after being asked about the issue by Senator Amy Klobuchar (D-MN), a biofuel ally.

“Sometimes the voices of farmers and ranchers in agriculture get drowned out by other voices. But they haven't heard my voice yet,” Hipp added.

“I like that answer,” Klobuchar said.

#### Boosting morale

“Hipp also pledged to rebuild morale in the general counsel's office, saying she plans to meet with senior leadership as well as individually with staff lawyers to gain a better sense of why their enthusiasm for the job seems to have waned over the past few years.

“We need to listen to them. We need to find out what exactly is driving the lower morale,” said Hipp, CEO of the Native American Agriculture Fund. She headed USDA's Office of Tribal Relations during the Obama administration, serving with Agriculture Secretary Tom Vilsack during his first stint leading USDA.

“Hipp addressed the issue in response to questions from committee Chairwoman Debbie Stabenow (D-MI), who cited the Office of the General Counsel's poor showing in a 2019 survey of employee satisfaction with federal agencies. The general counsel's office landed at 414 out of 420 subagencies for employee engagement, Stabenow said.

“I'm very concerned about this,” Stabenow said.

“Employee morale sank during the tenure of general counsel Stephen Vaden during the Trump administration. Vaden, a lawyer from Republican circles who was close to the Senate's top Republican, Mitch McConnell of Kentucky, got off to a rocky start with Democratic opposition that held up his nomination for months.

“Among other objections, they flagged the mid-30s lawyer's shortage of experience and his actions in voting rights cases in federal court, in which they said he sought to disenfranchise voters.

“Once in the job, Vaden riled labor unions by reining in telework and, in 2019, imposing a collective bargaining agreement with the union representing staff attorneys. Negotiations going back to the Obama administration had failed to produce an agreement.

“Vaden was later confirmed as a judge on the U.S. Court of International Trade.

“Hipp, in contrast, sought to emphasize her own goal of engaging with staff members and cited her background working in the offices of big law firms and for state attorneys general. “Sometimes we just need to pause and sit with each other and determine how we can best support each other,” she said.

“A member of the Chickasaw Nation, Hipp has support from a wide variety of groups. The Intertribal Agriculture Council had promoted her for USDA deputy secretary in December, a job that went to Jewel Bronaugh.”

## **Congress**

### [Infrastructure](#)

***The following story contains an update on infrastructure negotiations.***

E&E Daily reporters Nick Sobczyk, Emma Dumain and Geof Koss published on May 26, “A growing number of Democrats are getting impatient with bipartisan infrastructure talks, amid back-and-forth offers between the White House and Senate Republicans.

“As calls grow on the party's left flank for quick action, Democrats increasingly see an obstinate GOP that will never go along, particularly on issues like climate change where the parties remain far apart.

“I think the president wants to give it the good college try. He is entitled to do that,” Senator Sheldon Whitehouse (D-RI) said in an interview yesterday.

“If it doesn't work, then we have to go back to the type of work that brought us to the very successful American Rescue Plan, which people love, and get away from the faux bipartisanship of Washington inside players,” Whitehouse added.

“Whitehouse and several other prominent Democrats said they would like to see Congress pass a major infrastructure bill by the August recess — whether it involves Republicans or not.

“Lawmakers already have a full plate, with police reform and family and child care policy also on the agenda. But after the monthlong break in August, they’ll have to deal with government spending negotiations and, just a few months after, the midterm season.

“For Democrats, the COVID-19 economic downturn and the popularity of the \$1.9 trillion American Rescue Plan also offer a limited political opportunity to pump trillions into climate change policy and infrastructure.

"We have a lot to do and potentially a very short window to do it, and if we're rewarding Republican obstruction with Democratic delay, then they're just going to get more obstructionist," Whitehouse said. "Their goal is to try to have us do as few things as possible."

“Multiple Democratic senators said the talks between Biden and the GOP represent a way to show moderate Democrats that the party is making a good-faith effort to work with Republicans.

“Party leaders, for now, appear to be operating on a similar timeline, even if they're not ready to drop the bipartisan entreaties. Should talks fall through, they'll have additional opportunities to pass a partisan bill through budget reconciliation, which allows certain legislation to bypass the Senate filibuster.

“They could attempt a second round with the fiscal 2021 budget resolution they used to pass the American Rescue Plan, or they could wait until the beginning of fiscal 2022 in October.

“A few administration officials, including climate adviser Gina McCarthy and Energy Secretary Jennifer Granholm, have acknowledged reconciliation as an option, particularly for largely partisan climate policies like a clean electricity standard.

“But Senate Majority Leader Chuck Schumer (D-NY) gave no indication that he was ready to bring bipartisan discussions to a close, and deflected reporters' questions about when it would be time for Democrats to walk away from negotiations.

"It has always been our plan, regardless of vehicle, to work on an infrastructure bill in July," Schumer told reporters yesterday when asked when he would be prepared to move ahead with reconciliation. "That's our plan: to move forward in July."

'They're not serious'

“Meanwhile, talks are moving ahead, including an expected \$1 trillion counteroffer from the Senate GOP this week after Biden moved his infrastructure target from \$2.2 trillion to \$1.7 trillion.



“House Speaker Nancy Pelosi (D-CA) has also said she plans to put an infrastructure bill on the floor before the July 4 recess, and committees of jurisdiction on both sides of Capitol Hill are moving pieces forward.

“Today, the Senate Environment and Public Works Committee will mark up a bipartisan surface transportation bill, while the Senate Finance Committee is set to vote on a broad clean energy tax measure from Chairman Ron Wyden (D-Ore.), which is seen by environmentalists as a potential facet of an infrastructure bill.

“The question before the Democratic caucus right now is when to move on from bipartisanship, said Senator Mazie Hirono (D-HI).

"Some of us are already at the point where we're saying this isn't going to happen in a bipartisan way," Hirono said.

"I'm not looking at any particular deadline," she added. "It happens when it happens."

“Others, however, are looking to move with more urgency, given several upcoming recess weeks — and lessons learned from failed bipartisanship on issues like climate change during the Obama administration.

“Senator Martin Heinrich (D-NM) said he "suspected" the message was getting through to his party leadership that it's time to go it alone on infrastructure.

"They're not serious," he said of Republicans. "If they were serious, I would say we need to be flexible, continue to work, but I don't see any indication that the president's overtures are being met in a legitimate way."

“Sen. Chris Van Hollen (D-MD) suggested he, too, was growing impatient, saying Democrats should consider setting a deadline of “the end of the week” to move on ahead.

“Look, I think [Senate Majority Leader] Mitch McConnell [R-Ky.] gave up his strategy when he said that he was 100% — not 99%, but 100% — committed to blocking the Biden agenda, so my view is that it's been important to solicit Republican support, but this is the moment to say you either move forward with us or get left behind,” Van Hollen said.

Tense climate

“Senate Democrats are navigating the tensions between wanting to look flexible and open to compromise without giving off an appearance of weakness or having succumbed to a state of paralysis while negotiations continue.

“The EPW and Finance markups today will be key to reinforcing that message, and they could offer clarity on how, exactly, the process will come together.

“EPW Chairman Tom Carper (D-DE) said yesterday that the \$304 billion transportation authorization measure he inked with ranking member Shelley Moore Capito (R-WV) could be a model for other committees of jurisdiction as Congress moves forward with the larger debate.

"I hope that there we'll pass a number of major bills which, taken together, will represent great progress on a variety of fronts to do good things for our planet," Carper said.

“But climate remains a question mark and a point of intraparty debate, with green groups pushing hard for a wide variety of measures to reduce greenhouse gas emissions.

“The Sierra Club this week circulated a memo outlining its top priorities for infrastructure, with emphasis on a clean electricity standard and Wyden's clean energy tax bill.

“Asked about those two policy priorities yesterday, Whitehouse — a longtime carbon tax supporter — appeared skeptical. The important thing, he said, is to hit the targets laid out by the Intergovernmental Panel on Climate Change to limit warming to 1.5 degrees Celsius.

"It needs to point us at 1.5 degrees, and it needs to do so at a reasonable cost per avoided ton of emissions," Whitehouse said.

“Much rests on the shoulders of Senator Joe Manchin (D-WV), the perennial swing vote in the 50-50 Senate, who has resisted calls for budget reconciliation and filibuster reform.

“He sounded a skeptical note yesterday about federal investments in electric vehicles — a massive priority for climate hawks, since transportation is the nation’s top source of greenhouse gas emissions.

“I don’t remember Henry Ford, when he built the Model T, that we went out and built filling stations for him. I don’t remember that happening, but basically, we should give them incentives and help them mature,” Manchin said. “We’re willing to do that, but it shouldn’t cost as far as the debt to the nation.”

#### Countering the counteroffer

“Senate Republicans who have been negotiating with the White House said they expect to release their detailed \$1 trillion counteroffer tomorrow, but pay-fors remain a sticking point on both sides of the aisle.

“Senate Commerce, Science and Transportation ranking member Roger Wicker (R-MS) said the counteroffer will have "hardly anything" on user fees, although Sen. John Barrasso (R-WY) said new fees on electric vehicles will remain in the plan.

“And the GOP remains opposed to reversing the Trump tax cuts and raising corporate rates, a key component of Biden's initial plan.

“Republicans instead are shifting their focus to unspent COVID-19 relief funds, which they say should be repurposed for infrastructure projects.

“Capito, the lead negotiator on the White House talks, said COVID-19 relief funds have been a topic of discussion but that the administration never responded to Republicans.

“She added that some pandemic relief funds have already been repurposed to address unaccompanied children crossing the southern border with Mexico.

"So we know they're not opposed to repurposing COVID dollars," she said yesterday.

“Van Hollen said he was skeptical that Democrats would agree to repurposing the relief funds, saying he thought it would be "a big mistake to try to claw that back."

“Republicans who have been involved in the negotiations have also griped that White House staff have undercut and mischaracterized their own proposal.

"I don't think President Biden is the problem; I think it's the people around him," Sen. Lindsey Graham (R-SC) told E&E News yesterday. "They apparently have good conversations with him, but the product comes back differently than they discussed."

“Pressed on the GOP complaints, White House press secretary Jen Psaki yesterday declined to comment on private conversations between Biden and Republican senators but said the president had signed off on "every single detail" in the counteroffer the White House made Friday.

"He was in the Senate for 36 years," Psaki said. "I can promise you he does not take a hands-off approach to legislating, negotiating and determining what kind of counterproposals we should put forward."

“Despite those wobbles, Psaki and moderate Democrats on Capitol Hill offered an optimistic view of negotiations, with the White House's informal deadline of Memorial Day for demonstrating progress in bipartisan negotiations fast approaching.

"We'll see where we end up," Manchin told reporters. "Don't give up. Y'all give up too quick."

## Tax Policy

### ***The Senate Finance Committee last week held a hearing on tax policy relating to renewables and biofuels.***

Geof Koss of E&E Daily wrote on May 27, "A sweeping clean energy tax overhaul is headed to the Senate floor after a lengthy debate in the Finance Committee yesterday.

"The "Clean Energy for America Act," S. 1298, offered by Finance Chairman Ron Wyden (D-OR), would consolidate dozens of energy tax breaks into three technology-neutral categories intended to boost production of clean electricity, clean transportation fuels and greater energy savings.

"It would additionally repeal an assortment of fossil fuel breaks that have been on the books for decades, according to a summary.

"The panel voted 14-14 along party lines for the amended measure, reflecting both the deep divide between the two parties on energy policy as well as the 50-50 makeup of the Senate.

"Under the power-sharing deal struck between party leaders earlier this year, the full Senate is supposed to debate and vote to discharge bills from committees after deadlocked votes.

"But Wyden said at the conclusion of the 4 ½-hour markup that he will introduce the amended chair's mark as new legislation and work to have it placed directly on the Senate calendar under a rule that allows legislation to bypass the committees process.

"At the outset of the markup, Wyden decried the existing "hodgepodge" of 44 energy tax breaks for various fuel sources and technologies.

"These tax breaks have stacked up over the decades like dusty old papers on the messiest desk in the office," he said.

"The system is anti-competitive and anti-innovation. It puts the government in the role of picking winners and losers by giving some fuels and technologies big, permanent tax breaks while others have short-term, temporary extensions. It has survived in this form for one reason only: Congress has long found it easier to pile on so-called tax extenders than clean things up once and for all."

"In his own opening statement, ranking member Mike Crapo (R-ID) noted areas of agreement with Wyden, including the need for an energy tax overhaul and a preference for shifting the code to technology-neutral incentives — an approach included in draft legislation he recently released along with Senator Sheldon Whitehouse (D-RI).

"However, Crapo said he could not support the repeal of fossil fuel tax breaks or the bill's linkage between labor standards and qualification and energy tax breaks, calling it a "dangerous precedent."

"I'm willing to work on constructive proposals to modernize and innovate our nation's energy production, but not at the expense of millions of good-paying American jobs," Crapo said. "We should work together to get a deal on things we can agree on and keep working on the rest."

"Senate Minority Leader Mitch McConnell (R-KY) yesterday was less conciliatory about the bill ahead of the markup.

"In floor remarks, he drew a contrast between the Environment and Public Works Committee's unanimous approval of surface transportation reauthorization legislation — seen as a possible anchor for President Biden's broader infrastructure push — and the Finance markup.

"That is legislating done right," McConnell said of the highway bill. "Our colleagues are modeling the approach that would let Congress build a successful big-picture infrastructure bill this year."

"But he decried Wyden's measure as "a left-wing, partisan bill written fully within the spirit of the Green New Deal: maximum pain for working American families in exchange for minimal environmental gain."

The ties that grind

"Finance members spent hours in a free-wheeling debate over the bill but mostly held their fire from the 135 pages of amendments that had been filed.

"Those that members chose to offer for the most part failed along a party-line 14-14 vote, a tally that was repeated throughout the proceedings.

"Republicans repeatedly highlighted the potential impacts of canceling fossil fuel incentives, which Senator John Barrasso (R-WY) said would undercut hundreds of thousands of energy workers who have made the U.S. an energy-independent nation.

"Why then is this committee considering legislation to destroy American energy industries, I continue to ask myself?" Barrasso asked.

"His amendment to strike the bill's title that included the repeal of fossil fuel breaks failed on a deadlocked vote.

"A tie vote also sank a proposal from Senator Pat Toomey (R-PA) that would have struck language disallowing intangible drilling costs and requiring such costs to be capitalized over 60 months.

“A proposal by Senator Steve Daines (R-MT) that would have reinstated the depletion allowance and increased the rates for critical minerals production from 22% to 50% got no further.

“The debate repeatedly steered into areas that have come to the fore in recent months, including permitting reform provisions pushed by Republicans in broad infrastructure talks with the White House.

“Democrats turned back an amendment by Sen. John Thune (R-S.D.) that would have delayed the effective date of clean electricity credits in the bill until the administration certified that the average permitting time for power projects greater than 50 megawatts is less than three years.

“Wyden objected to the proposal, which he noted assigned a role for EPA in the certification process and was therefore beyond Finance's jurisdiction.

“He made the same argument over an amendment by Senator James Lankford (R-OK) to delay the clean electricity incentives from taking effect until the Department of Energy certifies that "intermittent generation" would not decrease grid reliability anywhere in the United States. Lankford said the proposal was inspired by last winter's intense storms that knocked out power in Texas and parts of his home state for days.

“The chairman cited the same objection to a proposal from Senator Bill Cassidy (R-LA) that would have imposed an eligibility requirement for clean electricity credits by requiring EPA verification that all components used in the construction of wind turbines, solar cells and energy storage technologies be manufactured or mined in a net-zero emissions process.

“The panel adopted by voice vote another Cassidy amendment that would prohibit the import of clean energy products until the United Nations certifies that forced labor and children were not used to produce the materials.

“The unanimity on that proposal comes amid growing concerns over the alleged widespread use of minority forced labor in a Chinese region that is a crucial source for the solar supply chain.

“The panel also found common cause on a Crapo amendment to allow for joint rulemaking authority by relevant agencies to expedite permitting, which passed by a voice vote.

GOP EV angst

“GOP criticism of the Biden administration's love for electric vehicles spilled into the markup repeatedly, with Republicans targeting the bill's expanded incentives for alternative vehicles.

“Senator Chuck Grassley (R-IA), who chaired Finance in the last Congress, questioned whether the bill was truly technology-agnostic.

"I have concerns that the approach we're considering is less about tech-neutral than advancing a liberal agenda," he said.

“Grassley unsuccessfully tried to strip provisions that would lift the per-manufacturer cap on EV production. In a nod to GOP concerns over EV credit fraud, Grassley's proposal would have retained certain EV reporting requirements to the IRS on used EV sales and other vehicle-specific data.

“Other failed GOP EV amendments include:

- A Thune amendment to shrink the EV credit's phaseout trigger to 10% of annual vehicle sales.
- A Cassidy proposal to limit the EV credit expansion to "non-luxury" vehicles costing less than \$47,500.
- A Cassidy plan to block EVs that use critical minerals from nations designated by the United States as perpetrating genocide from qualifying for the credit.

“The panel did find common cause on an amendment by Senator John Cornyn (R-TX) that would exclude Chinese-produced EVs from qualifying for the tax break. Sen. Debbie Stabenow (D-MI), a top EV advocate for her home state industry, enthusiastically joined the measure, which passed by a voice vote.

Nuclear, CCS

“Several senators offered and withdrew amendments, drawing pledges from Wyden to keep further discussion alive.

“Those include a nuclear production tax credit highlighted by Senator Ben Cardin (D-MD), which has been criticized by environmentalists and the Electric Power Supply Association.

“Cardin acknowledged the concerns yesterday as he withdrew the plan. "I do recognize that we have more work," he said.

“Another issue gaining scrutiny from environmentalists is the exclusion of enhanced oil recovery operations from the 45Q carbon capture and sequestration incentive, which enjoys support from senators from both parties.

“Barrasso withdrew an amendment to restore EOR eligibility for 45Q, which he said has a "proven track record" of safe storage.

"If we place this technology at a disadvantage, we're going to delay innovation that I think we need in carbon capture technologies that can then be used across the globe," he said.

"Wyden said he was open to further discussion. "As I've indicated, the whole point of this exercise is to find our way to new technology, so I look forward to hearing more about it," he said."

### Biofuels: [Bill Would Restrict RFS Waivers for Small Refineries](#)

***Senators introduced a bill last week that would require refineries to apply for small refinery exemptions by June 1 of each year allowing EPA to account for these exemptions in the annual RVOs.***

On May 26, Marc Heller of [E&E Daily](#) reported, "A bipartisan group of senators yesterday proposed legislation to tweak regulations for small refineries seeking exemptions from biofuel blending requirements.

"The bill, mirroring legislation already introduced in the House — H.R. 1113 — in February, would give refineries a deadline of June 1 each year to apply to EPA for the exemptions, which the agency grants in cases of economic hardship.

"Senators Deb Fischer (R-NE) and Tammy Duckworth (D-IL) said the proposal would give EPA time each year to account for exemptions when drafting minimum blending requirements for ethanol and other biofuels — volumes EPA normally announces each November. Refinery operators don't presently face a hard deadline to apply for exemptions.

"The legislation, called the "Renewable Fuel Standard Integrity Act," addresses the fine print of one of the most hotly debated aspects of the renewable fuels mandate. Biofuel groups accused EPA of being far too generous with exemptions during the Trump administration, while companies with small refineries say the cost of meeting RFS requirements can put them out of business.

"Disagreements about small refinery waivers have reached the Supreme Court, which is soon to decide whether EPA can legally grant new exemptions or is limited to extending ones awarded in the program's early days in the mid-2000s.

"The EPA's very opaque small refinery exemption process is unfair to hardworking farmers and ethanol producers across rural America," Fischer said in a news release, adding that the legislation would bring "much-needed transparency" to the program.

"The American Coalition for Ethanol said in a news release yesterday that EPA granted 90 exemptions during the Trump administration and has 70 applications pending.



“The Biden administration has signaled a new direction on exemptions, telling the Supreme Court it agrees that EPA granted waivers in situations where it shouldn't have. But the administration and industry groups on both sides are waiting for a ruling to signal the path forward.

“EPA is behind schedule on setting this year's minimum biofuel volumes. Asked about news reports that the agency may hold volumes flat compared to last year, Senator Chuck Grassley (R-IA) told reporters his reaction would depend in part on what happens with small refinery exemptions — including whether the volumes accounted for in the waivers would be added back into the mandate, meaning other refineries would make up for any reductions.

"This has to be worked together," Grassley told agriculture reporters in a conference call.

“In the meantime, Iowa Republican lawmakers are pressing Biden to stick by biofuel producers, after seeing the administration promote electric vehicles in its infrastructure plans.

"It is our hope that your administration will come to the table to support the proven solution that biofuels provide to reduce carbon emissions in the transportation sector as quickly as possible," Senator Joni Ernst (R-IA) and others wrote to Biden yesterday.

"The administration should support flex-fuel vehicles and cost-effective infrastructure improvements that will pave the way to higher biofuel blends."

“She was joined by Grassley and Representatives Randy Feenstra, Ashley Hinson and Mariannette Miller-Meeks.

“Although Biden promised during his campaign to support biofuels, they said, "while unveiling your American Jobs Plan, you failed to include any investments in biofuels which play a vital role in our nation's transportation sector."

In another biofuel-related development, Grassley announced legislation to extend the biodiesel tax credit through 2025. It would otherwise expire at the end of next year.

“The main Democratic co-sponsor is Sen. Maria Cantwell of Washington. Representatives Cindy Axne (D-IA) and Mike Kelly (R-PA) introduced the House companion.

## **Other**