



ABC's Weekly Federal Legislative Update September 20, 2021

Introduction

Congress faces a heavy legislative agenda this week as Members must pass legislation to fund the federal government beyond the end of the fiscal year's September 30th expiration. Legislators will also need to lift the debt ceiling in the very near future. House Democrats have packaged together these two measures along with funding for disaster relief but have already been told firmly that Senate GOP members will not support this effort. Additionally, the House plans on voting on both the Bipartisan Infrastructure Package as well as the Budget Reconciliation Package as early as this week. The following is news from Washington, D.C.

Administration

[Renewable Fuel Standard – EPA May Make Cut to Ethanol in Upcoming RVO](#)

Last week, a document on the 2020, 2021 and 2022 RVO's was leaked to the biofuels industry setting off speculation that the EPA plans on cutting called for volumes of ethanol for those years.

Marc Heller of [Greenwire](#) wrote on September 23, "Supporters of federal biofuel mandates are bracing for the Biden administration to possibly make a big cut in required volumes, after a document outlining one outcome made its way through industry insiders.

"An undated chart circulated to reporters yesterday indicated that proposed blending requirements could fall below a 15-billion-gallon threshold that biofuel supporters in Congress insist EPA must maintain to comply with the renewable fuel standard.

"The document, which an industry source described as the basis for recent speculation about proposed reductions, shows conventional renewable fuel — mainly corn-based ethanol — at 12.5 billion gallons for 2020, 13.5 billion gallons for 2021 and 14.1 billion gallons for 2022.

“Total renewable fuel would be proposed at 17.1 billion gallons for 2020, 18.6 billion gallons for 2021 and 20.8 billion gallons for 2022.

“By contrast, EPA last February had set the requirement for total renewable fuel for 2020 at 20.09 billion gallons.

“The volumes, called renewable volume obligations, or RVOs, are part of the RFS requirement to blend biofuel into the nation's transportation fuel supply. EPA sets the volumes each year, although the announcement for 2021 is about eight months late. Once the agency publishes a proposal — perhaps any day — it will be open to public comment before a final rule is written and approved.

“The threshold of 15 billion gallons is sure to be a sore point with ethanol advocates, particularly Senator Chuck Grassley (R-IA). Supporters of the RFS often cite that level as a minimum requirement, but it's more implied than mandated. The RFS allows up to 15 billion gallons of conventional ethanol to be used annually from 2015 to 2022 to help meet overall renewable fuel requirements.

“Retroactive changes are possible in part because refineries don't necessarily have to mix actual biofuel into gasoline; they can comply through the purchase of renewable fuel credits called renewable identification numbers, or RINs.

“A reduction in blending volumes would be a setback for the biofuel industry and its allies in Congress, on top of losses in court on aspects of the RFS. It would mark a victory for petroleum companies that say the blending requirements are so costly, they threaten to put small refineries out of business.

“The pro-ethanol group Growth Energy said the rumored reductions, if true, would be a step backward on pledges from President Biden.

“If these rumors are true, this would be backpedaling on the president's commitments to uphold the RFS and would add 22.8 million metric tons of carbon emissions back into the air — the equivalent of adding 5 million cars back on the road,” said Growth Energy CEO Emily Skor. “It's hard to imagine any justification for the administration to make such a move.”

“News reports about potential reductions have been circulating for weeks, citing fallen demand for biofuel and other transportation fuels during the pandemic. The administration would reportedly boost volumes again in 2022.

“The figures in the document, which doesn't bear an official mark of EPA, were viewed by E&E News. The agency has declined to comment on the proposal before it's announced.

“A routine interagency review is underway at the Office of Management and Budget, where officials have been holding meetings with lobbyists and industry groups for days, including a scheduled meeting today with Citgo Petroleum Corp.

“Although pending announcements on the RFS are always a matter of speculation, this year's atmosphere has been especially feverish. Yesterday, the Renewable Fuels Association warned reporters that an email supposedly showing "fake" biofuel volumes — different from the most recently shared chart — was being circulated with a suggestion that the RFA had shared it with member companies.

"We want you to know that this is a complete fabrication and a shameful 'spoofing' attempt," an RFA spokesperson said in an email to reporters. "Like everyone else, we are anxiously awaiting the public release of the RVO proposals and will have more information and comment at that time."

[EPA watchdog Starts Audit of Renewable Fuel Credits](#)

The following story discusses an ongoing Office of Inspector General investigation into the security and validity of RINs.

On September 20, Marc Heller of [Greenwire](#) submitted, “EPA's investigative arm has begun auditing renewable fuel credits under the government's biofuel-blending mandates, a system long criticized for fraud and abuse.

“In a memo last Friday to EPA's Office of Air and Radiation, the Office of Inspector General said it's looking to verify that the agency can ensure that RINs — a form of currency that companies trade to demonstrate compliance with the renewable fuel standard — are valid.

“The audit, already highlighted in EPA's fiscal 2021 oversight plan, isn't a surprise to the agency, nor to industry groups that have long pressed for a more transparent system. But it could recharge a debate over one of the more complicated aspects of the RFS, enacted in the mid-2000s to reduce dependency on foreign oil and promote a cleaner alternative to fossil fuels.

"The anticipated benefits of this audit are identifying and correcting procedural or automated systems problems that increase fraud risks and reduce the positive environmental impacts of the Renewable Fuel Standards program," the OIG told EPA. In the letter, standard practice at the start of an audit, the OIG requested access to records, data and EPA program employees.

“As part of the RFS, refineries are required to blend ethanol or other fuel into the nation's fuel supply. As an alternative, companies that don't blend actual biofuel can

buy renewable fuel credits — called renewable identification numbers, or RINs — from refineries that do.

“But in several cases, EPA has identified companies that claimed to have blended biofuel and generated RINs, but did not, or ran afoul of related requirements.

“In one high-profile case, in 2017, two co-owners of a biofuel company in Indiana were sentenced to 57 months and 30 months in prison, respectively, for generating more than \$60 million in tax credits and RINs. In that case, rather than selling renewable fuel for transportation, as called for by the RFS, one of the defendants admitted to selling it for use in fire starter logs and for asphalt and cement production.

“In 2018, a company called NGL Crude Logistics LLC agreed to pay a \$25 million fine in a RIN fraud case related to 36 million invalid biomass-based diesel RINs.

“Petroleum companies critical of the renewable fuel standard have pointed to RIN fraud and abuse as good reason to revamp or end the program. The Renewable Fuels Association, representing biofuel companies, has said it supports moves to discourage fraud and make the system of credits more transparent, including coordination between EPA and the Commodity Futures Trading Commission.

“The audit comes as the political atmosphere heats up around the RFS. Last week, a group of federal lawmakers from Pennsylvania, all Democrats, urged President Biden in a letter to help ease the cost of compliance for independent refiners, which are more likely to buy credits than to blend biofuel.

“Among other measures, they asked Biden to consider giving EPA a "stronger hand" in stabilizing the prices of renewable fuel credits. They also asked him for a meeting with stakeholder groups, including labor unions. Lawmakers signing the letter included Senator Bob Casey and Reps. Mary Gay Scanlon, Brendan Boyle, Dwight Evans, Conor Lamb, Susan Wild and Madeleine Dean.

"This issue has reached a critical junction, and we fear that without action, thousands of good, family-sustaining union jobs could be at risk," they said."

[USDA - Chesapeake Bay Farmers Facing Clean-up Deadline Seek Boost](#)

Last week, Farmers from six states that feed into the Chesapeake Bay's water system wrote to President Biden requesting additional help in water quality issues.

E&E News PM reporter Hannah Northey published on September 20, “Farmers from six states surrounding the Chesapeake Bay are calling on the Biden administration to launch a multimillion-dollar fund to help them meet a federal 2025 deadline for cleaning up the nation’s largest estuary.

“Farm bureau presidents from Pennsylvania, New York, Virginia, Maryland, West Virginia and Delaware asked Agriculture Secretary Tom Vilsack in a letter last week to create a “Chesapeake Bay Resilient Farms Initiative” to help farmers clean up the bay.

“That pot of money, they said, could fulfill a need that the Chesapeake Bay Commission identified in May for about \$737 million during the next decade, primarily for sub-watersheds known to have the greatest influence on the bay.

“Farmers, especially in Pennsylvania, are facing increasing pressure to curb pollution and runoff as states near a deadline to comply with an agreement that EPA and the six bay states reached in 2010.

“Under that “pollution diet,” EPA must ensure that states are curbing pollution that flows into the bay and the water body is removed from the agency’s list of impaired waters. The estuary’s 64,000-square-mile watershed, which crosses six states and the District of Columbia, is home to more than 17 million people.

“The states recently submitted to EPA plans to reach targets under the 2010 plan, but the agency found that Pennsylvania’s plans for reducing nitrogen pollution to the bay would account for only 75% of its goal. After initially expressing concern, EPA said last month that New York’s amended plan would meet the bay’s overarching cleanup goals.

“The presidents in the letter emphasized that while many of their members have changed the way they farm to achieve water quality progress, the plan calls for the reduction of another 50 million pounds of nitrogen within four year, a burden that will fall on farmers.

“More than 80 percent must come from agriculture and forestry — a nine-fold increase in historic rates for agricultural conservation practices,” they wrote.

“They also pointed out that USDA in the past created a similar fund for the Mississippi River, which now supports farmers in more than a dozen surrounding states to avoid, control and trap nutrients that would otherwise flow into the river and potentially fuel algal blooms that can affect wildlife and drinking water.

“USDA didn’t immediately respond to a request for comment.

“The Chesapeake Bay Foundation applauded the letter and joined in calling on Vilsack to establish the program, as well as lawmakers to increase long-term funding for USDA conservation programs.

"The Blueprint deadline is approaching fast and most of the remaining work falls on farmers," Denise Stranko, the foundation's federal executive director, said in a statement. "The Chesapeake Bay Resilient Farms Initiative (CRFI) is the kind of bold

USDA investment plan that will help farmers adopt the conservation practices essential to restoring the Bay and its local rivers and streams."

Congress

[Budget Reconciliation Package](#)

The following two stories discuss the latest efforts to pass a Budget Reconciliation Package.

Nick Sobczyk and Emma Dumain of [E&E Daily](#) wrote on September 24, "The House Budget Committee will vote on a version of the partisan \$3.5 trillion reconciliation bill Saturday in hopes of mollifying competing Democratic factions and quickly reaching a deal with the Senate, but climate remains a major sticking point in negotiations.

"The markup will be a key step in getting a reconciliation package to the floor, underscoring resolve from House Speaker Nancy Pelosi (D-Calif.) to come to an agreement ahead of a scheduled vote Monday on the separate bipartisan infrastructure bill.

"But significant hurdles remain when it comes to policy specifics, pay-fors and the ongoing political spat between Democratic moderates and progressives that is still threatening to derail the process.

"As talks drag on, Democrats are no closer to solving their climate problem, namely that Senate Energy and Natural Resources Chair Joe Manchin (D-WV) appears to oppose the Clean Electricity Payment Program (CEPP) — their central proposal to slash greenhouse gas emissions. The party is also still sorting through the details of a potential price on carbon, a policy some advocates once thought was dead, with Senate tax writers pushing hard to include the policy as a pay-for.

"Manchin yesterday again raised concerns about the CEPP, a version of a clean electricity standard that would offer grants to utilities that hit clean energy deployment targets each year.

"Why would we be paying utilities for what they're already doing?" Manchin asked reporters.

"Asked whether he could support any version of the CEPP, Manchin said he's focused on "working on the grid." Democrats, Manchin added, should "be realistic" that climate change is global and that greenhouse gas emissions do not only come from the United States.

“Manchin has been in talks with President Biden and Democratic leadership about the program, which falls under his committee’s jurisdiction, including during his meeting at the White House this week. “We’re in a different place on that but not to a place where it’s confrontational at all,” he said when asked about climate following his huddle with Biden on Wednesday.

“Divides on climate, as well as on health care issues and top-line spending, mean the Senate remains days, if not weeks, away from a reconciliation package that could get support from all 50 Democrats.

“Senator Brian Schatz (D-HI) said it would be “challenging” to come up with a final product before Monday’s House vote on the infrastructure bill. Progressives are threatening to vote down the bipartisan measure unless the Senate sends over its reconciliation bill first. Democrats still have a “long list” of climate proposals to work out agreement on, Schatz said.

“We have to manage expectations,” Schatz told reporters. “This stuff's hard, and negotiations have begun in earnest, and we'll get there.”

'A lot of noise'

“The House Budget markup is an attempt to show those negotiations are moving along, as leadership looks to rein in the feud between moderates and progressives.

“The committee will be considering a bill that represents the various pieces of draft legislation passed by the relevant House panels earlier this month, scrubbed of any provisions that staff determined would not be compatible with the parliamentary rules governing the reconciliation process in the Senate.

“Per the Budget panel’s rules, lawmakers will not be able to offer amendments or make any substantive changes. Instead, members may offer nonbinding “motions to instruct,” a symbolic way to take certain policy stances.

“As House Budget Chair John Yarmuth (D-KY) told reporters yesterday, observers should expect “a lot of noise.”

“The markup is essentially a procedural step that will allow the House to quickly vote on any deal that Democratic leaders strike with the Senate. If there is an agreement on new provisions or a lower top-line number, a “manager’s amendment” could be introduced late that would change the text of the underlying bill.

“Or,” Yarmuth said, “once the House passes it, it could be something the Senate changes when it comes back to us. I think realistically, now we expect that we will get the bill back at some point from the Senate.”

“Yarmuth’s suggestion that the House would have to vote a second time on the reconciliation package is a scenario Democratic leaders on both sides of Capitol Hill had been hoping to avoid, working feverishly to “pre-conference” major sticking points.

“Pelosi is trying to give progressives a vote on the reconciliation bill Monday alongside the \$1 trillion bipartisan infrastructure measure passed by the Senate this summer. But there’s also hope that either moderates agree to move the Monday date for passing the bipartisan bill or that progressives resign themselves to voting on the bipartisan bill first with an understanding that passing the reconciliation bill would follow just a few days behind.

“The speaker wants to move as quickly as possible to try and get the two measures voted on in close proximity,” Yarmuth said yesterday, adding he expected the House would be voting on some version of the reconciliation bill “next week.”

'Huge TBD'

“Whether Democrats can get to a final product by then will depend heavily on talks between the two tax-writing committees.

“Senate Majority Leader Chuck Schumer (D-NY) said yesterday the White House and top Democrats had agreed to a “framework” of how to pay for the reconciliation package, surprising several of the senators involved in negotiations.

“Schumer declined to divulge details about the framework, which he described as a memo. He indicated that it consisted of options agreed to by House Ways and Means Chair Richard Neal (D-MA) and Senate Finance Chair Ron Wyden (D-OR)

“Both chairmen said this week that repealing domestic fossil fuel tax breaks is under discussion as well, but the pair is still at odds over key clean energy and climate proposals.

“There were a couple of things that Neal and Wyden didn't agree on, and they're going to try to put their heads together,” Schumer said.

“For one thing, Neal’s reconciliation package is silent on carbon pricing, while Wyden is talking it up as a pay-for and a climate policy to complement his clean energy tax plan.

“I was tasked by Senator Schumer to look specifically at carbon pricing,” Wyden told reporters yesterday. “We've got a lot of senators who care deeply about it. We've been having those discussions.”

“It’s unclear whether a price on carbon would ultimately run afoul of Biden’s pledge not to raise taxes on Americans making less than \$400,000 a year. But Wyden said that

promise is central to the discussion about carbon pricing. While he declined to get into specifics, the Oregon Democrat suggested he was looking at a fee and dividend model.

“What you always see is middle-class people — because they know that a carbon tax will involve a transition — want to know specifically how they're going to fare in terms of their budget,” Wyden said. “And that means you've got to make them whole with the proceeds.”

“Neal was less enthusiastic yesterday, though he did not rule it out as an option. “The Senate raised those issues, but at the moment we have not seen anything,” Neal told reporters when asked about carbon pricing.

“Another potential item on the menu is a carbon border adjustment, but there are significant questions about how it would be structured — and if Biden would support it. The policy was not included in the proposal from Ways and Means. Neal said that it remains “in the mix,” but lawmakers have given little indication of how it would be structured or whether it would be tethered to a domestic carbon price.

“The European Union is already on its way to imposing its own carbon border adjustment mechanism (CBAM), and climate advocates have long called for the United States to enact a similar tariff on carbon-intensive imports. Senator Sheldon Whitehouse (D-RI) said Democrats are waiting for a signal from Biden.

“The White House has not yet defined what it wants by way of a carbon border adjustment,” Whitehouse, a member of the Finance Committee, told E&E News. “Is it keyed to CBAM? Is it keyed to a carbon price? Is it keyed to energy intensity, and if so, how do you do that?”

“So, huge TBD next to that one,” Whitehouse added.”

Reporter Geof Koss contributed.

[Budget Reconciliation Package](#)

On September 24, Nick Sobczyk, Emma Dumain and Geof Koss of [Greenwire](#) reported, House Speaker Nancy Pelosi confirmed today she'll bring a multitrillion-dollar reconciliation bill to the chamber floor next week that makes major investments in combating the climate crisis.

“The California Democrat’s announcement could end the intraparty standoff over the fate of a separate, \$1 trillion infrastructure bill on Monday, Sept. 27. Moderates say that measure needs to be voted on by that date, but progressives said they’d tank it if they don’t have a reconciliation bill to vote on with it.

“But it’s still not clear what, exactly, the House will be voting on next week, as negotiations with the Senate continue over key policy provisions as well as the current, \$3.5 trillion top line.

“The House Budget Committee will meet in a rare weekend session tomorrow to advance a 2,465-page bill, a combination of all the draft bills passed earlier this month by several committees with jurisdiction over different components of the reconciliation process.

“That could be what reaches the House floor, even though the price tag and many of the provisions won’t be able to withstand scrutiny in the Senate. Democratic leaders, however, are holding out hope for a bicameral deal on outstanding disagreements in time to avoid a legislative pingpong scenario.

“As negotiations continue, there may be changes,” Pelosi warned in a letter to Democratic colleagues this morning.

“Thanks to all Members for your proposals, which reflect the values of our Caucus to meet the needs of the American people in a time of intense dialogue,” she concluded. “That intensity continues as we move forward to pass two jobs bills next week.”

'Where is the Senate?'

“Progressives remain adamant that they will not vote for the infrastructure bill without a solid agreement with the Senate on reconciliation. Progressive Caucus Chair Pramila Jayapal (D-WA) said this morning that simply passing the \$3.5 trillion House bill “doesn't satisfy our requirements.”

“We're all trying to get to a place where we have agreement between the House and the Senate and the White House,” Jayapal told reporters. “And then the Senate can pass a reconciliation bill.”

“At the very least, Jayapal said she would need to see “public agreement” on reconciliation with all the details worked out. More than half of the nearly 100 members of the Progressive Caucus, Jayapal said, are committed to voting down the bipartisan bill absent a deal with Senate moderates — namely Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ).

“I don't know how to trust again that the Senate is going to do what they say that they're going to do, so certainly we need agreement,” Jayapal said.

“Representative Jared Huffman (D-CA), a progressive who chairs the Natural Resources Subcommittee on Water, Oceans and Wildlife, said he would need to see “some level of

specificity and commitment from the Senate side that I just haven't seen and I can't really imagine in the next 72 hours.”

“This vote on the Senate infrastructure bill is final. That vote means it goes to the president's desk and it becomes law,” Huffman said in an interview this morning. “I think we would be certifiably insane to cast that vote without rock solid certainty about what we're getting in the ‘Build Back Better Act.’”

“Negotiations with the Senate could indeed stretch well past Monday. After emerging from a meeting this morning with Pelosi and House committee chairs, House Majority Leader Steny Hoyer (D-MD) said reconciliation would be a “possibility” on the floor next week.

“Representative Stephanie Murphy (D-FL), a moderate who leads the Blue Dog Coalition, said she also wants to see a reconciliation bill pre-conferenced with the Senate before voting on the final product, though she has decidedly different policy concerns. Getting that done by next week, she said, “would take an awful lot of work.”

“I think that there are ways in which we can make it more targeted and fiscally responsible,” Murphy told reporters this morning.

“Jayapal, meanwhile, said moderate Senate Democrats are interested in meeting with progressives on a reconciliation deal.

“I think we're very close. I think we are clear on what we're asking for and what we put forward — the House of Representatives,” Jayapal said. “The question is, where is the Senate?”

Presidential optimism

“President Biden, who ramped up his engagement with lawmakers this week to help broker a deal, acknowledged the standoff within the Democratic Party this morning.

“We're at this stalemate at the moment,” he said in remarks at the White House. “And we're going to have to get these two pieces of legislation passed — both need to be passed, and they'll have a profound impact.”

“He said that Wednesday's Oval Office meetings with progressives and moderates “went really well,” while ceding the continued divide over pay-fors between the ideological factions.

“We can argue whether or not the corporate tax should go back up to 26 ½ percent or 28 or 24,” Biden said. “But the idea that 50, 50 major corporations in America making a sum total of \$40 billion pay zero? Come on, it's just wrong. It's just not fair.”

“That fact is “beginning to sink through the ether a little bit here on the part of people,” he continued. “I think there clearly is enough from a panoply of options to pay for whatever it is that folks decide to pay for.”

“He likened the current negotiations over reconciliation to the months of talks with a bipartisan group of senators that yielded the \$1.2 trillion infrastructure package, which the House Democratic moderates are eager to pass.

“There were a lot of negotiations on this,” he said. “It wasn't until people were forced to look at, ‘what are you for?’ Are you for taking care of that highway or bridge in your state or that region. Are you for doing something about environmental degradation? Are you for something that deals with allowing us to provide for monies to states so that they can in fact, deal with things like what happened in in states for the major utility lines.”

In those talks, Biden said he found participants “going, ‘Hmm, I never really thought that through before. I think it makes sense.’ And that's how we finally got to a bipartisan deal on what is a serious infrastructure proposal.”

[Appropriations, Debt Ceiling and Disaster Relief Bill](#)

Congress must pass a mechanism to fund the federal government by September 30 as the new fiscal year begins on October 1. Congress will also need to raise the debt ceiling very shortly. The House bundled together these two items as well as disaster relief in one package. GOP Senate Leader McConnell has strongly indicated he will not support this effort in the Senate.

George Cahlink of [Greenwire](#) wrote on September 21, “House Democrats are expected to pass stopgap funding and debt ceiling legislation today that also provides \$26.6 billion in emergency disaster spending described by sponsors as the “rising cost of climate change.”

“The legislation aims to avert a federal shutdown next week when the new fiscal year begins by level-funding agencies through Dec. 3. It would also avert an unprecedented default on the nation’s borrowing authority by suspending the debt ceiling through 2022.

“We expect to pass the [continuing resolution] with the debt limit in it” later today, Majority Leader Steny Hoyer (D-Md.) said this morning. He acknowledged the Senate might send the bill back to the House with changes.

“Indeed, Senate Republicans have already said they will block the legislation because they don't want to contribute to increasing the nation’s \$28.5 trillion debt ceiling. GOP lawmakers have said they would support a “clean” CR without the debt provision.

“Hoyer said if that happens, Democrats will have to make a “determination” on their next move. In the meantime, both parties continue to swipe at one another over who would be to blame for a debt crisis or a federal shutdown.

“Beyond the stopgap and debt provisions, the legislation also would provide billions of dollars in emergency spending for natural disasters, including Hurricanes Ida, Delta, Zeta and Laura; wildfires; severe droughts; and winter storms.

“The \$28.6 billion proposed for disaster aid is about double the amount initially proposed by the White House earlier this month, in the wake of Ida. The spending includes:

- \$3 billion for accelerating the construction of flood and storm damage reduction projects to reduce risk from future floods and hurricanes.
- \$2.081 billion for repairing damage to Army Corps projects caused by natural disasters.
- \$2.6 billion to reimburse states and territories for damage from natural disasters to roads and bridges in the National Highway System.
- \$1.7 billion to the Interior Department and Forest Service for wildfire fighting costs as well as wildfire prevention efforts.
- \$345 million for NOAA hurricane and wildfire damage as well as to mitigate the impact of future disasters.
- \$895 million to the Air Force and Navy to repair facilities damaged by natural disasters.
- \$43.3 million to repair damage at the Strategic Petroleum Reserve caused by natural disasters.

“Democrats hope including the disaster aid will help win support from GOP lawmakers in states hard hit by natural disasters. But Senator John Kennedy (R-La.), whose state bore the brunt of Hurricane Ida, said while he’s likely to back the bill, it’s unlikely nine other senators will join him and beat back an expected Senate filibuster.

“The legislation also contains short-term extensions of a host of programs expiring at the end of the fiscal year, including the federal flood insurance program, according to a summary.

“The package, however, does not include an extension of surface transportation programs that also expire at the end of the month. Democrats are instead betting they

will pass a bipartisan Senate infrastructure bill by Oct. 1 that would renew those programs with fresh funding.”

Reporter Emma Dumain contributed.

[BiPartisan Infrastructure Package](#)

The following story discusses the status of the bipartisan infrastructure package.

On September 24, Geof Koss and George Cahlink of E&E Daily reported, “House Minority Leader Kevin McCarthy is urging his GOP colleagues to reject the Senate’s \$1.2 trillion bipartisan infrastructure bill currently scheduled for a floor vote early next week, arguing it will pave the way for passing Democrats’ reconciliation plan.

“I don’t view it as a bipartisan bill anymore,” the California Republican told reporters yesterday, saying Democratic leaders need to first pass the \$1.2 trillion infrastructure bill to get moderates to support a partisan \$3.5 trillion reconciliation package.

“The bill, H.R. 3684, negotiated between a bipartisan bloc of senators and the White House and passed by the Senate in August, contains about \$550 billion in new spending and would reauthorize federal surface transportation programs slated to expire Sept. 30.

“It would also steer billions of dollars toward energy and environmental projects, including grid upgrades, electric vehicles, carbon capture and transport, climate and drought resilience, clean up of abandoned mines and wells, disaster recovery, and water projects.

“McCarthy said he believes the combined spending under the bills could top \$5 trillion, which he warned would harm the economy.

“Democratic leaders in August agreed to hold a vote by no later than Monday on the infrastructure bill, which passed the Senate this summer with bipartisan support. House moderates demanded the vote in exchange for allowing the budget legislation to move ahead, although progressives have long said they want the reconciliation bill finalized before they’ll back new spending on roads, bridges and highways.

“If all Republicans oppose the infrastructure bill, Democrats could only afford to lose three votes and still pass it. A handful of GOP moderates, among them Energy and Commerce Committee members Fred Upton (R-Mich.) and Adam Kinzinger (R-Ill.), are still seen as likely to back the infrastructure bill.

“Kinzinger — one of 10 House Republicans who voted to impeach former President Trump — called the pressure from GOP leadership to vote against the bill a mistake.

“The Republicans who want to vote for this bipartisan bill ... you shouldn't whip against that,” he said on CNN yesterday. “I intend to vote for it. And I think there'll be a number of people joining me as well.”

Transit skirmish

“The House GOP leadership’s opposition stands in stark contrast to that of Senate Republicans, 19 of whom voted to pass the bill in August. Notably, Senate Minority Leader Mitch McConnell (R-KY) was among the GOP supporters.

“But one top Senate Republican critic of the bill — Banking Committee ranking member Pat Toomey (R-PA) — this week revived his fight against a key sticking point in the monthslong negotiations between the White House and the Senate: transit spending.

“In a letter to Banking Chair Sherrod Brown (D-OH), Toomey criticized the inclusion of \$10 billion for a new Affordable Housing Access Program contained in the House Transportation and Infrastructure Committee’s reconciliation package that passed last week.

“Toomey said those funds violated a reported informal agreement between Biden and GOP senators that the White House would not “double dip” on policies funded in the Senate bill.

“It is imperative that all parties involved in a negotiation process do so in good faith and uphold their agreements,” Toomey wrote to Brown, with whom he has publicly clashed on the need for transit funding.

“To quote President Biden at his press conference touting the bipartisan infrastructure framework: ‘In my years in the Senate, the single greatest currency you have is your word — keeping your word.’”

“Brown later rejected Toomey’s “double-dipping” assertion, saying the House language would “allow the Department of Housing and Urban Development and the Federal Transit Administration to pool resources and work together to help solve the nation’s housing crisis.”

“This groundbreaking approach was not even considered in the bipartisan infrastructure plan and is a new endeavor for both agencies,” he added.

“House Transportation and Infrastructure Chair Peter DeFazio (D-Ore.) on Wednesday also slammed Toomey’s accusation, telling E&E news that the program he created with Brown is “totally novel — never had anything like this before.”

“DeFazio contended that Toomey was “not well-informed.” “And beyond that, he is a lame-duck member of the minority who didn't vote for the bill, so I don't think he's going to be dispositive,” he said.”

[House Agriculture Panel Debates Carbon Markets for Farmers](#)

Last week, the House Agriculture Committee held a hearing on the Growing Climate Solutions Act which would establish Carbon Markets for farmers.

E&E Daily reporter Marc Heller published on September 20, “The House Agriculture Committee this week will dive into issues surrounding carbon markets, as lawmakers debate how to make climate-smart agriculture attractive to farmers.

“The full committee hearing is likely to show where lawmakers agree — on the benefits of voluntary conservation — as well as where they're divided on the proper role of the federal government.

“While the shape of such markets will evolve over the course of years, Congress faces more immediate challenges, too, in helping agriculture adapt to climate change. Those include boosting programs that could reduce farming's contribution to greenhouse gases and even absorb the world's rising carbon output, items addressed in the big budget reconciliation package Democrats are trying to push through Congress.

“Legislation encouraging carbon markets, such as the “Growing Climate Solutions Act” — H.R. 2880 and S. 1251 — faces hurdles on the House committee despite breezing through the Senate Agriculture, Nutrition and Forestry Committee earlier this year. And Democrats' biggest climate-related spending effort — the \$3.5 trillion budget reconciliation package — is mired in partisan and internal divisions.

“Republicans on the committee, led by ranking member Glenn Thompson (R-PA), have proposed instead a series of bills to boost conservation programs and support more intensive forest management, which they say will cut down on carbon-emitting wildfires and encourage sequestration in forest products.

“In their view, carbon markets should be allowed to function largely without government interference, as long as the benefits go mainly to farmers rather than to third parties such as traders.

“While agriculture contributes around 10 percent of U.S. greenhouse gas emissions, farms, forests, grasslands and wetlands absorb around 12 percent of carbon emissions, according to the U.S. Farm Bureau Federation.

“Committee Chair David Scott (D-GA) has said climate change and carbon sequestration will be top priorities for the panel. His first hearing as chairman, earlier this year, focused on the issue.

"It is incumbent on this committee to ensure producers have the financial and technical resources they need to understand climate risks, consider mitigation strategies, and receive the support they need to make important investments in their operations," he said at the time.

“Farm groups recently formed a coalition with forest owners and food companies called the Food and Agriculture Climate Alliance, which has pressed for voluntary programs it says will help carbon markets develop.

"Pilot projects should be prioritized to build out critical climate infrastructure and enable participation by all producers and landowners," the alliance said in a recent report. "Existing carbon markets may not provide opportunities to all farmers, growers, ranchers and forest owners due to regional differences, crop and production types, total acreage under crop production, farm and forest size, and other factors."

“Carbon markets already in operation don't all function in the same way, according to a report by the University of Kentucky's College of Agriculture, Food and Environment. California's cap-and-trade system is based on government limits on greenhouse gas emissions, while in other places, voluntary markets are driven by companies linking buyers and sellers.

“Prices for sequestered carbon commonly range from \$15 to \$20 per ton, according to the report. But the systems are in their infancy, and big questions remain. Those include how to document carbon reductions on farms, how to verify those numbers — and how to do so while protecting farmers' private information.

“Supporters of the "Growing Climate Solutions Act," such as Senate Agriculture Chair Debbie Stabenow (D-MI), say their bill would help by setting up a third-party verification system through the Department of Agriculture. The Environmental Defense Fund pointed out some of the troubles in a report in July.

“But Thompson and other skeptics have said they fear too much involvement by the Department of Agriculture, including the possibility that the department's Commodity Credit Corp. could become enmeshed in carbon regulation, diverting it from more traditional farm programs.

“One area where lawmakers agree is on the need for better high-speed Internet service in farm country, since quick access to information and fast communication will be key to farmers' ability to use carbon markets.

“Thompson, who said there's no disputing that the climate is warming and that human activity is partly to blame, linked the technology and carbon issues at a hearing in February.

"U.S. producers are the shining star when it comes to resiliency and sustainability. U.S. producers are the answer to reducing global emissions, not the problem, as so many activists would have you believe," Thompson said. "However, without high-speed internet connectivity at both the farmhouse and the field, many of these new technologies that have helped create these efficiencies have never realized their full potential."

Schedule: The hearing is Thursday, Sept. 23, at 10 a.m. in 1300 Longworth and via webcast.

Witnesses: TBA.

Other

[Defunct Biogas Plant to Pay \\$1.1 M for Environmental Breaches](#)

The Associated Press published on September 24, “The owners of a defunct biogas plant in northeast Nebraska have agreed to pay a \$1.1 million fine to the state and federal governments for repeated violations of environmental rules.

“Big Ox Energy and its owners agreed to pay the fine as part of a settlement with regulators. The company and its insurers had previously agreed to be part of a separate \$1.75 million settlement with homeowners who accused the plant of sending rancid fumes through the city sewer system and ruining their homes.

“Big Ox began operations in September 2016, separating solids from industry wastewater to create methane. The plant sold the methane and injected it into a nearby natural gas pipeline. Big Ox was subject to odor complaints soon after it began operations and was cited for numerous environmental violations until it shut down in 2019.

"The Big Ox facility's operations presented a significant risk to their workers and nearby property owners," said acting EPA Region 7 Administrator Edward Chu.

“EPA said that some of the liquid wastewater went over the sides of the facility's roof and onto the ground at least 16 times between 2017 and 2019. On one occasion in 2018, a malfunction at the plant resulted in 80,000 gallons of liquid wastewater overflowing from its equipment.

“At times, the plant was also discharging methane at levels that could be flammable and hydrogen sulfide in amounts that could cause injury or death if it was inhaled.”