



## ABC's Weekly Federal Legislative Update October 18, 2021

### Introduction

Both chambers of Congress are in session this week. Democratic leaders including White House negotiators are continuing dialogue in the hopes of getting both the moderate and progressive wings of the party to agree on the size and scope of the budget reconciliation package. Democrats have given themselves until October 31 to pass both bills. The following is news from Washington, D.C.

### Administration

#### Recent EPA Appointees

***The following article contains information about recent appointments at the EPA including regional chiefs and farm agency appointees.***

Kevin Bogardus and Marc Heller of [E&E News PM](#) wrote on October 12, "President Biden today announced several regional and state-level appointees across the federal government, including for key slots at EPA.

"The White House named Adam Ortiz as EPA's Region 3 administrator. He is director of the Montgomery County, Md., Department of Environmental Protection. He also has been director of the Department of the Environment for Prince George's County, Md., and served in the administration of former Gov. Martin O'Malley (D).

"Region 3 is EPA's mid-Atlantic office and oversees agency operations in Delaware, Maryland, Pennsylvania, Virginia and West Virginia as well as Washington, D.C.

"I am grateful to have Adam's leadership on critical matters in Region 3, including restoring and improving the health of the Chesapeake Bay, addressing water quality across the region, and ensuring robust engagement with diverse communities on issues ranging from agriculture to environmental justice," EPA Administrator Michael Regan said in a statement.

“Debra Shore was also announced as EPA Region 5 administrator. Shore is a commissioner for the Metropolitan Water Reclamation District of Greater Chicago.

“Region 5, with its main office in Chicago, manages the agency's operations in Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. As one of EPA's biggest offices, it also houses the Great Lakes program office.

“The race to be EPA's Region 5 administrator became the focus of an unusual public campaign. Shore, supported by Senator Dick Durbin (D-IL) and other Illinois lawmakers for the job, competed with Micah Ragland, who once led public engagement for the Obama EPA and had the backing of lawmakers from Michigan and elsewhere as well as the regional office's employee union.

“Debra’s knowledge and experience on water infrastructure issues, the impacts of climate change, and the protection of the Great Lakes will help her lead Region 5,” Regan said.

“The administration announced several appointments to state-level offices of the Department of Agriculture, including former Representative Bobby Etheridge (D) of North Carolina to lead the Farm Service Agency in that state. Etheridge, a longtime member of the House Agriculture Committee, also held the North Carolina FSA position during the Obama administration.

“The FSA runs many farm programs, including disaster assistance and commodity programs. It serves as farmers' main point of contact for much of the safety net that staves off farm failures during economic downturns.

“Other FSA state director appointments included Laurie Funderburk in South Carolina, Arthur Tripp in Georgia, Jonas Moya in New Mexico and Timothy Boring in Michigan.

“The administration also announced appointments to lead USDA Rural Development offices. Those include Nivory Gordon Jr. in Alabama, Reginald Speight in North Carolina, Sandra Glover in South Carolina, Reggie Taylor in Georgia, Patricia Dominguez in New Mexico, Brandon Fewins in Michigan and Bob Morgan in Pennsylvania.”

## **Congress**

### [Budget Reconciliation Package](#)

***House and Senate Democrats are in the process of trimming down the House passed budget reconciliation package to a lower number that can be agreed upon by both Democratic moderates and progressives. Democratic leaders would like to finish this challenging process by the end of October and advance to both chambers voting on***

***the legislation in conjunction with the House vote on the bipartisan infrastructure bill. The following two stories discuss this process.***

On October 15, Emma Dumain and Nick Sobczyk of E&E Daily reported, “The Biden administration and Democratic leadership in Congress continue to promise that climate provisions won’t be left out of a final, multitrillion-dollar social spending package. But anxiety is building around what “climate” might actually mean to those at the negotiating table.

“House Natural Resources Chair Raúl Grijalva (D-AZ), in an interview with E&E News yesterday, said he isn’t sure what they’re talking about, either — and he worries that their definition will exclude the policies and programs prioritized in his committee’s massive set of recommendations for the reconciliation process.

“The contribution you make to the overall issue of dealing with climate change ... I sense there hasn’t been the appropriate consideration of the role that our provisions play in dealing with climate change,” Grijalva said. “You have to have an integrated response; you have to have where our assets are, our lands and our waters, and keep those in the toolbox. The oceans, for example, their contribution to both the abatement, mitigation and the building of the resiliency around climate change is huge, and our public lands, as well.”

“He added, “I didn’t want that to fall on the floor in the cutting process because it doesn’t fit a definition — a definition having to do primarily with the need for electrified cars and alternative energy.”

“Grijalva was referring to the current state of play in reconciliation talks, where party leaders and the White House are working to shave down a \$3.5 trillion spending package to something closer to \$2 trillion to satisfy moderate fiscal hawks.

“As negotiators are facing the reality of a smaller bill, they are debating how and where to find savings. Some lawmakers and officials are looking to shorten the funding windows for many programs — the current standard is 10 years — rather than make wholesale cuts to entire initiatives. Other people involved in discussions are advocating for a reconciliation bill to make robust investments in fewer priorities instead of trying to spend fewer dollars across countless line items.

“Grijalva would not say which strategy he preferred, but emphasized that his committee already had to make significant sacrifices when handed a \$25.6 billion allocation in August to write the panel’s portion of the reconciliation bill dealing with programs within the Interior Department’s purview. And this was only after Democrats reversed on their original plan to exclude Interior from the reconciliation process entirely after Grijalva and his allies on and off Capitol Hill threatened a revolt.

“Meanwhile, word is spreading that the White House could be prepared to sign off on a reconciliation bill that prioritizes funding for climate programs that deal exclusively with lowering emissions and would put President Biden on the path to meeting his ambitious targets for lowering greenhouse gas emissions, promoting electric vehicles and facilitating the transition away from fossil fuels to renewable energy sources.

“House Speaker Nancy Pelosi (D-CA) sought to reassure the environmental community yesterday, promising that the reconciliation bill is “about having everybody at the table,” including green groups, labor and environmental justice communities.

“I’m not here to go into the negotiation, but we will have what we need in terms of the climate provisions,” Pelosi said during an event in San Francisco with environmental activists and Senator Alex Padilla (D-CA).

“But Grijalva’s concern, shared by other lawmakers and advocates in the environmental community, is that only policies that lower emissions will be considered “core” climate provisions for the purposes of reconciliation. That could exclude areas addressed in his committee’s reconciliation bill, such as funding for a Civilian Climate Corps, the repeal of drilling in the Arctic National Wildlife Refuge and assistance for tribal communities to meet unique resilience and restoration needs.

“He laid out his case earlier this week in an Oct. 12 letter to Biden, arguing that the final reconciliation package “must invest in wildfire, drought, and sea-level rise mitigation; support nature-based carbon sequestration and resilient ecosystems; and take meaningful steps to get the United States out of the fossil fuel business” in order to meet the demands of the moment.

“If we’re talking about funding ‘core’ climate change provisions within the package the House has come up with, and in the process reducing that ... we fit that definition,” Grijalva told E&E News. “I don’t know who is setting the definition of what ‘core’ is, but the position I’m laying out is ... we fit that definition, whatever it is.”

'A level of urgency'

Pelosi, for her part, has not been specific about what she considers to be essential as leadership negotiates the climate provisions of the reconciliation package. But she has indicated that the goal is to have a deal before the U.N. climate talks next month, where President Biden hopes to show progress on his Paris Agreement pledge to reduce U.S. greenhouse gas emissions 50 to 52 percent below 2005 levels by 2030.

That deadline could give precedence to emissions reduction policies, particularly the proposed Clean Electricity Performance Program, expansions of clean energy tax breaks and billions for electric vehicle infrastructure.

“It is a level of urgency that is an imperative that we get this job done in preparation for COP 26, which is right around the corner,” Pelosi said yesterday, referring to the U.N. conference by its abbreviation.

Senate Majority Leader Chuck Schumer (D-N.Y.) similarly said in a [letter](#) to colleagues yesterday that he is aiming to finish up on the reconciliation package and bipartisan infrastructure bill “ in the month of October.”

It likely means intense negotiations in the next two weeks about just what is considered a “core” climate program and how, exactly, to make changes to the Clean Electricity Performance Program, the major emissions provision that Senator Joe Manchin (D-W.Va.) openly opposes.

Lawmakers have acknowledged in recent weeks that they could change the annual clean energy targets or tweak emissions intensity benchmarks to allow for coal and natural gas with carbon capture to satisfy Manchin, but the White House and Democratic leaders are also dealing with a sizable group of Democrats rallying around the slogan “no climate, no deal”.

“Climate cannot be on the chopping block in this or any budget,” Padilla said during the event with Pelosi yesterday. “We cannot afford to leave these problems to be dealt with another day.”

In pursuit of protecting his own priorities, Grijalva made clear that he has no plans to just stop at his letter to Biden, copies of which were also transmitted to Pelosi, Schumer, Interior Secretary Deb Haaland, national climate adviser Gina McCarthy and other high-ranking White House officials.

“We start making inquiries and setting up appointments tomorrow,” Grijalva said.

### [Budget Reconciliation Package](#)

E&E Daily reporters George Cahlink, Geof Koss and Emma Dumain published on October 13, “Congressional Democrats are trying to lower the price of President Biden’s domestic agenda by scaling back the length of some new initiatives and curtailing their costs rather than dropping them altogether.

“Saying she was “very disappointed” that Congress won’t be able to pass a \$3.5 trillion budget reconciliation bill favored by most of her members, House Speaker Nancy Pelosi (D-CA) said yesterday she instead expects a final bill to come in at “a couple trillion” dollars — a compromise to curry favor with moderate Senate Democrats Joe Manchin of West Virginia and Kyrsten Sinema of Arizona.

“Pelosi also conceded that Democrats are going to have to make trade-offs to meet the lower cost. “You may do fewer things well,” she told reporters at her weekly press conference.

“Pelosi declined to say what programs might have to be reduced, but stressed that the party would face “decisions” in the coming weeks on what’s included in the package, which is still expected to include big spending to fight climate change. She suggested that in some cases, cutting the length of funding would be a way to lower the price tag.

“The timing could be reduced in cases to make the costs [for some programs] lower,” she said. “But it would only be in a way that does not undermine the transformative nature of it.”

“The reconciliation bill was initially designed to fund programs over the course of a decade, but congressional Democrats and the Biden administration are now looking at which programs could be paid for in shorter windows so as not to sacrifice the ambitious scale and scope of the original package.

“Representative John Yarmuth (D-KY), the chair of the House Budget Committee, who announced his retirement yesterday, said he believed there were still some divisions within the House Democratic Caucus about whether to invest in many programs at lower funding levels or restrict the bill to fewer programs at more robust dollar amounts.

“We had a meeting last week of leadership and committee chairs,” Yarmuth said. “And I would say that the discussion came up as to what people thought the better course of action would be ... either to try to keep all the elements and pare them down, or to focus on three or four most important elements. And I would say the group was split pretty much in half.”

“But, he continued, “the half that thinks it might be better to focus on a few couldn’t agree on what the few would mean. And so it’s gonna be difficult either way, but my guess is we’ll probably try to keep all the elements and pare them down.”

Progressives on board

“Congressional Progressive Caucus Chair Pramila Jayapal (D-WA) yesterday welcomed Pelosi’s interest in shortening the number of years that programs are funded rather than making wholesale cuts to specific line items.

“That is where we are, as well,” Jayapal told reporters on a conference call.

“She said that a majority of the 96-member liberal caucus supports keeping the five top priorities it laid out earlier this year — including aggressive climate action — but would be willing to “cut some of them back to a fewer number of years” if need be.

“More important to progressives than the duration of programs that would be created by the reconciliation bill are the “universality ... and the immediacy of benefits” rather than having them last for the entire 10 years as initially envisioned, Jayapal said.

“An exception to that rule, Jayapal said later in an interview with reporters on Capitol Hill, would be with certain climate provisions, where a decadelong funding commitment could be critical to the success of efforts to compel entities to lower emissions and invest in renewable energy sources.

“The important thing is, because the climate provisions rely on the marketplace in terms of supply — in terms of sort of the stick and the carrot, it is important that those are longer,” she explained.

“Do they have to be 10 years? I think so. But I’m open to seeing how people think about that. It’s got to be a long period of time, because the market is trying to make a transition to cutting carbon emission, and we have to have both the carrot and the stick.”

“Asked whether she thought party leaders and the White House were in agreement on this point, Jayapal conceded that she wasn’t sure but said she “thought so.”

“Jayapal also singled out the Clean Electricity Performance Program (CEPP), which would penalize electricity suppliers that don’t meet specific clean energy targets, as one example of a program that needs a 10-year funding window or something close to it. Serious questions remain about whether the CEPP will survive the reconciliation process at all, given Manchin’s fierce opposition to the proposal.

“Senator Ed Markey (D-MA), who joined Jayapal on the conference call yesterday, described climate change provisions as nonnegotiable.

“We can't negotiate with deadly wildfires — they don't negotiate,” Markey said. “We cannot negotiate with massive hurricanes — they don't negotiate. We cannot negotiate with floodwaters and sea-level rise and drought and temperature rise.”

“It's time for us to stop talking about what is politically feasible and start talking about what is scientifically necessary,” he added.

Deadline looms

“Democrats are hoping to meet an Oct. 31 deadline for reaching a reconciliation

agreement, the date on which a stopgap extension of federal surface transportation funding expires.

“Congress was forced to pass this patch when progressives refused last month to advance the \$1 trillion bipartisan infrastructure package — which includes a five-year surface transportation reauthorization — without an agreement on the reconciliation measure.

“Yarmuth said he was optimistic that lawmakers would reach the deal by that date, but tensions are continuing to run high, and some members don’t see the urgency.

“While Jayapal reiterated yesterday progressives’ position that both the Senate’s bipartisan infrastructure bill and reconciliation must move in tandem, she downplayed the expiration of the 30-day extension of federal surface transportation programs that lapses at the end of the month.

“The highway programs, she noted, could simply be extended again for a short period to allow more time for negotiations on the reconciliation bill. “The important thing is, let’s deliver both bills and get them right,” Jayapal said.

“Meanwhile, Senate Budget Chair Bernie Sanders (I-VT), also participating in the conference call with Jayapal and Markey on Monday afternoon, continued to rail against Sinema and Manchin, accusing them of extending no counteroffers on reconciliation.

“Yesterday members of the Sunrise Movement say they traveled to the Boston Marathon to pressure Sinema to support a robust package. And the Sierra Club sent out statements asking her to clarify her position on climate after the *New York Times* reported she wanted major cuts. Sinema's office denied the claim.

“Sanders said on the call, “The time is now long overdue for Senator Manchin and Senator Sinema to tell us exactly where they are. What do they want to cut?”

## Debt Limit

***Congress raised the debt ceiling until mid-December. However, how the debt ceiling will be addressed beyond this date remains uncertain.***

George Cahlink of [E&E Daily](#) wrote on October 13, “In a partisan vote, the House last night backed raising the nation’s debt ceiling until Dec. 3, delaying by just under two months a potential fiscal crisis and likely pairing the issue with year-end spending negotiations. A long-term solution remains up in the air.



“The legislation passed, 219-206, with no Republican voting in favor. It would raise the debt ceiling by \$480 billion and allow the U.S. Treasury to pay its bills through at least Dec 3.

“President Biden is expected to sign the measure into law well ahead of Monday, the deadline for when the current debt ceiling is expected to be reached. The House returned from recess to move the bill ahead of next week’s deadline.

“We're just hoping that we can do this in a bipartisan way,” said Speaker Nancy Pelosi (D-CA) ahead of the vote. She noted failing to act on the debt could potentially cost the nation 6 million jobs and \$15 trillion in household wealth.

“Republicans, however, insist they will not support any future extensions, a move that creates a major obstacle in the Senate where the GOP has the votes to block a future debt bill. Instead, Republicans argue Democrats should raise the debt in the partisan reconciliation bill they are currently writing.

"Republicans will not support raising the debt limit while Democrats try to push through a \$3.5 trillion social spending plan," said Representative Michael Burgess (R-Texas), a senior member of the Energy and Commerce Committee.

“Pelosi said yesterday Democrats favor bipartisan action and would continue to resist moving a debt increase through reconciliation. Many in the party fear taking such a route would enable the GOP to link Biden’s agenda to soaring red ink ahead of next year’s midterm elections.

“Pelosi said a bipartisan idea that has “merit” could be shifting responsibility for raising the debt lift from Congress to the Treasury secretary. Under the plan, which has been floated for years, Congress could still vote to reject a proposed increase by Treasury.

“The Dec. 3 deadline matches the date when current stopgap funding for federal agencies expires. Without new dollars or another stopgap in place by then, the government could be forced into a partial shutdown that would furlough tens of thousands of federal workers.

“Lawmakers over coming weeks are hoping to negotiate a year-end spending deal that would include all 12 fiscal 2022 appropriations bills and avert a shutdown. The debt ceiling hitting the same day means that raising the borrowing limit could be part of whatever spending package emerges.”

**Other**