

# Window on Washington – November 22, 2021, Vol. 5, Issue 47

November 22, 2021

## Outlook for This Week in the Nation's Capital

**Congress.** The House and Senate are both in recess this week. Congress has a long list of items they will need to address upon their return next week, including the debt limit, FY22 appropriations, the National Defense Authorization Act (NDAA), the reconciliation bill, and other matters such as conferencing the United States Innovation and Competition Act (USICA).

**Reconciliation Package.** The Build Back Better Act is now headed to the Senate given the House's passage of the legislation in a 220-213 vote on Friday. The Senate is expected to make changes to the House-passed version of the reconciliation bill, but Senate Majority Leader Chuck Schumer (D-NY) is aiming to have the Chamber vote on the updated version and send it back to the House before Christmas.

**Defense Authorization.** The Senate delayed a vote on the NDAA before heading into the Thanksgiving recess, though final passage is expected once the Chamber is back in session. Additionally, while Senate Majority Leader Schumer was planning to attach the USICA bill to the NDAA, Senate Republicans and some House Democrats were opposed to its inclusion. As such, House and Senate negotiators agreed to instead go to conference on the bill rather than taking the NDAA approach.

**FY22 Appropriations.** With the current continuing resolution (CR) set to expire on Dec. 3, Democrats are looking to advance a short-term CR that would provide federal funding through Dec. 17. The goal is to use those two weeks to assemble an omnibus package that will pass by the end of the year, or to alternatively make progress on some appropriations bills and pass another short-term CR. Senate Republicans, however, are largely pushing for a CR after Dec. 3 that goes into early 2022.

**Debt Limit.** Treasury Secretary Janet Yellen indicated the federal government has through Dec. 15 to avoid a default. However, some external estimates indicate the government may have until mid-February to act on the debt limit. Senate Majority Leader Schumer and Senate Minority Leader Mitch McConnell (R-KY) recently met to discuss addressing the debt limit, but it remains to be seen how Senate Republicans will support the next round of Congressional action on the debt limit, if at all.

## Last Week in the Nation's Capital

CONGRESS

## Budget & Appropriations

**House Passes Giant Social Policy and Climate Measure:** House Democrats last Friday passed their mammoth social spending and climate plan in a 220-213 vote. Senators plan to make a number of changes to the legislation, including potentially removing the family leave benefit. Changes in the Senate would send the legislation back to the House for a final vote before it can reach Biden's desk. Democrats are hoping to wrap up the entire process by the end of the year. ([The Hill](#))

**DeLauro Pushing for Short Stopgap Funding Bill, No 'Anomalies':** House Appropriations Chair Rosa DeLauro (D-CT) said last Thursday she wants a short-term continuing resolution that doesn't go beyond December to make as much progress as possible toward an omnibus package in the few weeks Congress has left in session. Democrats and Republicans have been stuck on funding allocations, with Republicans opposed to the 2 percent boost for defense accounts in House bills while foreign aid and domestic programs would get around 16 percent more than the prior year. ([Roll Call](#))

**Leahy, Longest-Serving Sitting Senator, to Retire:** Senator Patrick J. Leahy (D-VT) announced last Monday he won't seek reelection to a ninth term in Congress, opting to retire following nearly five decades in Washington. Leahy is the first Senate Democrat to announce his retirement, and his departure will mark a changing of the guard in the Democratic caucus. Leahy is the most senior senator in the chamber, and he serves as president pro tempore and is chairman of the Senate Appropriations Committee. ([Roll Call](#))

## Health

**Biden's Plan to Stop Surprise Medical Bills Faces Bipartisan Pushback in Congress:** The detente that allowed Congress to pass a law to curb surprise medical bills has disintegrated. A bipartisan group of 152 lawmakers have been assailing the Biden administration's plan to regulate the law and medical providers, warning of grim consequences for underserved patients. ([NPR](#))

## Banking & Housing

**Biden Bank Cop Nomination in Doubt after Fiery Hearing:** President Joe Biden's nominee to become the government's top banking regulator faced a wave of criticism last Thursday at a tense Senate hearing that cast further doubt on her chances of being confirmed. Saule Omarova, tapped to be comptroller of the currency, was met with resistance from Republicans over her advocacy for a dominant role for government in finance. One GOP lawmaker questioned the Cornell law professor, who was born in the former Soviet state of Kazakhstan, about her previous affiliation with a communist youth organization and asked if he should refer to her as "comrade." Omarova vigorously denied having any sympathy with communist views. ([Politico](#))

**Waters on House Passage of the Build Back Better Act "We did it!":** Congresswoman Maxine Waters (D-CA), Chairwoman of the House Committee on Financial Services, applauded the House passage of H.R. 5376, the Build Back Better Act, a historic piece of legislation that will provide unprecedented and long overdue investments in our nation's housing infrastructure. ([Clark Hill Insight](#))

## Crypto/Blockchain

**Lawmakers Introduce Bipartisan Bill to Address Crypto Tax Reporting Requirement:** A bipartisan group of House representatives introduced a bill to address a contentious new tax reporting requirement for cryptocurrency in the infrastructure bill. The Keep Innovation in America Act, led by Reps. Patrick McHenry (R-NC) and Tim Ryan (D-OH), would define brokers, newly bound to the tax reporting rules, so that software developers without the necessary customer information to report are not tied up in the new provision. Lawmakers efforts to address the issue before the infrastructure bill's passage were unsuccessful. ([CNBC](#))

**Top House Agriculture Committee Republican Seeks to Regulate Cryptocurrencies with New Measure:** Rep. Glenn Thompson (R-PA), ranking member of the House Agriculture Committee, intends to propose a bill that would regulate Bitcoin, Ethereum and other cryptocurrencies by establishing clear federal jurisdiction. Thompson's legislation would allow the Commodity Futures Trading Commission to register and regulate digital commodities as a new type of entity and would provide incentives, such as working with a single regulator. The measure would also set federal requirements and conditions, including public reporting of trading data and prohibiting abusive trading practices. ([ExecutiveGov](#))

## Transportation

**Scott says He Will Block Nominees Until Biden Officials Testify on Supply Chain Crisis:** Sen. Rick Scott (R-FL), a member of the Senate Commerce, Science, and Transportation Committee, says he will hold all of President Biden's nominees for the Departments of Transportation and Commerce until a hearing is held on the supply chain crisis that has bottled up ports and led to increased prices on goods. ([The Hill](#))

**U.S. Lawmakers Weigh Tax Credit for Soybean Oil-based Aviation Fuel:** U.S. lawmakers are weighing a bill that would allow soybean oil-based jet fuel to qualify for an unprecedented tax credit, a win for biofuel producers and a blow to environmental groups that say crop-based materials undermine the benefits of making greener fuels. ([Reuters](#))

**U.S. House Democrats Urge FCC to Avoid Potential Air Safety Wireless Danger:** At issue are concerns of potential interference caused by the 5G deployment with sensitive aircraft electronics like radio altimeters. "We're now on the precipice of a dangerous situation in which the safety of flight hangs on the telecom industry's decision regarding when to switch on its 5G networks," said House of Representatives Transportation Committee Chair Peter DeFazio (D-OR) and Representative Rick Larsen (D-WA), who chairs an aviation subcommittee, in a letter to FCC Chair Jessica Rosenworcel. ([Reuters](#))

**U.S. House Panel Seeks Review of FAA Oversight of Boeing 787:** Leaders of the U.S. House Transportation and Infrastructure Committee said last Friday they asked for a government review of the Federal Aviation Administration's oversight of the Boeing 787 Dreamliner. ([CNBC](#))

## Defense

**Senate Pushes Action on NDAA to After Thanksgiving:** The Senate last Friday pushed off further action on its annual defense policy bill until after the Thanksgiving break, having failed to strike a deal on which of the over 900 offered amendments will get floor votes. Senate Armed Services Chairman Jack Reed (D-RI) filed cloture last Friday on the underlying bill and his substitute placeholder amendment, teeing up procedural votes for Nov. 29. Reed's office produced a list of noncontroversial and bipartisan 57 amendments that will be included in the manager's package. ([Roll Call](#))

## Homeland Security & Immigration

**Chairman Thompson Lauds Homeland Security Provisions in Build Back Better Act:** Rep. Bennie G. Thompson (D-MS), Chairman of the Committee on Homeland Security, released a statement regarding House passage of H.R. 5376, the *Build Back Better Act*, which includes \$1.5 billion in investments at the Department of Homeland Security that address three pressing national security challenges. ([Clark Hill Insight](#))

**Temporary Immigration Protections for Millions Pass the House:** House Democrats, as part of the reconciliation bill, passed legislation last Friday that, while falling short of advocates' calls for a path to citizenship, would establish sweeping protections for millions of immigrants for the first time in decade. However, the immigration provisions remain at risk in the Senate, which has strict rules about measures that can pass via reconciliation. ([Roll Call](#))

## Judiciary/Justice

**Chairman Nadler Celebrates Judiciary Committee Provisions in the Build Back Better Act:** The Judiciary Committee worked with Democratic leadership, in addition to fellow Committee Chairs and Members of Congress, to include key provisions. ([Clark Hill Insight](#))

## Cyber

**Senators Look to Defense Bill to Move Cybersecurity Measures:** The Senate is eyeing the annual defense bill as a vehicle to attach a wide variety critical provisions to improve the nation's cybersecurity following a devastating year in which major attacks left the government flat-footed. The efforts, including stricter reporting for cybersecurity and ransomware incidents for a range of industry sectors, are markedly bipartisan, a rarity for a Senate that is struggling to accomplish a long legislative to-do list before the holidays. ([The Hill](#))

## Environment & Interior

**Senate Confirms Park Service Director After Years of Acting Heads:** The Senate last Thursday confirmed Charles Sams III to lead the National Park Service, making him the first Senate-confirmed director since the Obama administration. Sams most recently served on the Northwest Power and Conservation Council. He is an enrolled member of the Cayuse and Walla Walla of the Confederated Tribes of the Umatilla Indian Reservation and the first Native American to lead the National Park Service. ([The Hill](#))

## Energy

**Pallone Praises House Passage of Build Back Better Act:** As Chairman of the Energy and Commerce Committee, Rep. Frank Pallone (D-NJ) led efforts on key provisions of the legislation that advanced out of the Committee in September and are included in the bill that passed the House on Friday. ([Clark Hill Insight](#))

## EXECUTIVE BRANCH

### Budget & Appropriations

**Biden Signs the \$1 Trillion Bipartisan Infrastructure Bill into Law:** President Joe Biden signed a \$1 trillion infrastructure bill into law last Monday, enacting a key piece of his domestic spending agenda that will funnel billions to states and local governments to upgrade outdated roads, bridges, transit systems and more. ([NPR](#))

### Health/HHS/NIH

**CDC Chief Approves Covid-19 Boosters for All Adults:** Centers for Disease Control and Prevention Director Rochelle Walensky last Friday endorsed the recommendation of her agency's independent advisers to expand eligibility for Covid-19 boosters to all adults, sanctioning a move many states began to implement this week. Her endorsement came just hours after CDC's external advisory committee unanimously backed the approach. ([Politico](#))

**White House Seeks to Boost Covid Vaccine Manufacturing By 1B Doses A Year:** The Biden administration is offering to partner with Covid-19 vaccine makers on expanding their U.S. manufacturing capacity as part of an emerging plan to produce an additional 1 billion doses per year, an administration official said last Wednesday. The new initiative is aimed at ramping up the vaccine supply needed abroad and comes as officials have sought new ways to make good on President Joe Biden's pledge to get 70 percent of the world's population vaccinated by next September. ([Politico](#))

### Department of Education

**Education Department Clarifies Rules for Expanded New Student Loan Forgiveness Program:** In October, the Biden administration announced significant new changes to Public Service Loan Forgiveness (PSLF), a federal student loan forgiveness program. Since its inception, the PSLF program has had complicated eligibility requirements and dismal

approval rates. The new changes are intended to address the program's shortcomings and dramatically expand eligibility to reach more borrowers. But for weeks after its initial announcement, the Department of Education left many details regarding how the program's expansion would actually be implemented unaddressed. Last week, the Department released critical new guidance. ([Forbes](#))

## **Banking & Housing/HUD**

**Biden Has a Major Economic Decision to Make and He Can't Seem to Pull the Trigger:** President Biden has been wrestling for weeks with whether to reappoint the current chair of the Federal Reserve, Jerome Powell, or replace him with Lael Brainard, a Democrat and economist who has served on the Fed board since 2014. The process has resembled a tortured morass of indecision. Forever the senator, Biden has engaged in an extended debate, soliciting opinions and facts far and wide as he looks to fill a vital post at a time of deep economic uncertainty and political peril. ([Politico](#))

**FHFA Tells GSEs to Prioritize Affordability in 2022:** Federal Housing Finance Agency (FHFA) Acting Director Sandra Thompson has put affordability at the top of the annual to-do list for the government-sponsored enterprises. In its 2022 Scorecard, the conservator also tasked the GSEs with updating their pricing framework to "increase support for core mission borrowers." Affordable housing advocates have said loan-level price adjustments — risk-based fees for borrowers — increase the cost of homeownership for those who need it the most. ([Housing Wire](#))

## **Crypto/Blockchain**

**IRS May Seize Crypto Valued at Billions of Dollars in 2022:** The IRS seized \$3.5 billion worth of cryptocurrencies during fiscal year 2021, a figure that accounted for 93% of all the assets seized by tax enforcement that year, according to an IRS criminal investigation annual report published last week. The IRS expects this trend to continue next year as cryptocurrency is increasingly used in tax fraud and other crimes. To further advance cryptocurrency seizure efforts, the IRS Criminal Investigation unit is opening an Advanced Collaboration & Data Center in Northern Virginia in 2022. ([Fortune](#))

## **Transportation/DOT**

**Electric Vehicles Spark Discord at Biden's Trilateral Summit:** Canadian Prime Minister Justin Trudeau came to Washington last week fuming about President Joe Biden's proposed tax incentive to encourage U.S. consumers to buy American-made electric vehicles. But it might be another Joe — Sen. Joe Manchin (D-WV) — who gets credit for squelching a continental squabble. ([Politico](#))

**Secretaries Haaland and Buttigieg Announce Partnership to Increase Access, Enhance Visitor Experience at National Parks:** Secretary of the Interior Deb Haaland and Secretary of Transportation Pete Buttigieg announced new initiatives that will increase access, support jobs, and enhance the transportation experience on public lands across the country. At an event in Washington, D.C., the two Secretaries signed a [Memorandum of Understanding](#) (MOU) that will strengthen the Departments' coordination regarding infrastructure investments and the deployment of innovative technologies at National Park Service-managed sites. ([Clark Hill Insight](#))

## **Space/NASA & NOAA**

**New Report Calls for U.S. Strategy to Boost Space Economy:** U.S. national security space organizations released a report last week proposing ways to boost the nation's space economy and technology base. The 92-page "State of the Space Industrial Base 2021" report was written by senior officials from the U.S. Space Force, the Air Force Research Laboratory, and the Defense Innovation Unit. In a joint statement, NASA Administrator Bill Nelson and Chief of Space Operations Gen. John "Jay" Raymond endorsed the report, which calls for much greater DOD support for the commercial space sector. ([Space News](#))

**U.S. Says it ‘Won’t Tolerate’ Russia’s ‘Reckless and Dangerous’ Anti-Satellite Missile Test:** The U.S. strongly condemned a Russian anti-satellite test last Monday that forced crew members on the International Space Station to scramble into their spacecraft for safety, calling it “a reckless and dangerous act” and saying that it “won’t tolerate” behavior that puts international interests at risk. The test created a large “cloud” of debris that briefly threatened the ISS and which must now be constantly tracked. ([CNN](#))

**NASA Considers Innovative Business Model for \$500 Million Earth Science Campaign:** NASA’s Jet Propulsion Laboratory is soliciting information on how private sector innovation could help the space agency make the most out of a \$500 million budget to obtain data on Earth’s changing surface. JPL is seeking “industry feedback on whether a commercial purchase, a public-private partnership, or other arrangement between the U.S. space industry and NASA” could provide the scientific community with needed Synthetic-Aperture Radar (SAR) satellite data since a NASA developed and owned satellite will not fit in that budget. ([Space News](#))

**NTSB To Codify Spacecraft Mishap Investigative Steps:** The U.S. National Transportation Safety Board (NTSB) is proposing to add a Subpart F (Commercial Space Investigations) to its Part 831 regulations to set this “unique mode of transportation” apart from other modes, such as Subpart B (Aviation Investigations). The agency anticipates that Subpart F will “enhance safety by enabling it to conduct accident/incident investigations, identify necessary corrective actions, and prevent future space transportation mishaps.” ([Aerospace News](#))

## **Defense/DOD**

**Amazon, Microsoft, Google, and Oracle to Bid on Pentagon’s Next Multibillion-Dollar Cloud Contract:** This announcement is the latest update in the DOD’s years-long and heavily litigated process to implement enterprise wide cloud capabilities. In 2017, the department first conceptualized the Joint Enterprise Defense Infrastructure contract to offer one common and connected information technology option across all classification levels and for all personnel. That procurement was held up in lawsuits and protests for years and officially awarded to Microsoft twice. The Pentagon canceled JEDI and announced JWCC as its replacement in July, amid a protest from AWS over issues with the evaluation process and more. ([Defense One](#))

**Space Force General Says U.S. Has a Lot of Catching Up to Do on Hypersonic Missile Technology:** The United States is playing catchup in a new arms race to build advanced hypersonic missiles that travel at five times the speed of sound and can maneuver to evade defenses, the vice chief of space operations of the U.S. Space Force Gen. David Thompson said last Saturday. He cited China and Russia as having more mature programs, and that risk adverse and bureaucratic DOD processes have hampered US efforts in hypersonics. ([Space News](#))

## **DHS & Immigration**

**No Settlement for Separated Migrant Families Amid Criticism:** Migrants whose children were taken from them under former President Donald Trump’s zero-tolerance border policy have not reached a settlement agreement with the U.S. government, a lawyer for the families said last Thursday as he and other advocates pushed back at increasing criticism of a proposal to pay compensation to them. ([AP](#))

## **Judiciary/DOJ**

**Biden Signs Bills into Law Supporting Law Enforcement and First Responders:** President Biden last Thursday signed three bipartisan bills into law aimed at supporting the nation’s law enforcement and first responders, as well as the communities they serve. “Today’s investment and the bills I’m about to sign share goals of law enforcement and first responders: be the protectors and the partners our communities need,” he said. ([CNN](#))

**Justice Department to Defend Tech Protections Biden Denounced:** The Justice Department plans to defend a controversial legal protection for tech companies, Section 230 of the Communications Decency Act, despite the fact that

President Joe Biden said as a candidate last year the provision should be eliminated. ([Politico](#))

**FTC to Expand Criminal Referral Program to Stop and Deter Corporate Crime:** The Federal Trade Commission voted to expand its criminal referral program as part of its work to stop and deter corporate crime. While the FTC's authority is limited to civil enforcement, the policy statement adopted at today's open meeting will enhance the agency's efforts to combat the criminal misconduct the FTC uncovers in consumer protection and antitrust investigations. The new measures outlined in the policy statement will ensure that cases are promptly referred to local, state, federal and international criminal law enforcement agencies so that corporations and their executives are held accountable for criminal behavior. ([Clark Hill Insight](#))

## Cyber

**Banks Must Report Major Cyber Incidents Within 36 Hours Under Finalized Regulation:** The new "Computer-Security Incident Notification Requirements for Banking Organizations and Their Bank Service Providers" rule was finalized by U.S. financial regulators last Thursday. Beginning in May 2022, financial executives will need to be more forthcoming to federal officials about computer system failures and interruptions, such as ransomware or denial-of-service attacks that have the potential to disrupt customers' ability to access their accounts or impact the larger financial system. ([Cyber Scoop](#))

**Federal Agencies Entering 'Execution' Phase of Biden's Cyber Executive Order:** Agencies have seen a deluge of new guidance and standards released since President Joe Biden's May cybersecurity executive order, and a top White House cyber official says the government is now shifting into the execution phase of the sprawling directive. Chris DeRusha, federal chief information security officer at the White House Office of Management and Budget, also said he's "actively exploring" whether to establish a cybersecurity service akin to the U.S. Digital Service. ([Federal News Network](#))

## Agriculture/USDA

**Bonnie Confirmed by Senate to Run USDA Farm Subsidy and Land Stewardship Programs:** In a bipartisan 76-19 vote, the Senate confirmed Robert Bonnie as agriculture undersecretary for farm production and conservation last Tuesday. Bonnie has served as USDA climate adviser since January. ([Successful Farming](#))

## EPA & DOI

**Interior Secretary Announces Review of Racist Place Names on Federal Lands:** Interior Secretary Deb Haaland announced last Friday that the agency will create a process to review and replace racially derogatory terms used in the names of places on federal lands. Haaland, the nation's first Native American Cabinet secretary, declared the term "squaw," a pejorative for Indigenous women, to be derogatory, and ordered the creation of procedures to replace all federal uses of the term. The word currently appears in the name of more than 650 federal land units, according to Board on Geographic Names data. ([The Hill](#))

## Department of Energy

**White House Looks to Rescue Plan Funding to Ease Burden of High Heating Costs:** The White House is encouraging states to quickly distribute assistance that was included in President Biden's sweeping \$1.9 trillion coronavirus relief law passed in March to lessen the burden of higher energy bills this winter. ([The Hill](#))

**Biden Asks FTC to Investigate Oil and Gas Companies:** President Joe Biden last Wednesday asked Federal Trade Commission Chair Lina Khan to examine oil and gas companies and their role in rising gasoline prices. Citing "potentially illegal conduct," Biden said pump prices are rising even as industry costs are declining. ([Politico](#))

**U.S. Again Presses OPEC+ as it Weighs Reserve Release:** The White House last Friday pressed the OPEC producer group again to maintain adequate global supply, days after U.S. discussions with some of the world's biggest economies over potentially releasing oil from strategic reserves to quell high energy prices. ([Reuters](#))