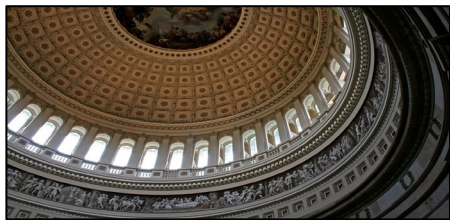


ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS FIRM



THIS WEEK IN WASHINGTON

Week of May 17-21, 2021

FEDERAL UPDATE

This week both the House and Senate were again in session and continued legislative business. The Senate this week agreed to a motion to discharge the nomination of Kristen Clarke to serve as Assistant Attorney General for Civil Rights from the Judiciary Committee by a vote of 50-48; the committee had deadlocked over Clarke's nomination earlier this month in a party-line 11-11 vote.

The House this week approved legislation (*COVID-19 Hate Crimes Act, S. 937*) addressing the rise in hate crimes against Asian-Americans and Pacific Islanders. In a strong bipartisan vote of 364-62, the House sent the bill to the President's desk (as it was previously passed the Senate last month) and President Biden signed it into law on Thursday. The House also passed legislation emergency supplemental appropriations bill this week providing \$1.9 billion in response to the attack on the U.S. Capitol complex on January 6th, as further detailed below. In a separate effort to respond to the January 6th riots/insurrection, the House also passed the *National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act* (H.R. 3233) to create a 9/11-style commission to investigate the circumstances and causes of the January 6th attack. The bill, a bipartisan agreement between House Homeland Security Committee Chairman Bennie Thompson (D-MS) and Ranking Member John Katko (R-NY), passed the House by a vote of 252-175, with 35 Republican lawmakers voting with all Democrats in support of the bill. Republican leadership in both the House and Senate have publically opposed the bill, and at this time it seems unlikely that it could garner the 60 votes needed to clear the Senate. In the event the bill stalls in the Senate, House Democrats could alternately move to create a select committee with subpoena power to investigate the attack, although House Speaker Nancy Pelosi (D-CA) has indicated that she wants to give the Senate more time before she considers that approach.

FISCAL YEAR 2022 BUDGET & APPROPRIATIONS OUTLOOK

The White House announced this week that the President's Fiscal Year (FY) 2022 budget request will now be released on Friday, May 28th instead of the 27th as they had indicated last week. As previously reported, the President released a brief outline (available [here](#)) of his forthcoming \$1.52 trillion discretionary spending request last month, but the forthcoming budget proposal will include detailed requests for each agency.

With the President's budget set to be released at the end of the month, the House Appropriations Committee is preparing to move forward with consideration of its 12 FY 2022 spending bills beginning next month, even as it remains unclear when House Democrats will adopt topline discretionary spending limits for FY 2022. According to a new tentative schedule, the subcommittees would hold their respective markups starting on Thursday, June 24th continuing through June 28th and June 30th, with a final subcommittee markup on July 12th after the House returns from the Fourth of July recess. Full Committee markups would begin on June 29th and occur each day through July 1st, and then following the Fourth of July recess additional markups would be held on July 13th, 15th and 16th. House Majority Leader Steny Hoyer has also indicated he would like the House to clear all twelve spending bills prior to adjourning for August recess on July 30th. Given this expedited timeline, the House could very well opt to package spending bills into "minibus" packages to save time as has been the practice in recent years.

As referenced above, this week the House passed the *Emergency Security Supplemental to Respond to January 6th Appropriations Act, 2021* (summary [here](#); bill text [here](#)) by a vote of 213-212, with three Democrats voting against the bill, three voting “present,” and no Republicans voting in favor. As previously reported, the \$1.9 billion bill includes both funding to backfill costs related to the insurrection itself (Capitol Police overtime and trauma support, costs associated with staging the National Guard for several months, etc.) as well as more than \$500 million to cover the costs of future Capitol complex security enhancements (window/door hardening, enhanced screening sites, additional security cameras, etc.). During the House Rules Committee’s consideration of the bill on Tuesday, several Republican lawmakers expressed specific concerns with the supplemental spending package, including concerns that a quick reaction force to secure the Capitol would be under control of the District of Columbia National Guard and not Congress. Senate Appropriations Committee Chairman Leahy (D-VT) has also expressed similar concerns regarding the D.C. National Guard as well as some concerns over the package, particularly related to ensuring the Capitol Complex remains open and accessible to the public.

While the bill is expected to be brought to the floor for consideration by the full Senate, the bill will likely need to be renegotiated in order to garner the 60 votes needed to pass.

AMERICAN RESCUE PLAN ACT IMPLEMENTATION

This week, the Department of Health and Human Services (HHS) announced (press release available [here](#)) it would be distributing \$3 billion in American Rescue Plan Act funds through Substance Abuse and Mental Health Services Administration (SAMHSA) grants to States. Specifically, HHS will distribute \$1.5 billion through the Community Mental Health Services Block Grant (MHBG) Program to give assistance to states in providing comprehensive community mental health services and addressing needs in existing treatment services for those with severe mental health conditions (MHBG allocations available [here](#)), and \$1.5 billion through the Substance Abuse Prevention and Treatment Block Grant Program (SABG) to provide assistance to states in implementing and evaluating activities to prevent, treat, and help individuals recover from substance abuse disorder (SABG allocations available [here](#)). While this funding is being distributed to states and territories, units of local government are encouraged to contact their respective State Agency (information and contacts available [here](#)) to see how these funds will be allocated locally or can be used to support municipal services.

INFRASTRUCTURE

Negotiations between the White House and congressional party leadership on an infrastructure package continued this week, and in particular the sides appear at odds on how the issue of infrastructure financing. Democrats continue to push for Biden’s proposed tax increases while many Republicans have advocated for new and/or expanded user fees, including a new user fee on electric vehicles, to pay for the package. This week, however, the Senate Finance Committee held a hearing on infrastructure financing in which there was some bipartisan consensus between Chairman Ron Wyden (D-OR) and Ranking Member Michael Crapo (R-ID) in calling for the revival of the Build America Bonds program, which provided federal payments to states and localities to issue taxable municipal bonds at higher interest rates, and federal investments that attract and support public-private partnerships.

Surface Transportation Reauthorization

As negotiations on a broader infrastructure package continue, Congress is poised to move forward in earnest in the coming weeks on surface transportation reauthorization legislation which will likely be included as part of the infrastructure package. Senate Environment and Public Works (EPW) Chairman Tom Carper (D-DE) announced this week that his Committee is tentatively scheduled to markup the highway portion of the surface transportation bill on Wednesday, May 26th, although at this no bill text has been released. Similarly, House Transportation & Infrastructure (T&I) Committee Chairman Peter DeFazio (D-OR) indicated House Democrats’ bill will be released “soon” although likely after the Memorial Day holiday as his Committee is in the process of reviewing nearly \$14.9 billion in member designated project funding requests for potential inclusion in the bill.

Meanwhile T&I Committee Republicans this week unveiled their own surface transportation proposal, the *Surface Transportation Advanced through Reform, Technology, & Efficient Review (STARTER) Act 2.0* (bill text available [here](#); section-by-section summary [here](#)) that would make a \$400 billion investment in roads, bridges, transit, and highway

safety over 5 years, a 32% increase above FAST Act funding levels for the National Highway Safety Performance Program, the Surface Transportation Block Grant Program, the Highway Safety Improvement Program, the National Highway Freight Program, and the Rural Area Formula Grant Program, and extend the current Highway Trust Fund expenditure authority and highway-related taxes. The bill proposes several mechanisms to streamline project delivery, ensure flexibility for states and non-federal partners to meet their unique transportation needs, and foster innovation and use of technology. Of particular note, the proposal would expand a FAST Act a pilot program to study the possibility of implementing vehicles for miles traveled (VMT) fees, increase the Private Activity Bonds cap from \$15 billion to \$45 billion, authorize \$1 billion annually through FY 2026 for the national infrastructure investment program, allow for the increase of the federal-cost share to 100 percent for federal-aid highway projects for FY 2022-23, and increase the maximum federal and total estimated net capital costs for Small Start projects by \$100 million. Additionally the bill would establish a Rural Starts program to assist small projects in non-urban areas, create rural set-asides for several existing grant programs, add resiliency components to several existing formula grant programs, and authorize an increased federal cost-share in highway funding for activities that incorporate resiliency in their design.