

MEMO

TO: NIADA Board Members
FROM: Brett Scott, Vice President, Government Affairs
SUBJECT: Government Affairs Report

NOTE: Issue of the day – what will the House do with the bipartisan infrastructure bill (BIF) that passed the Senate? Will there be a delay in the vote? Or will the vote occur today and what will be the outcome given that Democratic progressives have stated that they will not vote for the bill unless it is either coupled with the \$3.5T bill (BBB) or a framework is agreed upon regarding consideration of BBB. In her press conference at 10:45AM today, the Speaker said that they are moving forward in a positive way; that the plan is to vote on BIF today; and that they will do the \$3.5T bill. Regarding the latter, she did not say when and regarding her comment on a vote today she seemed to hold the door open for a delay. We will provide updates. Pending that, the following report reflects the situation as of today, noon EST.

Infrastructure Bills

Two - the first, the “Infrastructure Investment and Jobs Act” aka **BIF** (Bipartisan Infrastructure Framework) – a core infrastructure bill – passed by the Senate and pending in the House. The second, the “Build Back Better” aka **BBB** - human infrastructure plus other core infrastructure items bill - is pending in both Houses given passage of the budget resolution which set in motion drafting of the bill.

BIF - Infrastructure Investment and Jobs Act

On August 10 the Senate passed its bipartisan core infrastructure bill - with all Democrats and 19 Republicans supporting - totaling \$550B in new spending for FY22-26. The bill is both an authorization and an appropriation bill. That means that it will make “real” money available (not just authorize it). The bill does NOT include provisions on motor vehicle safety, EV purchasing, cash for clunkers and semiconductor chips. Issues of interest that are included in the Senate bipartisan core infrastructure bill -

- The bipartisan highway bill from the Environment and Public Works and Commerce Committees, as amended by the Banking and Commerce Committees;
- \$7.5B for the EPW’s Electric Vehicle Charging and Fueling grant program to deploy EV, hydrogen fueling infrastructure, propane fueling infrastructure and natural gas fueling infrastructure while also including a state formula program for EV charging infrastructure deployment;
- \$7.5B for the production and procurement of electric vehicle and low carbon school buses and ferries, to include hydrogen fuel cells, liquefied natural gas, and other alternative fuel technologies;
- Requirement that the Secretary of Energy conduct a study on the cradle to grave environmental impact of electric vehicles; and,

- Requirement that the Secretary of Energy study the impact on forced labor in China on the electric vehicle supply chain.

Regarding the House, on August 24 the House agreed to vote on the Senate passed core infrastructure bill on September 27. That did not happen and discussions have been ongoing since involving the President, the House Democratic leadership, various factions of the House Democrats and key senators, as noted above.

BBB - Build Back Better Act

Both Houses passed a \$3.5T budget resolution which unlocks the ability for Senate Democrats to use reconciliation (only requires a simple majority for passage, not 60 votes) to pass a human infrastructure bill on a party-line vote addressing health care, aid for families, the climate crisis and more (including funding for core infrastructure programs). With passage of the budget resolution by both chambers, bill drafting was set in motion with a due date of Sept.15.

In the House, all committees met the Sept. 15 deadline, none in the Senate. The issues with some Senate Democrats - Manchin, Sinema and Sanders, for example – are the \$3.5T cost of the bill (Manchin has proposed \$1.5T), the timing (Manchin has proposed starting debate tomorrow), and some of the policy assumptions (Sanders wants to expand Medicare coverage). The Senate is now waiting to see what the House does with BIF.

Of interest in the House, the Energy and Commerce Committee included appropriations of \$2B for an electric vehicle supply equipment rebate program, \$1B for electric vehicle charging stations, Federal assistance for state energy transportation plans to promote the electrification of the transportation supply, and \$6B for transportation electrification grants. The Ways and Means Committee included tax credits for plug-in electric vehicles, for the purchase of used plug-in electric vehicles, and for qualified commercial vehicles. Again, as with the Senate bipartisan core infrastructure bill, none of the House committees included provisions on motor vehicle safety, EV purchasing, cash for clunkers and semiconductor chips.

To finance the committee proposals, the Ways and Means Committee adopted a number of major tax provisions, per the following –

<https://s3.documentcloud.org/documents/21061176/house-ways-and-means-tax-revenue-draft.pdf>

Although nothing official from the Senate yet, it has been reported that the Senate Finance Committee is considering, as part of its reconciliation package, phasing out the current automaker annual electric vehicle sales cap, increasing the electric vehicle tax credit, and limiting the credit to electric vehicles costing less than \$80K. Also, the Environment and Public Works Committee has on its reconciliation list “investment in clean vehicles,” with no details at this time.

Safety Recalls: Bills of Interest

The bipartisan Senate Commerce Committee title to the highway bill (which does not include a motor vehicle safety provision) and portions of the Markey PARTS Act (which the Association supports) are included in the Senate-passed mega infrastructure bill. To review, on June 16, the Senate Commerce Committee marked up its version of the highway bill. Senator Blumenthal filed his grounding bill as an amendment. It was not accepted by the leadership of the Committee as part of its bipartisan bill and Blumenthal did not offer his bill separately. Leading up to the markup there was extensive lobbying by NADA, NAAA and NIADA with a number of meetings held with Committee staff (both majority and minority) and Commerce Committee member staffs. As the attention shifted to the Floor consideration of the infrastructure bill which again included the Commerce Committee title, the focus was on whether Blumenthal would pursue his amendment. In addition, since the Committee markup another recall provision surfaced drafted by Honda that adds to Blumenthal onerous fines and criminal penalties and, unlike Blumenthal, does not exempt auctions. Again, the three associations embarked on an extensive advocacy effort in opposition to any grounding amendment, targeting first the Committee leadership and then Committee members in those states where the three associations have significant member/personal presence. Our fallback to any grounding amendment is a study to address many of the questions that have never been thoroughly answered. On the House side, the Energy and Commerce Committee did not include any motor vehicle safety provisions in its highway bill mark.

To review further, on May 26, Senator Blumenthal, with Senators Markey and Warren as cosponsors, introduced S. 1835, the "Used Car Safety Recall Repair Act." Mostly similar to the motor vehicle safety recall bills that Blumenthal has introduced in past Congresses, S.1835 would prohibit auto dealers from selling, leasing, or loaning vehicles with unrepaired open recalls to consumers. To ensure such repair, the bill would enable auto dealers to sell recalled vehicles to other auto dealers who have the ability to fix the defects at wholesale process. The bill would also establish a new reimbursement program to hold auto manufacturers accountable if they fail to provide auto dealers with the parts to repair safety defects within 60 days. Wholesale sales are exempt from the requirements of the bill.

Also, on April 28, Senator Markey, with Senators Blumenthal and Baldwin as cosponsors, introduced S. 1416 (the PARTS Act) which authorizes the U.S. DOT to provide grants to states for use in notifying motor vehicle owners at the time of registration about manufacturer-issued safety recalls, as well as require additional reporting and an annual scorecard on how effectively automakers are completing any recalls.

Lastly, on February 23, Senator Klobuchar (D-MN), with Senators Blumenthal (D-CT) and Markey (D-MA), introduced S. 376 which directs the Government Accountability Office to study motor vehicle recalls and the reasons why vehicle owners do not have repairs performed for vehicles subject to such recalls. It also directs the National Highway Traffic Safety Administration to study how vehicle recall notices can (1) more effectively reach vehicle owners, (2) be made easier for consumers to understand, and (3) incentivize vehicle owners to complete the repairs described in such notices. The bill does not authorize any appropriations. Also on February 23, Congressman Henry "Hank" Johnson (D-GA-4), with Congresswoman Schakowsky (D-IL-9) as one of the cosponsors, introduced H.R. 1239, the same bill.

USMCA

The Association, in conjunction with NADA and NAAA, continues to seek a meeting with Katherine Tai, the U.S. Trade Representative, regarding the impact of the new tariff increase on vehicles manufactured prior to July 1, 2020, the effective date of the USMCA. On June 17, NADA, NAAA and NIADA had a virtual meeting with the office of the U.S. Trade Representative. The purpose of the meeting was to request that the USTR revisit the issue and adopt a different interpretation; that is, basically grandfathering from the new tariffs vehicles manufactured before July 1, 2020, as those vehicles were manufactured pursuant to different NAFTA standards, and pending the USTR's review, relaxed tariff enforcements would continue as they have been in place since July 1, 2020. The June 17 virtual meeting was not very productive. The Trade Rep did not attend and the staffer who did was neither senior level or very knowledgeable about the issue. An NADA/NIADA and NAAA statement of concern was submitted to the Senate Finance Committee for the record as part of its July 27 hearing. Another letter to the USTR expressing concern about the issue and requesting a meeting with the Trade Rep was sent.

Electric Vehicles/Cash for Clunkers???

Included in the President's original infrastructure proposal is \$174B for electric vehicles to accelerate the shift to electric vehicles, consumer rebates and tax incentives to buy American-made electric vehicles, a new grant and incentive program to build a national network of 500,000 charging stations by 2030. Also, in his FY22 Budget is \$600M for EV's and charging infrastructure for 18 Federal agencies, including GSA and the Postal Service. These could be the impetus for another round of cash for clunkers along the lines of the Schumer Clean Cars for American Plan which he announced last Congress. The Plan would give consumers a cash voucher to trade-in their gas-powered cars and buy U.S.-assembled plug-in electric, plug-in hybrid, or hydrogen fuel cell cars; establish a new grant program for access to charging infrastructure; and, provide incentives for manufacturers to build new factories or re-tool existing factories to assemble zero-emission vehicles or manufacture charging components. The Plan is supported by the Sierra Club, the NRDC, the League of Conservation Votes various labor unions, Ford and General Motors. Schumer said the Plan would result in 63 million fewer carbon-emitting cars and would create tens of thousands of good-paying jobs.

Chip Production

The Senate, on a bipartisan vote of 68-32 and with the support of the President, passed the "U.S. Innovation and Competition Act or USICA" which appropriates almost \$250B to bolster manufacturing and technology to meet the economic and strategic challenges from China. Of that amount, \$52B is provided to help domestic manufacturers of semi-conductors expand chip production, as issue that has gained urgency with a global shortage of chips that has impacted U.S. automotive plants affecting the availability of automobiles resulting in disruption to the economy and negative impact on consumers. The President's original proposal was for \$50B. The bill also provides \$120B for the National Science Foundation, NASA, the Departments of Commerce and Energy and various research facilities and universities.

From the Biden FY22 Budget

Increases Demand for American Made, Zero-Emission Vehicles through Federal Procurement - to provide an immediate, clear, and stable source of demand to help accelerate American industrial capacity to produce clean vehicles and components, the discretionary request includes \$600 million for electric vehicles and charging infrastructure in the individual budgets of 18 Federal agencies, including dedicated funds at the General Services Administration for other agencies and for United States Postal Service charging infrastructure.

Electrifies the Federal Vehicle Fleet - the discretionary request includes \$300 million to purchase electric vehicles and charging infrastructure at GSA as well as \$300 million for other Federal agencies to electrify the Federal motor vehicle fleet and reduce carbon emissions. This includes GSA's leased fleet of over 200,000 cars, trucks, sport utility vehicles, and buses, the majority of which run on gasoline. The investment serves as a down payment to support a multiyear transformation of the Federal fleet.

S. 1249, PPP Flexibility for Farmers, Ranchers and the Self-Employed Act

The bill, introduced on April 20 by Small Business Committee Chair Cardin, with 9 cosponsors, would allow self-employed Americans to qualify for more aid under the Paycheck Protection Program, which offers government-backed loans that can be forgiven if businesses maintain payroll. Specifically, the bill amends the Small Business Act to modify the maximum paycheck protection program loan amount for farmers and ranchers, sole proprietors, independent contractors, and self-employed individuals, and for other purposes.

H.R.2547, Comprehensive Debt Collection Improvement Act

Passed the House on May 13 by a vote of 215-207. Introduced by Congressman Waters, Chair of the Financial Services Committee. The bill provides financial protections for consumers and places restrictions on debt collection activities. The bill expands certain protections currently applicable to federally-backed student loans to private student loans, including by requiring the discharge of a private student loan in the event of the borrower's death or total and permanent disability; prohibits a consumer reporting agency from adding any information related to a debt arising from a medically necessary procedure to a consumer credit report and places restrictions on the reporting of other types of medical debt; and applies certain consumer protections regarding debt collection to debt owed to a federal agency, to states, to debt buyers, and to businesses engaged in non-judicial foreclosures. It also prohibits certain loan conditions that limits a borrower's opportunity to be heard in court in the event of default. Additionally, the bill restricts debt collectors and debt collection practices by prohibiting a debt collector from representing to a service member that failure to cooperate with a debt collector will result in a reduction of rank or similar action, and limiting a debt collector's electronic communications with a debtor without the debtor's permission. To date, no action by the Senate.

H.R. 166, Fair Lending for All Act

Ordered reported by the Financial Services Committee on May 12 by a vote of 28-24. Introduced

by Congressman Al Green (D-TX-9) on Jan. 4. The bill modifies provisions related to prohibited credit discrimination. The bill adds sexual orientation, gender identity, and an applicant's location based on zip code or census tract as classes protected against discrimination with respect to credit transactions. (Currently, discrimination is prohibited on the basis of race, color, religion, national origin, sex, marital status, age, or because an applicant receives public assistance.) The bill establishes criminal penalties for violations of prohibited credit discrimination. The Consumer Financial Protection Bureau is required to review loan applications for compliance with specified consumer laws and to establish an Office of Fair Lending Testing.

FAIR Act (Forced Arbitration Injustice Repeal Act)

On February 11 Congressman Henry Johnson (D-GA-4) introduced as H.R. 963 (196 cosponsors now) the same bill that he introduced last Congress, H.R. 1423, and that passed the House. That bill would prohibit a pre-dispute arbitration agreement from being valid or enforceable if it requires arbitration of an employment, consumer, antitrust, or civil rights dispute. Also last Congress, Senator Blumenthal introduced S.610, a companion bill. No Senate action last Congress on either the House-passed bill or the Blumenthal introduced bill.

CFPB Accounting Standards Study

No current action. Last Congress, no action on introduced bills; administrative action pending. Senator Thom Tillis (R-NC) introduced S.1564, the "Continued Encouragement for Consumer Lending Act." Congressman Vicente Gonzalez (D-TX-15) introduced H.R. 3182. Both bills would require the CFPB and other agencies to carry out a one-year study relating to accounting standards, focusing on the impact on credit availability, regulatory capital, financial institutions, investor decisions, and U.S. institutions. Further congressional action unclear given November 2019 directive by the Financial Accounting Standards Board to delay implementation of the new standards.

CFPB Executive Director

Rohit Chopra's nomination as CFPB, Executive Director, is now pending before the Senate, the Banking Committee having been discharged. The nomination continues to be controversial given Chopra's past anti-business comments and actions at the CFPB and more recently at the FTC. A close party line vote is expected.

Military Lending

On June 30, the Department of Defense submitted a report pursuant to the FY21 National Defense Authorization Act on a Military Annual Percentage Rate (MAPR) lower than 30% and its impact on military readiness and service member retention. The report concluded, in part, that while DOD takes no position on the merits of lowering the MAPR limit at this time, it is committed to continue working with Congress to support the financial readiness of service members and their families and is willing to provide comment on any such proposal when appropriate.

Minimum Wage

See Bill Tracking section. Last Congress, the House passed H.R. 582, "Raise the Wage Act," that would raise the federal hourly minimum to \$15 by 2024 (with yearly increments @ \$1.30) and also phase out the so-called "subminimum" wages for tipped workers, young workers and workers with disabilities. Senator Bernie Sanders (D-VT) introduced S. 150, basically the same bill. No Senate action on either House or Senate bill.

E-Titling/Salvage Branding

Still an on-going issue. A titling issue arose in some states (Ohio, Nevada, Virginia, Oregon etc.) having to do with salvage branding per the JSI information reported to the NMVITIS data base. The Association, in conjunction with other stakeholders, is assessing the situation and its impact on the industry.

NHTSA State Pilot Registration Recall Notification Program

NHTSA announced a grant program that will give states funding to inform drivers about open recalls with vehicle registration and other points of contact. Maryland was the first participant. On January 15, 2021, NHTSA announced \$1.3 million for the States of California, Ohio and Texas.

Auto Caucuses

No current action. Last Congress, Congresswoman Kaptur (D-OH-9) and Congressman Kelly (R-PA-16) served as co-chairs of the House Auto Caucus. Senator Portman (R-OH) and Senator Brown (D-OH) were co-chairs of the Senate Auto Caucus.

FY22 Appropriations Generally

A Continuing Resolution funding the government at current levels until Dec.3 was passed, avoiding a government shutdown and allowing time for completion of individual FY22 appropriations bills. To date, the House has passed 9 of 12 FY22 appropriations bills, with one ready to go and 2 un-decided. The Senate Appropriations Committee has marked up its FY22 Energy and Water, Agriculture and VA bills.

Bill Tracking

We are taking a different approach on bill tracking. Hundreds of bills (not counting numerous reports, markups, publications and congressional record citations) are introduced and the numbers increase daily. Many are not relevant to our issues and most never get beyond the introduction stage. Therefore, what we are going to do is focus on bills that are marked up by committees and/or come to our attention and identify and report on those of interest.

[S.2387](#) — 117th Congress (2021-2022)

Small Business Tax Fairness Act

Sponsor: Sen. Wyden, Ron [D-OR] (Introduced 07/20/2021) Cosponsors: (0)
Committees: Senate – Finance. This bill revises the tax deduction for qualified business income to limit eligibility for such deduction to individual taxpayers. It also modifies rules for calculating the amount of such deduction and limitations on it.