

Democrats take expansive view of infrastructure at Ways and Means Members' Day hearing

A House Ways and Means Committee hearing on March 23 that was intended to give lawmakers on and off the panel an opportunity to offer their views on infrastructure legislation in anticipation of the Biden administration's "Build Back Better" initiative provided a platform for a wide range of topics as the White House and congressional Democrats have broadened their definition of infrastructure beyond the traditional understanding. And the normally perfunctory "Members' Day" exercise took an unexpected turn when the committee's top Republican announced that members on his side of the aisle would boycott the hearing and host their own roundtable.

'Update our definition of infrastructure'

"[W]e are more aware of the fact that to reignite our economy and compete internationally, we must also update our definition of infrastructure," Committee Chairman Richard Neal, D-Mass., said in his opening statement. "Our roads, bridges, transit, water systems, and electrical grids need updating, as well as new investments in rail, but so do the social supports that enable workers to fully contribute to the economy. Simply put, the road underneath you may get you to work, but it is the access to affordable child care that helps get you through the day."

To that point, the majority of the proposals on which members spoke emphasized tax incentives rather than revenue raisers that will be needed to pay for infrastructure investment – and five of the day's 20 speakers used their time to push for a repeal of the \$10,000 cap put on the deduction for state and local taxes (SALT) enacted in 2017's Tax Cuts and Jobs Act (TCJA, P.L. 115-97).

SALT deduction cap: The SALT deduction, which before the enactment of the TCJA was unlimited, tends to be used more heavily in higher-taxed "blue" states, such as New Jersey, New York, Connecticut, and California; however, lawmakers in both parties who represent jurisdictions with expensive housing markets and steep property and income taxes have said the cap imposes undue burdens on their constituents and could erode the tax base in some localities as residents move to lower-tax areas.

The issue nonetheless is somewhat divisive among Democrats as the cap predominately affects higher-income taxpayers (who both pay more in state and local taxes and are more likely to itemize their deductions), allowing some to argue that repealing it would be a tax cut for the wealthy. The Joint Committee on Taxation estimated in 2020 that suspending the cap for just two years (for 2020 and 2021, as proposed in last year's House-approved Heroes Act) would reduce federal revenue by \$136.6 billion over 10 years. Full repeal would be even more costly, as the cap is currently in place through 2025.

URL: <https://www.jct.gov/publications/2020/jcx-16-20/>

Nonetheless, SALT cap repeal is a priority for numerous Democratic taxwriters, and at this week's hearing Democratic Reps. Josh Gottheimer, Tom Malinowski, and Mikie Sherrill of New Jersey, and Reps. Angie Craig and Dean Phillips of Minnesota all urged Ways and Means to tackle it this year.

Alternative energy: On the alternative energy front, Democratic Reps. Scott Peters of California and Ted Deutch of Florida advocated for the use of carbon pricing to reduce emissions and drive a shift towards clean energy alternatives, with Deutch touting the Energy Innovation and Carbon Dividend Act (H.R. 763), which he sponsored in the last Congress.

URL: <https://www.congress.gov/bill/116th-congress/house-bill/763/text>

Rep. Nanette Diaz Barragán, D-Calif., spoke in favor of the GREEN Act (H.R. 848), the comprehensive alternative energy legislation sponsored by Select Revenue Measures Subcommittee Chairman Mike Thompson, D-Calif. She also called for a refundable tax credit for the purchase of used electric vehicles, and a manufacturing credit for zero-emissions buses and trucks.

URL: <https://www.congress.gov/bill/117th-congress/house-bill/848/text>

Rep. Julia Connolly, D-Calif., promoted her Sustainable Aviation Fuel Act (H.R. 741), which would include creation of a tax credit for use of fuel made from renewable sources; and Minnesota’s Angie Craig spoke in favor of tax code parity for biodiesel.

URL: <https://www.congress.gov/bill/117th-congress/house-bill/741/text>

Other business proposals: In other business-related areas, Democratic Rep. Dina Titus of Nevada called for repealing the cap on private activity bonds – prompting Chairman Neal to note his own past success in raising the cap – as well as repealing the federal excise tax on sports betting.

Minnesota’s Dean Phillips encouraged the committee to consider legislation to help small businesses being impacted by US trade disputes, including a Miscellaneous Tariff Bill and the reauthorization of the Generalized System of Preferences program. He also backed targeted tax relief for small businesses in conjunction with any increase in the federal minimum wage.

Minority member walkout

The format of Members’ Day hearings typically allows House lawmakers from both parties to present their views on issues within a committee’s jurisdiction, generally without debate or follow-up questions from committee members. But in a statement at the beginning of the hearing, Ways and Means ranking member Kevin Brady, R-Texas, described the session as “nothing more than another partisan exercise so Democrat House leadership can set up yet another multi-trillion-dollar one-sided spending bill” and said Republicans would not participate.

“Committee Republicans welcome a fair and deep discussion on infrastructure and economic growth,” he said. “We urge you to proceed under regular order and hold a real hearing on infrastructure financing before moving any infrastructure-related legislation to the floor.”

Upon completing his statement, Brady logged out of the virtual hearing and hosted a separate online roundtable with his GOP colleagues and Republican economist Douglas Holtz-Eakin of the American Action Forum. During the event dubbed “A Virtual Roundtable on Biden’s Recovery-Killing Tax Grab,” Brady further

criticized congressional Democrats and the Biden administration for their ideas to raise revenue by increasing taxes.

Democrats have not yet introduced legislation on infrastructure investment this year, but many expect that a bill likely to be rolled out sometime this spring will use as its starting point the Moving Forward Act (H.R. 2), which was approved in the House last year but had almost no Republican backing. (Select Revenue Measures Subcommittee Chairman Mike Thompson indicated at a recent subcommittee hearing that he hoped to build on that legislation in a future infrastructure package. For prior coverage, see *Tax News & Views*, Vol. 22, No. 12, Mar. 12, 2021.)

[URL: https://www.congress.gov/bill/116th-congress/house-bill/2/textv](https://www.congress.gov/bill/116th-congress/house-bill/2/textv)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210312_2.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210312_2.html)

Ways and Means Chairman Neal stated in his opening remarks at the official hearing that “[e]very effort will be made to secure bipartisan support for infrastructure.”

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Tax Policy Group
Deloitte Tax LLP

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