

Prospects for Senate deal on ‘Build Back Better’ upended as Manchin rejects tax hikes, climate change proposals

Efforts by Senate Majority Leader Charles Schumer, D-N.Y., and Democratic Sen. Joe Manchin of West Virginia to reach consensus on an iteration of “Build Back Better” legislation that includes robust climate change provisions, Medicare prescription drug pricing reforms, and substantial tax increases on corporations and wealthy individuals appeared to fall apart this week after Manchin told Senate Democratic leaders on July 14 that he could support a far more limited bill focused only on health care but that he would not accept a final package that includes climate change provisions or tax hikes.

Manchin’s announcement was first reported in *The Washington Post*.

According to the *Post* and other subsequent press reports, Manchin told Democratic leaders that he would only back a final product that includes certain Medicare prescription drug pricing reforms and an extension of certain enhanced Affordable Care Act premium assistance credits that are scheduled to expire at the end of this year.

Manchin did not comment publicly on his decision, but a spokesperson told reporters July 14 that the senator “believes it’s time for leaders to put political agendas aside, reevaluate, and adjust to the economic realities the country faces to avoid taking steps that add fuel to the inflation fire.”

A familiar turn of events

The House approved a roughly \$1.75 trillion Build Back Better package last November, but that measure stalled in the Senate after Manchin announced shortly before Christmas that he would not support it in its current form. At the time, he expressed reservations about the inflationary impact of the legislation and warned against the use of what he has described as “budget gimmicks” such as offering certain popular spending programs and tax incentives—notably, an extension of the enhanced child tax credit—on a short-term basis when they are almost certain to be renewed for longer periods and therefore will be more expensive in the long run. (For prior coverage, see *Tax News & Views*, Vol. 22, No. 56, Dec. 20, 2021.)

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Since then, Senate Democrats have worked to craft a narrower compromise package—focused on Manchin’s stated priorities of clean energy and climate change provisions, Medicare drug pricing, deficit reduction, and a rollback of certain tax breaks enacted in 2017’s Tax Cuts and Jobs Act—that could move through the chamber under fast-track budget reconciliation rules that would circumvent a near-certain GOP filibuster and allow for passage by a simple majority vote. Given that no Senate Republicans were expected to support the measure, the pressure has been on Schumer to keep the 50 Senate Democrats united and rely on their votes, plus the tie-breaking vote of Vice President Kamala Harris, to get a bill across the finish line.

Manchin’s announcement that he will withhold support for climate change and tax increase provisions deprives Schumer of a working majority and forces Democratic leaders to consider possible next steps, which

could mean advancing a health-focused package or letting the reconciliation instructions go unused. The fiscal year 2022 budget resolution that includes the reconciliation instructions expires at the end of September, so decisions and actions must follow quickly if Democrats hope to use that process to advance any such party-line legislation this year.

Progress on prescription drugs, concerns over inflation and revenue raisers

News of Manchin's decision capped a week in which he and Majority Leader Schumer apparently had made significant progress toward an agreement on provisions related to Medicare prescription drug pricing as well as an expansion of the current-law 3.8 percent net investment income tax to ensure the solvency of the Medicare program. Issues around clean energy tax incentives remained unresolved, as did discussions on potential revenue-raising provisions such as a proposed surtax on certain high-income individuals and a new 15 percent minimum tax on the financial statement income of certain large corporations that were included in the House-passed proposal; however, Manchin continued to tell reporters—without going into specifics—that negotiations were proceeding.

Inflation worries: Nonetheless, Manchin has remained extremely concerned about policies that could exacerbate inflation—and he doubled down on that position after the latest consumer price index (CPI) report showed this week that prices were 9.1 percent higher in June as compared to the same month last year.

Although he has previously noted that a bill that, on net, reduces the deficit by raising more taxes— and generating additional savings in other areas—than it spends could be useful in combating inflation, his remarks on that approach in the wake of the latest CPI data were a bit less definitive.

“Is there any more we can do? I don’t know,” Manchin told reporters July 13. “But I am very, very cautious. And I’m going to make sure that I have every input on scrubbing everything humanly possible that could be considered [inflationary]. . . . I’m more concerned than ever before.”

Some Democrats fret about raising taxes: Moreover, some Democrats in both chambers appeared to be growing skittish about the possibility of enacting tax hikes, even before Sen. Manchin’s July 14 announcement.

Sen. Gary Peters, D-Mich., told reporters this week that he was not sure if any of the revenue proposals in the House bill would be included in a final package.

“It’s worth considering,” Peters said. “I don’t know if they’ll make it in this bill. We’ll see what happens.”

Democratic Sen. Jon Tester of Montana was a bit more blunt about his reticence toward tax hikes in the current economic and political environment.

“I don’t think raising taxes is a winner anywhere, OK?” Tester said. “[T]here’s some positive things you can talk about. But the bottom line is that no, taxes are never a winner. We need to be very careful.”

And across the Capitol, some House Democrats, who approved a significant revenue package in their Build Back Better legislation, also appeared to be softening their stance on tax increases—a factor that is highly relevant given the party’s razor-thin majority in that chamber. (Democrats currently hold 220 seats in the House compared to 211 for Republicans, while 4 seats remain vacant. Thus, Speaker Nancy Pelosi, D-Calif., can afford to lose no more than four of her members if she hopes to get a measure through her chamber along strict party lines.)

“I don’t think tax increases would be popular,” said Rep. Susie Lee, D-Nev. “Let’s see what the Senate gives us.”

Next steps unclear

Majority Leader Schumer—who has been quarantining in New York this week after testing positive for COVID—did not release a public statement following Manchin’s announcement and it is currently unclear whether he intends to accede to the West Virginia senator’s demand for a significantly narrower Build Back Better package or instead hopes to jumpstart talks in hopes of striking a deal on a more substantial package.

Press reports on July 15, citing comments from Manchin in a West Virginia radio interview, have suggested that Manchin could be open to revisiting climate and tax provisions in the coming weeks—after he has had a chance to digest the CPI report for July—with lawmakers taking up a broader measure in September. As a practical matter, however, it is not clear whether that approach would be viable given the time that would be required to negotiate and finalize a tax-and-spending agreement with the House and the pending expiration of the reconciliation instructions at the end of September.

Senate Finance Committee Chairman Ron Wyden, D-Ore., reacted to the apparent breakdown of talks between Manchin and Democratic leaders in a statement released July 14.

“I’m not going to sugar coat my disappointment here, especially since nearly all issues in the climate and energy space had been resolved. This is our last chance to prevent the most catastrophic—and costly—effects of climate change,” he said.

Neither Speaker Pelosi nor the White House had commented publicly on these developments as of press time.

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