

MEMORADUM

NOW Government Relations

To: National Board Members

From: Jan Erickson, Director, NOW Government Relations

Date: September 17, 2021 (Update)

Senate Vote on VAWA Reauthorization Soon

After three long years of waiting for reauthorization, we allegedly are on the brink of having a Senate Violence Against Women Reauthorization Act of 2021 (VAWA) that will have 60 votes but we haven't seen the language. The negotiated VAWA is expected to become public any day now. Advocates are anxious to see what language changes may have been agreed to by negotiators. Staff for Sens. Diane Feinstein (D-CA) and Joni Ernst (R-IA) led the bipartisan discussions on the bill. Republicans reportedly had trouble with provisions related to a gun ban, plus enhanced protections for LGBTQIA+ persons and Native Americans.

Our DV consultant, Pat Reuss (known as the godmother of VAWA) advises that advocates might oppose the bill if any crucial provision has been removed or seriously watered-down. Pat writes, *NOW has said they can't support reauthorization if they remove anything, especially LGBTQ provisions, and if they don't include the "no guns for dating violence" and tribal jurisdiction over sexual assault (it currently only covers DV).*

The bill, H.R. 1620, sponsored by Rep. Sheila Jackson Lee (D-TX), with 186 co-sponsors passed the House on March 17 by a vote of 224-172 (including a handful of Republican votes). Republican support for VAWA has eroded over time, since it is a bill most closely associated with Democrats and Republicans do not want to advantage the Dems in any way. That it has taken three years to become authorized due to Republican foot-dragging is worrisome.

The negotiated version may have a different bill number. NOW will advise activists when the bill is released and will advise on actions we should take. Amendments from the floor may be offered and lots of grassroots pressure will be needed.

Transformational Legislation to Strengthen Human Infrastructure Set for Vote

Update as of Sept. 17 - The final touches are being made on the language and negotiations continue on the massive \$3.5 trillion human infrastructure investment Build Back Better Act that is to be the hallmark of the Biden Administration. Numerous provisions advanced by progressive democrats are intended to end poverty, rebuild the Middle Class, strengthen the care network, invest in families, improve access to health care, address climate change, and enacts many other much-needed initiatives. It is to be funded by an increase in the tax rate on upper-income earners and corporations.

The Build Back Better Act faces several challenges in getting adopted – even in the House where conservative democrats are questioning the price tag and opposing critical elements such as negotiating with pharmaceutical companies to reduce the price of prescription drug. The Republicans have committed millions of dollars to try to stop or seriously cutback this historic package. Hopefully, the Build Back Better Act will pass the House mostly intact and go to the Senate in a Continuing Resolution (CR) which requires only 51 votes to pass.

Sens. Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) continue to be huge problems for Democrats. Machin is funded by conservative deep-pocketed donors – which appears to be the source of his opposition to eliminating the filibuster. It's not clear what Sen. Sinema wants to get out of her opposition, perhaps just the publicity and the feeling that she is powerful. There are lots of provisions in the legislation that would be beneficial to Arizona's older and lower-income residents. Progressive activists are hoping that the upcoming Senate vote may prompt a move by the Biden Administration and Senate democratic leaders to eliminate or trim-back the use of the filibuster.

Here is summary of action on the Build Back Better Act as it was incorporated in a Senate Budget Committee budget resolution:

In what is the most important federal initiative in a generation, the Democrats' massive long-term investments in a wide array of infrastructure, social, environmental projects – all designed to rebuild the economy as the pandemic winds down -- is headed for an assured vote on September 27.

In July, the Senate Budget Committee released details of a \$3.5 trillion FY2022 budget resolution, sometimes referred to as a budget blueprint. The resolution calls for \$3.5 trillion in long-term investments in human infrastructure to be fully offset by a combination of new tax revenues, health care savings, and long-term economic growth. In addition, the resolution would prohibit new taxes on families making less than \$400,000 per year, and on small businesses and family farms.

The House voted on the both the hard and human infrastructure package on August 26, opening the process for drafting the human infrastructure bill. The vote to move forward on both packages was a narrow 220-212, mostly along party lines.

The action came after a dispute between House Democrat moderates and progressives over the sequencing of votes on the trillion-dollar hard infrastructure bill. The moderates wanted a vote on the spot, while members of the Progressive Caucus threatened to withhold their votes on the infrastructure package unless the two moved at the same time. To resolve the impasse, House Speaker Nancy Pelosi (D-CA) committed to holding another vote on the \$1 trillion bipartisan bill on Sept. 27. The \$3.5 trillion human infrastructure is not likely to gain many Republican votes and is planned to move as a Continuing Resolution which requires only a simple majority vote in the Senate.

The budget resolution provides instructions to various Senate committees to provide funding for different projects. With regards to taxes, the budget resolution will provide the Finance Committee with an instruction that allows for:

- \$1.8 trillion in investments for working families, the elderly and the environment;
- A “historic” tax cut for Americans making less than \$400,000 a year;
- Ensuring that the wealthy and large corporations pay their fair share of taxes; and
- Hundreds of billions in additional savings by lowering the price of prescription drugs.

In order to give the Senate Finance Committee the flexibility it needs to accomplish these goals, the text of the budget resolution will provide the Finance Committee with an instruction to reduce the deficit by a nominal amount of \$1 billion over ten years.

The budget resolution calls for the following investments:

- Paid Family and Medical Leave
- ACA expansion extension and filling the Medicaid Coverage Gap
- Expanding Medicare to include dental, vision, hearing benefits and lowering the eligibility age
- Addressing health care provider shortages (Graduate Medical Education)
- Child Tax Credit/EITC/CDCTC extension (making it permanent)
- Long-term care for seniors and persons with disabilities (HCBS)
- Clean energy, manufacturing, and transportation tax incentives
- Pro-worker incentives and worker support
- Health equity (maternal, behavioral, and racial justice health investments)
- Housing incentives
- SALT cap relief
- Other investments within the jurisdiction of the Finance Committee

And the resolution calls for the following offsets:

- Corporate and international tax reform
- Tax fairness for high-income individuals

- IRS tax enforcement
- Health care savings
- Carbon Polluter Import Fee

Negotiations over this important legislation are underway and NOW activists are encouraged to let their Representative and Senators – especially Republicans – know that you support the Human Infrastructure legislation and that the country desperately needs these critical investments. *(Compiled from news reports and House Ways and Means Committee press releases.)*

Expanded, Refundable Child Tax Credit Will Cut Poverty in Half

A provision of the Build Back Better package makes the Child Tax Credit refundable is included in the Build Back Better Act. Experts say that the refundable credit, if sustained, could cut the poverty rate among children by as much as 45 to 50 percent. Activists are encouraged to tell members of Congress that the Child Tax Credit should be made permanent.

The Child Tax Credit is a credit allowed for a percentage of work-related expenses that a taxpayer gets for the care of a qualifying child in order to enable that taxpayer to be able to work or look for work. In 2019, 34 million adults and 10.5 million children were living below the poverty line. In 2018, 42% of US households were living in difficult financial circumstances.

The Child Tax Credit has been around a while, but because of the pandemic it was expanded to be more generous by implementing monthly payments for the first time. The tax credit allows for a total of \$3,600 for each child under 6 and \$3,000 for children ages 6 to 17. The parents of about 60 million U.S. children began receiving monthly checks through this expanded CTC program, which is aimed towards lower-income families. Checks have already been sent out, but there are still millions of poverty-impact families who have not filed for the CTC.

NOW will be sending out an action alert soon with more information and a request for activists to reach out to qualifying families.

Senate Approves \$1.2 Trillion Hard Infrastructure Bill

In a rare show of bipartisan support in late July, the Senate agreed to a Bipartisan Committee Plan for Infrastructure spending and how to pay for it. Nineteen Republican senators – representing states as red as Idaho, Mississippi, Kentucky and Alaska – joined all 50 Democrats in approving \$1.2 trillion in spending on roads, bridges, broadband, and power-grid improvements that will constitute the largest federal investments in several decades.

The plan calls for \$550 billion in new spending over 5 years for transportation (\$305 billion), water (\$55 billion), the power grid (\$123 billion) and broadband (\$65 billion). The amounts still are not large enough to cover all of the financing gap estimated by the American Society of

Civil Engineers over 10 years for: transportation (\$1,370 billion), water infrastructure (\$1.100 billion), and the power grid (\$200 billion). Differences over how to finance these projects means that the plan will likely be financed mostly through deficit spending.

A second track plan -- covering baseline spending for transportation and water, as well as new spending for families and other "soft" infrastructure -- will be considered in the fall as part of the FY-year 2022 budget (under reconciliation rules, i.e., with a simple majority of Democrats approving it). An extension of the debt limit can be taken up during that budget process.

It has recently been noted that there may not be enough skilled workers for the jobs required by major infrastructure projects funded by this legislation. This happens, most likely, due to decades of under-investment in infrastructure repair and new construction. In the legislation, there is dedicated funding for apprenticeship training in the construction trades and, hopefully, many women can qualify for those slots that lead to higher-paying skilled positions.

Women's Health Protection Act Addresses Abortion Rights Attack Across U.S.

A vote on the Women's Health Protection Act (WHPA, H.R. 3755/S. 1975) is set for this coming week. If passed by Congress and signed into law, WHPA would put a halt to further erosions of abortion rights and reverse restrictions and bans on abortion that have been adopted in various states. The legislation would guarantee access to abortion care everywhere. WHPA would protect the right to access abortion free from medically unnecessary restrictions and bans on abortion -- including mandatory waiting periods, biased counseling, two-trip requirements, and mandatory ultrasounds.

WHPA would create a statutory right for health care providers to provide abortion care, and a corresponding right for their patients to receive that care, free from medically unnecessary restrictions that single out abortion and impede access. The elimination of abortion restrictions is central to reproductive justice and the human right to maintain bodily autonomy and to live in safe and sustainable communities. People hurt most by abortion restrictions are those already facing barriers to accessing health care and who are bearing the brunt of the pandemic and economic crisis—particularly Black, Indigenous and People of Color (BIPOC), women, and those working to make ends meet.

WHPA was reintroduced in early June in the 117th Congress by lead sponsors Representatives Judy Chu (D-CA), Lois Frankel (D-FL), Ayanna Pressley (D-MA), and Veronica Escobar (D-TX) and Senators Richard Blumenthal (D-CT) and Tammy Baldwin (D-WI). WHPA has 176 supporters in the House and 48 in the Senate, more than in any previous Congress at introduction. See all the

117th co-sponsors in the [House](#) and [Senate](#). **NOW Recommends: If the name of your member of Congress does not appear on the lists, please call her/him and urge them to sign on.**

AN ACTION ALERT HAS BEEN SENT TO ALL NOW MEMBERS AND SUPPORTERS WITH SUGGESTED MESSAGING AND OTHER IMPORTANT INFORMATION. MAKE SURE THAT YOU CONTACT YOUR HOUSE MEMBER AS SOON AS POSSIBLE.

With the implementation of the horrendous Texas six-week abortion ban on September 1 and oral arguments before the Supreme Court in the case of *Dobbs v. Jackson Women’s Health Organization*, (estimated to be scheduled for late November or early December) the need for the Women’s Health Protection Act could not be more urgent. It should be noted that even though passage in the House is assured, the Senate remains an uphill battle with the filibuster still in place.

Dobbs is a critically important case that could upend *Roe* and will be argued before the Court in the October term. The question at issue is: Whether all pre-viability prohibitions on elective abortions are unconstitutional. NOW Foundation has joined an *amicus* brief prepared by the Feminist Majority Foundation. The case will be discussed in more detail on Sunday as part of the Board Report for NOW Foundation.

Black Maternal Health Momnibus Act Included in Build Back Better Act

From a September 15 press release by the Energy & Commerce Committee

Black Maternal Health Caucus Co-Chairs Underwood and Adams Celebrate Historic Momnibus Investments Included in Energy & Commerce Committee Build Back Better Markup

WASHINGTON—Today, Black Maternal Health Caucus Co-Chairs Rep. Lauren Underwood (IL-14) and Rep. Alma Adams (NC-12) applauded the Energy and Commerce Committee for advancing critical investments from the Black Maternal Health Momnibus Act (H.R. 959/S. 346) in the Committee’s markup of the *Build Back Better Act*. The legislation now goes to the House Committee on Budget before heading to the full House of Representatives.

“Today’s Energy and Commerce Committee markup was a historic milestone in the mission to save moms’ lives and end maternal health disparities in the United States,” said Rep. Underwood, Co-Founder and Co-Chair of the Black Maternal Health Caucus. “I’m thankful for the leadership of Chairman Pallone in advancing the Momnibus through the Committee’s *Build Back Better Act* legislation, including critical resources for community-based organizations, funding to address social determinants of maternal health, and investments in the perinatal workforce. We are closer than ever to making the transformative change that is needed to achieve true birth equity in the America and I am grateful for the support of the

Biden-Harris Administration, Speaker Pelosi, Leader Schumer, and maternal health champions in the House and Senate as we work together to get this legislation passed and signed into law.”

“I’m overjoyed the *Build Back Better Act* will include the Kira Johnson Act and the vast majority of our landmark Momnibus legislation,” said Rep. Adams, Co-Founder and Co-Chair of the Black Maternal Health Caucus. “With the inclusion of the Momnibus, the *Build Back Better Act* makes over \$1 billion in historic investments in the health and care of moms. It is nothing short of a game-changer for Black mothers as well as every parent bringing a child into the world. Now more than ever, it is critical that we pass the Build Back Better Act so that we can pass essential parts of the Momnibus as well. As a Black mother and grandmother, take it from me: *Black mamas can’t wait!*”

The Energy & Commerce Committee’s *Build Back Better Act* legislation includes historic investments from the Black Maternal Health Momnibus Act to save moms’ lives, end racial and ethnic maternal health disparities, and advance birth equity across the United States:

- Provides \$175 million in funding for local entities to address social determinants of maternal health like housing, nutrition, and environmental conditions – including a minimum of \$75 million exclusively for community-based organizations working to promote maternal health equity.
- Provides \$275 million to grow and diversify the perinatal health workforce, including nurses, midwives, physicians, doulas, and maternal mental and behavioral health professionals – including \$50 million specifically for doulas.
- Provides \$100 million for maternal mental health equity grant programs.
- Provides \$85 million to address the impacts of climate change-related maternal and infant health risks through health professional schools.
- Provides \$50 million to advance maternal health research at Minority-Serving Institutions like Historically Black Colleges and Universities, Tribal Colleges and Universities, Hispanic-Serving Institutions, and AAPISIs.
- Provides \$50 million to promote representative community engagement in Maternal Mortality Review Committees.
- Provides \$160 million to strengthen federal maternal health programs like the CDC’s Surveillance for Emerging Threats to Mothers and Babies program, Enhancing Reviews and Surveillance to Eliminate Maternal Mortality (ERASE MM), Pregnancy

Risk Assessment Monitoring System (PRAMS), and the National Institute of Child Health and Human Development (NICHD).

- Provides \$60 million to expand access to digital tools and technologies that promote maternal health equity.
- Provides \$25 million for bias trainings among health care professionals.

The Build Back Better legislation also includes a mandatory provision that will make federal funds permanently available for states to spend on expanded postpartum Medicaid and CHIP coverage to one year in every state, with full state plan benefits throughout pregnancy and the yearlong postpartum period.

The *Black Maternal Health Momnibus Act* (H.R. 959/S. 346) was reintroduced in February 2021 by Underwood, Adams, and Senator Cory Booker (D-NJ). The Momnibus builds on existing maternal health legislation with 12 bills to comprehensively address the clinical and non-clinical drivers of the maternal health crisis in the United States. The Momnibus makes critical investments in addressing social determinants of health, funding community-based organizations, growing and diversifying the perinatal workforce, and improving data collection processes. The Momnibus also includes new legislation to address the impacts of COVID-19 and climate change on maternal and infant health outcomes.

Supreme Court Took No Action Against Texas 6-week Abortion Ban

Below is a statement from the Center for Reproductive Rights which is taking the lead in challenging the draconian Texas six-week abortion ban. The Supreme Court may yet take action as there remains a pending Emergency Request with the Court that would allow District Court proceedings to resume. The uber-conservative Fifth Circuit Court of Appeals had halted all proceedings at the District Court level, cancelling that court's preliminary injunction hearing.

On September 1st, a radical new abortion law that bans abortion care after approximately six weeks of pregnancy, before many people even know they are pregnant, went into effect in Texas. Senate Bill 8 (“S.B. 8”) deputizes and incentivizes private individuals to sue abortion providers and anyone helping a person obtain an abortion after six weeks of pregnancy; anyone who successfully sues another person or provider will be entitled to at least \$10,000 in damages. This ban is an attempt to force all health centers that provide abortions in the state to close by saddling them with lawsuits that consume their time and resources, and to isolate pregnant people seeking abortions in Texas from their communities and critical support networks. The Center for Reproductive Rights, Planned Parenthood Federation of America, the Lawyering Project, the ACLU, the ACLU of Texas, and Morrison & Foerster LLP are continuing to fight this draconian law in court. The status of the case will continue to change rapidly, but by failing to intervene by midnight on September 1st, the Supreme Court allowed the law to go into effect.

In July, Texas abortion providers – led by Whole Woman’s Health – [filed a lawsuit](#) asking a federal district court to block the law before it is scheduled to take effect on September 1st, 2021. Defendants in the lawsuit include every state court trial judge and county clerk, the Texas Medical Board, the Texas Board of Nursing, the Texas Board of Pharmacy, the attorney general, and the Director of Right to Life East Texas, who has openly called for people to sue their local abortion providers under S.B. 8.

Pre-viability abortion bans have been universally blocked by federal courts when challenged, but S.B. 8 is specifically designed to be difficult to block before it takes effect. By shifting enforcement from state officials to private individuals, the state is attempting to evade legal accountability and prevent the federal courts from blocking this unconstitutional ban before it takes effect.

This law will decimate abortion access in Texas, effectively make abortion care unavailable to the large number of patients who cannot overcome the logistical and financial obstacles of traveling out of state to receive care. S.B. 8 constitutes a near-total ban on abortion, with no exceptions in cases of rape and incest. Approximately 85-90% of people who obtain abortions in Texas are at least six weeks into pregnancy, meaning that abortion in most instances will be out of reach for patients for as long as the law is in effect. Ultimately, the bill attempts to force health centers that provide abortions in the state to close.

As with other abortion restrictions, S.B. 8 disproportionately harms people of color, those with low incomes, and those in rural areas. In Texas, the poverty rate for Black and Latinx women is disproportionately high: the poverty rate among Black women is 19%, and is 20% for Latinx women, and 37% of female-headed households live in poverty. People struggling to make ends meet must often delay care to secure funds, and this law bans abortion funds from helping patients pay for the procedure. It is also estimated that this bill could cause a [20-fold increase in driving distance](#) to access abortion care, placing yet another prohibitive hurdle to accessing care. Black women will disproportionately suffer the gravest consequences of forced pregnancy, in light of the maternal mortality crisis in Texas and the significantly higher rates of maternal mortality and morbidity for Black women than white women in the state.

Abortion Access in Texas

Even before S.B. 8 was allowed to go into effect, abortion was already extremely difficult to access in Texas. Patients face many hurdles in accessing abortion care, including a law that forces them to receive in-person, biased counseling, a medically unnecessary ultrasound, a 24-hour mandatory delay before obtaining an abortion that forces patients to make two trips to the clinic, a ban on telemedicine for abortion, and a parental consent requirement for minors. The state also prohibits coverage for abortion through its Medicaid program and in nearly all private insurance plans and it currently has a 22-week ban in effect. In the past decade, the state has enacted 26 abortion restrictions, including a trigger ban on abortion that would go into effect if

Roe were overturned. These restrictions have forced health centers to close, bringing the number of abortion clinics down from [46 in 2011 to only 21 in 2017](#), and have pushed access out of reach for many. In 2017, nearly 43% of the seven million women of reproductive age in the state lived in a county without an abortion clinic and approximately [96% of counties in Texas](#) did not have an abortion clinic.

Suggested Messaging

- This law is a full-scale assault on patients, their health care providers, and their support systems. It creates an incentive for private individuals to sue anyone who helped a patient get the care they need, including a clergy member or counselor who advised the patient, abortion funds that assist patients with paying for their health care, and even someone who drives a patient to their appointment including family members, friends, and rideshare drivers.
- The ban will isolate people seeking abortion by targeting their entire support network and discouraging their loved ones from helping them for fear of being sued. If allowed to take effect, it would be the most extreme and harshest abortion ban in the country.
- Texas' six-week abortion ban is designed to intimidate physicians and other clinic staff out of providing abortion care. By continuing to provide abortion care, they could face ruinous financial penalties, legal costs, and court orders shutting their doors. It allows anyone who disapproves of an abortion — a neighbor, distant relative, an abusive partner, or even a stranger — to obtain a court order stopping an abortion and ordering the health center to shut down.
- Pregnant people have the right to make their own health care decisions without interference from politicians. Every person should be able to make their own decisions about their health and their bodies — including about abortion. No one should have their most personal medical decisions controlled by politicians, neighbors, complete strangers, or anyone else.
- The Supreme Court will soon hear a [case that directly challenges Roe](#), giving them the chance to let abortion bans like this stand. In the next year, the Court could overturn *Roe* — potentially opening the floodgates to abortion bans across the country and leave almost half the states with no abortion access.
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Department of Justice Files Lawsuit Against Texas 6-Week Abortion Ban

September 15, 2021
National Public Radio

The Department of Justice has sued the state of Texas over a new law that bans abortions after about six weeks, before most people realize they are pregnant, all but halting the procedure in the country's second-largest state.

The [lawsuit](#) says the state enacted the law "in open defiance of the Constitution."

"The act is clearly unconstitutional under long-standing Supreme Court precedent," Attorney General Merrick Garland said during a news conference Thursday afternoon. "Those precedents hold, in the words of *Planned Parenthood v. Casey*, that 'regardless of whether exceptions are made for particular circumstances, a state may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.' "

The Justice Department is seeking a permanent injunction from a federal court in the Western District of Texas. But it's likely the U.S. Supreme Court will have the final word on the matter.

Garland noted the law deputizes private citizens "to serve as bounty hunters authorized to recover at least \$10,000 per claim from individuals who facilitate a woman's exercise of her constitutional rights."

He pointed out the law has thus far had its intended effect.

"Because this statute makes it too risky for an abortion clinic to stay open, abortion providers have ceased providing services," he said. "This leaves women in Texas unable to exercise their constitutional rights and unable to obtain judicial review at the very moment they need it."

Experts said the Texas law is among the most strict in the nation, in part because it allows private citizens to sue anyone perceived to be helping patients obtain abortions and doesn't make exceptions for cases involving rape or incest. Several other GOP-led states have announced they are considering adopting similar measures.

Attorney General Blocks Enforcement of S.B. 8

September 9, 2021

National Public Radio report

This week the U.S. Justice Department asked a federal judge in Texas to temporarily block enforcement of the state's new law that bans abortions after about six weeks.

This step, a major move by the Biden administration against the highly controversial law, follows a lawsuit filed by the Justice Department last week. The Biden administration asked the court late Tuesday to implement the preliminary injunction while the lawsuit plays out in federal court.

Texas' abortion ban essentially stops the procedure in the country's second-largest state. Most people don't know they are pregnant before six weeks.

NOTE: The judge has set a hearing date of October 1.