



**HARDWOOD**

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**F E D E R A T I O N**

**Hardwood Federation November 2021**

**Newsletter**

**From the Executive Director:**

On Monday, November 15, President Biden signed his signature infrastructure package, the “Infrastructure Investment and Jobs Act.” The legislation was approved by the U.S. Senate on a bipartisan vote in August and passed the House on a vote of 228-206 late the previous Friday night. Thirteen (13) Republicans voted for the bill; six (6) Democrats voted against. The bill includes over a half trillion dollars in new spending on roads, ports, bridges, and rail, among other priorities. Total spending over five (5) years is estimated to be around \$1.2 trillion.

Key provisions of the bill include:

- \$110 billion for roads, bridges, and other major infrastructure projects.
- \$39 billion to modernize public transit, \$66 billion in passenger and freight rail and \$7.5 billion for electric vehicles.
- \$65 billion to improve the nation’s broadband infrastructure.
- \$17 billion in port infrastructure and \$25 billion in airports.
- \$170 billion to improve power and water systems.
- \$21 billion for environmental remediation.

Included within the 2,740-page document are a few items of interest to the hardwood sector:

A favorable provision grandfathering existing gross vehicle weight limits on state roads converting to interstate highways. Currently in North Carolina, several state roads are slated to become federal interstates in the near future. Right now, the maximum gross vehicle weight limit on North Carolina state roads is 90,000 pounds for 5 axle trucks carrying logs and forest products. Once those roads convert to interstates, the weight limit would decrease to 80,000 pounds unless the 90,000-pound standard is grandfathered. Enactment of this bill addresses this issue.

Authorization for a pilot program allowing young drivers (between 18-21 years old) to operate trucks interstate after completing rigorous operational and safety training. Currently, younger drivers may drive all day every day within a state's borders but may not cross state lines. For the last few years, the provision, known as the "DRIVE Safe Act," has been a priority of truck-dependent industries as a way of attracting younger drivers to the profession. Related language was also included promoting women in the trucking workforce.

Language creating a new federal system for subsidizing sawmills and other wood processing facilities, along with \$400 million in new financial assistance. The provision specifies that "close proximity" to a sawmill would become a factor for agencies to consider when funding federal land restoration. One of the ongoing challenges to making thinning projects economical is access to processing facilities. Existing wood processing infrastructure is not in close proximity to many federal forests that desperately need active management.

Authorization of a bioproduct pilot program to explore the use of agricultural commodities in building construction materials and products. The provision provides \$4 million to the US Department of Agriculture to partner with a college or university to examine cost savings of using alternative materials, greenhouse gas emissions benefits, landfill quantity and waste management cost reduction benefits and other factors.

Provisions of the “Repairing Existing Public Land by Adding Necessary Trees (REPLANT) Act” are included in the bill. The *REPLANT Act* quadruples investments to support reforestation projects on national forests by removing the current funding cap of \$30 million per year on the Reforestation Trust Fund. This will help the U.S. Forest Service plant 1.2 billion trees on national forests.

Language establishing a vehicle-miles travelled (VMT) fee pilot program. Specifically, the legislation authorizes \$125 million for grants that would enable creation of pilot VMT programs to collect data on whether a VMT is a viable option for replacing the gas tax to fund highway programs. The VMT would apply to both private and commercial vehicles.

Provisions promoting work force development in the transportation sector. Specifically, language authorizes grants to educational institutions or state departments of transportation, in partnership with industry, to develop, test and review new curricula and education programs to train individuals at all levels of the transportation workforce. Further, the new curricula and education programs will provide for hands-on career opportunities to meet current and future needs.

Authorization of an Electric Vehicle Working Group led by the Secretaries of Transportation and Energy to make recommendations regarding development, adoption and integration of light, medium and heavy-duty electric vehicles into the transportation systems in the U.S. Language requires a report on the barriers and opportunities for scaling up electric vehicle adoption throughout the U.S., including in business vehicle fleets.

Several Buy American provisions, including language that precludes any funding in the bill on projects that use any amount of iron, steel, manufactured products or construction materials that are not produced in the U.S.

Efficient Manufacturing—\$2.1 billion in assistance to help manufacturers improve energy, water and material efficiency, load management and onsite generation to reduce waste and pollution while increasing profit. The provision includes a special set aside for small to medium sized manufacturing operations.

Although the Infrastructure deal has been signed into law, there is still much work to be done to write and promulgate the rules to implement the approved program funding. The Hardwood Federation will look for opportunities to engage with lawmakers, their staff and department officials to participate in this process.

### **Issues:**

#### **“Build Back Better” Clears Partisan House Vote, Faces Uncertain Future in Senate**

On the heels of having passed the infrastructure legislation, on November 19 House Democrats finally adopted the Build Back Better legislation (also known as the Reconciliation Bill). This massive bill, more than 2000 pages long, carries a price tag of nearly \$2 trillion dollars, although long term cost estimates are much higher. The bill covers everything from childcare and early childhood education to electric vehicles to forest management.

As expected, the reconciliation bill passed the House along party lines, with a single Democrat, Jared Golden of Maine, casting a vote against the bill along with all House Republicans. Although the bill has cleared a major hurdle with the House vote, the largest challenges for congressional Democrats remain in the Senate where passage is uncertain, even after major revisions. Some Senate leaders have expressed hope that a deal can be struck by early December, although negotiations could drag on past that deadline.

The Hardwood Federation is closely tracking provisions in this legislation directly related to the Hardwood industry including:

Research funding for the U.S. Department of Agriculture related to sustainable forestry methods, maximizing carbon sequestration on federal lands and life cycle analysis of wood products.

Funding for initiatives through the U.S. Department of Agriculture that protect older and more mature forests in the National Forest System.

Grant programs that support private landowners entering voluntary carbon market programs.

As with any legislation of this size and scope, there are positives and negatives. For the hardwood industry, the potential of additional dollars to research and document the carbon storage benefits of wood products is a positive. However, there are concerns that many of the forestry provisions are focused on the growing and maintenance of trees with little reference or attention to the value of harvesting or the benefits of the forest products markets to forest health or carbon sequestration goals.

In order to fund this multi-trillion-dollar proposal, authors have identified a number of tax increases that will impact hardwood businesses. The bill's so-called "book tax," for example, poses a major challenge to many small, medium, and family-owned businesses by imposing a tax based on "financial statement income." This accounting gimmick would undermine long-standing accounting flexibility that the hardwood industry relies on, including accelerated depreciation of equipment and net operating losses.

We also remain concerned with other revenue raisers in the package and have communicated opposition to them with Members of Congress. Our focus has been on provisions raising tax rates on small and medium sized business that are organized as S-Corporations or other pass-through structures. The current tax rate for these businesses under the Tax Cuts and Jobs Act is 29.6 percent. The House's version of the Build Back Better Act would add a 3.8 percent Net Investment Income Tax (NIIT) to S-Corporation and partnership income earned by active owners of the business. Currently, active owners of these businesses do not pay the NIIT on their business' profits. This expanded tax applies to owners with incomes exceeding \$400,000 (single) and \$500,000 (joint), but for business shares held in trust, the expanded tax applies to income over just \$13,000.

In addition to the NIIT, the bill includes a new surtax on all forms of adjusted gross income of 5 percent on income over \$10 million and 8 percent on income over \$25 million. For family businesses with taxable trusts, those thresholds are \$200,000 and \$500,000, respectively.

Adding all of these components up, the tax rate for small and medium sized businesses jumps up to 41.4 percent—a sizable increase for businesses across the country that employ over half of all the private sector workforce.

The Hardwood Federation continues to work closely with its business allies to prevent these measures from becoming law.

On the positive side of the ledger, there are a few provisions in this bill worth noting. One is language authorizing \$2.1 billion for the U.S. Department of Agriculture's rural housing program. Specifically, the bill directs \$2 billion to carry out new construction projects and an additional \$100 million in grants to help low-income homeowners in rural areas repair and upgrade their homes.

For those located in areas where the state and local taxes (SALT) are high, the measure includes SALT cap relief. Under the new provision unveiled in the latest iteration of the Build Back Better Act, the SALT cap is extended to 2031, but increased from \$10,000 to \$80,000 beginning in 2021, before decreasing back to \$10,000 in 2031. The current cap is scheduled to expire after 2025.

And finally, for those contemplating purchasing a new wood or pellet stove, a generous credit is included in the renewable energy tax incentive portion of the legislation. Consumers purchasing new stoves would be able to claim a 30 percent tax credit based on the total installed cost of the unit.

It is sure to be a busy holiday season in Washington, D.C. and unfortunately, not the kind of busy we usually hope for during the month of December. The Hardwood Federation team will keep you apprised of developments related to the Build Back Better legislation...and will let you know when it is time to make your voice heard!

### **Federal Courts Suspend New Covid Mandates, Initiate "Fast Track" Judicial Review**

On November 4 the Biden Administration rolled out a far-reaching Occupational Safety and Health Administration's (OSHA) Emergency

Technical Standard (ETS) requiring companies employing 100 or more workers to mandate full vaccination of their workforce against COVID-19 by January 4. As was widely anticipated, legal challenges were filed by a number of states and private companies.

On November 6, the Court of Appeals for the Fifth Circuit issued a preliminary “stay” to the mandate pending further review. On November 12, the same federal court issued an order barring OSHA from taking steps to enforce its mandate until further notice from the court. In response to the multiple challenges to the mandate filed by states and private citizens, on November 16, the Court of Appeals for the Sixth Circuit consolidated legal actions challenging the mandate. That said, the Supreme Court will serve as the final arbiter of the Administration’s mandate and is expected to review the matter under expedited procedures. By placing the consolidated legal challenges on the fast track, the Supreme Court could strike or affirm the OSHA rules anytime between late November and early 2021.

The mandate applies to companies that employ 100 or more workers. Beginning January 4, all employees must have received a full dose of the COVID-19 vaccine or be subject to weekly testing and mandatory masking in the workplace. In addition to applying to a large swath of the U.S. workforce, the new OSHA rules impose new recordkeeping requirements, implementation of internal compliance procedures, and open the door for possible future mandates on companies employing fewer than 100 workers. To view OSHA's web page for more information about the ETS, please [click here](#). To view a slide deck outlining the ETS presented during a recent webinar attended by the Hardwood Federation, please [click here](#). To view a webinar outlining more details about the mandate, please [click here](#).

The Hardwood Federation will continue to track developments related to impacts on your operations as more details unfold.

### **Congress Moves “Mass Timber” Pilot Program**

On September 23, the House of Representatives adopted a measure within the “National Defense Authorization Act” (NDAA) (H.R. 4350) to set up a program within the Department of Defense DOD) that would

analyze the impacts of using mass timber products in military construction. The pilot program will advance key DOD policy goals, including the construction of new housing for military personnel while helping achieve the Administration's carbon reduction goals. Meanwhile, on November 18, on the other side of the Capitol, senators began to debate a procedural motion to consider their version of NDAA (S. 2792) that does not include the timber provision. Senators will likely debate amendments to S. 2792 after the Thanksgiving recess. In order for the pilot program to cross the finish line, the House version of the legislation would have to prevail within the context of a conference committee, which would hammer out a final bill. The Hardwood Federation will keep you posted on developments on this important program.

### **Ocean Shipping Reform Legislation Highlights Transportation Bottlenecks**

Even though infrastructure and spending legislation continue to dominate the congressional agenda, transportation bottlenecks are gaining more public attention as Americans move toward the holiday season. As reported earlier, a bipartisan group of House lawmakers are moving legislation that would protect U.S. exporters, including the hardwood industry, from unfair ocean shipping practices that hinder the export of products.

In August, Reps. John Garamendi (D-CA) and Dusty Johnson (R-SD) introduced the industry-supported "Ocean Shipping Reform Act of 2021" (OSRA) (H.R. 4996). This important bill would update the federal "Shipping Act" and institute remedies for unfair shipping practices that exacerbate global supply chain disruptions caused by the pandemic. Specifically, the bill would empower the Federal Maritime Commission (FMC) to prevent ocean carriers from declining export cargo if the containers can be loaded safely and within a reasonable time frame.

Since being introduced in the summer, H.R. 4996 has gained a bipartisan group of more than 70 cosponsors. Since mid-October, members of the Hardwood Industry have sent more than 150 letters to Capitol Hill urging support for H.R. 4996.

Although the House has taken the lead on ocean shipping reform, Sens.



John Thune (R-SD) and Amy Klobuchar (D-MN) are expected to introduce a companion bill in the upper chamber. During a discussion with the Hardwood Federation on November 17, Sen. John Boozman (R-AK) expressed interest in supporting a senate bill and stated that his colleague John Thune will likely offer a slimmer version than H.R. 4996. The Hardwood Federation will keep you posted on details related to the pending companion bill and path forward in the Senate.

### **HFPAC Gears Up for End-of Year Fundraising**

As Congress pushes toward a packed agenda in December, HFPAC continues to make the rounds, advocating for the industry before a bipartisan group of lawmakers. Below is a list of federal legislators visited in November:

Brett Guthrie (R-KY) on November 4;  
Austin Scott (R-GA) on November 16;  
John Boozman (R-GA) on November 17;  
Jackie Walorski (R-IN) on November 18;  
John Garamendi (D-CA) on November 18.

Moving into December, HFPAC is evaluating events for multiple campaigns to close out 2021.

### **Contribute to the HFPAC!!!!**

It's hard to believe, but another year is about to wrap and another push for contributions to the HFPAC is here as well. With so much activity taking place in the area of taxes, carbon neutrality and transportation policy, it's more important than ever to educate Members of Congress about our hardwood priorities. With that in mind, please help us make sure that HFPAC remains strong, viable, and supporting the hard work of the Hardwood Federation and the hardwood industry. Please contribute today!

As a reminder there is a difference between Hardwood Federation and Hardwood Federation PAC fundraising. Any individual and any company may give as much as they want at any time to the Hardwood Federation. These funds are used for operations, salaries, day to day expenses, and

anything else that is not PAC related. They are also 82% tax deductible.

On the other hand, contributions to HFPAC must be from individuals only, up to \$5,000 per year, and can only be used for PAC related expenses. HFPAC, while managed by HF, belongs to the industry. It is designed to strengthen elected officials' understanding of the hardwood industry and advocate on the industry's behalf in Washington. The PAC is bi-partisan, working with those of both political parties and sends a powerful message to our elected officials telling them we are a serious and engaged industry.

If you participated in HFPAC in 2020 we continue to extend our deepest thanks and hope you will continue giving again this year and even jump up your participation level if you are able. If you missed out on giving last year, now is the best time to get involved.

For more information, please visit the HFPAC website and fill out a [Prior Approval Form](#) so that we may contact you directly on our efforts. Or, to get involved in the Hardwood Federation PAC please contact Bryan Brendle (202-463-5186) or [bryan.brendle@hardwoodfederation.com](mailto:bryan.brendle@hardwoodfederation.com) for more information.

### **Happening in the Hardwood World**

As 2021 comes to a close, the hardwood industry is still finding ways to meet in person before the holiday season. The Harwood Federation was excited to join several members, and one new member association, in November. Dana traveled to Nashville to join the National Wood Flooring Association Manufacturers Summit at the end of October then immediately turned around and made her way to St. Louis for the Railway Tie Association meeting. Both NWFA and RTA are long time members of the Hardwood Federation, and it was great to spend time with their members, present an overview of Federation efforts in D.C. and hear how companies are addressing the opportunities and challenges of an economy battered by the Covid-19 virus. Dana was also very pleased to be invited to the Appalachian Lumberman's Club which held its November meeting in Johnson City, TN. At the event, the APC Board announced that they were re-joining the Federation after several years away. The Federation is always excited to welcome a new...or

returning...member to our roster. Thank you all for the opportunity to participate in your events; we look forward to seeing you again in 2022!