

The Path to Keeping the Government Funded and the Lame Duck Agenda

October 3, 2024

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The path to funding the government never seems easy, and this year was no different. Congress struggled to appease the many voices in the Legislature and produce a bill that would pass in the House and the Senate.

During most of September, Speaker Mike Johnson brought his continuing resolution (CR) proposal to the House Floor for consideration twice, and as expected, the bill failed to pass each time. The concerns from lawmakers centered around the six-month timeframe (an extremely long length of time for a CR), allowing higher spending limits to be in effect longer than anticipated, and the inclusion of the SAVE Act (a provision that former President Trump pressured the Speaker to consider) — which would require proof of citizenship to vote in federal elections.

After two attempts to pass this CR package failed, Speaker Johnson stated that the Conference would “go back to the playbook, we’ll draw up another play, and we’ll come up with a solution. I’m already talking to colleagues about their many ideas. We have time to fix the situation. And we’ll get right to it.”

As this saga unfolded, the House utilized two of the three precious weeks of legislative time they had in September to agree on a solution. With only a week left, Johnson positioned the House to be in a situation where not many choices remained other than passing a clean, short-term CR.

To the outside world, the drama on the House floor may have looked chaotic; however, the Speaker succeeded in getting members on the record regarding where they stand. He has also attempted – and

WHAT IS A CONTINUING RESOLUTION?

Continuing resolutions are temporary spending bills that allow federal government operations to continue based on the previous year’s budgetary levels when final appropriations have not been approved by Congress and the President for the next fiscal year. Without final appropriations or a continuing resolution (CR), there could be a lapse in funding that results in a government shutdown.

failed – to address former President Trump’s demands to include the SAVE Act in a much longer six-month CR. All along, Speaker Johnson has steadfastly supported the conservative wing of the GOP. Once it was clear that the path far-right conservatives and the former president wanted to pursue was not attainable, Speaker Johnson rallied the GOP around a new message – that they must lead and avoid a shutdown so close to the election if they are serious about retaining or growing their majority.

Once the Speaker shifted to the inevitable – a clean, three-month CR – it was evident that it would pass with sweeping numbers, and both the House and Senate overwhelmingly passed the stopgap funding measure to keep the government open until December 20.

On the House side, the final vote was 341-82. Every House Democrat present, along with 132 Republicans, voted yes. This was the most decisive GOP vote for a CR this Congress. The notable GOP no votes included several House committee chairs – Ethics Committee Chair Michael Guest of Mississippi, Small Business Committee Chair Roger Williams of Texas, Natural Resources Committee Chair Bruce Westerman of Arkansas, and Judiciary Committee Chair Jim Jordan of Ohio. In addition, close allies of former President Donald Trump in the House – Florida GOP Reps. Matt Gaetz, Byron Donalds, and Mike Waltz voted against the stopgap along with several top House Freedom Caucus members, including Chair Andy Harris (R-MD) and Reps. Andy Biggs (R-AZ), Bob Good (R-VA), and Scott Perry (R-PA).

Other interesting “no” votes included two likely new senators who currently serve in the House and should be easily elected to their Senate seats in the next Congress – GOP Representatives Jim Banks of Indiana and John Curtis of Utah. Finally, three appropriators also voted no – Guest and GOP Representatives Tony Gonzales (R-TX) and Andrew Clyde (R-GA).

AN APPROPRIATIONS FACT

Out of the last three presidential election years – 2020, 2016, and 2012 – Congress was only able to pass full year appropriations before the end of the calendar year once, in 2020.

On the Senate side, the CR cleared the floor by an overwhelming majority vote of 78-18. Majority Leader Chuck Schumer was able to lock in a time agreement on the Senate Floor to pass the CR immediately upon receiving it from the House.

Once the measure cleared both chambers, members left town to focus on the 2024 Elections. Their abrupt departure from Washington leaves a tremendous number of legislative priorities incomplete and will undoubtedly set up a harrowing dash of

legislative activity between November 12 and December 20, also known as a Lame Duck Session.

Addressing government funding for the full fiscal year will be at the top of the list when Congress returns. During the deliberation on the CR, Speaker Johnson made it clear that they will not support a massive omnibus spending bill before Christmas this year. “We have broken the Christmas omni, and I have no intention of going back to that terrible tradition,” Johnson said. “We’re not going to have any buses. We’ll deal with that in the lame duck.”

While no clear outline was presented, we expect the House to put several appropriations bills together in smaller packages for passage in Congress. The reality is that the debate and final product post-election will depend on the election results. If the GOP retains the majority in Congress, Speaker Johnson will do everything in his power to avoid an end-of-year omnibus.

If former President Trump wins the White House, GOP leadership and conservatives in Congress may try to push any government funding measures into Trump's first 100 days to allow the new president to put his stamp on spending. Of course, an entirely different plan will be pushed should Vice President Harris prevail, or the Democrats take back the House.

The Bottom Line: The passage of a clean CR sets up a high-stakes spending fight during the lame-duck session that starts after the election. With only five of the twelve spending bills passed in the House and none in the Senate, we believe it is very likely that at least some of these bills will need to be packaged together to become law.

CONGRESS' LAME DUCK SESSION AGENDA

In addition to passing the final version of government spending bills, Congress will have a full agenda for the lame duck session that includes the following:

- **Disaster Relief Funding.** The continuing resolution did not include additional disaster relief funding that many lawmakers had been seeking for their communities — and now they can only hope the situation gets addressed in the post-election lame duck session. The CR keeps FEMA's Disaster Relief Fund at the same level negotiated for FY2024, but it allows the agency to spend that sum more quickly to meet needs. While there was a great deal of concern over how to assist states and communities hit by natural disasters before Congress left town just last week, the full impact of Hurricane Helene must now be added to that equation. In the wake of the storm that ravaged Florida, North Carolina, South Carolina, Georgia, and Tennessee, at least 134 people have died, and 1.5 million Americans remain in the dark. Today, government officials stated that the likely damage caused by Helene that the damage caused by the storm is in the tens of billions of dollars - with property damage in the range of \$15-26 billion and total damage and economic loss topping \$95-110 billion. When Congress returns for the lame duck session, they will need to replenish the Disaster Relief Fund. There are 3,500 federal personnel on the ground supporting recovery efforts across impacted states, including 1,000 from FEMA. Thus far, over 1.9 million meals, over 1 million liters of water, over 95,000 tarps, over 30 generators, and 150 ambulances have been shipped, a FEMA spokesperson said. In addition, the National Hurricane Center is now tracking three additional disturbances.
- **National Defense Authorization Act (NDAA).** Congress has passed an annual defense authorization bill for 63 straight years and is expected to do so again in December. On June 13, the Senate Armed Services Committee reported the National Defense Authorization Act on a 22-3 vote. On June 14, the House passed the Servicemember Quality of Life Improvement and National Defense Authorization Act (H.R. 8070), 217-199. The inclusion of several social-issue provisions assured a partisan vote in the House. Congress must negotiate several differences between the two bills. Among other things, the Senate legislation authorizes \$9 billion more than the House bill. More than 1,100 amendments have

WHAT IS A LAME DUCK SESSION?

A "lame duck" session of Congress is one that takes place after the election for the next Congress has been held, but before the current Congress has reached the end of its constitutional term. Under contemporary conditions, any meeting of Congress that occurs between a congressional election in November and the following January 3 is a lame duck session.

The significant characteristic of a lame duck session is that its participants are the sitting members of the existing Congress, not those who will be entitled to sit in the new Congress. Congress has held 16 lame-duck sessions since 1940.

been filed in the Senate. House and Senate negotiators will attempt to resolve differences before the bill is brought to the Senate floor during the lame-duck session.

- **Rebuilding the Francis Scott Key Bridge.** Congress did not resolve or include resources requested by the Biden Administration to help rebuild the Francis Scott Key Bridge in Baltimore, which collapsed in March after being struck by a cargo ship.
- **Hurricane Helene Relief - Crop Damage.** The devastation left behind by Hurricane Helene and the widespread destruction to farm crops could trigger up to \$7 billion in crop insurance payouts covering the worst-impacted commodities as bipartisan lawmakers call for more emergency aid. The Category 4 storm's devastation comes at the start of harvest season for many farmers.
- **Farm Bill Extension.** In November 2023, Congress extended several farm programs through September 30, 2024, after failing to pass a new five-year farm bill. Although the House Agriculture Committee passed a multi-year extension of agriculture and nutrition programs in May (H.R. 8467), Congress has taken no further action. Those expiring programs will need another extension.
- **Health Care Extenders.** In March, the Continuing Appropriations Act (H.R. 4366) extended several expiring health care programs through December 31, including funding for Community Health Centers, National Health Service Corps, Teaching Health Centers with Graduate Medical Education, and Special Diabetes programs. It also delayed scheduled cuts for "disproportionate share" hospitals. These provisions are likely to be extended again.
- **Debt Limit.** The Fiscal Responsibility Act enacted in June 2023 suspended the debt limit until January 2, 2025, at which point it will be reinstated at an amount equal to the outstanding debt at that time. Congress must determine in December if additional action to address the debt limit is possible. The Treasury Department will need to determine how much additional time might be made available by taking "extraordinary measures" to avoid default if Congress fails to act.