

Lame Duck

A LITTLE KNOWN FACT...

The expression “lame duck” was originally applied in 18th century Britain to bankrupt businessmen, who were considered “lame,” like a game bird injured by shot. By the 1830s, the usage had been extended to officeholders whose service already had a known termination date. In current American usage, for instance, a President is considered a “lame duck” after a successor has been elected and also whenever they are known not to be a candidate for reelection. Members of Congress in similar circumstances are also considered “lame ducks.” Recent history has shown that these sessions are anything but “lame” and often result in the most substantive legislating of the session.

116TH LAME DUCK AGENDA

Fiscal Year 2021 Appropriations

- The US government is currently funded under a temporary measure, or Continuing Resolution (CR), through December 11, 2020.
- The House has passed 10 of 12 FY21 appropriations bills (excluding Legislative Branch and Homeland Security appropriations measures) in the form of two consolidated appropriations bills or “minibus” packages.
- On November 4, Senate Majority Leader Mitch McConnell (R-KY) signaled that he and House Speaker Nancy Pelosi (D-CA) would like to move all 12 FY21 appropriations bills during the lame-duck session, expressing a preference for passage of an omnibus appropriations measure in December. This may prove to be a lofty goal, as the Senate is yet to mark up a single FY21 appropriations bill at even the subcommittee level.
- Highlighting a disconnect between McConnell’s stated objective and White House leadership, earlier on the same day, National Economic Council Director Larry Kudlow shared that he expects Congress to pass another short-term CR by or before December 11, effectively punting passage of a comprehensive FY21 appropriations measure (or measures) until early (calendar year) 2021 as a priority for the 117th Congress.
- While some lawmakers have discussed the viability of combining an omnibus FY21 appropriations measure with the next round of COVID-19 stimulus relief legislation—the latter of which now appears to be a consensus priority among Senate Republican leadership, House Democratic leadership, and White House leadership--this scenario appears to be unlikely as of this writing.

National Defense Authorization Act (NDAA)

- House Armed Services Committee (HASC) and Senate Armed Services Committee (SASC) staff have been working to reconcile the competing House and Senate versions of the NDAA, Congress’ massive annual defense policy bill, since mid-August.
- The Big Four—aka the respective Chairmen and Ranking Members of HASC and SASC—met in late October for the first time to begin to hash out some of the remaining major sticking points between their respective versions of the NDAA. However, the chambers have yet to name conferees and appear on track to do so in mid-November.
- As a result, formal NDAA conference proceedings are set to begin during the lame-duck session.
- The to-be-determined results of the Presidential and Senate elections may impact the dynamics of the formal conference proceedings, especially mindful that the House-passed version of the NDAA is under veto threat by President Trump. However, Congress has passed the NDAA for 59 consecutive years and appears to be on a trajectory to maintain this streak, with passage of the final version of the bill likely by early-to-mid December.

COVID-19 Relief Package

- Senate Majority Leader McConnell has called for consideration of a COVID-19 relief package before the end of the year. Speaker Pelosi has echoed that desire but has rejected calls for a smaller bill. Despite the shared interest between McConnell and Pelosi in restarting negotiations over the next pandemic stimulus bill during the lame-duck session, significant sticking points remain between the two sides. A decision by Congressional Democratic leadership to wait until control of the Senate is decided by two Georgia runoff races on January 5, 2021--and the potential for diminishing interest in the next COVID-19 relief package from a transitioning Trump Administration--could push passage of the next stimulus bill to early 2021 once the Biden Administration is in office. Below we highlight the differences between the House’s Heroes II bill and the two bills McConnell has introduced.

LAME DUCK SESSION - COVID SIDE BY SIDE

COVID 4 Major Issues	Heroes II	McConnell I	McConnell Skinny
TOTAL COST	\$3.2 trillion	\$1.1 trillion	\$500 billion
State, Local, Tribal	\$500 billion	\$0	\$0
Liability	None	Protection Until 2024	Protection Until 2024
Postal Funding	\$25 billion	None	Loan
Unemployment Insurance	\$600 per week bonus	\$200 per week bonus	\$300 per week bonus
Stimulus Checks	\$1,200 Ind. \$75,000 Threshold	\$1,200 Ind. \$75,000 Threshold	\$1,200 Ind. \$75,000 Threshold
Airline Funding	Additional Funding	Additional Funding	Additional Funding
Nutrition Assistance	\$54 billion	\$0	\$0
Education Funding	Education Funding	\$105 billion	\$115 billion
Health Funding	\$468 billion	\$106 billion	\$45 billion
Agriculture Aid	\$33 billion	\$20 billion	\$20 billion
PPP	Extend Program	Extend Program	Extend Program
Housing	\$200 billion	\$3.3 billion	None
Child Care	\$132 billion	\$15 billion	\$15 billion
Business Tax Breaks	\$258 billion	\$203 billion	None
Repeal SALT	Yes, \$138 billion	None	None
Hazard Pay	Yes	None	None
Eviction Stop/HouseFunding	Moratorium \$200 billion	No Mora. \$3.3 billion	None

LEGISLATION PASSED IN RECENT LAME DUCK SESSIONS

Congress	Year of Lame Duck	House	Senate
111th	2010	CR appropriations; NDAA; FDA Food Safety Modernization Act; Don't Ask, Don't Tell Repeal Act; income tax cuts; unemployment benefits; health care benefits for 9/11 workers; Senate approved ratification of New START treaty with Russia	
112th	2012	FISA Amendments Act Reauthorization Act of 2012; NDAA; Intelligence Authorization Act; American Taxpayer Relief Act	
113th	2014	CR and omnibus appropriations; NDAA; Tax Increase Prevention Act; No Social Security for Nazis Act; Government Reports Elimination Act; Chesapeake Bay Accountability and Recovery Act; Tax Increase Prevention Act; Senate confirmed 252 nominees	
114th	2016	CR appropriations; Iran Sanctions Extension Act; 21st Century Cures Act; NDAA; Senate confirmed 117 nominees	
115th	2018	CR appropriations; Coast Guard Authorization Act of 2018; Agriculture Improvement Act of 2018 (Farm Bill); First Step Act of 2018; Congressional Accountability Act of 1995 Reform Act; National Flood Insurance Program Extension Act	

Sources: Congressional Record, Congressional Quarterly Weekly Report, CQ Almanac, New York Times, Reuters.