

# Fall Legislative Preview: Antitrust laws and technology

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Sept. 13, 2021 By Dean DeChiaro, CQ

The issue

The 117th Congress began with lawmakers on both sides of the aisle targeting large companies like Facebook, Apple, Amazon and Google.

Lawmakers were eager to limit the reach of the social media and technology giants. The sheer size of the companies raised concerns about the economic impact of their business practices, including acquisitions of competitors, conditions put on vendors, and, in some cases, decisions to enter markets where vendors were succeeding.

Where it stands

Led by Reps. David Cicilline, D-R.I., and Ken Buck, R-Colo., members of the House Judiciary Committee introduced and quickly approved a package of bipartisan bills in June that would target anti-competitive practices by dominant companies.

The proposals followed a 16-month investigation during the previous Congress that concluded all four companies have monopoly power in their respective markets. One measure would prevent dominant firms from acquiring smaller companies that pose a risk to them (HR 3826), while another would prohibit them from engaging in business where conflicts of interest exist (HR 3825).

Senators have introduced their own proposals, including one (S 2710) in early August that would stop Google and Apple from manipulating their respective app stores to push their own products and services. A House companion bill (HR 5017) was introduced not long after.

Cicilline, the chairman of the House Judiciary antitrust subcommittee, and his Senate counterpart, Amy Klobuchar, D-Minn., are leading the push for legislation.

Antitrust hawks were encouraged when President Joe Biden nominated prominent Big Tech critics Lina Khan and Jonathan Kanter to lead the Federal Trade Commission and the Justice Department's Antitrust Division.

But the anti-monopoly camp says Congress must pass new legislation to give Khan and Kanter, since confirmed, the tools to be effective in their posts.

While each piece of key legislation introduced so far has had a Republican co-sponsor, support in the GOP isn't widespread. Most Republicans are concerned changing the antitrust laws to target Big Tech could subject other sectors of the economy to unintended regulation.

Sen. Mike Lee, R-Utah, the top Republican on the Senate antitrust subcommittee, has said he believes Democrats are leveraging distrust of Big Tech to push an agenda outside the purview of antitrust laws. But Democratic leaders also have been cagey about where they stand on major new antitrust laws,

despite their general willingness to criticize Big Tech.

The Senate passed one bipartisan bill ([S 228](#)) in the summer by adding it to unrelated legislation ([S 1260](#)) that would adjust the filing fees charged by the FTC to companies to merge with or acquire other companies. Klobuchar and Sen. [Charles E. Grassley](#), R-Iowa, backed the proposal.

The fees haven't been updated since 2001. Large companies would pay more, lowering the burden on smaller businesses and directing more revenue to the agency's antitrust enforcement division.

The outlook

The big tech companies, among the most profitable in the world, have launched a lobbying blitz that has left them so far mostly unscathed by legislation, and makes it unlikely Congress will enact any laws this fall.

The GOP's lack of enthusiasm is the chief obstacle to Cicilline's and Klobuchar's efforts.

With the fall calendar including two infrastructure bills, including one involving a partisan reconciliation procedure, as well as the spending bills and a measure to address the debt limit, neither the House nor the Senate is likely to take up antitrust legislation this year.

The House is, however, expected to take up the Senate bill on FTC filing fees.

Even if Congress declines to take up additional proposals, the antitrust landscape nevertheless remains a minefield for Apple, Amazon, Google and Facebook, which face an array of legal threats from the federal government, various state attorneys general and the European Union.

# Fall Legislative Preview: Appropriations

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Sept. 13, 2021 By Jennifer Shutt, CQ

## The issue

The fiscal 2022 appropriations process began much later than normal with the Biden administration not releasing its full budget request until May 28 — just four months before the start of the new fiscal year.

The proposal set off a tense debate on Capitol Hill about how much the federal government should spend on defense programs versus domestic and foreign aid accounts.

The White House's budget proposed a 16.5 percent increase for nondefense programs and a 1.7 percent increase to defense funding for the upcoming fiscal year.

House Democrats stayed fairly close to those numbers in their initial spending bills. But Senate GOP leaders have called the amounts unacceptable, pushing for parity between increases in defense and nondefense funding.

Congressional leaders have yet to begin serious negotiations over how much to spend during the fiscal year that begins Oct. 1, ensuring the need for at least one stopgap spending bill to avoid a partial government shutdown.

## Where it stands

The House Appropriations Committee approved all 12 of its bills in July and the full chamber passed the State-Foreign Operations Appropriations bill ([HR 4373](#)), the Legislative Branch Appropriations bill ([HR 4346](#)), and a package of seven other spending measures ([HR 4502](#)) ahead of the August recess.

Those bills passed without any Republican support after GOP members railed against the spending levels and policy throughout the bills.

The Senate Appropriations Committee marked up its Agriculture ([S 2599](#)), Energy-Water ([S 2605](#)) and Military Construction-VA ([S 2604](#)) bills in August on a bipartisan basis and is expected to debate the Legislative Branch and Transportation-HUD bills this month.

Chairman [Patrick J. Leahy](#), D-Vt., said he'd like congressional leaders and the Biden administration to reach agreement on the total spending levels for defense and nondefense programs so the panel can debate all of the fiscal 2022 bills. But that seems unlikely in the next few weeks, as much of the Democratic Party's attention remains focused on advancing a \$3.5 trillion reconciliation package.

## The outlook

With no chance of negotiating full-year appropriations measures before the new fiscal year begins on Oct. 1, Congress is expected to draft a continuing resolution this month that will likely last until November or December.

That measure is on track to include more than \$30 billion in additional spending to address natural disasters and Afghan refugee resettlement.

The Biden administration in early September began urging Congress to include in the CR more than \$14 billion to address natural disasters during the past 18 months, at least \$10 billion to help state and local governments recover from Hurricane Ida, and \$6.4 billion to relocate thousands of Afghan refugees.

The administration's move to add that spending could help bolster the vote count on the funding measure, reducing the likelihood of a partial government shutdown this fall.

Whether the first CR will be the last stopgap of the year will be determined by how quickly the House, Senate and Biden administration can reach agreement on all 12 government funding bills.

In addition to significant differences on spending levels, the two parties have had bitter disagreements this year about how federal dollars should be spent. At the top of this list is whether the federal government should fund abortion services or continue a ban from the 1970s.

House Appropriations Chair Rosa DeLauro, D-Conn., eliminated long-standing provisions throughout many of the appropriations measures, saying the policy riders are "discriminatory policy."

Republicans were staunchly opposed to the decision with every House GOP lawmaker sponsoring an amendment to add the provisions back into the Labor-HHS-Education spending bill. Congressional leaders will need to negotiate a bipartisan agreement on the issue if they want to avoid a string of stopgap spending bills that would continue spending levels and policy from the Trump administration.

# Fall Legislative Preview: Authorization for use of military force

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Sept. 13, 2021 By Rachel Oswald, CQ

## The issue

Twenty years have passed since the Sept. 11 terrorist attacks and there are no U.S. military troops in Afghanistan, raising questions about repealing or revising the legal rationales for America's post-9/11 wars.

But new national security concerns — and, as always, political optics — are gumming up the works.

Prospects look good for lawmakers to nix the 2002 authorization for the use of military force (AUMF) that was the legal underpinning of the Iraq conflict. But there seems little chance lawmakers would attempt to do the same or pare back the much-broader 2001 authorization for the war in Afghanistan. That's because the Taliban takeover of Afghanistan has heightened lawmakers' concerns that terrorist groups may once again find safe refuge in the war-torn country.

The authorization for an even more distant conflict, the 1991 Gulf War, is also drawing scrutiny. It may be the least controversial repeal, but still needs an avenue to passage.

## Where it stands

In the House, Rep. Barbara Lee, D-Calif., is spearheading efforts to repeal the 2002 AUMF, which enabled the 2003 U.S.-led invasion of Iraq that toppled Saddam Hussein's regime. Combat operations in Iraq effectively ended in 2011, though a small number of U.S. troops remain there supporting counterterrorism efforts against the Islamic State.

Lee's 2002 AUMF repeal bill (HR 256) passed the House in June by a healthy margin, with nearly 50 GOP lawmakers voting in support. And the House version of the fiscal 2022 Defense appropriations bill (HR 4432), which is still awaiting a floor vote, includes an amendment from Lee that would repeal the 2002 measure.

The Senate Appropriations Committee has yet to take up its version of the Pentagon spending bill.

The Senate is moving slower on AUMF repeal efforts, though there is bipartisan support for changes.

In August, the Senate Foreign Relations Committee advanced a bipartisan joint resolution (S J Res 10) from Sens. Tim Kaine, D-Va., and Todd Young, R-Ind., that would repeal both the 2002 AUMF and the 1991 Gulf War authorization.

The House has already easily passed legislation (HR 3261) from Rep. Abigail Spanberger, D-Va., that would repeal the Gulf War AUMF, ensuring the two chambers will be on the same page on at least one force-approving measure when the Senate, as is expected, passes the Kaine-Young resolution.

The Biden administration backs repeal of the 2002 and 1991 AUMFs. The White House also said earlier this year that it supported replacing the 2001 measure with a more tailored and narrow authorization, but it has done little to substantively engage with lawmakers on the matter or to spell out its preferred language.

And that was all before the August collapse of the central government in Afghanistan.

#### The outlook

Kaine has said his resolution repealing the 2002 and 1991 AUMFs has enough support to overcome the Senate's 60-vote filibuster threshold. The question remains whether it will be offered as a standalone resolution or as an amendment during floor debate this fall of the fiscal 2022 defense policy bill. Considering how precious floor time is, the latter option would be an easier lift.

Prospects for action this fall on repealing or modifying the 2001 authorization — already an uphill climb before the Taliban takeover of Afghanistan — don't look good.

Republicans and many Democrats will argue the timing is not right to significantly pare back the generous anti-terrorism authorities provided by the statute on the grounds it is too soon to know whether the Taliban will honor its promise to prevent groups like al-Qaeda and the Islamic State from resuming and expanding their operations in the South Asian country.

Sen. Benjamin L. Cardin, D-Md., may offer his resolution (S J Res 22) to repeal the 2001 AUMF within one year of the policy bill's enactment as an amendment during floor debate on the Senate NDAA. Cardin says it's important to get the clock started on updating the 2001 authorization and that a forcing mechanism may be necessary. However, it is not clear Cardin's gambit would have filibuster-proof support.

The House Defense spending measure also includes language from Lee that would sunset the 2001 AUMF eight months after bill enactment. Whether senators include a similar provision is another matter to watch when that chamber takes up its military appropriations bill this fall.

# Fall Legislative Preview: China tech competition

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Sept. 13, 2021 By Gopal Ratnam, CQ

The issue

Congress is searching for a U.S. response to China's aggressive pursuit of global technology leadership.

Chinese President Xi Jinping wants his country to become “the world's main center of science and the high ground of innovation” and a technology superpower. The Asian giant's annual spending on research and development may have surpassed U.S. spending in that realm, according to data compiled by the National Science Foundation.

Lawmakers in both parties are alarmed by China's activities, and both chambers have passed legislation that would authorize new money. But the chambers are taking different approaches to policy. They would need to iron out those differences to turn any measures into law, and they would then face the need to follow through by appropriating the money.

Where it stands

The House and Senate have passed several bills aimed at addressing the U.S.-China technology competition in areas including computing, biological and material sciences, medical research, as well as space and maritime technologies.

Championed by Senate Majority Leader Charles E. Schumer, D-N.Y., and Sen. Todd Young, R-Ind., that chamber's legislation (S 1260) would authorize \$100 billion for science and technology programs across the U.S. government, including \$81 billion over five years for the National Science Foundation.

A matching bill in the House (HR 2225) led by Rep. Eddie Bernice Johnson, D-Texas, chairwoman of the Science, Space, and Technology Committee, and Rep. Frank D. Lucas of Oklahoma, the panel's top Republican, would authorize about \$78 billion for NSF.

Both bills would create a new technology directorate within the foundation and task it with translating advances in basic science into real-world applications.

But the differences in the bills are substantial.

The Senate measure includes provisions from committees whose purviews are outside science and technology and is designed to counter a number of China's goals. It is intended to prevent espionage of U.S. research and more closely scrutinize Chinese investments in the United States.

The House measures lack some of the provisions aimed at curbing Chinese espionage.

The Senate would also authorize \$52 billion in grants and subsidies for the U.S. semiconductor industry, whose share of manufacturing has fallen to 12 percent of global production from 37 percent in 1990.

The House bill text doesn't address the semiconductor industry.

Those differences would have to be resolved before Congress could send anything to President Joe Biden's desk.

The House also has passed a second bill ([HR 3593](#)) to respond to China's technology goals. The bill would authorize about \$50 billion in funding to labs overseen by the Department of Energy. The Senate bill includes about \$17 billion for the Energy Department.

The House bill would, among other things, authorize work in areas like "high energy laser research, helium conservation, and quantum networking," according to a summary from the American Institute of Physics.

## Outlook

The major obstacle to clearing legislation to address China's ambitions is the congressional calendar. The research and development bills are likely to be taken up only after the House votes on an infrastructure measure that the Senate has already passed and after both chambers work on a reconciliation bill that is dividing Democrats.

Add to that that Congress has to work on fiscal 2022 appropriations bills and on the debt ceiling.

The bipartisan agreement for the research and development bills in both chambers is broad enough that lawmakers could decide to resolve outstanding issues and attach those portions of the bill to some of the must-have legislation.



# Fall Legislative Preview: Debt ceiling

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 [plus.cq.com/doc/weeklyreport-6333258](https://plus.cq.com/doc/weeklyreport-6333258)

Sept. 13, 2021 By Lindsey McPherson, CQ

## The issue

Republicans' vow to not help Democrats raise or suspend the debt limit has set up a potential fiscal crisis this fall.

The statutory debt limit was reinstated Aug. 1 after the latest suspension expired. The Treasury Department immediately began using “extraordinary measures” — a loaded phrase for what has become routine — to pay the government’s bills.

Treasury Secretary Janet Yellen told congressional leaders in a letter Sept. 8 that “the most likely outcome is that cash and extraordinary measures will be exhausted during the month of October.”

Neither party enjoys voting to raise the debt ceiling because voters may see it as approval of the high national debt, but Republicans especially are loath to take such votes without also attempting to restrain spending.

As the end of the last debt limit suspension approached earlier this summer, Republicans initially warned that “structural reforms” to budget and appropriations policies would be their price for supporting another extension. Democrats rejected that.

Senate Minority Leader Mitch McConnell pivoted to a different strategy, quickly embraced by most of his conference. The Kentucky Republican argued that since Democrats used the partisan reconciliation process to enact a deficit-financed \$1.9 trillion pandemic relief bill (PL 117-2) in March and plan to use it again this fall to pass another \$3.5 trillion in spending that may not be fully offset, they should use the same process to raise the debt limit.

“If they want 50 lock-step Democratic votes to spend trillions and trillions more, they can find 50 Democratic votes to finance it,” McConnell said in an Aug. 9 floor speech. “If they don’t want Republicans’ input, they don’t need our help.”

## Where it stands

Democrats ignored McConnell’s advice and didn’t include instructions to raise the debt limit in the fiscal 2022 budget resolution (S Con Res 14) that both chambers adopted to kick-start the reconciliation process for their \$3.5 trillion spending plan.

Congress hasn’t yet attempted to raise or suspend the debt ceiling through regular order. The House even eliminated one legislative vehicle in late August as Democrats, on a 220-212, party-line vote, adopted a rule (H Res 601) that “deemed” the budget adopted. The measure turned off a provision in House rules that automatically sends the Senate a resolution suspending the debt limit for the entire fiscal year once a concurrent budget resolution is adopted.

Senate Majority Leader Charles E. Schumer, D-N.Y., and Speaker Nancy Pelosi, D-Calif., separately told reporters Sept. 8 they have several options for addressing the debt limit this fall and have yet to narrow them. Pelosi, however, ruled out Democrats amending the budget resolution to add instructions for raising the debt ceiling. “We won’t be putting it in reconciliation,” she said.

Both Democratic leaders warned Republicans against attempting to hold the debt ceiling “hostage” to extract other priorities. Democrats argue that since some of the debt stems from borrowing initiated under the Trump administration — like the 2017 tax law (PL 115-97) and the first rounds of federal coronavirus relief — Republicans should help lift the debt ceiling.

“When President Trump was president, we Democrats supported lifting the debt ceiling because it’s the responsible thing to do,” Pelosi said. “I would hope that the Republicans would act in a similarly responsible way.”

But it will be an uphill battle to convince 10 Republicans, the minimum needed to advance a bill under the Senate’s 60-vote threshold. In an Aug. 10 letter, 46 Senate Republicans, including McConnell, vowed not to vote to increase the debt ceiling. Only Maine’s Susan Collins, Louisiana’s John Kennedy, Alaska’s Lisa Murkowski and Alabama’s Richard C. Shelby didn’t sign.

#### The outlook

Democrats are likely to attach a short-term debt limit suspension to a stopgap government funding bill Congress must pass before the fiscal year ends Sept. 30, extending the deadline for action on both until late 2021.

Attaching the debt limit would pressure Republicans on three fronts: they don’t want to be seen facilitating a government shutdown, denying critical aid to GOP states like Louisiana that have been ravaged by natural disasters, and slowing down vetting and placement of Afghan refugees that Republicans have argued the United States needs to help.

“This happens a lot,” Sen. Shelley Moore Capito, who signed the GOP letter, told the West Virginia Chamber of Commerce Sept. 1. “Most people are going to say, ‘I don’t want to shut down government; I’ll swallow the debt limit to keep government moving.’ And that could be where we end up.”

*Jennifer Shutt contributed to this report.*

# Fall Legislative Preview: Flood insurance

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 [plus.cq.com/doc/weeklyreport-6332763](https://plus.cq.com/doc/weeklyreport-6332763)

Sept. 13, 2021 By Caitlin Reilly, CQ

## The issue

The National Flood Insurance Program will expire Sept. 30 ([PL 116-159](#)) unless Congress takes action. The increasing frequency and severity of storms have strained a program that as of last year faced a \$20.5 billion shortfall. The costs of Hurricane Ida are the latest burden.

Congress established the program in 1968 (PL 90-448) after private insurers increasingly left flood coverage out of homeowners' policies. Now, the program run by the Federal Emergency Management Agency supports more than 5 million flood insurance policies, totaling more than \$1.3 trillion in coverage, according to the Congressional Research Service in a 2020 report.

If Congress allows the reauthorization to lapse, the program would be unable to issue new policies and any more borrowing from the Treasury Department would be capped at \$1 billion.

A lapse could disrupt the housing market. Home buyers are required to purchase flood insurance in high-risk areas if their mortgage lenders are backed by the government. When the program's authorization lapsed for a month in 2010, about 1,400 home closings a day were canceled or delayed, according to estimates cited by the Congressional Research Service.

## Where it stands

Lawmakers disagree about what changes should be made to overhaul a program that isn't keeping pace with the escalating costs of climate change even though there's broad agreement on the need to do so. Congress has given the program a short-term reauthorization 16 times since 2017.

On one hand, lawmakers want insurance policies to remain affordable for homeowners. Congress started the program in the first place because flood insurance wasn't available or affordable for homeowners.

On the other hand, premiums have failed to keep up with rising costs driven by the severity and frequency of storms. The program has struggled to remain solvent since 2005, the year Hurricane Katrina hit New Orleans.

As of August last year, the program owed \$20.5 billion even though Congress canceled \$16 billion of the program's debt in October 2017.

The House Financial Services Committee is proposing to forgive the program's \$20.5 billion debt as part of reconciliation legislation ([S Con Res 14](#)) now being drafted. The panel, which released its reconciliation [text](#) Thursday, is also proposing to appropriate \$3 billion to the Federal Emergency Management Agency for flood mapping and risk analysis.

Views on how to fix the program for the most part follow regional, rather than partisan lines, often dividing lawmakers from flood-prone areas from members of their party representing inland states and districts.

Sens. Patrick J. Toomey, R-Pa., and Tina Smith, D-Minn., for example, have praised FEMA's new methodology to bring premiums in line with risk and making homeowners more aware of the threats they face. Scheduled to take effect Oct. 1, the methodology allows the agency to consider geography, flooding frequency, river versus ocean flooding, and building characteristics when setting premiums.

Sens. John Kennedy, R-La., and Bob Menendez, D-N.J., are critics of the methodology. Kennedy says it will raise premiums for working-class people in flood-prone cities.

FEMA estimates that costs would increase for 80 percent of policy holders.

Other proposed solutions involve spending more money on flood mitigation, encouraging private competition, and targeting subsidies to keep policies affordable.

Rep. Emanuel Cleaver II, D-Mo., chairman of the House Financial Services Subcommittee on Housing, Community Development and Insurance, said paying off the debt in reconciliation could give lawmakers time to consider a bigger overhaul.

"There is a possible connection with flood insurance and the infrastructure," Cleaver said in an interview.

House Financial Services Chairwoman Maxine Waters, D-Calif., also has a \$600 billion housing bill (HR 4497) that would provide \$11.9 billion in flood mitigation grants, and cap premium increases at 9 percent a year.

The outlook

The program appears headed toward another short-term extension because of the looming deadline and the heavy legislative agenda in the fall. Cleaver said his panel is already considering an extension to allow time to work on a longer-term fix. The Office of Management and Budget asked Congress on Sept. 7 to include the program in a continuing resolution to fund the government past the end of the fiscal year.

"We may end up simply getting an extension, which is more than likely," Cleaver said. "It would give us some time given the kind of thoughtful consideration it deserves. Plus, we will have a better idea once this package is approved of exactly what we can do."

# Fall Legislative Preview: Health care

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Sept. 13, 2021 By Mary Ellen McIntire and Lauren Clason, CQ

## The issue

Democrats, who enacted the 2010 health care law when they previously controlled Congress and the White House, are working on another big expansion of health care coverage in the reconciliation package this fall. The legislation may not be nearly as far-reaching as the health care law ([PL 111-148](#), [PL 111-152](#)), but the indications are that it will have deep effects on the industry.

The Democrats say they are trying to help millions of people still left uninsured, use federal buying power to negotiate drug prices and to limit price increases, extend maternal health coverage, and expand the benefits that the elderly have under Medicare. Their effort would provide coverage for some who are currently uninsured because their states did not expand Medicaid.

## Where it stands

House committees are marking up their pieces of the reconciliation package, which the House hopes to pass this month.

The Energy and Commerce Committee released a [fact sheet](#) of its proposals on Sept. 9 that include an extension of Medicaid coverage to people who would be eligible under the expansion of the 2010 health care law but live in states that did not expand. The panel said 4 million uninsured people would receive coverage with the change.

Between 2022 and 2024, the panel is also proposing to lower the eligibility for premium tax credits under the health law to under 100 percent of the federal poverty line, and then in 2025 would set up a new federal Medicaid program for that population.

Democrats are also looking to address several other programs through reconciliation, such as investing in home and community-based services for older people and people with disabilities and establishing the Advanced Research Projects Agency for Health proposed by President Joe Biden.

The panel's fact sheet says it would cut prescription drug costs by requiring the Department of Health and Human Services to negotiate annually with drug makers for the highest priced and most commonly used drugs, and to require manufacturers that raise prices faster than inflation to pay the excess to the government. It would also cap out-of-pocket costs at \$2,000 a year for Medicare Part D beneficiaries.

The panel is proposing to give seniors covered by Medicare dental, vision and hearing benefits by phasing them in, and to extend coverage for pregnant women on Medicaid.

Senate Finance Chairman [Ron Wyden](#), D-Ore., is preparing a bill he hopes will earn the support of all Senate Democrats.

## The outlook

Democrats will likely win some type of health care expansion through the reconciliation process, but may have to compromise to navigate the small margins that make up their majority and competing priorities.

Progressives' efforts to lower the Medicare eligibility age from 65 are not expected to pass. The provision wasn't included in the reconciliation documents released by the Ways and Means or Energy and Commerce committees.

Senate Budget Chair Bernie Sanders, I-Vt., told reporters Wednesday that he did not think the dental provision implementation should be as drawn out as House lawmakers are proposing.

Health care provisions will also face intense lobbying. Complicating any outlook is the likelihood that some groups will be willing to accept provisions they would prefer not to have as long as they are offset by provisions that are beneficial.

Specialty groups are lobbying lawmakers to blunt the impact of coming pay reductions stemming from the reevaluation of Medicare billing codes for primary care and other undervalued services. Other groups are also lobbying heavily, including the Pharmaceutical Research and Manufacturers of America and AARP, who are on opposite sides of the debate over whether to let Medicare limit some drug prices.

A few other items could find their way into one of the moving vehicles with bipartisan support, but hurdles remain. Growing interest in lifting restrictions on telehealth under Medicare has spurred committee leaders in both chambers to examine the issue, but questions over cost and quality are still unresolved.

Additionally, many current telehealth flexibilities granted during the COVID-19 pandemic will not expire until the end of the declared public health emergency, giving Congress more time to deliberate as the delta variant surges through the country.

Lawmakers have also expressed interest in smaller tweaks like reducing billing requirements, which could be easier near-term lifts.

# Fall Legislative Preview: Housing

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Sept. 13, 2021 By Caitlin Reilly, CQ

## The issue

Democrats in Congress and the White House are trying to push through an ambitious spending program that would narrow a wide gap in the supply of housing, particularly affordable housing. The reconciliation bill represents their best shot in years to provide extra money.

The White House says the country is in an affordable housing crisis. In 2019, 37.1 million households spent more than 30 percent of income — the threshold at which the government deems housing unaffordable — on housing. The Harvard Joint Center on Housing Studies says 17.6 million of those households spend at least half of their income on housing.

About 2.3 million households receive federal subsidies through the Section 8 housing voucher program, but the Urban Institute think tank estimates that 8.2 million more households qualify but don't receive the vouchers. Families can wait years to get a voucher. Others can't even start the process because some jurisdictions have closed their wait lists because demand so outstrips supply.

The Public Housing Authority Directors Association estimates that public housing for 1.65 million residents needs \$70 billion in repairs. And the National Low Income Housing Coalition estimates that 10,000 public housing units are lost a year to disrepair.

## Where it stands

Both the House and Senate have passed a budget resolution ([S Con Res 14](#)) that gives committees instructions to mark up housing legislation under the \$3.5 trillion reconciliation package that would provide hundreds of billions of dollars that could be used to provide new housing units, to give subsidies to renters, or both.

The budget resolution said the House Financial Services Committee could increase the deficit by \$339 billion during the next decade through housing spending. It authorized the Senate Banking Committee to increase the deficit by \$332 billion, a reflection of the panels' slightly different jurisdictions. Either amount would be a significant increase over the \$213 billion President Joe Biden asked for in one of his infrastructure proposals, the so-called American Jobs Plan.

Housing advocates say leadership from the two committees are working closely together and that the legislation the House committee is to mark up Sept. 13 reflects the priorities of both panels.

The House Financial Services Committee released [text](#) Thursday of its reconciliation recommendations, including for \$90 billion in new rental assistance. Of that, \$75 billion would go to Section 8 housing choice vouchers and \$15 billion would go for project based assistance.

Biden had omitted Section 8 vouchers from his proposal.

As detailed by the reconciliation text and an accompanying memo, the committee would also recommend providing \$80 billion for public housing and the Housing and Urban Development Department's Choice Neighborhoods program, including a \$77.25 billion authorization to address the backlog of repairs to public housing and \$2.75 billion in grants to help communities redevelop distressed public housing and Housing and Urban Development Department housing. The memo said the aid would benefit nearly 16,000 units.

The proposal would also provide \$37 billion for the Housing Trust Fund and \$35 billion for HUD's Home Investment Partnerships Program. The programs support the construction of affordable housing.

The recommendations include \$10 billion to help first-time and first-generation home buyers to help cover the cost of down payments, closing costs and costs to reduce interest rates.

The outlook

The reconciliation process, a partisan approach designed to avoid the Senate's filibuster rules, is fraught with risk. Democrats can't afford to lose many votes from their side and moderates in both chambers have signaled resistance.

The inclusion of housing vouchers may complicate the package's chances in the Senate under the chamber's reconciliation rules. Lawmakers would need to ensure that any money for new housing vouchers be spent within a 10-year window unless the Financial Services and Banking committees can find an offsetting cost to cut within their own jurisdictions.

"That would be really difficult," said Sarah Saadian, vice president of public policy for the National Low Income Housing Coalition. To account for reconciliation's limitations, vouchers in the bill would likely be either single-use vouchers or have an expiration date attached to them, like the emergency vouchers authorized by March's pandemic relief package (PL 117-2) also passed through reconciliation.

The limitations shouldn't stop Congress from including vouchers in the package, Saadian said in an interview.

"We should give any resources right now to help people who are struggling today with rent. And then in 10 years when those resources expire, fight to extend them further and to get even more resources for people who need it," she said.



# Fall Legislative Preview: Immigration and DACA

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Sept. 13, 2021 By Suzanne Monyak, CQ

## The issue

Democrats are hoping to pass legislation that would create a pathway to citizenship for millions of undocumented immigrants, including those known as Dreamers who were brought to the U.S. as children.

Roughly 650,000 of those Dreamers are currently covered by an Obama-administration program called Deferred Action for Childhood Arrivals, or DACA, that provides temporary work authorization and deportation protection.

The DACA program covers only those in the U.S. as of June 2007 and doesn't offer a path to permanent residency. The program has also been halted and revived in recent years by former President Donald Trump and various court rulings. Most recently, a federal judge in Texas ruled the program is illegal and barred the Biden administration from approving new DACA requests.

## Where it stands

The House passed two bills in March that could establish a pathway to citizenship for roughly 3 million Dreamers and other individuals with temporary humanitarian protections (HR 6), as well as for roughly 300,000 farmworkers and their families (HR 1603).

Democrats have also introduced White House-backed legislation (HR 1177, S 348), which has yet to move in either chamber, that would create a pathway to citizenship for nearly all 11 million undocumented immigrants.

But the proposed legislation to overhaul the U.S. immigration system has yet to gain traction.

The Senate Judiciary Committee held a hearing on the bill to legalize Dreamers on June 15, the ninth anniversary of DACA's creation, but the legislation has yet to get a vote on the Senate floor.

Judiciary Chairman Richard J. Durbin, D-Ill., and Sen. Lindsey Graham, R-S.C., introduced narrower, standalone legislation (S 264) to help Dreamers, but even Graham has said he would not vote for his bill without provisions enhancing border security attached.

Border agents encountered more than 845,000 unique migrants at the border in fiscal 2021 through July, up from 800,000 in the same months of fiscal 2019. That includes 154,000 migrants encountered in July alone.

Following unsuccessful efforts to negotiate bipartisan immigration revisions, Democrats plan to go it alone on the issue and attempt to establish a pathway to citizenship for certain categories of undocumented immigrants through budget reconciliation. That process allows legislation that directly affects the federal budget to pass with a filibuster-proof simple majority in the Senate.

Both the House and Senate have adopted the budget resolution ([S Con Res 14](#)), teeing up the process of drafting the \$3.5 trillion spending bill. Senate Democratic leaders instructed the Judiciary Committee to allocate \$107 billion, in part, for “lawful permanent status for qualified immigrants” and “investments in smart and effective border security measures.” It remains to be seen how many immigrants could be affected.

## The outlook

Congress hasn’t passed meaningful updates to immigration laws in decades, and the Democrats aren’t likely to have the votes to do so now unless they get it done through reconciliation. But even that effort looks fraught, with conservative Democrats already raising concerns about the amount of spending.

Democrats face another problem passing immigration provisions. Senate Parliamentarian Elizabeth MacDonough would have to rule on whether such provisions are eligible to pass via reconciliation. Senators acknowledge they have a slim chance to pass immigration legislation if MacDonough, who ruled against Democrats’ attempt to push a minimum wage increase through the last reconciliation process, says that legalization measures are not eligible.

“If we don’t have reconciliation, I’m not sure that there’s a pathway forward,” Sen. [Bob Menendez](#), D-N.J., said in late July.

The Department of Homeland Security, responding to the court’s ruling, is planning to reissue DACA through the regulatory process. That would likely cover the 650,000 Dreamers but still leave those undocumented immigrants who don’t currently have DACA status where they are today.

Outside of Congress, the program is popular. A June 2020 Pew Research Center survey found that 74 percent of U.S. adults support establishing a path to permanent status for immigrants who came to the U.S. illegally as children.

If Democrats, who control both chambers of Congress and the White House, fail to deliver on years of promises to help undocumented immigrants, they could lose a key window to make these legislative changes before the 2022 midterm elections, when they are expected to lose seats.

# Fall Legislative Preview: Infrastructure

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 [plus.cq.com/doc/weeklyreport-6332045](https://plus.cq.com/doc/weeklyreport-6332045)

Sept. 13, 2021 By Jessica Wehrman, CQ

## The issue

Lawmakers face the expiration of the current surface transportation law ([PL 114-94](#)) at the end of September, giving them a tight deadline for one of Congress' major authorization bills.

Bipartisan desire to address the country's shortcomings in transportation infrastructure means there's support not only for the five-year reauthorization of transportation programs, but also for a big top-up in transportation funding as well as money for broadband, water programs and the electricity grid.

But Democrats want to do still more through the partisan route of reconciliation. Their ambitions mean two big spending bills are being held hostage to one another, particularly in the House, where Democrats are divided over which bill deserves priority.

The infrastructure bill ([HR 3684](#)) would provide \$550 billion in new spending for roads, bridges, rail, transit, water programs, broadband and the electricity grid on top of nearly \$300 billion in baseline authorization funding for surface transportation programs. The second measure, a yet-to-be-written reconciliation bill, would provide \$3.5 trillion that would, in part, pay for energy infrastructure, additional water projects, housing and many more Democratic priorities.

## Where it stands

The bipartisan infrastructure bill is expected to get action in the fall. Moderate House Democrats demanded a commitment for a floor vote in September in exchange for their backing of the budget resolution ([S Con Res 14](#)) that would enable the partisan reconciliation bill.

The \$550 billion in new spending in the infrastructure bill would provide \$55.4 billion in new contract authority for roads, bridges, and major highways and \$58 billion in new money for passenger rail and \$39 billion in new money for transit.

Non-transportation infrastructure would also get a boost, with water infrastructure receiving \$55 billion under the plan, broadband receiving \$65 billion and the electric grid receiving \$73 billion.

The issue of broadband funding has become particularly high-profile in the wake of the pandemic, when millions of school children were forced into remote learning, and the grid emerged as a bipartisan issue after a major winter storm in Texas in February 2021 effectively shut down electricity provision.

Backers of the bill point to it as a rare moment of bipartisan agreement in an era where divisiveness is the norm. But the bill, which uses language from highway ([S 1931](#)) and rail ([S 2016](#)) bills, is much different from the water and highway bill (also [HR 3684](#)) that the House passed July 1.

House Transportation and Infrastructure Chairman Peter A. DeFazio, D-Ore., who once blasted the Senate bill for being too inattentive to climate change and too conservative in its approach to transportation modes other than highways, is now on board and is turning his focus to the reconciliation measure.

DeFazio and President Joe Biden had called for a “transformative” policy. They wanted to use the legislation to lower greenhouse gas emissions in the transportation sector, invest heavily in electric vehicles, and tear down bridges and overpasses that effectively separated Black and Brown communities from the cities, making it harder for people living in those communities to seek economic opportunity. But now, with this bill agreed upon, DeFazio’s next and possibly last chance of that will be in reconciliation.

## Outlook

The House is expected to pass the infrastructure bill by Sept. 27. Passage would conclude a legislative process that involved more than two months of drama, debate and near collapses to get the measure through the Senate as well as the moderate House Democrats digging in their heels.

An added legislative bonus: the highway reauthorization would be resolved for five years, avoiding the need to extend it yet again.

- Infrastructure
- Transportation

# Fall Legislative Preview: NDAA

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 [plus.cq.com/doc/weeklyreport-6333619](https://plus.cq.com/doc/weeklyreport-6333619)

Sept. 13, 2021 By Andrew Clevenger, CQ

## The issue

For 60 years in a row, lawmakers have enacted a defense policy bill into law, conducting oversight of the Pentagon and setting recommended funding levels for national security programs.

Lawmakers will almost surely keep the streak intact for another year.

The National Defense Authorization Act not only addresses funding recommendations for military equipment and personnel, but also policy issues, some of which involve historic departures from practice or controversial subjects.

This year, for example, both chambers' bills would require women to register for the draft and both have language on how to handle sexual assault in the military, a problem that has divided Democrats in the Senate.

The draft Senate bill has language blocking the possible closure of the military prison at Guantanamo Bay, Cuba.

There was considerable congressional anger over the chaotic scene at Kabul's Hamid Karzai International Airport prior to President Joe Biden's Aug. 31 withdrawal deadline, including the death of 13 U.S. servicemembers and scores of Afghan civilians in an Aug. 26 suicide bombing.

Lawmakers may decide to use the NDAA to look deeper into the administration's management of the evacuation, which could produce some sparring over how far to go.

## Where it stands

The Senate and House Armed Services committees have marked up their versions of the bill with bipartisan backing that bodes well for floor prospects this fall. The House bill ([HR 4250](#)) advanced, 57-2, out of committee this summer. After a markup behind closed doors, the Senate panel advanced, 23-3, a draft bill that hasn't yet been released and leaving details murky.

Both chambers addressed defense hawks' biggest complaint: the size of Biden's budget proposal. Biden requested \$715 billion for the Pentagon, 1.6 percent more than enacted for fiscal 2021, but well below the 3 to 5 percent annual increase called for by proponents of the 2018 National Defense Strategy.

Both panels would add roughly \$25 billion to the Defense Department's topline via amendments introduced by Oklahoma Sen. [James M. Inhofe](#) and Alabama Rep. [Mike D. Rogers](#), the top Republicans on their respective Armed Services panels.

With mandatory spending and defense programs in the Energy Department and elsewhere, Congress appears poised to authorize \$778 billion in national security funding.

In most cases, the bills would provide more ships, planes and weapons than the administration requested, and the Pentagon is likely delighted with the plus-ups.

The Navy is probably the happiest with how the bill is shaking out. Biden requested funds for eight new ships, and included plans to retire 15 ships to help curb costs to keep on track critical (and expensive) programs like the Columbia-class submarine, the next generation of ballistic missile submarine.

Lawmakers in both chambers called for buying more ships in fiscal 2022, and have moved to stop the decommissioning of some ships with remaining service life. Both measures recommended adding billions to the Navy's shipbuilding accounts, and authorized buying a second Arleigh Burke-class destroyer and perhaps a third.

On policy issues, the Senate and House appear to be mostly on the same page. Both bills include provisions that would require women to register for the draft.

The Senate bill would remove cases involving sexual assault and other serious crimes out of the military chain of command. The House bill would create special prosecutors in each branch of the military to handle sexual assault cases, but does not address other crimes.

Other issues need to be resolved. The Senate version includes language that extends prohibitions against closing the military prison in Guantanamo Bay; the House bill does not.

## Outlook

The House and Senate are expected to pass their versions of the bill. Democrats' narrow control of the two chambers and progressives' desire to cut military spending mean they will need Republican votes to carry the bill over the line, but the additional funding is expected to smooth that path.

But the two versions will then need reconciling in conference. In addition to resolving the policy differences, the final bill is likely to call for more reports, briefings, updates and investigations into the administration's withdrawal from Afghanistan than the White House would like.

But unlike last year, when Congress had to override a veto from President Donald Trump over the renaming of military bases honoring Confederates, none of the provisions appears likely to cross a bridge too far with Biden. The NDAA is likely to be signed into law for a 61st consecutive year.

# Fall Legislative Preview: Pandemic preparedness

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 [plus.cq.com/doc/weeklyreport-6335935](https://plus.cq.com/doc/weeklyreport-6335935)

Sept. 13, 2021 By Lauren Clason, CQ

## The issue

The COVID-19 pandemic brought the world to its knees in early 2020. Decades of under-investment in public health infrastructure and preparedness were thrust into the spotlight as the U.S. grappled with broken supply chains, a depleted stockpile of emergency equipment and overwhelmed state departments.

## Where it stands

Lawmakers on both sides of the aisle have proposed legislation to boost domestic manufacturing of key supplies, improve oversight of the Strategic National Stockpile and funnel more money into public health. Democrats are aiming to include pandemic provisions in their \$3.5 trillion reconciliation package they plan to pass without Republican support.

Democrats are seeking to thread the needle between moderates who oppose the \$3.5 trillion topline reconciliation number as too expensive and progressives threatening to tank a smaller bipartisan infrastructure bill ([HR 3684](#)) if moderates defect.

The Energy and Commerce Committee's portion would include a \$15 billion allocation ([S Con Res 14](#)) for pandemic preparedness, according to a [fact sheet](#) released Thursday. The amount matches what the White House said this month that it would like to see in the reconciliation package.

A separate piece of the Energy and Commerce portion of the bill would direct \$35 billion to modernize public health departments, hospitals, community health centers and medical schools.

Senate Health, Education, Labor and Pensions Chair [Patty Murray](#), D-Wash., is a leading voice on the issue. In October, Murray introduced a \$4.5 billion bill ([S 674](#)) that would award federal grants to state health departments seeking to boost staffing and capabilities. She and ranking member [Richard M. Burr](#), R-N.C., who led the reauthorization of a pandemic law in 2019 ([PL 116-22](#)), are also working on a bill drawing on lessons learned from the virus.

A few piecemeal provisions passed the Senate in recent months. Language aimed at improving domestic supply chains for things like protective equipment and improving management of the federal stockpile were included in a bill ([S 1260](#)) that would boost competition with China and the bipartisan infrastructure package.

Some lobbyists are pushing for a slightly different version ([HR 1436](#)) by Rep. [Brad Schneider](#), D-Ill., which would give manufacturers more authority over managing the stockpile's inventory.

"It does seem that no matter what side of the aisle or political stripe one might be, there does seem to be an appetite for some type of SNS reform," said Dan Glucksman, senior policy director at the International Safety Equipment Association.

## The outlook

Lawmakers' effort to prepare for future pandemics risks falling by the wayside if the lessons learned are forgotten with the passing of the once-in-a-lifetime pandemic.

At a hearing in July, Burr noted the challenge of creating a long-term incentive for private companies to keep buying American-made supplies when other countries are flooding the market with cheaper products. U.S. suppliers will need incentives to keep capabilities warm in the event of another emergency.

"The only option is a payment for warming those facilities that will only be outstripped by Congress' memory, and they will not fund it forever," he said. "So something that's sustainable has got to be what we're shooting for."



# Fall Legislative Preview: Reconciliation

 [plus.cq.com/doc/weeklyreport-6335311](https://plus.cq.com/doc/weeklyreport-6335311)

Sept. 13, 2021 By Paul M. Krawzak, CQ

## The issue

Democrats want to pass a \$3.5 trillion reconciliation bill that would reshape the nation's social policies, providing free community college, universal preschool, government-paid family and medical leave, expanded child tax credits and a broadening of Medicare benefits among other initiatives funded in part by higher taxes on the wealthy and corporations.

Speaker [Nancy Pelosi](#), D-Calif., called the plan “the most transformative and consequential legislation for families in a century,” and one that “will stand alongside the New Deal and Great Society as pillars of economic security.”

Republicans agree it is transformative, but in a bad way. Senate Minority Leader [Mitch McConnell](#), R-Ky., described it as a “socialist prescription” that will slow job growth, lower wages, increase inflation and impinge on Americans’ freedom.

“They want to put government’s thumb on the scale of families’ childcare choices, and selectively subsidize parents whose households work the way Washington wants,” he said.

While the details are being worked out in committee markups, the plan envisions expanding Medicare to include dental, vision and hearing; reducing the cost of prescription drugs by allowing Medicare to negotiate prices; clearing a path to citizenship for undocumented immigrants; and pumping billions of dollars into electric energy, subsidized child care, subsidized housing, rental assistance, nutrition aid and federal research including climate change.

## Where it stands

Thirteen House committees are on their way to completing markups of the legislation by the nonbinding Sept. 15 deadline. The House Budget Committee will assemble the legislation once it is written. If all goes according to plan, the bill could go to the House floor the week of Sept. 20, be passed and sent to the Senate in time for the House to take up a Senate-passed bipartisan infrastructure bill Sept. 27.

Senate and House Democrats are coordinating their drafting of the package. Committees are writing the legislation under instructions in a fiscal 2022 budget resolution ([S Con Res 14](#)) that allows the bill to add up to \$1.75 trillion to deficits over a decade, though top Democrats say they want to pay for more of the package than that.

The budget directs the House Ways and Means and Senate Finance committees, which have jurisdiction over taxes and major benefit programs, to draft legislation that will reduce the deficit by \$1 billion. The other 12 committees in the House and 11 in the Senate are directed to write legislation increasing the deficit under limits ranging from \$500 million to more than \$779 billion depending on the committee.

Democratic staff are vetting elements of the package with Senate Parliamentarian Elizabeth MacDonough to learn whether they meet the Senate's Byrd rule, which restricts reconciliation bills to measures that are budgetary.

## The outlook

Democrats have so far succeeded in advancing the \$3.5 trillion plan under the nonbinding schedule set in the budget resolution but the most formidable obstacles lie ahead. The bill would need the support of all 48 Democrats and two independents who caucus with Democrats in the Senate —allowing Vice President Kamala Harris to break a tie — and can lose no more than three votes in the House if all Republicans vote against the bill as expected.

Building majorities for the legislation is requiring navigation of an uncertain line between the most liberal and more centrist Democrats.

Democratic leaders say they want to pay for as much of the package as possible through tax increases, savings from negotiating drug prices and their prediction of long-term economic growth. Even though they say their aim is tax fairness, writing the tax portion of the bill has become the trickiest part of the effort.

As they face reelection next year, moderate Democrats and some liberals are wary of the level of taxation being considered on business — both domestic and multinational companies. Some are also pushing to retain tax breaks such as a research and development tax deduction.

It appears certain the final package that goes before the House and Senate will need to be scaled back from the \$3.5 trillion limit given opposition from Sens Joe Manchin III, D-W.Va., and Kyrsten Sinema, D-Ariz., to a package of that size. It's unclear to Democrats what Manchin will be willing to support.

Manchin earlier this month declared his opposition to the \$3.5 trillion level and urged Democrats to “hit the pause button” on the legislation. But in a column in The Wall Street Journal, he did not rule out supporting a less costly reconciliation bill.

# Fall Legislative Preview: Taxes

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 [plus.cq.com/doc/weeklyreport-6335305](https://plus.cq.com/doc/weeklyreport-6335305)

Sept. 13, 2021 By Laura Weiss, CQ

## The issue

Democrats are getting their shot this fall at overhauling the tax code and reversing course from Republicans' 2017 ([PL 115-97](#)) rewrite of the tax laws.

The Democrats, now in control of both chambers, railed against the last major edits to the code as unfair and a giveaway to big corporations. They're seizing the chance to require big businesses and wealthy people to pay more.

Democratic lawmakers are on the hunt for revenue to offset the cost of their planned \$3.5 trillion budget package, which they are working to pass through the reconciliation process. That would let Democrats bypass the filibuster in the evenly divided Senate, a necessary step with Republicans sure to oppose the slate of tax hikes.

On the table are a range of tax rises, heightened efforts to collect unpaid taxes and some tax breaks for parents, lower-income earners and people paying high state and local taxes.

## Where it stands

Democrats have options when it comes to covering costs of the reconciliation package. The Biden administration and Democrats in both chambers have backed increasing the corporate tax rate, raising taxes on multinationals' foreign earnings, upping the top individual income rate and a heftier levy on capital gains.

The details are in flux as the party's progressive wing pushes more aggressive tax increases on high-earners and companies, while moderates look to limit the tax hikes — and have shown a willingness to derail Democratic leaders' plans to get their way.

The House's narrow majority and Senate's 50-50 split will make it a tough task for Democrats. They're also trying to keep Biden's campaign pledge not to raise taxes on anyone making under \$400,000 per year.

Democrats also plan to use the tax code to incentivize clean energy, housing and onshoring initiatives, while offering tax breaks that will benefit blue states, families with kids and low-earners.

Members from blue states with high taxes — including New Jersey, New York and California — had a big get in reconciliation instructions. Billions were earmarked for changing the state and local tax deduction limit — known as the SALT cap — which currently allows individuals to write off up to \$10,000 in state and local government taxes when filing federal returns.

Raising or getting rid of the cap is a win for moderates facing tough reelection fights in 2022, and it's good for the home states of party leaders.

Perhaps the most popular change the party is eyeing is an expansion of the child tax credit — which Democrats say with near-unanimity they want to make permanent. The cost of a permanent expansion is a roadblock, but after Democrats touted temporarily higher benefits across the country this year, they're looking to go big. Expansions of the earned income tax credit and child dependent tax credit are expected too.

The billions that go uncollected in federal taxes each year are another revenue target.

Lawmakers slipped new reporting rules for cryptocurrency into the bipartisan infrastructure bill ([HR 3684](#)) as a pay-for, and that bill is slated for a late September vote in the House that could send it to Biden's desk.

Democrats are eyeing \$80 billion in IRS funding and more bank account and digital coin reporting rules in reconciliation.

The outlook

Debate in the House's tax-writing Ways and Means Committee is underway on its slate of tax proposals for the budget reconciliation bill.

They're likely to shift as the bill moves through the House, and even more so in the Senate, where Democrats' top tax-writer, Sen. [Ron Wyden](#) of Oregon, already has his own list of options for covering the budget package's costs.

While the corporate and individual income tax rates are relatively straightforward numbers, companies' foreign earnings and capital gains are more complex systems where moderates have already shown wariness of going as big as Biden wants.

And the legislating and deal-making likely needed to get the reconciliation package through Congress could imperil some popular tax provisions set to expire in 2022.

The full, upfront deduction of research and development costs from companies' tax bills has wide bipartisan backing, but Republicans' 2017 tax law scheduled it to change next year. Companies will only be able to take the deduction over five years, making it less lucrative.

It's a great candidate for a year-end tax extenders package before lawmakers head home for the holidays. There are already worries, though, that a long-fought reconciliation battle could run out the clock.

# Fall Legislative Preview: Transportation

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 [plus.cq.com/doc/weeklyreport-6334820](https://plus.cq.com/doc/weeklyreport-6334820)

Sept. 13, 2021 By Jessica Wehrman, CQ

## The issue

Democrats are trying to inject billions of dollars more into transportation with reconciliation legislation this fall. But the committees of transportation jurisdiction also have broad other responsibilities and have given few clues about priorities.

The House Transportation and Infrastructure Committee can increase the deficit by up to \$60 billion under the instructions provided by the budget resolution ([S Con. Res 14](#)). Democrats' desire to boost electric vehicles means House Energy and Commerce would play a role in transportation spending.

Three Senate committees have jurisdiction: Commerce, Science and Transportation handles rail and transportation safety and has \$83 billion under reconciliation; Environment and Public Works has highways and \$67.2 billion; and Banking, Housing and Urban Affairs covers transit and has \$332 billion.

And Senate Finance along with House Ways and Means would have to approve tax incentives for the fledgling technology.

House Transportation and Infrastructure Chair [Peter A. DeFazio](#) has been more outspoken than other transportation leaders about the bill and his goals for reconciliation are an indication of the issues lawmakers are trying to resolve.

His bill ([HR 3684](#)) passed by the House, threaded climate policy throughout the measure and spent more on transit. The bipartisan infrastructure bill (also [HR 3684](#)) passed by the Senate could also get a House vote this month.

DeFazio wants to use reconciliation to deliver goals omitted from the infrastructure bill.

## Where it stands

House Transportation and Infrastructure is expected to mark up reconciliation text on Sept. 14.

DeFazio has said he would like to use the bill to restore at least some of the money cut from the initial \$48.5 billion proposed in an initial bipartisan Senate infrastructure framework. In the end, \$39 billion made it into the infrastructure bill.

Senate Democrats are likely to seek to restore some transit funding, not least because at least 10 senators from both parties initially supported the \$48.5 billion.

It's unclear how DeFazio would use the rest of the allotment. He has signaled that he'd like to use it to fight climate change and transportation is the largest source of greenhouse gas emissions.

The House Energy and Commerce Committee outlined \$25 billion in spending on electric vehicles in a fact sheet released Thursday on its reconciliation proposals. The document said \$13.5 billion would be used to build an electric vehicle charging network, support electrification of industrial and medium-heavy duty vehicles; and fund state development of energy transportation plans infrastructure to support.

The committee would also provide \$7 billion in Energy Department loans and grants to develop and manufacture zero-emission transportation technologies. The fact sheet also said \$5 billion would be used to replace heavy-duty vehicles such as garbage trucks and school buses with zero-emissions vehicles.

Reps. Doris Matsui, D-Calif., and Gerald E. Connolly, D-Va., led more than two dozen House Democrats last month in pressing party leaders to spend more on electric vehicles than the bipartisan infrastructure plan.

Brett Smith, director of technology at the Center for Automotive Research, said automakers support an aggressive transition to electric vehicles, but that that will be possible only if all pieces fall into place. That includes infrastructure spending, support for technology development and inducements to the commercial sector and consumers.

Each piece carries a significant price tag. There's also the role of regulations on greenhouse gas emissions from vehicles.

"You can put all that funding out there but you're still going to need the regulatory side, the emissions side, to push the companies," Smith said.

The outlook

Resistance from Democratic moderates in both chambers to the size of the reconciliation bill may be the biggest hurdle to enactment. That, in turn, could force lawmakers like DeFazio to again rein in their ambitions.

In the House, moderates persuaded leaders to give the infrastructure bill a floor vote by Sept. 27. But House progressives have threatened to scuttle the infrastructure bill if the moderates don't go along with the ambitious reconciliation bill. Leaders have to find a way to satisfy both sides, or one side may have to blink.

The transportation portion of reconciliation is also likely to contain provisions that may run up against Senate rules. The money would have to be spent by the end of fiscal 2031. Many of the transportation projects advocates would like to pay for would take more than 10 years.

# Fall Legislative Preview: Violence Against Women Act

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 [plus.cq.com/doc/weeklyreport-6332031](https://plus.cq.com/doc/weeklyreport-6332031)

Sept. 13, 2021 By Michael Macagnone, CQ

## The issue

The Violence Against Women Act lapsed in 2019, and Senate talks over a bipartisan reauthorization came apart in the last Congress and have remained stalled since.

First passed in 1994 and most recently reauthorized in 2013, the law enshrines legal protections for victims of domestic and sexual violence. The 2013 reauthorization ([PL 113-4](#)) added anti-discrimination protections for LGBTQ Americans, as well as jurisdiction for Native American tribes over nontribal defendants in domestic violence cases.

The law authorizes more than half a billion dollars in programs through the departments of Justice and Housing and Urban Development, and various agencies. Although government appropriators have continued and even increased funding for the programs, advocates on both sides of the aisle have pushed for a rewrite of the underlying law.

## Where it stands

The House [passed](#) a reauthorization bill ([HR 1620](#)) in March on a 244-172 vote, with the support of 29 Republicans. A nearly identical bill passed in 2019 on a 263-158 vote that attracted support from 33 GOP members.

The bill would expand Native American jurisdiction over crimes committed by nontribal members, provide more protections for LGBTQ victims, expand housing protection for survivors and provide additional funding to clear testing backlogs for sexual assaults. The bill would also elevate the Justice Department's Office of Violence Against Women, making it a Senate-confirmable position.

In the months since House passage of a reauthorization of the Violence Against Women Act, Senate negotiators continue to work on a deal that can pass muster in the chamber, but major roadblocks remain.

Most Republicans object to a section of the law targeting what Democrats called the "boyfriend loophole." The House bill would put anyone convicted of stalking or other misdemeanors involving a dating partner on a list that would prohibit them from owning guns. That's remained a long-term sticking point for the legislation.

The National Rifle Association opposed the measure after Democrats added the gun provision in the 2019 legislation. The group said the law should not expand the current limited exemptions that take gun rights from people convicted of misdemeanors rather than felonies.

"Speaker Pelosi and anti-gun lawmakers chose to insert gun control provisions into this bill in 2019 to pit pro-gun lawmakers against it so that they can falsely and maliciously claim these lawmakers don't care about women. This is Washington at its filthiest," the organization said in a statement in August.

Republicans have also staked out different positions on protections for LGBTQ victims, prosecuting crime on Native American reservations and conditions for grants provided by the Justice Department and other agencies.

## **Outlook**

The current House bill includes numerous provisions with bipartisan support, such as changing grant program language and providing broader jurisdiction for Native American tribes over abusers. The tribal jurisdiction expansion was particularly important for senators such as Sen. Lisa Murkowski, R-Alaska, who backed swift passage of a reauthorization after House passage this spring.

But the gun provisions and the NRA's opposition makes it tougher to get through the Senate. In the last Congress, Republicans led by Sen. Joni Ernst of Iowa pushed a measure without the gun provisions even as Senate Democrats backed the House bill. The impasse raises the prospect that the breakdown in talks will be repeated.

One avenue to passage could include gun provisions in other bills that have bipartisan support. Sens. Chris Coons, D-Del., and John Cornyn, R-Texas, for example, have a bill (S 675) that would mandate the FBI notify local authorities of a failed background check.

Advocates hope a modified version of those provisions targeting assault perpetrators could attract Republican support to a compromise VAWA bill.

Ruth Glenn, the president and CEO of the National Coalition Against Domestic Violence, said she'd like a compromise bill to move this fall.

"We are really hopeful that a bill will be introduced soon, or at least in the near future, that meets the needs of survivors," Glenn said.



# Fall Legislative Preview: Voting rights and election law

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 [plus.cq.com/doc/weeklyreport-6332779](https://plus.cq.com/doc/weeklyreport-6332779)

Sept. 13, 2021 By Kate Ackley, CQ

## The issue

Democrats have put voting rights, along with an overhaul of election and campaign finance laws, at the forefront of their agenda.

They are working to restore the Justice Department's authority over election law changes in jurisdictions with a history of discriminatory voting practices against minorities. They are also trying to set minimum state standards for early voting and voting by mail, and overhauling campaign finance and election laws.

The bill ([HR 4](#)) to restore the DOJ authorities is in response to the Supreme Court's 2013 *Shelby County v. Holder* decision that invalidated the mechanism the department used to determine which jurisdictions needed approval before they could change voting laws.

The minimum standards legislation ([HR 1](#)), though a version of it passed the House in 2019, is part of Democrats' response to states such as Georgia and Texas that have enacted new voting laws that would restrict practices such as mail-in voting. Critics say those laws are designed to make it harder for minorities to vote.

The effort also has a subplot: use of a prominent issue for the Democratic base to call for an end to the Senate filibuster.

## Where it stands

The House has passed both measures along party lines.

Named for the late Rep. John R. Lewis, D-Ga., the voting rights measure ([HR 4](#)) focuses on DOJ. In addition to restoring its authority over election law changes in some states and jurisdictions, the bill would update criteria used to determine when preclearance is needed for changes. Any that had 15 or more violations in the past 25 years would need preclearance.

A separate measure ([HR 1](#)) would overhaul campaign finance and election laws, including setting minimum state standards for voting, such as same-day registration, mandatory periods for early voting and access to no-excuse mail-in balloting. Nonpartisan panels would be empowered to redraw congressional districts.

The bill would reshape how congressional candidates may fund their campaigns by instituting optional public financing that would match \$6 in government money for every \$1 raised in small donations.

Senate Majority Leader [Charles E. Schumer](#) of New York promised that voting rights would be a top priority for the chamber after the recess. Democrats say new state laws passed by Republican-controlled legislatures are chipping away at pandemic-related election changes, such as no-excuse

absentee balloting, and present urgency for the bills.

The content of the bills may be secondary to the Senate filibuster rules.

President Joe Biden, a veteran of the Senate, and Sen. Joe Manchin III, D-W.Va., have not supported doing away with the filibuster. Arizona Democratic Sen. Kyrsten Sinema has said she opposes ending the filibuster.

Advocates inside and outside of Congress are directing their toughest rhetoric toward Biden and Manchin to roll back the filibuster. Activists have mobilized with demonstrations around the country, including in Washington on the Aug. 28 anniversary of Martin Luther King Jr.'s historic march in 1963.

"I know there will be continued and amplified and bolstered grassroots actions through the fall," said Stephen Spaulding, senior counsel for public policy and government affairs at Common Cause, which supports the bills.

Republicans have also mobilized. Conservatives have labeled both House bills an attempted "power grab" by Democrats. Democrats "want to start tearing up the ground rules of our democracy and writing new ones, of course on a purely partisan basis," said Senate Minority Leader Mitch McConnell, R-Ky. said in August.

The outlook

The Senate filibuster makes it all but certain that the chamber will not have the votes to end debate on either of the voting bills. The chamber tried in June to bring the elections and campaign finance overhaul up for debate but only mustered 50 votes, short of the 60 needed. (The vote was on S 2093, which contained a revised version of S1. That bill is still in committee.)

McConnell appears to still have his Republicans universally lined up against the measures.

In the 50-50 Senate, Democrats are under intense pressure to scrap the filibuster. Manchin and Sinema have thus far resisted that pressure. The outlook for the two bills largely depends on whether they are susceptible to growing pressure to change their views on the filibuster — or whether a change from Biden would bring the two senators along.

"All eyes are on Joe Manchin," said Richard L. Hasen, chancellor's professor of law and political science at the University of California, Irvine School of Law. "There's no way I can see this legislation or anything like it getting 10 Republican votes in the Senate to overcome a filibuster."

He added that it's really a matter of Democrats' finding a strategy to get through the Senate with a simple majority.