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Congressional 'Lame Duck' Forecast

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Congress is back after the sea change last week. Several questions have already been answered, but much remains unsettled.

Permitting Reform

Back in September, before the Senate left to campaign, Senate leaders teed up a vote on whether and when to consider the bipartisan Permitting Reform deal (legislation to speed up the construction of energy and other infrastructure projects). Questions about whether leaving the vote hanging so long would allow opposition to solidify were answered Monday night when the procedural motion passed, 73-25, but significant roadblocks remain.

Every Democrat ember of the Senate Environment Committee, except their ranking member king member who cosponsored the bill, voted against the motion. And amendments are piling up, including one to remove the provision that weakens government-to-government consultations with Tribal governments. Should these matters be settled, outgoing Speaker Johnson says the House will pass the bill, but that is not a guarantee given what we have seen in the first week of post-election drama in the House.

Failed Impeachment of Pete Hegseth

The House's first vote after the election was on impeaching Secretary of War Pete Hegseth. The expectation was that it would pass. Surprisingly, Republicans stuck together and 11 Democrat Members missed the vote. And the next day, with recriminations on that vote still reverberating, a veterans' measure opposed by the Democrat ranking Member of the Veterans Committee passed unexpectedly by voice vote. The GOP said no Democrat requested a rollcall vote; the Democrats accused the GOP of “trickery.” The opening days of the Lame Duck do not suggest a smooth end to the year.

Leadership Races

Another question we have seen partially answered is on leadership races. Speaker Mike Johnson (R-LA) stepped down, and the contest to replace him between Majority Leader Steve Scalise (R-LA) and Rep. Jim Jordan (R-OH) was decisively won by Jordan. House Democrats vote November 18 and 19 and are expected to keep their team intact, with current Minority Leader Hakeem Jeffries (D-NY) in line to become Speaker.

Senate Republicans kept Senator John Thune (R-SD) as Leader and

Senator John Barrasso (R-WY) as Whip for their minority. Despite leading the effort to win up to eight new seats, Senator Chuck Schumer (D-NY) is seeing a (so far) small rebellion challenging his path to Majority Leader by more leftward Members, such as Chris Van Hollen (D-MD) and Bernie Sanders (D-VT). This election will take place in early December, so this contest will continue awhile. Senator Brian Schatz (D-HI) is expected to succeed retiring Senator Dick Durbin (D-IL) as the number two Democrat.

Lame Duck Session

Between now and the end of the year, there are 17 session days on the House calendar and 20 days for the Senate, though members were predicting before the election that they would need more. The Senate already decided to change their plans and stay this week and work through Veterans Day. With Democrats taking over both chambers in January, the real question for the outgoing Republican majority is how much of its agenda it can salvage in the weeks that remain. It's likely many more days will be added to the schedule, including perhaps some on what are traditionally holiday breaks.

Must-Move Bills

Both parties agree on the two bills that must move: the annual National Defense Authorization Act (NDAA) and funding extension to keep the government open past December 11.

1. The NDAA will not be easy. Senate Democrats stalled it before the election over concerns related to the Iran War and the Trump Administration's $1.5 trillion Pentagon request—the largest ever. There is talk the White House could trim that number by as much as $400 billion to get a deal, but voters made clear this week they are unhappy with the war, and that makes any new money tied to it a hard sell. As House Armed Services Ranking Member Adam Smith (D-WA) said: “I don't know how we're going to figure out the money.”
2. Government funding talks have their own problem. Democrats are angry that the Trump Administration recently withheld about $1 billion in funding Congress had already appropriated. As a consequence, they want assurances before signing on to another spending bill. The next Chair of the Senate Appropriations Committee, Patty Murray (D-WA), has already said she is pushing for a short-term bill to extend funding well into next year.

Several other items could ride along or move on their own before year end:

- Senate Banking wants to attach its chip export control bill to the NDAA. This seems possible, given the current Nvidia scandal.
- On the tax side, members are assembling a possible end-of-year package covering tax administration, digital assets, repeal of the gambling tax increase from the One Big Beautiful Bill, and treaty-style tax relief for Taiwan.
- The Farm Bill, the Highway Bill, and the FISA surveillance

reauthorization are all still pending, as is the bipartisan college sports bill.

Reconciliation Bill Prospects

Republicans have not given up on one more reconciliation bill (legislation that avoids the filibuster) before they lose the majority. Ideas being floated include Iran War money, election law changes, a debt limit increase, and hemp restrictions. Retiring Rep. Don Bacon (R-NE) says the White House is also asking for a war supplemental and money for the President's ballroom and “Triumphal Arch.” According to media reports, Senate Republicans affirmed at their first closed-door meeting that they would “do everything humanly possible to pass a reconciliation bill before Jan. 3.”

Two problems hang over all of this:

- **Attendance.** Defeated members have little reason to come back, and, with margins this narrow, a handful of absences can sink a vote.
- **New leverage.** Democrats know their position improves in January, so they have less reason to help now and more reason to demand something in return.

Finally, the Senate GOP wants to approve nominations before their authority switches to the new majority in January. There are more than 30 Trump administration nominees and 20 judicial nominees awaiting approval. There may also be some last-minute resignations and openings to fill while it is still possible. They will need to spend weeks of Floor time doing so.

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