

# Summer 2020 Congressional Outlook: Legislative Schedules, Priorities, and the Challenges That Lie Ahead

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*This Outlook reviews what we expect from Congress during the coming months. Congress takes up its work for the summer against a backdrop that includes uncertainty about how the COVID-19 pandemic will continue to play out, a battered economy, focus on racial inequality and policing issues, and an upcoming presidential election.*

The uncertainty of the past few months has required lawmakers to develop new methods for conducting constituent and legislative business. These adjustments include new policies for votes and committee work, imposing elaborate social distancing requirements, particularly in the House, as well as modifying congressional schedules for assembling to vote on legislation. Access to members and staff has also changed dramatically with limited to no access for visitors to the Congressional buildings and meetings now being done by phone or virtually.

Members and their staff remain committed to performing their duties and serving their constituents. Legislation, including fiscal year (FY) 2021 appropriations, surface transportation proposals, the National Defense Authorization Act (NDAA), and the Water Resources Development Act (WRDA), is expected to advance. COVID-19 related legislation, which may include components of the House-passed HEROES Act and alternative proposals authored by Senators, will also be part of the summer legislative agenda.

## Justice in Policing Act

In recognition of the ongoing national protests following the killing of George Floyd, the Congressional Black Caucus has announced plans to introduce legislation to reform police activities. The Justice in Policing Act will “address police brutality and racial injustice” according to House Speaker Nancy Pelosi (D-CA). Representative Karen Bass (D-CA), Chair of the Congressional Black Caucus, said the legislation will focus on “accountability and transparency” with an “emphasis on training.” The bill will center on police reforms including: curbing racial profiling; excessive use of force; banning chokeholds; establishing a national police misconduct registry; and abolishing qualified immunity (a judicial doctrine that shields state officials from liability, when they violate a person’s constitutional rights). A Senate companion bill is expected to be introduced by Senators

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Cory Booker (D-NJ) and Kamala Harris (D-CA).

The House Judiciary Committee has scheduled an oversight hearing for Wednesday, June 10 on Policing Practices and Law Enforcement Accountability. Philonise Floyd, brother of George Floyd is scheduled to testify before the Committee.

## Summer 2020 Congressional Calendar

### *U.S. House of Representatives*

House Majority Leader Steny Hoyer (D-MD) announced late last week that, throughout June, legislative work in House committees would be their focus, with committees convening to hold hearings and to mark up and report legislation. While votes in the House are not anticipated before June 30, that timeline could change if a bi-partisan, bi-cameral agreement is reached on the next COVID-19 response proposal. The House has announced that August will be a District Work Period, to be followed by several weeks of floor activity in September. To find a current House calendar, click [here](#).

### *U.S. Senate*

Senate Majority Leader Mitch McConnell (R-KY) has made few changes to the previously planned schedule for the remainder of 2020. The Senate is scheduled to be in session every weekday through June, before recessing July 3 through 17. The Senate returns to session on July 20 for three weeks before recessing August 10 through September 7. The Senate is expected to stay in session for the remainder of September except for September 28 and 29. Click [here](#) to see the full Senate schedule.

## Proxy Voting in the House of Representatives

### *Background*

As we reported in a May 15 [alert](#), the House passed a resolution that allows for casting floor and committee votes remotely through July 4. House Members may designate another Member of the House to cast floor votes on their behalf by proxy by submitting a letter to the Clerk of the House naming a colleague authorized to cast their vote. To date, 74 members have authorized a colleague to cast their vote by proxy.

### *Committee Activities*

Senate and House Committees are continuing to conduct business, including hearings, markups, and forums. The House's new ability to work remotely allows lawmakers to conduct official committee business virtually, so long as members comply with specific requirements and the committee conducts two mock hearings before holding the first official remote hearing (to work through changes in procedure and a test of the necessary technology). The new House rules also require Members participating remotely to "conform to the same standards for proper attire as are required to participate in a committee proceeding in person" and "appear before a nonpolitical, professionally appropriate background that is minimally distracting." Although the Senate has not adopted remote work rules, Senate committees have been holding hearings with some Senators appearing in person while others join via videoconference. Although the Senate has not adopted remote work rules, Senate committees have been holding hearings with some Senators appearing in person while

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### *Litigation*

House Minority Leader Kevin McCarthy (R-CA), along with 20 other Republican House members and four constituents, filed a lawsuit in D.C. District Court against House Speaker Nancy Pelosi (D-CA) claiming proxy voting is unconstitutional. On June 1, Federal Judge Rudolph Contreras set a hearing date for July 24. If the court deems proxy voting unconstitutional, the ruling could nullify all legislation passed by the House via proxy voting.

Judges have historically sidestepped questions regarding House rules and procedures, citing the Constitution's language allowing each chamber "to determine the rules of its proceedings."

## **Congressional Interactions**

### *Returning to the D.C. Office*

Members of Congress are deciding on an individual basis how and when they will reopen their offices. Some legislators have already told their staff that they will not return to the office until 2021; others would like to get staff back in the office as soon as possible.

The House has a broader set of challenges to consider in returning to their offices, given the larger number of offices and staff. Geographic location is another factor driving decisions on whether to push for business as usual, with congressional members representing districts in the Western U.S. more hesitant to return than those in the South, Mid Atlantic, Midwest, and New England.

## **Legislative Business and Timing**

Leader Hoyer stated on June 2 that the House aims to pass all 12 FY 2021 appropriations bills to fund the federal government by the end of July. House Appropriations Committee Chairwoman Nita Lowey (D-NY) has scheduled subcommittee and full committee markups for the weeks of July 6 and 13, and expects the spending bills could be on the House floor the weeks of July 20 and 27.

The Senate intends to start marking up appropriations bills toward the end of June and will continue after the chamber's July 4 recess.

### *Infrastructure*

House Democrats unveiled a sizeable green infrastructure package this week entitled the "Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act." The INVEST in America Act includes reauthorization of expiring surface transportation provisions. It includes a five-year reauthorization of the Fixing America's Surface Transportation (FAST) Act that is set to expire on September 30. Much of the package was modeled after the House Democrat's framework shared earlier this year entitled "[Moving America and the Environment Forward: Funding our Roads, Transit, Aviation, Broadband, Wastewater, and Drinking Water Infrastructure.](#)"

The INVEST in America Act would authorize nearly \$500 billion over five years in transit system repairs, building extreme weather-resilient infrastructure, designing safer streets for a variety of modes of transportation, setting the country on a path toward zero emissions from the transportation

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sector, increasing funding for public transit, investing in Amtrak improvements, and increasing federal funding access to assist communities in improvement efforts and projects. The bill includes:

- \$319 billion for highway programs
- \$105 billion for transit programs
- \$60 billion for rail programs
- \$5.3 billion for highway safety
- \$4.6 billion for motor carrier safety
- \$83 billion in federal relief to states and cities during the first year of the bill

Additionally, the [INVEST in America Act](#) would address the economic impacts of the COVID-19 pandemic, in part by ensuring that states, cities, tribes, territories, and transit agencies can administer programs, advance projects, and preserve jobs after the COVID-19 pandemic subsidies. Leader Hoyer stated that he hopes to bring this package to the floor in late June or July.

#### *National Defense Authorization Act*

NDAA authorizes FY2021 appropriations and sets forth policies for Department of Defense (DOD) programs and activities. The Senate Armed Services Committee plans to hold subcommittee markups on June 8 and 9, culminating in a full panel markup on June 10. The House Armed Services Committee is expected to begin its subcommittee markups in June as well, with a floor vote anticipated in early July.

#### *Water Resources Development Act*

The Water Resources Development Act (WRDA) is a comprehensive legislative package that directly authorizes projects and programs led by the U.S. Army Corps of Engineers to address water infrastructure needs critical for the Nation's economic competitiveness and domestic security.

This year's Senate WRDA bill— [S.3591](#), America's Water Infrastructure Act of 2020— was approved by the Senate Environment and Public Works Committee in May and now awaits a Senate floor vote. The bill would authorize 26 navigation, flood-control, storm damage, and other water infrastructure projects, totaling about \$17 billion. It would also reauthorize federal support for clean water infrastructure projects and the Great Lakes Restoration Initiative. Passage of the Senate bill is expected before the August recess.

The House Transportation and Infrastructure Committee has not released its version of the WRDA legislation, but is expected to do so in June. The legislation may advance as part of a larger infrastructure package from the House that could also include surface transportation legislation. It is expected that the committee will markup its WRDA bill in late June in preparation for a floor vote in July.

#### *National Parks and Land and Water Conservation Funding*

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Senate lawmakers are expected to consider S. 3422, the “Great American Outdoors Act,” to permanently fund the Land and Water Conservation Fund (LWCF) and direct \$1 billion a year to address maintenance needs in the Nation's national parks next week. Leader McConnell and President Trump have expressed their support for this bill, which is of crucial importance to Senators Daines (R-MT) and Gardner (R-CO) who are facing competitive re-election bids this fall. This week, the House introduced H.R. 7092, their version of the LWCF legislation, with 12 original bipartisan cosponsors. A compromise measure is expected to emerge in the coming weeks.

### *COVID-19 Response*

Timing for the next [COVID-19](#) relief package remains unclear. Leader McConnell has said that the Senate will take time to determine the need for future response legislation after assessing the impact of the laws that have been enacted in recent months. States and localities across the U.S. have warned that they will have to make significant budget cuts, which may have a direct impact on the jobs of teachers, police officers, and other public servants paid with state and local funding. The HEROES Act, passed by the House last month, provided nearly \$1 trillion in relief for state and local governments, while Senators Bill Cassidy (R-LA) and Bob Menendez (D-NJ) have introduced the State and Municipal Assistance for Recovery and Transition ([SMART](#)) Act, which would provide \$500 billion in emergency funding to state and local governments, and prioritize assistance to the areas with the greatest need. We anticipate the SMART Act will be incorporated into the initial framework of a Senate relief package, although action on the bill and any additional Senate proposals is not expected until July.

In a show of bipartisan support, Congress passed, and the President signed, the Paycheck Protection Program Flexibility Act of 2020 (H.R. 7010). The law relaxes some Paycheck Protection Program (PPP) rules, allowing borrowers more time to utilize their PPP loans and increases the percentage of loan proceeds that may be used for non-payroll related expenses.

Democratic lawmakers led by Senator Martin Heinrich (D-NM) and Representative Paul Tonko (D-NY) sent a letter to Senate and House Democratic and Republican leadership urging assistance for the clean energy sector in the next economic recovery legislation. The letter, signed by 56 members of Congress, calls on Congress to take action to support the clean energy industry from a climate change, job creation, and economic revitalization standpoint. Additionally, the letter requests an extension and expansion of clean energy tax incentives. Read the letter to Senate and House Democratic and Republican leadership [here](#).

### **Commentary**

Congress has a long list of legislation they must pass before the election, regardless of a public health pandemic, unrest related to racial injustices and the upcoming Presidential election. They must provide funding for the government by addressing FY 2021 appropriations, reauthorize the surface transportation law, and extend the National Flood Insurance Programs before September 30, 2020. Committees are hard at work to ensure that these bills are ready for congressional action.

Given the increased partisanship and shorter working calendar during a Presidential election year, Congress may not reach an agreement on these bills, which may force them to pass short-term extensions and a continuing resolution to fund the federal government until after the November elections. Based on previous congressional actions, we expect to see a continuing resolution to avoid a government shutdown through the election.

In addition to the list of legislative bills the Congress must take action on, there is also an increasing amount of pressure to pass additional relief legislation related to the COVID-19 pandemic. There is a possibility, however, that Congress forgoes consideration of another relief package and proceeds straight to stimulus efforts or a combination of the two. This stimulus effort may take the shape of an infrastructure bill.

The White House and Congress have long aimed to find a deal on an infrastructure bill, and like the House, we expect the White House to release an infrastructure proposal laying out the Administrations priorities in the coming weeks. Many can agree to the fundamentals of what might be included in a bill; how to pay for such a massive undertaking remains the biggest obstacle. A comprehensive infrastructure package will become more difficult to pass given the politics of a Presidential election year. This attenuation is more relevant now, as the country has spent trillions of dollars on healthcare and economic relief efforts to address the ongoing COVID-19 pandemic.

There will be bipartisan, bicameral legislative efforts that cross the finish line this year, Congress has historically come together to pass the NDAA and WRDA legislation in bipartisan fashion, and we expect the same this year. The NDAA is a must pass bill for Congress and we expect a final compromise to be reached before the end of the fiscal year on September 30. WRDA has historically been reauthorized every two years and carries broad support from both sides of the aisle. Although not a must pass bill, we expect a bipartisan compromise to be adopted before the end of the calendar year.

## **Next Steps and Additional Information**

Congress has been receptive to information regarding what relief and support entities may need as the COVID-19 pandemic continues. This is an opportunity for organizations to raise issues with congressional leadership and emphasize the needs and concerns they are facing. Despite Congressional offices working remotely these days, staff has remained responsive. If you have an issue or point of view that you would like professionally communicated regarding appropriations funding, COVID-19 relief, efforts we have addressed above or other matters, the time to communicate with Congress is now.

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