

## Organizational issues dominate as Congress returns for ‘lame duck’ legislative session

With Election Day now behind them, House and Senate lawmakers returned to Washington this week for their “lame duck” legislative session to close out the current Congress and prepare for the start of the next one.

Republicans officially won a trifecta of power starting in 2025 after GOP wins in several House races that were called by the Associated Press (AP) this week. Former President Donald Trump crossed the 270-vote threshold in the electoral college and the GOP clinched a majority in the Senate as of November 6, according to the AP. (See separate coverage in this issue for details on House and Senate control for the coming two years.)

This particular configuration of White House and congressional control—Donald Trump working with a majority-Republican House and Senate—mirrors the one in place during the first two years of Trump’s previous term in office, in 2017-18 (albeit with a smaller margin in the House), and GOP congressional leaders sent signals this week that they are focused on advancing his policy agenda.

### Republicans hold leadership elections

Under the current schedule for the upcoming work period, both chambers will be in session the weeks of November 11 and 18, adjourn the week of November 25 for the Thanksgiving recess, then reconvene the week of December 2 and remain in session through at least mid-December.

This week was dominated largely by organizational issues as Republicans in both chambers held internal elections to choose their respective leaders for the next Congress.

**House leaders:** House Republicans chose current Speaker Mike Johnson as their speaker-designee in the leadership elections on November 13, although he will still need to win an absolute majority of votes on the House floor (that is, 218 votes if all 435 members are present and voting) when the new Congress convenes in January. (At least one winner in the November 5 election, Matt Gaetz of Florida, will not be present for the speaker’s vote. Gaetz resigned his seat in the 118th Congress on November 13 shortly after President-elect Trump announced his intention to nominate his fellow Floridian to serve as attorney general. Gaetz also indicated he does not intend to take the oath of office when the 119th Congress convenes on January 3, 2025.)

Difficulties in securing a majority vote on the House floor delayed former Rep. Kevin McCarthy’s, R-Calif., elevation to the speakership for several days at the start of the current Congress in 2023. (For prior coverage, see *Tax News & Views*, Vol. 24, No. 2, Jan. 13, 2023.)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230113\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230113_1.html)

On the Democrat side of the House, leadership elections will not be held until November 19; however, it is generally expected that Rep. Hakeem Jeffries, D-N.Y., will continue in his post as House minority leader. Jeffries was first elected as the chamber’s top Democrat in the fall of 2022, after former Speaker Nancy Pelosi, D-Calif., stepped down from leadership.

**Senate leaders:** In the upper chamber, Republicans elected Sen. John Thune of South Dakota as their new majority leader after Mitch McConnell, R-Ky., announced earlier this year that he would not run for another term as the chamber's top Republican, a post he's held since 2007.

Thune first won his current Senate seat in 2004. He is currently a member of the Finance Committee and has served as party whip, the number two position in the Senate leadership structure, since 2019.

On the other side of the aisle, current Majority Leader Chuck Schumer, D-N.Y., is generally expected to serve as minority leader when the 119th Congress convenes in 2025. Schumer has been the majority leader for the past four years, shepherding legislation through the upper chamber such as the Democrats' signature tax-and-climate law, the Inflation Reduction Act of 2022 (P.L. 117-169) (For prior coverage, see *Tax News & Views*, Vol. 23, No. 28, Aug. 7, 2022.) Democrats are expected to hold their leadership elections during the lame duck session but have not yet announced a date.

**URL:** <https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2022/TNV/220807\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2022/TNV/220807_1.html)

**Looking ahead to 2025:** With both the House and Senate in Republican hands beginning in 2025, Johnson and Thune will play key roles in advancing President-elect Trump's legislative agenda, which includes extending expiring tax relief provisions in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97) and potentially enacting new tax cuts for businesses and individuals.

**URL:** <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

Johnson declared in a press conference this week that Republicans are "unified, energized, and ready to go" and are "excited to deliver the America first agenda." Thune likewise wrote in a November 13 social media post that "[t]his Republican team is united behind President Trump's agenda, and our work starts today."

Outgoing Senate Majority Leader Schumer, for his part, commented this week that Democrats in his chamber intend to exert their influence on the legislative process in the next Congress, even though they will be in the minority.

"[T]he only way to get things done in the Senate is through bipartisan legislation while maintaining our principles—and the next two years will be no different," he said in a statement released November 13.

### **Seats opening up on the taxwriting committees**

With the GOP still in control of the House, Republicans will continue to lead the House Ways and Means Committee in the 119th Congress and the Republican takeover of the Senate means that leadership of the Senate Finance Committee will change hands. Some changes on the membership rosters are ahead for both panels, although decisions about filling upcoming vacancies likely won't be made until early next year.

**Ways and Means:** In the House, current Ways and Means Committee Chair Jason Smith, R-Mo., is expected to continue in that post in the new Congress. Massachusetts Democratic Rep. Richard Neal is expected to continue as the panel's ranking member.

Among the panel's rank-and-file members, Republicans Brad Wenstrup of Ohio and Drew Ferguson of Georgia did not seek re-election this year, creating open seats on the committee for the GOP. Meanwhile, Republican taxwriter Michelle Steel's race in California's 45th District has not yet been called as of press time. (She leads her Democratic opponent by just over 200 votes with 93 percent of all votes now counted, according to data from the Associated Press.)

On the Democratic side, two Ways and Means Committee members—Earl Blumenauer of Oregon and Dan Kildee of Michigan—did not seek re-election this year, creating openings for the minority on the sought-after committee.

**Finance Committee:** Across the Rotunda, Sen. Mike Crapo, R-Idaho, is poised to take over as Finance Committee chair in the new Congress. (He currently serves as the panel's ranking member.) Sen. Ron Wyden, D-Ore., is expected to continue leading Finance Committee Democrats in the minority.

There are no announced departures among the panel's Republican members, although it is still unclear whether South Dakota's John Thune will step off the committee after being elected as the Senate's new majority leader. Democrats, however, will see significant turnover on their roster in the next Congress as six current members either did not seek re-election in 2024 or lost their re-election bids. Democratic Sens. Debbie Stabenow of Michigan, Thomas Carper of Delaware, and Benjamin Cardin of Maryland had previously announced that they would not seek another term in office. Also leaving is Democrat George Helmy of New Jersey, who was appointed by New Jersey Gov. Phil Murphy (D) in August to fill the Senate vacancy created by the resignation of former Sen. Robert Menendez, and who also took over Menendez's Senate committee assignments. Menendez's former Senate seat was among those that were in play in the 2024 election cycle; however, Helmy did not run for a full term in his own right.

Two other Democrats—Sens. Sherrod Brown of Ohio and Robert Casey of Pennsylvania—lost re-election to their Republican opponents, according to the Associated Press. It's worth noting, however, that Casey has not conceded his race and under Pennsylvania law the small (0.5 percent) vote margin separating him from his GOP challenger David McCormick has triggered an automatic recount.

**Committee headcounts and party allocations:** As the final election results are reported and party headcounts in the two chambers are certified, congressional leaders will determine the number of seats on their respective standing committees in the 119th Congress and how those seats will be allocated to members of the majority and minority parties based on each party's overall share of seats in that chamber.

There are 43 seats on the Ways and Means Committee in the current Congress, with 25 allocated to the Republican majority and 18 to the Democratic minority. The Senate Finance Committee currently has 27 seats, with 14 seats allocated to the Democrat majority and 13 seats allocated to the Republican minority.

## Lame duck legislative agenda still unclear

Amid all of their efforts to organize for the next Congress, leaders in both parties were largely silent—in public, at least—about their plans for advancing legislation in the remaining weeks of the current one.

**Government funding:** One “must do” agenda item for lawmakers is to address funding of federal departments and agencies for the current fiscal year (FY 2025), which began on October 1.

Congress has struggled to complete work on the 12 appropriations bills required to fund the government. To date, the House has approved only five of these measures and the Senate has not approved any, and lawmakers passed a short-term continuing resolution in September that keeps the government operating at fiscal year 2024 levels through December 20.

A key sticking point for House Republicans and Senate Democrats has been agreeing on topline spending numbers for federal departments and agencies. Spending bills that have cleared the Senate Appropriations Committee (but have not yet reached the Senate floor) adhere to the spending caps that President Biden and then-House Speaker Kevin McCarthy agreed to in the Fiscal Responsibility Act of 2023 (P.L. 118-5), which was signed into law in June of last year and affirmed this past January in a handshake deal on government funding between current Speaker Mike Johnson and Senate Majority Leader Chuck Schumer. That measure suspended the federal debt limit through January 1, 2025, and also made certain fiscal policy changes—including provisions to keep nondefense discretionary spending flat for fiscal year 2024 and to limit annual growth to 1 percent for fiscal years 2025 through 2029. Spending measures moving through the House, however, generally reflect the demands by a contingent of conservative Republicans to hold nondefense discretionary spending closer to the levels in effect for fiscal year 2022. (These members contend that the caps included in the Fiscal Responsibility Act set a ceiling for spending, but not a floor.)

**URL:** <https://www.congress.gov/118/plaws/publ5/PLAW-118publ5.pdf>

With the start of the lame duck session this week, there are no apparent signs that leaders in the two chambers are any closer to reaching an agreement on a full-year funding package. That has prompted some Republicans to call for another continuing resolution that would push decisions around federal appropriations into 2025—when the GOP officially controls both chambers of Congress and Donald Trump is once again in the White House. Other Republicans, however, have argued that passing a full-year funding measure during the lame duck session would clear one potentially difficult item from incoming President Trump’s to-do list and allow him to focus on his broader policy agenda—including laying the groundwork for a package of tax law changes—in his first 100 days in office.

Republicans reportedly will be taking their cues on how to proceed from Trump.

“We’ll do what the president wants us to do,” House Appropriations Committee Chair Tom Cole, R-Okla., told *Politico* this week. “I’m very much for getting a deal as quickly as we possibly can. If we have to wait a little bit, if that’s what our leadership and the president decide to do, then I’m for that.”

**Smith-Wyden tax package:** Also unclear is whether Senate leaders intend to make one last push to advance the now-stalled Tax Relief for American Families and Workers Act (H.R. 7024), a bipartisan measure negotiated by Ways and Means Committee Chair Jason Smith and Finance Committee Chair Ron Wyden that, at a high level, would:

**URL:** <https://www.congress.gov/bill/118th-congress/house-bill/7024/text>

- Reverse (through 2025) certain business-unfriendly tax provisions related to the treatment of research expenditures, bonus depreciation, and the deduction for business interest expenses that were included in the Tax Cuts and Jobs Act but did not take effect until several years after that measure was enacted;
- Enhance the child tax credit;
- Expand the low-income housing tax credit;
- Relieve double-taxation on investments between the US and Taiwan; and
- Provide tax relief for victims of certain federally declared disasters.

That measure passed the House by a wide bipartisan margin earlier this year but has since been stalled in the Senate primarily due to continued opposition from many Republicans, including Finance Committee ranking member Mike Crapo of Idaho. Crapo, who, as already noted, will chair the Finance Committee in the incoming Congress, has voiced particular concerns about the bill's inclusion of a lookback provision that would allow individuals to claim the expanded portion of the child tax credit (for tax years 2024 and 2025) based on their prior-year income, arguing that the provision would disconnect the incentive from work.

If Senate leaders opt not to take up the entire package during the lame duck session, they could conceivably try to pass discrete parts of it, such as the disaster-relief provisions and the US-Taiwan double-taxation relief.

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