

# Snapshot of notable items the U.S. Congress may act on before the end of 2022



After a whirlwind of legislative activity over the past six weeks—approving the Democrats’ signature Inflation Reduction Act, the “CHIPS Plus” bill promoting semiconductor manufacturing, the PACT Act on expanding access to care and benefits for veterans exposed to toxins, a gun-control bill, and ratifying the accession of Sweden and Finland into NATO—the U.S. Congress is now fully in its summer recess period ahead of the midterm elections in November.

But many other issues remain on the legislative docket. Decisions by congressional leaders on what will be prioritized will not only be dictated by whether sufficient votes exist to ensure passage, but also by the amount of available floor time in the Senate, which will be at a high premium for the remainder of this congressional session. This snapshot provides a high-level overview of some of the most notable items that Congress could attempt to act on before the end of the year.

Issue	Potential Timing	Likelihood of Passage
<b>Antitrust and Privacy in Tech:</b> The American Innovation and Choice Online Act championed by Sen. Amy Klobuchar and Sen. Chuck Grassley is perhaps the biggest remaining wildcard for the year. Recent comments from Majority Leader Schumer’s office suggested action is likely, but much uncertainty remains about whether enough votes can be corralled for passage. A vote on the more narrowly drafted Open App Markets Act could be a Plan B path, while the American Data Privacy and Protection Act still appears to face an uphill battle.	Sen. Klobuchar has asserted that she received a commitment for a vote on her and Grassley’s bill “in the fall,” but further timing is unclear.	Unclear
<b>Government Funding:</b> Current U.S. government funding appropriations will expire on September 30, 2022. With committee-level appropriation markups incomplete, a short-term continuing resolution (CR) to extend funding at current levels is likely. Absent congressional action, non-essential federal government activities would shut down October 1—but at present, there is no notable conversation to indicate political appetite for such an outcome.	Likely a short-term CR before the midterms to last until the lame duck, followed by another until early 2023, but other timing is possible. A deal on a full omnibus could also come in the lame duck.	Very Likely
<b>Debt Ceiling:</b> While projections indicate the government won’t hit the \$31.4 trillion debt ceiling until early 2023, to take the issue off the table for the next Congress (with likely GOP control of at least one chamber) a deal to raise or suspend the limit beyond November 2024 has been discussed.	If moved on, it would almost certainly happen in the lame duck, so as not to be an issue in the midterm elections.	Somewhat Likely

Learn more about working with us:

Brian Bartlett  
Partner and Head of the Washington, DC Office  
brian.bartlett@kekstcnc.com  
+1 (202) 309-6105

Jeremy Fielding  
Partner and co-CEO  
jeremy.fielding@kekstcnc.com  
+1 (212) 521-4858

**National Defense Authorization Act (NDAA):** The Senate still needs to act after the House passed its version in mid-July. As one of the few remaining “must pass” bills each year, the NDAA has frequently served in the past as a vehicle for other unrelated policy riders to be attached to—a function it is likely to serve again this year.

Likely in September ahead of the midterms, but could slip to the lame duck.

Very Likely

**Tax Extenders:** As often occurs at the end of each year, a package to renew expiring tax credits will likely be considered, but the prospects for any individual tax provision remain uncertain.

Almost certainly in the lame duck, if a package is considered at all.

Unclear

**Insulin Pricing:** After the Senate Parliamentarian ruled a proposed provision capping insulin payments for non-Medicare patients could not be included in the Inflation Reduction Act, there has been some discussion that the policy may be brought up for a standalone vote.

If it happens at all, it is more likely to come in the lame duck to allow time to gather support.

Unlikely

**Gay Marriage:** A House-passed bill that would codify same-sex marriage into federal law remains a topic of private discussions in the Senate, as a handful of Republican senators have expressed interest in the bill if some changes are made. Sen. Schumer has committed to holding a Senate vote, with or without a deal.

A vote come September if a deal is made—or if deal talks clearly falter. Otherwise, if the prospect of reaching a deal remains, a delay to the lame duck is possible.

Unclear

**Electoral Count Act / Presidential Transition Reform:** In July, a bipartisan group of senators—8 Republicans and 8 Democrats—unveiled proposals to reform the 1887 Electoral Count Act, and to enable transition resources to start even if an election was still in dispute.

If these proposals are brought for a vote, it would almost certainly happen in the lame duck.

Unclear

**Nominations for Judicial and Executive Appointments:** The Senate is expected to continue a steady pace of action on nominees requiring a confirmation vote. This will likely accelerate in the lame duck session, as any nominees remaining unconfirmed at the end of the current Congress would need to be renominated by the President next year. Confirmation votes will be especially prioritized should Democrats lose control of the Senate in the midterm elections.

Some votes likely ahead of the midterms, with an accelerated pace in the lame duck (potential for unanimous consent agreements to speed up).

Certain