

TECHVISION21

INSIDE VIEW

Cascading Deadlines Will Determine the Fate of Biden's Big Legislative Priorities 2021:

Congress faces a series of cascading deadlines in September that will determine the fate of President Joe Biden's big legislative priorities, including the bipartisan conventional infrastructure bill and a still-developing Democratic bill to boost non-traditional infrastructure.

Key dates to watch:

- Sept. 13 - Senators return to Washington;
- Sept. 15 – non-binding deadline for committees to have written their portion of Democrats-only non-traditional infrastructure bill;
- Sept. 20 – House members return to Washington;
- Sept. 27 – deadline for House vote on Senate-passed bipartisan traditional infrastructure bill; and
- Sept. 30 – deadline to pass a government funding bill and the bipartisan infrastructure bill or temporary extensions of both.

IN THIS ISSUE

**BIPARTISAN
INFRASTRUCTURE BILL**

**DEMOCRATS-ONLY NON-
TRADITIONAL
INFRASTRUCTURE BILL**

**ANNUAL FUNDING BILLS
INTELLIGENCE**

**USICA/CHINA
COMPETITIVENESS**

DEFENSE POLICY

OMB R&D MEMO

Bipartisan Infrastructure Bill

This has the greatest likelihood of being enacted into law somewhere close to the schedule outlined above. The bill, formally the Infrastructure Investment and Jobs Act (H.R. 3684), passed the Senate overwhelmingly Aug. 10 but risked being hung up in the House over a disagreement between Democrats on the separate non-traditional infrastructure bill they plan to pass with only votes from their own party.

Democratic moderates forced House Speaker Nancy Pelosi to set Sept. 27 as the target date for a House passage vote on the bipartisan bill, though it is possible it could slip. Because the bill includes the reauthorization of transportation programs set to expire Sept. 30, it must be passed and signed into law or Congress must pass a temporary extension for those programs.

Democratic progressives have threatened to not vote for the bill unless moderate Democrats also vote for the Democratic non-traditional infrastructure plan, a stance that could complicate passage. That dilemma was highlighted Sept. 2, when Sen. Joe Manchin in a Wall Street Journal op-ed said there should be a “pause” on the bigger, non-traditional infrastructure plan.

The bipartisan bill, in addition to providing several hundred billion in new spending for public works, includes a variety of pilot and demonstration projects. It authorizes \$355 million between fiscal 2022 and 2025 for grant program for energy storage pilot projects, for example. Another \$5 million would be authorized for to study the impact of autonomous vehicles on transportation infrastructure, like pavement. Another pilot would aim to see how well a vehicle-miles-traveled program would work to replace the current gas tax.



Democrats-only Non-traditional Infrastructure Bill

This is what will likely tie Democrats up in knots for much of the month of September and possibly delay final passage/enactment of the bipartisan infrastructure bill. The broad outlines – how much specific committees will have to “spend” within their jurisdiction (or raise, in the case of the tax writers) – were set in the FY22 budget adopted in August.

Democrats have set a gross amount of \$3.5 trillion over 11 years in new spending as the informal cap to the bill’s size, but that is almost certain to come down as each of the committees write their parts. The battle between moderates who want the bipartisan infrastructure bill, which contains some of Biden’s Build Back Better agenda, but are lukewarm to the much bigger “human infrastructure” bill containing spending on climate change, prescription drugs and the child tax credit, is far from over. The mental Venn diagram of the problem is to think about the smallest amount acceptable to the Bernie Sanders/AOC wing and the largest amount acceptable to Joe Manchin/Kyrsten Sinema/House moderates.

Getting an answer to that by Sept. 27, the target date extracted by House moderates to pass the bipartisan bill, will be hard.

A House Budget report said the package will include money for revitalizing labs and research, in part through regional tech hubs. Supply chain resilience and modernization for manufacturers will also be targeted, the report said, through Manufacturing USA Institutes, the Manufacturing Extension Partnership and the National Institute for Standards and Technology.



Annual Funding Bills

While both the bipartisan and Democrats-only bills are expected to carry most of Biden's Build Back Better agenda, other proposals were included in the annual appropriations request he sent to Congress in the spring. But with the House having passed only a handful of their funding bills and the Senate having passed none at all, **a temporary stopgap funding bill to keep the government open is the most likely outcome.**

The question will be whether it will be for the entire government or whether some agencies will get funded for the year while others don't. The House passed seven funding bills in July, but left two of the most tech-heavy ones that had been OK'd at the committee level, the Commerce and Defense bills, on the sidelines. Only three Senate bills have been passed by committee.

Complicating matters is the need for money to be appropriated for areas affected by Hurricane Ida, which could take up valuable floor time and be wrapped into the stopgap bill. Potentially complicating matters is the likely need for money to be appropriated for areas affected by Hurricane Ida, which could take up valuable floor time or be wrapped into a stopgap bill.

Bills funding the Energy Department are among the three with committee approval in the Senate and that have passed the House floor, raising possibility the department could be funded through FY 22 even if the rest of the government is not in a scenario where there is a partial continuing resolution.

The Senate Energy bill would fund the agency's Science activities at \$7.49 billion, up from \$7.03 billion, while the House would fund that research at \$7.32 billion. ARPA-E, the agency's energy-related breakthrough research arm, would be funded at \$500 million, up from \$427 million, in the Senate bill and \$600 million in the House bill. Appropriators in both chambers rejected the administration's argument an ARPA-C (for climate) would have to be authorized by Congress to conduct climate research, saying those activities could be done through ARPA-E under existing law.

USICA/China Competitiveness

After being passed by the Senate in July, this 2,736-page bill is likely to take a back seat until later in the fall to other priorities, including the infrastructure bills, appropriations and the need to suspend the debt limit again in October. Pelosi has said she would like to take the big bill sent over from the Senate and instead break it down into smaller pieces, an approach that could make it harder to pass anything if Senate Republicans balk. **The bill includes several tech provisions, including the CHIPS Act to boost semiconductor manufacturing, establishment of regional “tech hubs,” boosting STEM education and inventorying and setting principles for greater government use of AI.**

Defense Policy

The House Armed Services Committee completed its markup of the annual defense policy bill September 2. **The headline was the panel on an overwhelmingly bipartisan basis agreed to a topline discretionary spending to guide appropriators of \$740 billion, about \$25 billion what the Biden White House had proposed in its budget for fiscal 2022.** The House Armed Services Committee figure aligns with its counterpart in the Senate, where the bill was marked up in committee in July.

A summary of the Senate bill touts a \$1 billion increase for science and tech research programs, including ones that focus on microelectronics, AI, advanced materials, 5G and biotech. It would also authorize a \$500 million boost in funding for ARPA and modify existing CHIPS semiconductor language to authorize a national network for microelectronics research and development to support domestic microelectronics manufacturing capability.

In the House, extra money would be authorized for researching biotech, directed energy and electromagnetic spectrum. Basic and applied research would get a boost of \$446 million.



OMB R&D Memo

Acting OMB Director Shalanda Young and Eric Lander, director of the White House's Office of Science and Technology Policy, issued a memo Aug. 27 laying out priorities for agency heads and other executives on research and development as they begin putting together their FY 2023 budget requests.

"Simply supporting R&D is not sufficient; however, Federal agencies should ensure that the R&D results are made widely available to other scientists, to the public to facilitate understanding and decisions, and to innovators and entrepreneurs who can translate them into the businesses and products that will improve all of our lives," the pair wrote. Among multi-agency R&D priorities, the pair identified:

- Pandemic readiness and prevention;
- Tackling climate change;
- Catalyzing research and innovation in critical and emerging technologies;
- Innovation for equity; and
- National security and economic resilience.

Young and Lander said federal R&D efforts can help rebuild U.S. supply chains.

"The Biden-Harris Administration is committed to ensuring that the practice of 'invent it here; make it there' is replaced with 'invent it here; make it here.' Federally funded R&D investments should therefore promote domestic manufacturing, job creation, and economic prosperity in the United States, including in communities historically underserved, marginalized, and adversely affected by persistent poverty and inequality," the pair wrote.

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