# Congress averts government shutdown but debt limit deadline still looms

As congressional Democrats this week attempted to narrow their policy differences ahead of Senate consideration of the Build Back Better legislation, lawmakers from both parties also worked—with mixed results—to reach consensus on measures to fund government operations and prevent a breach of the statutory debt limit.

## Funding patch approved

For weeks it has been a foregone conclusion that Congress likely would have to adopt another short-term continuing resolution (CR) to keep the government's doors open past midnight on December 3 when the current stopgap funding measure is set to lapse. And on December 2, lawmakers did just that, when the Senate cleared a stopgap measure passed by the House just hours earlier that funds the government at fiscal year 2021 levels through February 18 of next year. (Fiscal year 2022 began on October 1, and in the absence of a set of 12 full-year appropriations bills approved by both the House and Senate, the government has been operating under a CR that funds operations at levels enacted for the previous fiscal year.)

The House approved the new CR by a vote of 221-212, with Republican Rep. Adam Kinzinger of Illinois the only member of his conference crossing the aisle to join Democrats in the "aye" column. Senate passage came on a bipartisan vote of 69-28. President Biden was expected to sign the measure prior to day's end on December 3.

**Disagreements abound:** A disagreement between Democrats and Republicans over relative spending levels on defense and nondefense accounts—the primary sticking point holding up agreement on a full-year appropriations package—was compounded in recent days by additional discord over the duration of any CR, with Democrats preferring a measure that extends current funding levels until mid-to-late January and Republicans arguing for a longer-term bill that would effectively lock in spending levels set during the Trump administration until as late as April or May of next year. The February 18 end date of the just-passed spending measure can be viewed as a middle ground between those positions.

Also complicating the process were demands made this week by several conservative Republicans in both the Senate and House that any short-term spending measure block funding that could be used to enforce a mandatory coronavirus vaccine-and-testing regime for large employers announced by the Biden administration in November.

"I think this is the fight—this is where we have the most leverage actually to accomplish stopping the mandate," Sen. Roger Marshall, R-Kan., said December 1. "I think that folks back home want to know how hard we're fighting for them, that the jobs back home are as important as keeping the federal government open."

Marshall was backed up by members of the conservative House Freedom Caucus, who on December 1 penned a letter to Senate Minority Leader Mitch McConnell, R-Ky., urging McConnell to "use all procedural tools at your disposal to deny timely passage of the CR unless it prohibits funding—in all respects—for the vaccine mandates and enforcement thereof."

Ultimately, however, those demands were quelled when opponents of President Biden's vaccine mandate acceded to simply allowing a vote on an amendment offered by Sen. Mike Lee, R-Utah, that would deny funding to enforce the policy. That amendment—which under an agreement between the parties would have been allowed to pass by a simple majority vote—was rejected 48-50.

**Yellen urges fast action on debt limit ahead of December 15 deadline**

In other budget-related news, Treasury Secretary Janet Yellen this week delivered another stern warning to lawmakers that they must quickly act to raise or suspend the statutory debt limit, or risk an economic calamity.

"I cannot overstate how critical it is that Congress address this issue," Yellen said at a November 29 Senate Banking Committee hearing. "America must pay its bills on time and in full. If we do not, we will eviscerate our current recovery."

In a November 16 letter to House and Senate leaders, Secretary Yellen cautioned that while she has "a high degree of confidence that Treasury will be able to finance the US government through December 15, . . . there are scenarios in which Treasury would be left with insufficient remaining resources to continue to finance the operations of the US government beyond this date."
**URL:** https://home.treasury.gov/news/press-releases/jy0488

In her November 29 testimony, Yellen doubled down on that argument.

"In a matter of days [beyond December 15], the majority of Americans would suffer financial pain as critical payments, like Social Security checks and military paychecks, would not reach their bank accounts, and that would likely be followed by a deep recession," she said.

**Staggered transfers to Highway Trust Fund could provide some breathing room, CBO says:** For its part, the nonpartisan Congressional Budget Office (CBO) noted in a report released November 30 that if the Treasury made a $118 billion transfer to the Highway Trust Fund—as required under the recently enacted Infrastructure Investment and Jobs Act (P.L. 117-58)—in staggered payments rather than as a single transfer on December 15 as announced by Treasury, the date of any potential default could be delayed until January of 2022.
**URL:** https://www.cbo.gov/system/files/2021-11/57635-debt-limit.pdf

"The Secretary of the Treasury may have the authority to defer all or part of the transfer to the Highway Trust Fund," the report states. "If payments were made to the Highway Trust Fund only in the amounts needed for immediate use, the government would be able to pay its obligations for a few weeks longer than it would if the payments were made in full—until sometime in January."

Still, as with any projections of government inflows and outflows, CBO cautions that its estimates are subject to inherent uncertainty.

“The timing and amount of revenue collections and outlays over the next few weeks are especially uncertain, given the magnitude of outlays related to the 2020-2021 coronavirus pandemic . . . ,” the report says. “Therefore, . . . Treasury could run out of cash, earlier or later than CBO projects.”

**Schumer and McConnell dial down rhetoric, but debt limit strategy still unknown:** Exactly how congressional leaders intend to address the pending debt cliff remains unclear. Senate Minority Leader McConnell, after lending his support to a short-term debt limit increase in October, has previously stated that the GOP will not provide the votes to help Democrats raise or suspend the limit again and has insisted that Democrats solve the problem on their own through the budget reconciliation process.

Majority Leader Schumer, meanwhile, has been equally adamant that the debt limit requires a bipartisan solution since both parties bear responsibility for running up the nation’s credit card. (Invoking budget reconciliation would require Democrats to amend the already-adopted fiscal year 2022 budget resolution to include reconciliation instructions calling for such a policy. It also could entail at least one additional marathon “vote-a-rama” session in the Senate in which unlimited amendments may be offered and voted upon with little or no debate.)

In comments to reporters this week, both Schumer and McConnell indicated they were engaged in amicable talks to resolve the impasse, but they offered no details of a possible path forward.

“I recently had a good conversation with the Republican leader about [the debt limit] and expect to continue those talks . . . ,” Schumer said on November 30. “I look forward to achieving a bipartisan solution to addressing the debt limit soon.”

Sen. McConnell struck a similar tone during remarks to reporters on December 1.

“Let me assure everyone the government will not default as it never has,” McConnell said. “And second, the Majority Leader and I have been having discussions about the way forward.”

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