



# TROUTMAN SANDERS STRATEGIES

114th Congress  
SUMMER RECESS UPDATE  
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## Congress in Recess

*The U.S. Senate and House of Representatives left Washington, D.C. on July 14 to embark on a seven week recess. Many Representatives and Senators took on leadership roles at the national conventions, acted as delegates, or appeared as speakers. Most, however, returned to work in their home states and districts and to campaign for their own elections in November. Both chambers are scheduled to return to legislative business on September 6. When Congress returns to the Capitol, they only have about 9 weeks left in the year scheduled for legislative business. Despite this short window, there are many agenda items remaining. Below are a few items Congress left unfinished and may address in September, the lame-duck session after November 8, or into the 115<sup>th</sup> Congress.*

### Government Funding

When Congress returns from recess, lawmakers will have less than four weeks to implement federal spending legislation if they want to avoid a government shutdown. The federal government's fiscal year ends on September 30. The House and Senate Appropriations Committees have marked-up and passed out of committee all of the 12 annual funding bills, but only three have passed the full Senate and only five have passed in the House. Only one bill, the Military Construction & Veterans Affairs bill, passed in both chambers, but was later blocked by Senate Democrats over Zika-funding language conference report. Election year politics all but ensures that this gridlock will continue when Congress returns. Democrats in both the House and Senate will adamantly oppose funding measures that contain conservative policy provisions considered a priority for many Republicans. Given this deadlock, a continuing resolution (CR) will likely be needed to keep the federal government operating while leaders work on a broader funding agreement. The question now remains; how long will a CR last?

One option Congress may consider is a short term CR that keeps the government funded until just beyond the November elections. This would tee up lawmakers to return to the Capitol during the lame-duck session to continue working on FY 2017 appropriations legislation or craft an omnibus spending package before the December holidays, similar to what happened in December 2015. Lawmakers on both sides of the aisle have expressed a desire to finish FY 2017 work before a new Congress and a new administration takes over in January 2017. Bills that have passed the appropriations committees could be used as vehicles to craft an omnibus package.

Some House Freedom Caucus members are advocating for a six-month CR, which would kick the can down the road to sometime in March 2017. While some Senate Republicans indicated their support for the measure in July, House Speaker Paul Ryan (R-WI) and Senate Majority Leader Mitch McConnell (R-KY) have yet to commit to such a plan. If Congress passes a six-month CR before knowing the results of the November elections, Republicans risk losing leverage in spending negotiations if they lose the White House, the Senate, or both. However, many members of the House Freedom Caucus and the Republican Study Committee are opposed to working on appropriations during the lame-duck, fearing leadership will concede too much to the Democrats.

A third option, although unlikely, would be for Congress to pass a full-year CR using previous funding levels. This option would anger appropriators who have already worked hard to write and mark-up FY 2017 spending bills. Omnibus spending packages are preferable to a full-year CR for many lawmakers and federal agencies because the former still allows for policy changes and funding adjustments for federal programs.

## **NDAA**

The House and Senate voted in July to go to conference on the National Defense Authorization Act (NDAA), the annual defense authorization bill that Congress has passed consecutively for 54 years. The conferees will face difficulties; there are a number of controversial policy differences between the two versions, some that even face a presidential veto threat. Given the normally bipartisan support the NDAA has historically received, the defense authorization legislation will likely be a top priority for lawmakers when the return to legislative business. On the House side, Armed Services Chairman Mac Thornberry (R-TX) and Ranking Member Adam Smith (D-WA) will likely lead the negotiations. Although the Senate has not formally announced conferees, Armed Services Chairman John McCain (R-AZ) and Ranking Member Jack Reed (D-RI) will undoubtedly play large roles in forming an agreement.

## **Energy Policy**

After years of committee work crafting comprehensive energy legislation, both chambers have finally agreed to conference and reconcile the differences between the House's North American Energy Security and Infrastructure Act (H.R. 8), sponsored by Fred Upton (R-MI), and Senate's Energy Policy Modernization Act (S. 2012), sponsored by Lisa Murkowski (R-AK). Senate and House conferees and their staff members will be working during the summer recess to hammer

out the differences and find common ground to make an energy agreement possible before the end of the year. The legislation includes advances for research, development, and implementation of clean coal technologies, as well as a repeal of the fossil fuel ban for federal buildings. Also included are improvements to the permitting process for companies wishing to export LNG to countries that do not have free trade agreements with the United States. Additional permitting improvements are included in the areas of hydropower, pipelines, and gas gathering. If differences can be reconciled, the bill will include some encouraging changes to regulatory hurdles. However, with funding negotiations being the main focus, an energy conference may not be the top priority for House and Senate leaders. The legislation would be the first major update to the country's energy policy in nearly eight years.

As appropriations discussions continue, many energy policy areas may be impacted. The President has requested \$8.27 billion for the EPA, an increase of nearly \$100 million from fiscal 2016 levels. The request reflects the President's continued focus on climate change, air pollution and drinking water standards. Almost \$235 million of the EPA request would fund carbon reduction efforts, including the Clean Power Plan limiting emission from power plants. The Clean Power Plan is currently on hold as the U.S. Court of Appeals will hear oral arguments on September 27.

Looking forward to 2017, Rep. Buddy Carter (R-GA-01) is expected to be elected to serve on the powerful House Committee on Energy and Commerce. Currently, no other Georgia U.S. Representative serves on the committee.

## 21<sup>st</sup> Century Cures

Just over a year ago, the House of Representatives passed their 21<sup>st</sup> Century Cures Act (H.R. 6), legislation updating health information technology policy and expediting and streamlining the FDA approval process for medical treatments, drugs, and devices. The Senate HELP Committee has been working year-round to advance piecemeal legislation aimed at accomplishing the same goals as the House version, though funding problems have halted progress. Senate HELP Committee Chairman Lamar Alexander (R-TN) and Majority Leader Mitch McConnell (R-KY) have also indicated that the House's version could come up for a vote in the Senate. 21<sup>st</sup> Century Cures is also a bill package that could be brought up in the next congress, as it has been largely a non-partisan effort beyond spending issues.

## Trans-Pacific Partnership

The TPP, the massive trade agreement between the United States and 12 other Pacific nations, has taken a lot of criticism on the campaign trail from both Donald Trump and Hillary Clinton, who say the agreement is not in the best interests of American workers. Prospects for a vote on TPP in the lame duck session of Congress are increasingly bleak; House Speaker Paul Ryan (R-WI), Minority Leader Nancy Pelosi (D-CA), Senate Majority Leader Mitch McConnell (R-KY), and dozens of other members of Congress have said the chance for a vote is slim or have voiced concerns with the deal's text. However, U.S. Trade Representative Michael Froman has continually indicated that President Obama plans to send implementing legislation to Congress and is seeking a vote in the lame-duck session. Additionally, many outside groups are pouring

resources into messaging campaigns for the trade deal. For example, the Business Roundtable, the National Association of Manufacturers, and several agricultural organizations support the TPP and are advocating for its passage. However, dozens of environmental, labor, and faith advocacy groups like the AFL-CIO and Greenpeace oppose the deal.

## **Supreme Court Nomination**

The Supreme Court seat left by the late Justice Antonin Scalia remains vacant. The Senate Judiciary Committee has not held a confirmation hearing for President Obama's nominee, Merrick Garland, and Senate leaders are arguing that the seat should remain empty until a new president is in the White House next year. It is highly unlikely their position will change when Congress returns in September or during the lame-duck session. Senate Democrats, on the other hand, are arguing that the Senate should do its duty and at minimum hold a hearing on the nominee. Senate Republicans may reconsider holding a confirmation vote for President Obama's nominee if they lose control of the Senate in the November election. Supreme Court Justices serve for life; therefore, whoever is chosen to replace Scalia will have the power to ideologically tilt the Court until a new seat opens.

## **Zika Funding**

Funding to combat the Zika virus may continue to be a priority for Democrats during any funding negotiations. The appropriators included \$1.1 billion to fight the virus in the Senate Military Construction-Veterans Affairs spending bill, but Democrats blocked the entire measure because it contained unrelated and controversial policy provisions. Republicans may use the funding as a bargaining chip in future funding talks. Democrats have called to bring congress back into session over recess in order to address the Zika issue, although this scenario is unlikely.

Meanwhile, the Department of Health and Human Services (HHS) announced on Thursday that an a transfer of \$81 million, \$34 million to the National Institutes of Health and \$47 million to the Biomedical Advanced Research and Development Authority, will be made to combat the virus. The transfer, however, is not likely to assuage many lawmakers, especially Democrats. Many will argue that the transfer is pulling funds away from other vital programs and that additional funding will still be needed. Earlier this year, the Obama administration reallocated nearly \$600 million from other programs to battle the virus. A large portion of the \$452 million HHS received to combat Zika went to the Centers for Disease Control and Prevention (CDC). However, HHS Secretary Sylvia Burwell has said that if Congress does not appropriate additional funding by the end of the fiscal year then the CDC's ability to fight Zika will be greatly diminished. The CDC has been working in particularly vulnerable states like Texas and Florida.

## **Higher Education Policy**

The Senate and House education committees have held dozens of hearings and passed several pieces of legislation addressing higher education policy over the past few years. Despite this progress, few bills have become law and a comprehensive reauthorization of the Higher Education Act remains a long shot in 2016. However, smaller deals with bipartisan support, like

simplifying student aid forms and improving parts of the federal loan process, could still be reached in the coming months. Looking forward, if Hilary Clinton wins the White House in November, current Education Secretary John King may stay on the job. King took over the post near the beginning of this year and could provide a level of policy continuity for a Democratic administration. Rumors are also swirling around Linda Darling-Hammond, a former advisor to President Obama on education policy. There has been speculation amongst media outlets that a President Trump could pick former presidential candidate Ben Carson to head the department.

## **Financial Regulations Overhaul**

In June, House Financial Services Committee Chairman Jeb Hensarling (R-TX) introduced his proposal, the Financial CHOICE Act, to repeal and replace Dodd-Frank. The bill includes a “choice” for banks in which they could comply with regulations currently on the books, or they could increase their equity capital to 10% in exchange for less stringent regulations. Additionally, the bill removes the Financial Stability Oversight Committee’s ability to label firms as systemically important, makes changes to the Consumer Financial Protection Bureau (CFPB), increases fines associated with insider trading, and repeals the Volcker rule which prohibits banks from using federally-insured deposits to make risky investments. The bill is the first comprehensive proposal put forth by Republicans to enact changes to financial regulations they have long argued are burdensome on the economy. President Obama will undoubtedly veto the bill if it reaches his desk before the end of his term.

Hensarling’s proposal, however, has laid the groundwork for Republicans to repeal Dodd-Frank in 2017 if Trump wins the White House and the GOP maintains control of both chambers of Congress after the November elections. Approximately 30% of the regulations required by Dodd-Frank are not finalized and agencies like the CFPB have plans to propose and finalize dozens of rules for financial services and products in the coming months. These new regulations on financial industries will be a driving factor for Republicans to enact changes to existing laws.

# Recent Congressional Accomplishments

*Despite the success of the House and Senate Appropriations Committees marking up and reporting all twelve spending bills, Congress has passed very few pieces of legislation. For the year to date, 83 pieces of legislation have become public law, only a few of which can be considered major legislation. These laws include an authorization for Coast Guard funding, sanctions for North Korea, customs legislation, dozens renaming federal buildings, and a bill adopting the bison as the national mammal of the United States, among others. Below are additional legislative accomplishments by Congress in recent weeks.*

## Opioid Abuse

In July, Congress authorized funding for federal treatment and recovery programs to help states and local communities address the opioid drug epidemic sweeping the country. The legislation (S. 524) does not provide funding, however, so it will be left up to appropriators to determine an appropriate amount to provide the programs.

## Puerto Rico

In June, Congress passed legislation (S. 2328) preventing creditors from taking legal action against the island and establishing a federal oversight board charged with helping Puerto Rico restructure its \$70 billion debt. Puerto Rico is required to submit fiscal plans and a budget to the board for approval.

## Toxic Substance Control Act

In June, Congress also passed the first major overhaul (H.R. 2576) of the Toxic Substance Control Act since it was first passed by Congress four decades ago. The bill gives the EPA the authority to review thousands of chemicals and to streamline state laws to create uniform federal regulations.

## FAA Reauthorization

The Federal Aviation Administration was reauthorized through fiscal year 2017 by legislation (H.R. 636) Congress passed in July. The reauthorization includes language affecting a wide set of policy areas including TSA staffing, air carrier fees & refunds, safety standards, and drone testing.

## Genetically Modified Foods

In mid-July, Congress passed legislation (S. 764) setting a national standard requiring labels or scan codes on certain types of foods that contain genetically modified ingredients. The issue arose when Vermont passed a law requiring GMO labeling and lawmakers feared more states would follow, creating a complicated patchwork of state labeling laws.

# National Conventions

*The Republican and Democratic National Conventions were held the week of July 18 in Cleveland and the week of July 25 in Philadelphia, respectively. Both conventions experienced a touch of drama and excitement, but ultimately the parties appeared to rally behind their nominees. Both Presidential candidates are now campaigning with their VP picks, visiting swing states, and stumping across the country. Each nominee is looking to gain an advantage over the other as the November elections move closer. The first debate between the two nominees is scheduled for September 26 at Hofstra University.*

## Republican National Convention

Donald Trump is now the official Republican nominee for the Presidency, along with his vice-presidential pick, Indiana Governor and former congressman, Michael Pence. The first day of the RNC was marred by dissension when a small faction of delegates attempted to force a roll call vote on the convention's rules. Their petition was quickly refused, however, and the rules were adopted by voice vote. Senator Ted Cruz (R-TX) addressed the convention; however, he refused to give Trump an endorsement. Other keynote speakers included House Speaker Paul Ryan (R-WI), New Jersey Governor Chris Christie, Donald Trump's children, Ben Carson, Newt Gingrich, House Majority Leader Kevin McCarthy (R-CA), and Senate Majority Leader Mitch McConnell (R-KY). Donald Trump closed the convention with his nomination acceptance speech.



- [Republican Party Platform](#)

## Democratic National Convention

Hillary Clinton is now the official Democratic nominee, along with her vice-presidential pick, Virginia Senator Tim Kaine. Like the RNC, the first day of the DNC's convention was plagued by Bernie Sanders protesters, both inside and outside the arena, angered by leaked Democratic National Committee emails appearing to show partiality toward the Clinton campaign. As a result of the scandal, Democratic National Committee Chairwoman, Debbie Wasserman Shultz (D-FL), stepped down as chair and allowed Baltimore Mayor Stephanie Rawlings-Blake to gavel in the convention. During the opening days of the convention, the hall was often filled with chants of "Bernie" from Sanders supporters, even while speakers were addressing the crowd. Ultimately, Senator Sanders urged his supporters to vote for Hilary during his keynote speech on opening night. Other high profile Democratic Party members gave speeches on Clinton's behalf, including President Obama, Vice President Joe Biden, Michelle Obama, Michael Bloomberg, Senator Cory Booker (D-NJ), Senator Elizabeth Warren (D-MA), Senate Minority Leader Harry Reid (D-NV), and former president Bill Clinton. Hillary Clinton closed out the DNC with her acceptance speech on Thursday.



- [Democratic Party Platform](#)

# Elections: 2016

The November elections are under three months away. Senators and House members have the month of August to work and campaign in their home states and districts and will return to the Capitol on September 6. Both the House and Senate are then scheduled to adjourn again before the Columbus Day holiday (Oct. 10) until the week after the elections on November 8. Control of the Senate is again in play, as it was in the 2014 elections, but the House of Representatives is expected to remain solidly in the hands of Republicans.

## House of Representatives: Summary

In November, all 435 congressional districts across the country will elect their Member to the House of Representatives. As of June, the House of Representatives had 247 voting Republicans, 187 voting Democrats, and one vacancy. A simple majority in the House of Representatives is 218; therefore, Democrats would need a net gain of 31 seats in November to retake the majority. Although it is highly unlikely that Democrats will gain enough seats to retake the majority, it is very possible that they will decrease their deficit. As indicated by the Rothenberg & Gonzales Political Report and CQ Roll Call graphic below, 217 Republican seats are already considered 'safe'. Therefore, Republicans would only need to win one seat out of the 35 considered 'in play' to retain their majority. Most political analysts have between 12-20 House seats considered pure tossups.

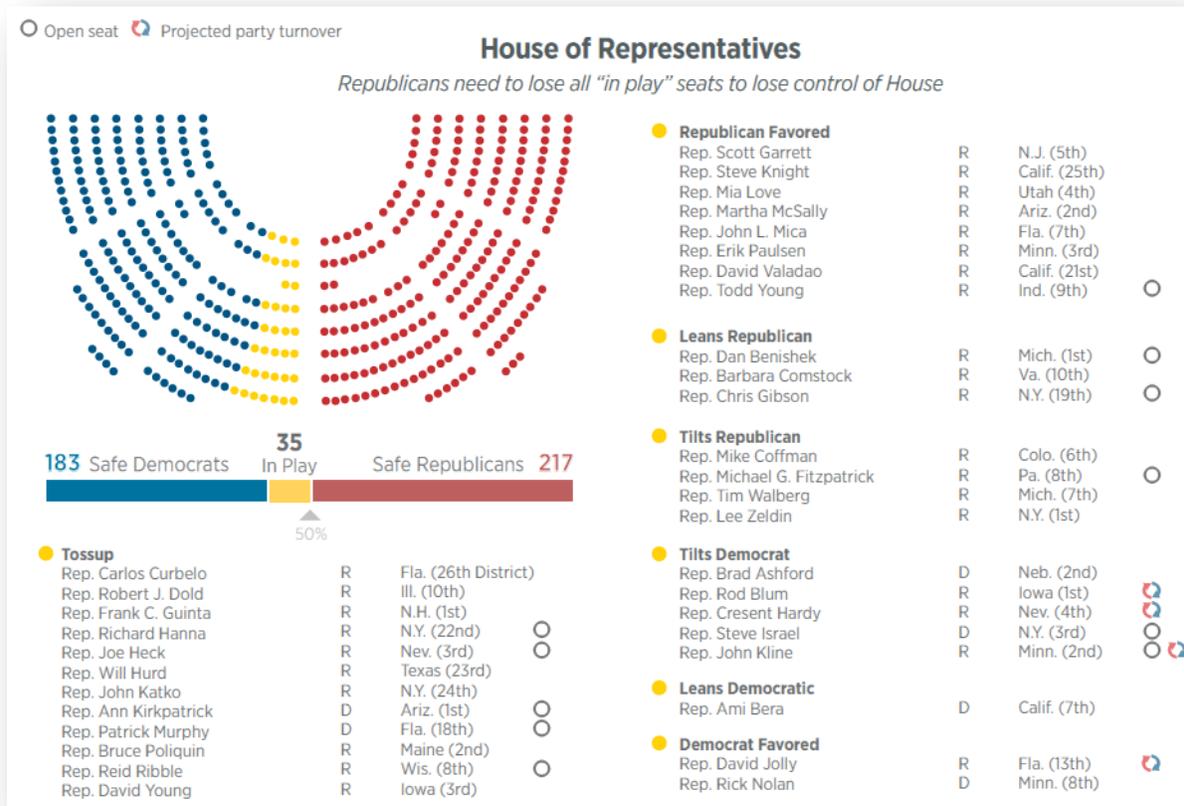


Image by Rothenberg & Gonzales Political Report and CQ Roll Call

## Senate: Summary

The Senate, on the other hand, will be much more competitive and there is a possibility of a majority party flip. Republicans are defending 24 seats this year as opposed to Democrats only defending 10. Republicans currently hold 54 seats and Democrats hold 46 seats, including 2 independents that caucus with the Democrats. Democrats, therefore, need a net gain of five seats to win control of the Senate. If Democrats win a net gain of four seats, control will depend on which party wins the White House because the Vice President would break a tie vote. As the graphic below depicts, Republicans need to win a net of 7 of the 12 seats considered competitive in November to keep their majority rule. Currently, the races most widely considered tossups by political analysts include New Hampshire, Pennsylvania, Florida, Indiana, Ohio, and Nevada.

Additionally, several members currently chairing Senate Committees are up for reelection, including Veterans' Affairs chairman Johnny Isakson (R-GA), Armed Services chairman John McCain (R-AZ), Banking, Housing and Urban Affairs chairman Richard Shelby (R-AL), Energy and Natural Resources chairwoman Lisa Murkowski (R-AK), Commerce, Science and Transportation chairman John Thune (R-SD), Intelligence chairman Richard Burr (R-NC), Rules and Administration chairman Roy Blunt (R-MO), and Judiciary chairman Chuck Grassley (R-IA).

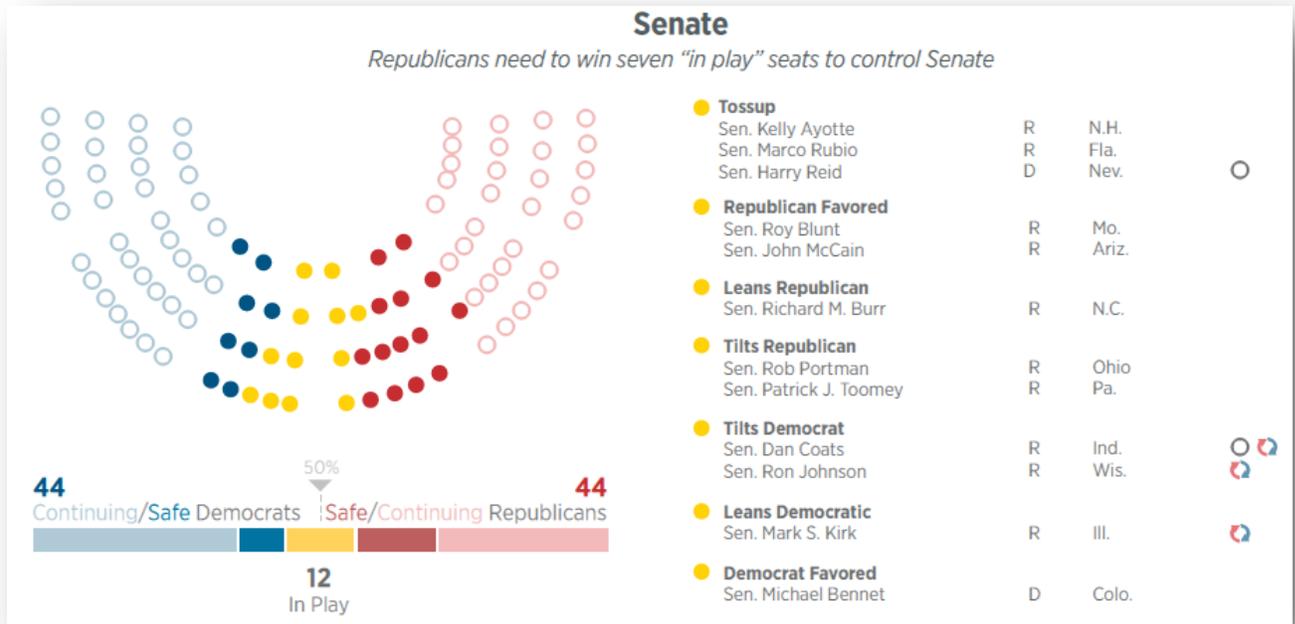


Image by Rothenberg & Gonzales Political Report and CQ Roll Call



# 2016 Congressional Calendar



- Both chambers in session
- Both chambers in recess
- Senate in session
- House in session
- Federal holiday

## July

| M                                | T  | W  | T  | F  |
|----------------------------------|----|----|----|----|
|                                  |    |    |    | 1  |
| 4<br>Independence Day            | 5  | 6  | 7  | 8  |
| 11                               | 12 | 13 | 14 | 15 |
| 18                               | 18 | 20 | 21 | 22 |
| [REPUBLICAN NATIONAL CONVENTION] |    |    |    |    |
| 25                               | 26 | 27 | 28 | 29 |
| [DEMOCRATIC NATIONAL CONVENTION] |    |    |    |    |

## August

| M  | T  | W  | T  | F  |
|----|----|----|----|----|
| 1  | 2  | 3  | 4  | 5  |
| 8  | 9  | 10 | 11 | 12 |
| 15 | 16 | 17 | 18 | 19 |
| 22 | 23 | 24 | 25 | 26 |
| 29 | 30 | 31 |    |    |

## September

| M              | T  | W  | T  | F  |
|----------------|----|----|----|----|
|                |    |    | 1  | 2  |
| 5<br>Labor Day | 6  | 7  | 8  | 9  |
| 12             | 13 | 14 | 15 | 16 |
| 19             | 20 | 21 | 22 | 23 |
| 26             | 27 | 28 | 29 | 30 |

## October

| M                  | T                       | W  | T  | F  |
|--------------------|-------------------------|----|----|----|
| 3                  | 4<br>Rosh Hashanah ends | 5  | 6  | 7  |
| 10<br>Columbus Day | 11<br>Yom Kippur begins | 12 | 13 | 14 |
| 17                 | 18                      | 19 | 20 | 21 |
| 24                 | 25                      | 26 | 27 | 28 |
| 31                 |                         |    |    |    |

## November

| M  | T                 | W  | T                  | F                  |
|----|-------------------|----|--------------------|--------------------|
|    | 1                 | 2  | 3                  | 4                  |
| 7  | 8<br>Election Day | 9  | 10                 | 11<br>Veterans Day |
| 14 | 15                | 16 | 17                 | 18                 |
| 21 | 22                | 23 | 24<br>Thanksgiving | 25                 |
| 28 | 29                | 30 |                    |                    |

## December

| M                         | T  | W  | T  | F  |
|---------------------------|----|----|----|----|
|                           |    |    | 1  | 2  |
| 5                         | 6  | 7  | 8  | 9  |
| 12                        | 13 | 14 | 15 | 16 |
| 19                        | 20 | 21 | 22 | 23 |
| 26<br>Christmas (Federal) | 27 | 28 | 29 | 30 |

Hanukkah begins  
Dec. 24

Image by CQ Roll Call

# Troutman Sanders Strategies LLC

Troutman Sanders Strategies LLC is a wholly owned subsidiary of Troutman Sanders LLP and specializes in developing client-government relationships at the federal, state, and local levels.

Troutman Sanders law firm recognized the evolving complexities in the interface between business and government, and clients were bringing issues before the firm that required interaction with government beyond legal representation. As demands increased and the client list grew, the firm formed a dedicated team of specialists who could concentrate exclusively on government matters. Our government affairs practice has expanded from a single-office operation into a comprehensive, national issue and project management firm. Today, with offices in California, Georgia, North Carolina, Virginia, and Washington, D.C., Troutman Sanders Strategies serves clients all across the country.

Our team consists of consultants, lobbyists, policy and procedural experts. We advance our clients' interests by tailoring each strategy and action in response to the ever-changing political and policy landscapes. Troutman Sanders Strategies has a national reputation for honesty, integrity, and dedication to clients' needs and services.