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## ML Strategies' Outlook for the 112<sup>th</sup> Congress

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# **ML STRATEGIES' OUTLOOK FOR THE 112<sup>TH</sup> CONGRESS**

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*January 2011*

## **ML STRATEGIES' OUTLOOK FOR THE 112<sup>TH</sup> CONGRESS**

The November elections resulted in large gains for Republicans in Congress, with the GOP gaining 63 seats in the House of Representatives and narrowing Democratic control of the Senate to just six seats.

Following the midterm elections, the 111<sup>th</sup> Congress concluded with an extremely productive lame duck session, passing a broad array of significant legislation, including the 9/11 First Responders bill, a compromise extending the Bush tax cuts and unemployment insurance, the New START Treaty, and a repeal of the "Don't Ask, Don't Tell" policy. The lame duck session has given hope to many for a new era of bipartisanship.

However, the incoming 112<sup>th</sup> Congress is likely to be far removed from its lame duck predecessor and will more closely resemble the 111<sup>th</sup> Congress, which was marked by a quick moving House majority and gridlocked Senate. Under the leadership of Speaker John Boehner (R-OH), House Republicans are likely to act quickly with plans to slash government spending. The first effort, in fact, was to trim the cost of running the House itself. Republicans have said that they will offer a sweeping package of "rescissions" early in the session aimed at reducing domestic spending. While such measures will likely pass in the House they, will face scrutiny from a Democratic-controlled Senate and White House.

House Republicans will also move to repeal health care reform legislation that passed in the 111<sup>th</sup> Congress, a largely symbolic vote that will not survive in the Senate or a Presidential veto. However, Republicans have asserted that following a vote on total repeal, they will move to dismantle the law piece by piece, attempting to block various parts of the law including the individual mandate for insurance coverage.

Following the first month of the session, two large scale legislative battles will test the waters of bipartisanship in the new Congress. The first big challenge will come in February when Congress must pass a spending bill to keep the government running before the March 4 expiration of the current continuing resolution. Connected to, and perhaps complicating, the spending debate will be the need to raise the debt ceiling, an act ardently opposed by many conservatives. However, economists and political officials warn that not doing so would force the U.S. to default on its debts, triggering a global recession.

While the 112<sup>th</sup> Congress will face numerous ideological divides on many issues, there does appear to be room for bipartisan cooperation and agreement on a significant number of issues including education, energy, trade, and tax reform. In the short term, the tone of the debates may also become less divisive in the wake of the shooting in Tucson. However, as the 2012 elections draw near, the two parties will likely retreat back to enhanced partisanship as they seek to highlight their differences and convince the public that their party has the best plan for the future.

Following is a summary of the issues ML Strategies sees as the top priorities for the new Congress.

## **AGRICULTURE**

Congress will begin work this year on reauthorizing agriculture programs, as the current authorization expires after Fiscal Year 2012. The authorization legislation, commonly called the “Farm Bill,” deals with more than just crop commodity supports; in fact, an increasing portion addresses food safety, nutrition, and energy. Those other programs are essential to securing votes for the final bill, as far fewer House Democrats are representing rural districts. With an influx of fiscal conservatives, large deficits forecast for the next decade, and crop prices at high levels, Congress may be unwilling to maintain current spending levels. In fact, the omnibus appropriations bill proposed last month would have rescinded funding for several USDA energy programs.

With high crop prices keeping government support payments to a minimum, some pro-agriculture legislators may want to pass a FY12 reauthorization early in order to lock in the current low baseline and shield agricultural programs from larger spending cuts. The House Chairman sees this process taking some time and does not see the real debate occurring until late 2011 or early 2012.

### **Issues**

***Farm Bill:*** The comprehensive omnibus bill is passed approximately every five years and focuses on agriculture and other affairs under the purview of the United States Department of Agriculture. Beginning in 1973, farm bills have included titles on commodity programs, trade, rural development, farm credit, conservation, agricultural research, food and nutrition programs, and marketing. Past farm bills have contained policy provisions that were controversial and have impacted international trade, environmental preservation, food safety, and the well-being of rural communities. The agricultural subsidy programs mandated by the farm bill are the subjects of intense domestic and international debate. The last farm bill was passed in 2008, and work has already begun on a new one. The Obama Administration and House and Senate Committee leadership have expressed a strong desire to complete the next farm bill before the 2012 elections, although the timeline will be complicated by the relative inexperience of many new committee members. About half of the House Democrats on the committee lost reelection last year, and with new members from the Republican majority joining there will be about twenty new House Agriculture Committee members. In addition, only about a quarter of the House committee members have been around for more than one farm bill.

Of course, lawmakers must also grapple with the contentious question of how to fund the bill. Republican lawmakers have stated their desire to roll back federal spending to FY08 levels, a move they say would save \$100 billion over the next decade. The reduction would also threaten a number of programs contained in the farm bill including crop subsidies and development of renewable energy sources in rural America. Those efforts could run into stiff resistance with Democrats retaining control of the Senate and White House.

**Ethanol and the VEETC:** The one year extension of the Volumetric Ethanol Excise Tax Credit (VEETC), otherwise known as the “blender’s credit,” in the lame duck session merely postponed a fierce debate about the future of biofuels tax policy. Many in Congress, both Democrats and Republicans, would like to see the credit expire outright. Some feel that the ethanol production is no longer a nascent industry and, therefore, should not be receiving government assistance in the form of a subsidy. Others object that the credit is not paid to the ethanol producer but rather the blender and, therefore, serves to further benefit the petroleum industry. Discussions will continue on how to transform the credit into something considered more sustainable.

**E15 Waiver:** EPA is moving forward with consideration of whether to allow a 15% ethanol blend (E15) in vehicles from 2001-2006. The DOE submitted its test results to the EPA in the late 2010, and a decision is expected soon.

While the agency considers whether to grant a waiver for E15 in vehicles from 2001-2006, opposition continues to grow for EPA’s initial waiver for E15 in vehicles from model years 2007 and later. Refiners, engine manufacturers, and food interests have filed a legal challenge to the initial E15 waiver. Senator Chuck Grassley (R-IA), a strong supporter of the ethanol industry, has indicated that he thinks the reversal effort will ultimately fail as the EPA significantly delayed its decision in order to ensure adequate testing. Grassley indicated that, should the challenge succeed, Congress should take legislative action to override the court’s decision. There is no certainty that Congress would take such action, as a bipartisan group of senators has criticized the EPA’s decision, claiming that E15 will lead to misfueling in small engines.

**Biomass:** One of the biggest goals of the biomass industry is to use the Farm Bill reauthorization as a vehicle to clarify and unify a federal definition for renewable biomass. Currently, a myriad of distinct definitions exist for biomass within federal legislation and the tax code. Stakeholders like the American Council on Renewable Energy’s (ACORE) Biomass Coordinating Council are working to encourage Congress to include a unified definition of biomass. This is shaping up to be a complicated debate, as environmentalists will oppose efforts to adopt a broad unified definition that resembles the 2008 Farm Bill’s.

**Trade Agreements:** While President Obama called for doubling U.S. exports over the next five years in his 2010 State of the Union address, getting Congress to act is another matter, as many Democrats remain skeptical of free-trade agreements. Many agricultural groups and farm bureaus are pushing for the adoption of free trade agreements in a belief that it will help the nation’s economic recovery. This past year, more than 600 bilateral and regional trade agreements were negotiated around the world. The U.S. will have a share in less than 20 of these trade deals. The positive conclusion of three trade agreements in particular -- Panama, Columbia and Korea -- are critical to increasing the export of agricultural commodities.

At the same time, Congress must ensure that programs in the Farm Bill do not fall afoul of World Trade Organization (WTO) rules. In 2009, the WTO ruled that U.S. cotton subsidies were illegal under the current WTO framework, and a last minute deal between the U.S. and Brazil secured almost \$150 million in annual U.S. support for the Brazilian cotton industry.

***Implementation of the Derivatives Section of Dodd-Frank:*** The Chairman of the House Committee on Agriculture, which has jurisdiction over the Commodity Futures Trading Commission (CFTC), intends to overturn the portion of the recently-enacted Dodd-Frank Wall Street Reform and Consumer Protection Act that would authorize the CFTC and SEC to regulate derivatives. [For more information, please see the financial services section of this report.](#)

## **Committees of Jurisdiction**

The 2010 elections resulted in many changes in both the House and Senate Agriculture Committees.

***House Agriculture:*** The gavel of the House Agriculture Committee has turned over to the former Ranking Member, Congressman Frank Lucas (R-OK). Lucas has been a member of the Committee since his election in 1994 and served as a conferee on the 2002 and 2008 farm bills. A life-time farmer from a diverse state, he has pledged to hold oversight hearings on the Environmental Protection Agency (EPA), which he believes has promulgated overreaching regulations that defy congressional intent and threaten production agriculture and rural economies. Lucas will be swapping places with the former Chairman, Congressman Colin Peterson (D-MN), who now will serve as Ranking Member.

***Senate Agriculture:*** Michigan Senator Debbie Stabenow will replace former Senator Blanche Lincoln as Chair, after Lincoln lost a tough reelection bid. This is Stabenow's first chairmanship in the Senate but she does have significant prior experience in Agricultural policy having served on agriculture committees in the Michigan legislature, U.S. House of Representatives, and the U.S. Senate. She said that she looks forward to crafting a new farm bill with her colleagues on both sides of the aisle. Senator Pat Roberts of Kansas is expected to serve as Ranking Member.

## **BUDGET, TAXES, AND APPROPRIATIONS**

In the previous Congress, Democrats said increased federal spending was the best approach toward putting Americans back to work, while Republicans argued that tax cuts were the most effective means of doing so. It may be that the Republicans have won that debate in the political sense, with the President compromising with the GOP on extending the so-called “Bush tax cuts” for two additional years.

As the Administration and congressional Democrats continue to debate their Republican colleagues on whether stimulus spending was effective in either shoring up or improving the economy, November’s election results mean that regardless of who was right on spending levels, the debate going forward will focus on how to right the economy while reducing federal expenditures.

The federal budget, and its size and scope, tax policy, and appropriations, and the question of congressionally directed spending (i.e. earmarks), will dominate debate on the nation’s economic future.

### **Issues**

**Budget:** The previous Congress failed to enact any of the FY 2011 spending bills, so look for the new House GOP majority to work diligently to ensure that there is not a repeat failure on their watch. The President will submit his FY 2012 budget request sometime next month. New controversial House rules give the new Chairman of the Budget Committee significant new powers to dictate the overall spending levels, and Chairman Paul Ryan (R-WI) is a fierce advocate for slashing federal spending to FY 2008 levels. The new rules allow the Chairman of the Budget Committee to unilaterally set spending and revenue limits and caps by publishing them in the Congressional Record, but without votes or debate in the House. While the Budget Resolution is not binding, the Chairman’s spending decision is, so any appropriations bill that passes out of committee and goes beyond his spending limits would be ruled out of order. This is a tremendous change in how the House of Representatives will do business, and Democrats have protested it loudly, but to no avail.

**Taxes:** The transition from Democratic to Republican control in the House of Representatives, combined with the debt reduction proposals of the President’s National Commission on Fiscal Responsibility and Reform, appear to indicate that Congress is seriously considering making tax reform a top priority in the 112<sup>th</sup> Congress. What remains to be seen is whether this effort can include bipartisan cooperation to reach an agreement. Although both parties and President Obama have indicated a desire to work on tax reform in the coming year, neither side is willing to discuss specifics about how they would reform the tax code.

It seems that, at least initially, there is a consensus to conduct a top to bottom review of the entire tax code, which would involve everything from individual and corporate rates to a review, and possible elimination, of the myriad assortment of deductions, incentives and credits contained within the code.



On the Republican side, it seems likely that incoming Budget Chairman Paul Ryan's [A Roadmap for America's Future](#) will be used as a starting point. That proposal, as currently drafted, provides individual income taxpayers a choice of how to pay their taxes – through existing law, or through a highly simplified code that fits on a postcard with just two rates and virtually no special tax deductions, credits, or exclusions (except the health care tax credit). Under that simplified system, the tax rates would become 10 percent on income up to \$100,000 for joint filers, and \$50,000 for single filers; and 25 percent on taxable income above these amounts, with a standard deduction and personal exemption that would amount to \$39,000 for a family of four. Businesses would have their corporate income tax replaced with a border-adjustable business consumption tax of 8.5 percent, a rate that is roughly half that of the rest of the industrialized world. For more information on energy tax incentives, see the energy and environment section.

It seems likely that a tax overhaul bill will be debated in 2011 because the President, the Debt Commission, Federal Reserve Chairman Bernanke, Leaders on both sides of the House of Representatives and a bipartisan group of 18 Senators have publicly been calling for it. However, it is not exactly certain that this overhaul will be enacted in 2011 or 2012 due to the political implications for the 2012 elections, with some observers believing final enactment will come in 2013.

**Appropriations and Earmarks:** Last year, House Republicans chose a self-imposed moratorium on earmark requests, while House Democrats continued to support such requests. In the Senate, most Democrats and some Republicans supported earmark requests. However, not one of the twelve FY 2011 spending bills was ultimately passed by the previous Congress, which punted the issues of appropriations and earmarks to the current Congress by passing a Continuing Resolution (CR) funding the government at FY 2010 levels until March 4. The new congress will, therefore, need to quickly begin work on finalizing this work so that they can move on to the FY 2012 spending bills.

As stated above, House Budget Committee Chairman Paul Ryan wants to see federal spending reduced to FY 2008 levels, and has been given significant new powers in setting overall spending limits. However, the House calendar leaves little time to pass all twelve FY 2011 appropriation bills as stand-alone measures before the end of the current CR, so we are likely to see a new year-long CR encompassing all federal spending. Whether Ryan will be able to make rescissions for FY 2011 in this new CR to achieve his spending goals remains to be seen, but a reduction to FY 2008 levels would save the federal government \$100 billion over the next decade.

Once the FY 2011 budget has been finalized and the Congress moves on to the FY 2012 appropriations process, there is a great deal of uncertainty over the issue of earmarks. The House has banned them, while in the Senate the GOP has adopted a two-year moratorium with Democrats rejecting a ban. Speaker Boehner has told Majority Leader Reid that any spending bills sent to the House from the Senate containing earmarks “won’t see the light of day.” It is highly unlikely that the new GOP majority in the House would want to see another year go by with Congress failing to pass appropriations bills, especially on their watch, but Senate Democrats have insisted that it is their constitutional right to set spending priorities for federal agencies. Recent comments by Senate majority whip Richard Durbin (D-IL), however, seem to indicate that earmarks are unlikely to surface in Senate funding bills.

Further complicating the appropriations process is a proposal by the new Speaker to pass spending bills on an agency-by-agency basis, but this proposal is opposed by the chairmen of the appropriations subcommittees in the House and is sure to be rejected by the Senate and Administration.

## **Committees of Jurisdiction**

The new congress will see some changes at the committees of jurisdiction for these issues:

***House Budget Committee:*** Rep. Paul Ryan (R-WI) will rise from Ranking Member to Chairman, with Rep. Chris Van Hollen (D-MD) serving as the new Ranking Member.

***House Ways and Means Committee:*** The new Republican majority in the House of Representatives means that Rep. Dave Camp (R-MI) and Rep. Sander Levin (D-MI) will reverse their roles from the last Congress as Ranking Member and Chairman.

***House Appropriations Committee:*** Rep. Harold Rogers (R-KY) will take over as Chairman of the committee and new Ranking Member will be Rep. Norm Dicks (D-WA).

***Senate Budget Committee:*** Senator Kent Conrad (D-ND) will remain Chairman and it is expected that Senator Jeff Sessions (R-AL) will become Ranking Member.

***Senate Finance Committee:*** Senator Max Baucus (D-MT) will remain as chair, while Senator Orrin Hatch (R-UT) will rise to Ranking Member due to Senate Republican term limit rules that forced Senator Charles Grassley (R-IA) to give up that role.

***Senate Appropriations Committee:*** Senators Daniel Inouye (D-HI) and Thad Cochran (R-MS) will continue to serve as Chairman and Ranking Member, respectively.

## EDUCATION

Education has been highlighted as one of the issues that may achieve bipartisan consensus in a newly divided Congress. Bipartisan cooperation during the 2001 debate on *No Child Left Behind* (NCLB) is cited as evidence that agreement on education policy is possible. Throughout the development of that landmark legislation, President Bush, the late Senator Kennedy (D-MA), and Representative Boehner (R-OH), then serving as Chairman of the House Education and Labor Committee, were able to work together and ultimately pass a bill that both parties supported. Additionally, both Republicans and Democrats know education can be a winning issue with constituents, the majority of whom support federal investment in their children's schools.

As one can imagine, debate about education policy did not disappear as a result of the passage of NCLB. In fact, its passage and implementation spurred a whole new round of issues including an emphasis on standardized testing and teaching to the test, too little acknowledgement of schools that make incremental increases in student achievement but yet still do not make the grade, and too much control and funding centralized in the federal government. Both parties have acknowledged problems with the law and both have indicated a strong desire to redress some of the issues in the 112<sup>th</sup> Congress. One major area of disagreement which will remain is how to fund any new education policy initiative under current budget constraints.

### Issues

***Elementary and Secondary Education Act Reauthorization:*** The single biggest education issue in the 112<sup>th</sup> Congress will be the reauthorization of the *Elementary and Secondary Education Act (ESEA)* which is the precursor to the *No Child Left Behind Act*. This past March, President Obama released his blueprint for the reauthorization of ESEA. Significantly, many of the areas of concern which have already been highlighted by Republicans are shared by the Obama Administration.

In its plan, the Administration acknowledged that there were many pros and cons associated with NCLB. The law highlighted the achievement gap and created a national conversation about student achievement. But it also created incentives for states to lower their standards; emphasized punishing failure over rewarding success; focused on absolute scores, rather than recognizing growth and progress; and prescribed a pass-fail, one-size-fits-all series of interventions for schools that miss their goals.

The President's blueprint asks states to adopt college- and career-ready standards and reward schools for producing dramatic gains in student achievement. The administration's plan calls for state accountability systems which prepare all high school graduates to succeed in college and careers. The accountability system will also recognize and reward high-poverty schools and districts that are showing improvement in getting their students on this path, using measures of progress and growth. Additionally, under the blueprint states and districts will continue to focus on the achievement gap by identifying and intervening in schools that are persistently failing to close those gaps. For other schools, states and districts would have flexibility determining appropriate improvement and support options.

With states setting the high standards, the Administration recognizes that states, districts, schools, and teachers must have the support they need to help students achieve higher standards, especially in high-need schools. The blueprint asks states and districts to develop meaningful ways of measuring teacher and principal effectiveness in order to provide better support for educators, enhance the profession through recognizing and rewarding excellence, and ensure that every classroom has strong leadership in the classroom and school at large. In contrast to NCLB, the Obama Administration's plan calls for support, incentives and national leadership, but with increased local control.

When it comes to the Republican priorities for the reauthorization of ESEA, we might look again to the plan offered in 2007 by Speaker Boehner, who was then serving as Chairman of the Education and Labor Committee. He defined the GOP position on how to update the bill, sponsoring amendments that would have added funding streams for teacher merit pay and a federal private school voucher program. The Obama Administration made teacher merit pay a cornerstone of "Race to the Top," so it seems likely that they would work with Republicans on that issue when it comes to NCLB. On vouchers, President Obama did cancel the Washington, D.C. Opportunity Scholarship program, which was popular with conservative education reformers. At the time, President Obama justified his decision by pointing to research showing that students who use such vouchers tend to end up in low-performing parochial schools, and do not typically show academic gains greater than their traditional public school peers.

Speaker Boehner is also on record opposing efforts to create a national curriculum, national standardized testing system, or national database of student achievement stats. These are all policies the Obama administration supports through its encouragement of the Common Core State Standards Initiative, in which many states are working together to enact shared standards in English and math and create tests to go with them.

Furthermore, incoming House Education and Labor Chairman John Kline (R-MN) stated in an interview this past October that he has significant concerns about NCLB and is working hard with his Democratic colleagues to reform the law. Rep. Kline has said that under his leadership the Committee will focus on four major policy goals: pursuing education reform that restores local control, empowers parents, lets teachers teach, and protects taxpayers; giving employers the certainty, flexibility, and freedom to create jobs; conducting robust oversight of education and workforce programs across the federal government to protect students, families, workers, and retirees; and, modernizing and streamlining training programs to help job-seekers get back to work. Additionally, Rep. Kline has long advocated for special education. He has urged Congress to fully fund the Individuals with Disabilities Education Act, known as IDEA, which was passed 35 years ago to ensure that students with disabilities would receive the same educational opportunities as other kids. Congress had promised to fund 40 percent of the costs of special education but never has.

As can be seen, although there are numerous obstacles that could prevent education from becoming a bipartisan issue in 2011, there are enough potential areas of cooperation, including teacher accountability and school choice, to make this a winning issue for both parties.

## **Committees of Jurisdiction**

***House Committee on Education and Labor:*** As a result of the election, the configuration of the House Committee on Education and Labor has changed. The former GOP Ranking Member, John Kline of Minnesota, will now be the Chairman of the committee and the former Chairman, Rep. George Miller of California, will now take over as Ranking Member. As both members have served together previously, there is much optimism that they will be able to continue to work together on a bipartisan basis as evidenced by the Chairman's statements on the issue.

***Senate Committee on Health, Education, Labor, and Pensions:*** While the leadership of the Senate Committee on Health, Education, Labor and Pensions was not altered, the number of Democratic members has been reduced. Chairman Tom Harkin (D-IA) and Ranking Member Michael Enzi (R-WY) will maintain their leadership positions.

## **ENERGY AND ENVIRONMENT**

At the beginning of the 111th Congress, an ambitious clean energy policy was one of the pillars of the Democrats' Congressional agenda. While the Recovery Act contained billions of dollars in investment and tax incentives for renewable energy and clean energy manufacturing, Congress was unable to enact a longer-term federal energy policy. The Senate did not pass a cap and trade program, nor was there sufficient support for a renewable electricity standard (RES). As part of the end of year tax package, Congress did extend the 1603 Grants in Lieu of Tax Credits Program by one year, but the 48C Advanced Energy Manufacturing Tax Credit program was not expanded.

At a year-end press conference, President Obama acknowledged that energy reform remains a major piece of unfinished business, and he expressed a willingness to work with Republicans. However, an influx of freshman Republicans hostile to the idea of climate change, and skeptical of federal support for renewable energy, may threaten new policies supporting clean energy innovation and efforts to reduce carbon emissions. Some proposals from last Congress will not be feasible in the new Congress: cap and trade is dead for the foreseeable future (according to one poll, 86% of Congressional Freshmen oppose climate change legislation), and the RES proposal will evolve into a clean energy standard (CES) that includes nuclear and clean coal.

While the policy options will change to reflect the altered political landscape, a bipartisan consensus for energy reform in the abstract does exist. A key question yet to be answered is whether Congress decides to work on a comprehensive energy bill or instead pass piecemeal measures. Adding to the complexity of negotiations is that the Administration will face increasing pressure from ascendant House Republicans who have vowed to repeal EPA's regulatory authority over greenhouse gas emissions.

### **Issues**

***Renewable Electricity Standard/Clean Energy Standard:*** Several Republicans have laid down markers for collaboration with the Obama Administration on proposals to reduce the amount of electricity utilities derive from fossil fuel sources. Senators Susan Collins (R-ME), Chuck Grassley (R-IA), and John Ensign (R-NV) signed onto a Democratic-backed RES proposal last fall that would require utilities to derive 15 percent of their power from renewable sources by 2021. Also last Congress, Senator Lindsey Graham (R-SC) released a draft proposal of a competing CES that would allow utilities to use renewables as well as nuclear power and clean coal technologies to meet a similar mandate. Energy Secretary Steven Chu recently asked lawmakers to think seriously about the idea, and Senator Lisa Murkowski (R-AK), who will remain Ranking Member of the Senate Energy and Natural Resources Committee in the 112th Congress, has also expressed support for a clean energy standard. Several Senate Democrats, including Energy Chairman Jeff Bingaman (D-NM), and Senator Mark Begich (D-AK), have begun to express guarded optimism about the possibility of a compromise on the proposal. For Senator Graham, who says the nation must quickly transition to clean technology, this might mark an opportunity to reinsert himself in the center of the energy debate following his sudden repudiation of the Kerry-Lieberman climate change bill.

***EPA Regulation of GHG Emissions:*** The Environmental Protection Agency's much-anticipated regulations for power plants and large industrial emitters took effect January 2 across the country, save for Texas, which was granted a temporary delay just days before implementing the first-time requirements under a ruling by the U.S. Circuit Court for the District of Columbia. Under the federal climate rules, the largest new and modified facilities are now required to use the best available technology to limit their GHGs. All states but Texas, including twelve others that have filed separate challenges to the regulations, have implemented the new rules already or worked out an agreement with the EPA to ensure that businesses can apply for permits. Without federal intervention, the EPA said January 6 in a filing with the DC Circuit court, large projects in Texas will be unable to obtain valid permits. The Environmental Protection Agency urged a federal court January 6 not to block its plan to push state officials aside and issue GHG permits in Texas. Texas Governor Rick Perry (R) and his appointees have refused to implement EPA's new climate rules, arguing that they violate the Clean Air Act and will impose excessive costs on industry. After the EPA opted to issue the permits itself, Texas asked the court to intervene as a final effort to stop the GHG regulations that took effect on January 2. Numerous environmental and industry groups have filed both responses and friend-of-the-court briefs on behalf of both the EPA and Texas, and House Republicans, following similar attempts from Senators Lisa Murkowski (R-AK) and Jay Rockefeller (D-WV) introduced three bills during the opening days of the 112<sup>th</sup> Congress delaying, overturning, or denying the EPA's authority to regulate GHGs under the Clean Air Act. The U.S. Court of Appeals for the District of Columbia, on January 12, denied Texas' request to stop the EPA from issuing GHG permits in the state. Senate Environment and Public Works Committee Chair Barbara Boxer (D-CA) has already been joined by several of her Senate Democratic colleagues, rebuking House Energy and Commerce Committee Chairman Fred Upton (R-MI) for his plans to pass legislation that rescinds the new climate regulations. Others, including Senate moderates hoping to retain White House favor and stave off pressure from their constituents and potential 2012 opponents, are considering exploring a one or two year delay of the regulations. The new year has already marked the beginning of what is sure to be an extensive exchange over the issue, and EPA Administrator Lisa Jackson and her colleagues may anticipate spending a good deal of time both on Capitol Hill and in court defending the regulations in 2011.

***Offshore Energy:*** Since the Obama Administration lifted its moratorium on deepwater drilling in October 2010, it has come under increasing pressure from industry and Gulf-region members of Congress to allow a quick return to drilling. The delay is caused by the Administration's enforcement of strict new safety rules adopted in the wake of the April 2010 Deepwater Horizon explosion. According to the Department of Energy's Energy Information Administration, the moratorium and subsequent delay in the return to drilling could reduce domestic offshore oil production by 13 percent in 2011. In the face of heavy criticism, the Department of Interior's Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) promised on January 3 to waive additional environmental reviews for thirteen Gulf of Mexico drillers whose projects were stalled by the deepwater drilling moratorium, so long as they comply with new, more stringent regulations. New deepwater wells in the Gulf of Mexico, however, may not receive approval until late 2011 or even 2012. In the coming year, the Interior Department will continue its programmatic environmental impact statement for areas off mid- and south Atlantic coasts for future oil, gas, and wind development. Drilling is forbidden for seven years in unexplored areas in the Atlantic and eastern Gulf, but this analysis could lead to future development. While this scientific analysis will not be finalized until late 2012, the Interior Department, through its "Smart from the Start" program, is

working to issue new leases for offshore wind energy projects as early as this year. Interior is working closely with states to identify priority areas by the end of January 2011, and it then will amass information over the subsequent six months so that wind developers and independent transmission developers can make investment decisions more quickly. The agency has acknowledged that the existing process must be streamlined. However, existing tax incentives are scheduled to expire before many offshore wind projects are completed, and with budgetary scrutiny certain, some renewable energy programs will need to play defense to guard their funding. The wind industry will renew its calls for an RES as well as tax incentives for wind energy as part of a long-term energy plan. According to a recent FERC filing, an offshore “backbone” transmission line for offshore wind would reduce the cost of offshore wind development in the mid-Atlantic by \$9 billion to \$15 billion.

***Department of Energy Loan Guarantee Program:*** The Recovery Act’s allocation of \$6 billion to cover subsidy costs for the Department of Energy Section 1705 loan guarantee program effectively jumpstarted the program and made the program much more appealing to renewable energy applicants. The subsidy cost varies by project and is based on the probability of default and the amount of recovery by the government in the event of default. Previously, under the Section 1703 loan guarantee program authorized by the 2005 energy bill, applicants had to pay upfront the subsidy costs for the loan guarantee. To date, the Department’s Loan Guarantee Office has committed support for 21 clean energy projects, twelve of which have closed, totaling nearly \$25 billion in loan guarantees and nearly \$40 billion in total project costs. However, Congress has rescinded several billion dollars from the 1705 loan guarantee program, leaving it with approximately \$2.5 billion for subsidy costs. Moreover, the Recovery Act program is slated to expire after Sept. 30, 2011. Senate Majority Leader Harry Reid (D-NV) has promised to restore the rescinded subsidy cost funding to the program, but it looks increasingly unlikely that all \$3.5 billion will be restored. Instead, lawmakers have been trying to add a smaller level of appropriations to cover subsidy cost for the 1703 program, as it, unlike the 1705 program, does not expire in 2011. The omnibus appropriations bill proposed in the Senate in December would have provided \$406 million in subsidy costs for the 1703 program; it also would have provided additional guarantee authority to nuclear projects. The short-term continuing resolution that did pass provides no additional funding for subsidy costs, but efforts are already underway to provide funding for certain 1703 loan guarantees.

***Clean Energy Deployment Administration:*** Some policymakers, including Chairman Bingaman, would like to convert the loan guarantee program into an independent Clean Energy Deployment Administration or “green bank” that would support renewable energy industries with direct loans, loan guarantees, insurance, and other credit mechanisms. Such a proposal was included in the cap and trade legislation in the last Congress, and a revamped proposal may be included if comprehensive energy legislation is taken up in the 112th Congress.

***Energy Efficiency/Energy Tax Legislation:*** Frustrated with the lack of progress in the 111th Congress, Senator Bingaman is likely to redouble his efforts this year to collaborate with Senator Olympia Snowe (R-ME) to advance fuel-saving provisions. In late September, Senators Bingaman and Snowe, a top Finance Committee member, introduced a bill known as the *Advanced Energy Tax Incentives Act of 2010*, which aimed to enhance energy efficiency, deploy renewable energy and strengthen the country’s manufacturing sector. Some provisions that were included in the bill and



that may see additional attention in the 112th Congress include performance-based tax credits for whole-home retrofits; \$2.5 billion for 48C tax credits for advanced energy manufacturers or other similar 48C expansion; \$1 billion in energy efficiency tax credits for manufacturers to advance their competitiveness; a tax incentive for storage systems for wind and solar energy; a retooled tax credit for carbon capture and storage; and funding for natural gas vehicles. In addition, if Congress decides it is ambitious enough to reform the corporate tax code this Congress, existing renewable energy tax credits could be impacted. Some Republicans favor shifting to more “technology-neutral” mechanisms.

**Biofuels:** In December 2010, Congress extended for one year the Volumetric Ethanol Excise Tax Credit (VEETC) at 45 cents per gallon and the ethanol tariff at 54 cents per gallon. The House was poised to reduce VEETC to 36 cents, and retaining the subsidy at 45 cents cost an extra \$1 billion that could have been spent on other clean energy technologies. Congress did not enact several policies that had been advocated by the advanced biofuels community, such as opening up the cellulosic production tax credit to algal fuels, and allowing for the creation of an investment tax credit for advanced biorefineries. The ethanol tax credit faces opposition from several important members of Congress, and it is widely believed that this is the last year VEETC will exist in its current form. Going forward, biofuel tax credits may be reconfigured to a sliding scale based on the carbon intensity of the biofuel. The reauthorization of the Farm Bill in 2012 will be the major vehicle for biofuels policy, such as the cellulosic production tax credit and the renewable biomass definition. The U.S. Department of Agriculture is expected to announce a change to its 9003 biorefinery loan guarantee program to allow commercial bonds into the program. USDA also will announce three to four conditional loan guarantees for biorefinery projects. At least one biofuel project is also undergoing the final stages of negotiations for a conditional guarantee with the DOE. [For more information on biofuels, please see the Agriculture Outlook section.](#)

## **Committees of Jurisdiction**

The House will see significant change in the leadership affecting energy and environmental policy.

**House Energy and Commerce Committee:** Representative Fred Upton (R-MI) is the new chair of the House Energy and Commerce Committee, replacing Congressman Henry Waxman (D-CA), who will become ranking member. Representative Joe Barton (R-TX) is chairman emeritus, and Representative Sue Myrick (R-NC) will serve as Vice Chairwoman. Congressmen Ed Whitfield (R-KY), John Shimkus (R-IL), and Mary Bono Mack (R-CA) will serve as chair of the Subcommittees on Energy and Power; Environment and Economy; and Commerce, Manufacturing and Trade, respectively. Democratic Subcommittee Ranking Member slots are slated to be finalized on January 19.

**House Natural Resources Committee:** Congressman Doc Hastings (R-WA) will be the new chair, replacing Representative Nick Rahall (D-WV), and Congressman Ed Markey (D-MA) will serve as ranking member. The Chairman-elect announced December 29 the establishment of a Subcommittee on Indian and Alaska Native Affairs, taking over responsibilities previously handled by the full committee. Republican Representatives Doug Lamborn (CO), John Fleming (LA), Rob Bishop (UT), Tom McClintock (CA), and Don Young (AK) will chair the Energy and Mineral Resources; Insular Affairs, Oceans and Wildlife; National Parks, Forests and Public Lands; Water and Power; and Indian and Alaska Native Affairs Subcommittees, respectively.

**Senate Energy and Natural Resources:** Senator Bingaman will continue as the Chairman of the Energy and Natural Resources Committee, and Lisa Murkowski will be Ranking Member. The two share a good working relationship.

**Senate Finance Committee:** As chair of the Senate Finance Committee, Senator Max Baucus (D-MT) will be a deciding factor in determining what happens to a variety of energy tax incentives that will expire at the end of 2011, and Senator Orin Hatch will be the new ranking minority member, replacing Chuck Grassley (R-IA) who was term limited out.

**Senate Environment and Public Works:** The Committee leadership will remain the same with Senator Barbara Boxer (D-CA) chairing the committee and Senator James Inhofe (R-OK) serving as ranking member.

**Key Senate Leadership:** With Republicans taking over the House and increasing oversight and investigations of the Obama Administration, it will fall to the Senate to outline a potential legislative compromise on energy and environmental policy. Key individuals in the Senate include Majority Leader Harry Reid, who has shown particular interest in renewable energy and supporting natural gas-powered vehicles; Senator Lamar Alexander (R-TN), who has worked with Democrats on reducing industrial emissions and sees the potential for compromise on nuclear power and electric vehicles; Senators John Kerry (D-MA), Joe Lieberman (I-CT) and Lindsey Graham (R-SC), who led the effort on climate change legislation in the Senate in the 111th Congress; and Senator Bob Corker (R-TN), who has voiced skepticism about energy subsidies.

In the Administration, EPA Administrator Lisa Jackson, Energy Secretary Steven Chu, Interior Secretary Ken Salazar, and Agriculture Secretary Tom Vilsack are expected to retain their leadership positions. Current Director of the White House Office of Energy and Climate Change Policy, Carol Browner, is rumored to be considered for a promotion to Deputy Chief of Staff.

## **FINANCIAL SERVICES**

If 2010 was dominated by the debate surrounding the legislation that became known as the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, in 2011 we expect that similar levels of attention will focus on the administrative actions necessary to implement the law.

In Congress, although the new Republican majority in the House of Representatives has made clear its intention to roll-back, delay, or outright terminate as much of the Dodd-Frank legislation as possible, the continued, albeit smaller, Democratic majority in the Senate should stand as a bulwark against any significant modifications to the law. However, Republicans might have more success in using the appropriations process to starve the agencies from the funding necessary to implement the provisions of Dodd-Frank.

In addition to issues surrounding Dodd-Frank, the Administration and the Congress have made it clear that they intend to delve into the complicated issue of Government Sponsored Enterprise (GSE) Reform, specifically looking at major changes to Fannie Mae, Freddie Mac and the mortgage securitization industry.

Finally, the Republican gains in the November election significantly transformed the make-up of the House Financial Services Committee. Beyond the transition from Barney Frank (D-MA) to Spencer Bachus (R-AL) as Chairman of the full committee, the size of the committee was shrunk considerably, from 72 to 59, which may ultimately allow the full committee to take on a larger work load since the larger numbers under the Democratic rule had often made full committee hearings unworkable.

### **Issues**

***Implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act:*** Next to the health care bill, Republicans have made the Dodd-Frank bill a target for reform. However, unlike the health care bill, which is still unpopular with many voters, the banking reform bill is more popular and thus will require a multi-pronged strategy by the Republicans in order to make significant changes. First, as has already been seen during the debate surrounding the most recent Continuing Resolution that will fund the federal government through March 4, efforts will be made to starve the agencies from the funds necessary to implement the bill. That legislation failed to include requested funding increases of \$261 million for the Commodity Futures Trading Commission (CFTC) and \$140 million for the Securities and Exchange Commission (SEC). Respectively, these agencies were seeking to hire 400 and 800 new staff to handle the increased responsibilities, and the loss of funds had an immediate impact as the SEC announced that it was deferring the creation of six new offices, which had been mandated by Dodd-Frank. With Republicans now in control of the House of Representatives and stating that their mandate is to curb federal spending, any effort to provide additional spending for the SEC or the CFTC could face a hard road.

Second, and possibly in connection with efforts to limit funding to the agencies, would be legislation to delay the implementation of the regulatory deadlines for Dodd-Frank by one year. Again, this legislation would face considerable difficulty in getting through the Senate, and would be more of a rhetorical effort, since many of the regulatory deadlines will have passed by July 2011. However, two of the most controversial provisions of Dodd-Frank, the so-called Volcker Rule and the requirement to create a regulatory body to govern the derivatives and swaps market, do not go into effect until later. These provisions could be the real target of this type of legislation. Third, we anticipate that the Republicans will hold multiple hearings on Dodd-Frank, particularly focused on the “unintended consequences” and costs to the average person of the bill. These hearings will be designed to build support for making “technical changes” to the law, which, depending on how broad in scope the technical corrections actually are, could ultimately make it through the Senate since incoming Senate Banking Committee Chairman Tim Johnson (D-SD) has indicated that he would be willing to consider modest modifications to Dodd-Frank.

***Government Sponsored Enterprise (GSE) Reform:*** Noticeably absent during the debate on the Dodd-Frank legislation in 2010 was any modification, or reference, to the current GSE system, specifically Fannie Mae and Freddie Mac. Although both sides appear to agree on the need to reform the current system, there appears to be a significant chasm between the parties on the appropriate solution. In the lead up to, and shortly after, the November elections, numerous Republicans, including Congressman Scott Garret (R-NJ) and Congressman Randy Neugebauer (R-TX), respectively the incoming chairmen of the Capital Markets and Government-Sponsored Enterprises Subcommittee, and the Oversight and Investigations Subcommittee, were quite vocal in their calls to privatize Fannie and Freddie. However, in light of recent falls in the housing market, they, along with others in leadership have walked back their demands for expeditious reforms. For example, Neugebauer appeared to indicate that legislation drafted by Jeb Hensarling, incoming Vice Chairman of the Committee, which would have set forward a two-year exit strategy for taxpayers with a caveat in the event of continued adverse conditions that would create an orderly wind down over a ten year period, was too aggressive in light of the weak housing market. Despite this scaled back rhetoric, we fully anticipate the House Financial Services Committee will take up the issue of GSE reform in 2011. It is unclear, however, whether the Senate will follow suit and whether any legislation on the issue could pass that body.

***Federal Reserve Bank:*** During the debate on the Dodd-Frank bill, Chairman Barney Frank was able to successfully beat back an effort lead by Congressman Ron Paul (R-TX) to require a full audit of the Federal Reserve Bank. Now that Congressman Paul will be in charge of the subcommittee with jurisdiction over the Fed, we anticipate multiple hearings involving significant oversight of the Fed’s activities, including its decision to engage in quantitative easing (“QE2”).

## **Committees of Jurisdiction**

***House Financial Services Committee:*** Spencer Bachus (R-AL) will assume the Chairmanship while Barney Frank (D-MA) serves as Ranking Member. Republicans have named their subcommittee chairmanships, and they are: Rep. Judy Biggert (R-IL), Chairman, Insurance, Housing and Community Opportunity; Rep. Shelley Moore Capito (R-WV), Chairman, Financial Institutions Subcommittee; Rep. Scott Garrett (R-NJ), Chairman, Capital Markets and Government-Sponsored Enterprises Subcommittee; Rep. Ron Paul (R-TX), Chairman, Domestic Monetary Policy

Subcommittee; Rep. Gary Miller (R-CA), Chairman, International Monetary Policy Subcommittee; and Rep. Randy Neugebauer (R-TX), Chairman, Oversight and Investigations Subcommittee. Democrats have not yet named their ranking members of these subcommittees.

***Senate Banking Committee:*** Senator Tim Johnson (D-SD) will take over the chairmanship after the retirement of the previous Chairman Chris Dodd (D-CT). Richard Shelby (R-AL) will continue as Ranking Member. Due to the decreased Democratic majority in the Senate, there will be a need to adjust the ratios of the committee, which are currently at 13-10. It is not yet clear whether the final ratio will be set at 12-10 or 13-11, but we anticipate that the final ratio will be 12-10. If so, that would necessitate the inclusion of one additional Democratic member and three Republican members to replace those on the committee who either lost or retired during the last election cycle. Senator Kay Hagan (D-NC), is likely to fill the Democratic slot and Ron Johnson (WI), Mike Lee (UT) and Rand Paul (KY) will likely fill the Republican slots.

## HEALTH CARE

Health care, especially the new health care reform law, was a major issue during the 2010 midterm elections and will continue to remain front-and-center during the 112<sup>th</sup> Congress, as evidenced by the fact that the first significant vote in this Congress will be an attempted repeal of the law (although this has been delayed by the Tucson massacre). As this Congress unfolds, Democrats will seek to uphold and implement the law while Republicans will use their newfound House majority to derail its implementation, expose flaws, and replace the legislation with their own initiatives.

### Issues

***The Affordable Care Act (ACA):*** It is widely expected that the ACA will be the central health care issue at the onset of the 112<sup>th</sup> Congress. With President Obama capable of vetoing any legislation until 2013, Republicans will be unable to fully repeal the statute. Although House Republicans will likely hold a series of “message” votes aimed at a full repeal or repealing the individual mandate, they will spend a more significant chunk of time holding hearings on more targeted portions of the bill and attempting to repeal and replace them with more conservative alternatives. However, it is unclear how this process will play out. Public opinion polls still show a deep split over the health care law, but many of the individual provisions, such as banning rescissions, offering tax credits to purchase insurance, and prohibiting discrimination based on preexisting conditions, enjoy deep support with voters. During the reform debate, many Republicans argued for expanded tax incentives to purchase insurance, the ability to purchase insurance across state lines, and enactment of medical liability reform. Which provisions House Republicans will choose to target remains to be seen, especially in light of GOP campaign pledges not to enact additional federal programs without eliminating others.

Moreover, with Democrats holding on to the majority in the Senate, an overly time-consuming focus on the ACA in the House could backfire on Republicans since the majority of their efforts would be thwarted later in the political process. The President and many leading Democrats have expressed willingness to compromise on some key issues including the new 1099 tax filing requirements for businesses, but they are certain to staunchly uphold the law’s merits in the process. In addition to the tax filing requirements, Republicans have targeted a whole list of provisions that they would like to modify including comparative effectiveness, grandfather provisions, health savings account (HSA) rules, minimum benefits, and IRS authority. The question remains whether or not Republicans and Democrats can find common ground without succumbing to partisan tactics that have sunk previous efforts.

Even though Republicans may face an impasse in pursuing their more ambitious legislative goals to derail the ACA, they do have the power in the House to undertake other initiatives that could impact the law’s implementation. This campaign to halt the implementation of the ACA will likely focus on two fronts: (1) the GOP will use its majority on the House Oversight Committee to launch investigations into health care reform to try to find errors, waste, and generally embarrassing elements in the law to highlight to the public, and (2) use their majority to deny funds to implement the bill. Both incoming Republican Chairmen, Rep. Darrell Issa (R-CA) and Rep. Hal Rogers (R-KY) respectively, have publicly expressed their intention to do whatever it takes to knock down the ACA. As with their other legislative initiatives, Democrats still control the Senate and will force

Republicans to compromise on funding the law's implementation or face legislative gridlock while the executive branch continues with its efforts.

***Reforming Federal Health Care Liabilities:*** Alongside defense and Social Security spending, federal expenditures on Medicare, Medicaid, and CHIP constitute the largest liabilities facing our federal government. Spending on these programs is set to skyrocket, especially as the 'Baby Boomers' age. With the new Congress expected to spend a significant amount of time focusing in debt and deficit reduction, health care is certain to surface as a key point of contention in this debate. Although there are numerous proposals out there for health care reforms that would reduce the deficit, one of the most widely publicized proposals that is certain to gain traction in the new Congress is the Ryan-Rivlin proposal named for the new House Budget Committee Chairman Paul Ryan (R-WI) and former President Clinton's Director of the Office of Management and Budget Alice Rivlin. This proposal would drastically overhaul the Medicare and Medicaid programs by enacting reforms not touched in ACA such as raising the Medicare eligibility age, converting the federal government's share of the Medicaid program into an allotment to states, and converting the Medicare program into an exchange-based voucher program. As with many topics in health care, the debate is sure to also wade into health care reform as lawmakers debate the law's impact on the deficit and as the proposal calls for the repeal of the Community Living Assistance Services and Supports (CLASS) program established by the ACA.

***Other health care issues:*** Among the most pressing issues debated in health care circles will be a more permanent fix to the Medicare physician reimbursement rates. During the lame duck session, in a rare display of bipartisanship, Senate Democratic and Republican leaders came to an agreement on a one-year fix that will delay the cuts throughout 2011. Due to deep disagreements over how to offset the cost of the 'doc fix,' Congress will likely have to begin working on some form of compromise before the end of the first session to prevent the looming 2012 cuts. There has also been significant momentum from a regulatory perspective surrounding the Prescription Drug User Fee Act (PDUFA) and its potential reauthorization by Congress. Originally enacted in 1992 and reauthorized three times on a bipartisan basis since that time, the law has played an important role in the FDA drug approval process. Under FDA Commissioner Margaret Hamburg, the agency has already begun to hold hearings and discussions with stakeholders regarding the law's reauthorization, and it is likely an issue that Republicans and Democrats will work together on even if they surely will not agree on all of the details within it.

In addition to the 'doc fix,' and regardless of the outcome of Republican effort to modify and repeal the ACA, Republicans may supplement their efforts by attempting to pass stand-alone legislation to highlight some of their priorities that were rejected by Democratic leaders during the ACA debate. On top of that list would be tort reform and increased flexibility to purchase insurance across state lines. If Republicans are able to come to a solution internally that could pick up the support of some moderate Democrats who have indicated a willingness to engage on these points, they could feasibly get a bill through both Chambers and to the President's desk. In addition, there are other pieces of legislation left over from the 111<sup>th</sup> Congress that could resurface in the 112<sup>th</sup>, especially on the Senate side. Included in that batch of bills are initiatives to address fraud and abuse in the Medicare and Medicaid systems, the FDA's drug inspection authority, drug pricing and importation bills, miscellaneous public health bills, and various other fixes stemming from previous legislative efforts that require ongoing attention from Congress.

## Committees of Jurisdiction

**House Energy & Commerce Committee:** After a bitter fight for the gavel with Rep. Joe Barton (the Ranking Member in 111<sup>th</sup> Congress), Rep. Fred Upton (R-MI) has become the Chairman of the powerful Committee with primary jurisdiction over health care issues in the House of Representatives. Rep. Henry Waxman (D-CA), who served as Chairman in the 111<sup>th</sup> Congress, will remain the top Democrat on the Committee. Chairman Upton tapped Rep. Joe Pitts (R-PA) to be Chairman of the Health Subcommittee, though the Ranking Democrat on that committee, likely to be Rep. Frank Pallone (D-NJ), will not be named until January 19.

**House Ways & Means Committee:** Rep. Dave Camp (R-MI), Ranking Member in the 111<sup>th</sup> Congress, and Rep. Sandy Levin (D-MI), Chairman in the 111<sup>th</sup> Congress, will switch positions in the 112<sup>th</sup> Congress on the Committee with primary jurisdiction over the Medicare program. Rep. Wally Herger (R-CA) will lead the Subcommittee on Health. Democratic Members have not yet been selected, but it is likely that Rep. Pete Stark (D-CA) will continue to hold the top Democratic slot.

**House Appropriations Committee:** Rep. Hal Rogers (R-KY) bypassed more senior Republicans and will chair the committee, with Rep. Norm Dicks (D-WA) serving as the Ranking Member. The committee is responsible for appropriating funds for the ACA's implementation. Chairman Rogers appointed Rep. Denny Rehberg (R-MT) to Chair the Labor-HHS Subcommittee responsible for oversight of health care-related appropriations. It is believed that Rep. Nita Lowey (D-NY) will defer to Rep. Rosa DeLauro (D-CT) to serve as the Ranking Member on this subcommittee.

**House Budget Committee:** Rep. Paul Ryan (R-WI) is set to become Chairman, and Rep. Chris Van Hollen (D-MD) will take over as the Ranking Member on the Committee responsible for oversight of federal budget issues.

**House Committee on Oversight & Government Reform:** Rep. Darrell Issa (R-CA) will Chair the Committee in 112<sup>th</sup> Congress, and Democrats selected Rep. Elijah Cummings (D-MD) to be the Ranking Member.

**Senate HELP Committee:** Sens. Tom Harkin (D-IA) and Mike Enzi (R-WY) will remain as Chairman and Ranking Member, respectively, on the Senate Committee with primary jurisdiction over public health issues.

**Senate Finance Committee:** Senator Max Baucus (D-MT) will remain Chairman of the powerful Senate Committee with jurisdiction over Medicare and Medicaid, while Senator Orrin Hatch (R-UT) is set to become the new Ranking Member. Sen. Jay Rockefeller (D-WV) will remain as Chairman of the Subcommittee on Health, while the Ranking Member slot remains unclear. Sen. Orrin Hatch, who was the Ranking Member on the Subcommittee, is taking over the same spot for the full Committee. Sens. Olympia Snowe (R-ME) and John Ensign (R-NV) would be next in line for the top GOP spot on the Subcommittee.

**Senate Budget Committee:** Senator Kent Conrad (D-ND) will remain Chairman, and Senator Jeff Sessions (R-AL) is likely to take over the top Republican spot on the Committee.



*Senate Appropriations Committee:* Sens. Dan Inouye (D-HI) and Thad Cochran (R-MS) will continue to serve as Chairman and Ranking Member, respectively, of the Senate counterpart to the House Committee with the same name. It is likely that Sen. Tom Harkin (D-IA) will keep his position as Chairman of the Labor-HHS Subcommittee. It is unclear who will serve as Ranking Member of the subcommittee as all of the Republicans returning from the 111<sup>th</sup> Congress hold other Ranking Member slots.

## IMMIGRATION

Immigration may be one of the more contentious issues in the 112<sup>th</sup> Congress, though in the past there was hope for a bipartisan effort to enact a comprehensive immigration reform package. Although there may be some common ground on voluntary reporting systems like E-Verify, most other issues have become divisive because they tend to invoke philosophical differences between Democrats and Republicans. Public sentiment seems to be changing: many Americans are no longer in favor of a path to citizenship for illegal citizens, many newly elected Republicans campaigned on strict immigration limits, and Congress could not pass the relatively moderate DREAM Act before adjourning in December (see below for more details). Senator John McCain (R-AZ), who once supported the DREAM Act (but did not in its latest iteration), stated that Congress should begin work on comprehensive immigration reform only once U.S. borders have been secured. He believes that immigration policy could potentially be an area of compromise between the parties, though many others disagree.

The U.S. Chamber of Commerce, one of the largest and most powerful lobbying groups in the country, known for its right-leaning pro-business stances, somewhat surprisingly supports an expanded guest worker program and an accelerated path to citizenship. According to the Chamber, the American economy needs to determine *how* to absorb its foreign labor, which is inevitable. Cynics also argue that the Chamber supports these measures because a larger labor supply will decrease wages, which is good business for its members. Regardless of its reasoning, an organization of this magnitude will certainly have clout with members of Congress, and Republicans who might otherwise oppose immigration measures might change their tune if the Chamber is in favor. If this is the case, Republicans and Democrats may in fact find common ground, proving Senator McCain correct.

From the outset, House Judiciary Chair Lamar Smith (R-TX) stated his plans to put off some of the more controversial immigration issues (e.g., reducing levels of legal immigration, family migration and work visas) until later in the 112<sup>th</sup> Congress, to focus instead on jobs.

### Issues

***DREAM Act:*** The Development, Relief and Education for Alien Minors Act was initially introduced in 2001, but took on new life when re-introduced in November 2010 by Senator Durbin (D-IL). The bill, which had bipartisan support in its earlier iterations, would have created a legalization process for children whose parents brought them to the U.S. and who either joined the military or went to college. Although the DREAM Act passed the House, it failed to achieve the 60 votes necessary for cloture in the Senate (by a vote of 55-41) before the 111<sup>th</sup> Congress adjourned in late December. With a Republican House, the bill's passage is highly unlikely during the 112<sup>th</sup> Congress. According to House Judiciary Committee Chair Lamar Smith (R-TX), "it is pointless to talk about any new immigration bills that grant amnesty until we secure the border, since such bills will only encourage more illegal immigration." Senator Jeff Sessions (R-AL), who led the Senate GOP opposition to the DREAM Act, argued that even eliminating some of the more lax measures in the bill would not be sufficient to solving the underlying problems.

**E-Verify:** Kicking off the term for the House Judiciary Committee will be a hearing on E-Verify, which is a voluntary electronic system for checking the immigration status of employees run by the Department of Homeland Security. The current system is set to expire in 2012, and Chairman Lamar Smith is making it a top priority to expand it. He calls this issue one of the “70% issues” because more than 70% of Americans support it. In fact, E-Verify may be one of the few immigration measures with bipartisan support – President Obama has stated his support for the system (so long as it is part of a comprehensive reform package), as have other Democrats. In the past, Smith has supported a legislative mandate for the use of E-Verify by all private employers, but he refuses to say whether he will push for the same until after the hearing.

**H-2B Guest Worker Visas:** This non-immigrant visa program allows employers to hire workers to temporarily enter the U.S. for one-time, seasonal or intermittent basis work in non-agricultural services or labor. Opponents of the H-2B visa program say that it is less expensive and time-consuming to simply hiring illegal aliens, and that the rules for obtaining an H-2B visa are rarely enforced and full of loopholes. Hundreds of jobs were approved for H-2B guest workers in 2010 in areas with over 10% unemployment rates. A September 2010 GAO report delivered to Congress outlines instances of fraud and abuse, and could create an incentive for increased oversight in this area.

**Birthright Citizenship:** Arizona State Senator Russell Pearce, known for his polemical “show us your papers” law introduced last year, will be introducing model legislation to end birthright citizenship that has existed for centuries in the United States. Legislators from about a dozen other states are scheduled to join Pearce in DC in mid-January to show their support, in the hopes that other state legislators will follow suit by proposing similar laws. Under the 14<sup>th</sup> Amendment of the Constitution, citizenship is automatically granted to children born in the U.S., regardless of the status of their parents, and Pearce’s law would effectively overturn this. The Constitution also grants sole authority to the federal government on questions of naturalization, and Pearce is purposely challenging this, in order to set up expensive and time-consuming litigation that might eventually go to the Supreme Court. At the federal level, Chairman Lamar Smith is staying mum on when the House Judiciary Committee will examine birthright citizenship. In the meantime, the 9<sup>th</sup> Circuit Court of Appeals is now reviewing Pearce’s first anti-illegal immigration bill, the Support Our Law Enforcement and Safe Neighborhoods Act (Arizona SB 1070). The bill would require certain non-citizens to register with the federal government and to have registration documents on them at all times. The Justice Department brought this suit against the state of Arizona, and a district court filed an injunction to stop the most controversial portions of the law from going into effect. After hearing oral arguments on the case, there are indications that the 9<sup>th</sup> Circuit might reinstate but water down certain parts of the law. State Senator Pearce also believes that this law will end up in the Supreme Court and will be upheld by a 5-4 vote. Both of Pearce’s bills are setting up a battle over state vs. federal authority in the realm of immigration policy, and any news related to these developments could further drive debate. It remains to be seen how the shooting of Rep. Gabrielle Giffords (D-AZ) may impact this divisive debate.

***EB-5 Visa Program:*** The EB-5 visa provides a method for immigrant investors to obtain a green card by investing money in the U.S. To obtain this visa, foreign nationals must invest at least \$500,000 in certain qualified investments or regional centers with high unemployment rates and must create at least ten jobs. The EB-5 visa was first established through the Immigrant Investor Pilot Program, with an allocation of visas codified under the Immigration and Nationality Act (INA). The Immigrant Investor Pilot Program has been extended several times and the current EB-5 visa program will expire September 30, 2012. In the 111<sup>th</sup> Congress, Senators Kerry (D-MA) and Lugar (R-IN) introduced The Startup Visa Act with the intention of modifying the EB-5 visa requirements to necessitate the creation of at least five, full-time jobs for every \$100,000 of investments made in order to obtain a green card. While Senators Kerry and Lugar plan to re-introduce the bill in the 112<sup>th</sup> Congress, Judiciary Chairman Leahy (D-VT) is also working on complementary draft EB-5 legislation that would allow the existing pilot program to expire and would replace the pilot with a permanent substitute. In his efforts to make the EB-5 visa program permanent, Senator Leahy is also seeking to address issues that arise when business plans are approved by the administrators of Regional Centers (RCs) and then re-litigated by U.S. Citizenship and Immigration Services (USCIS).

## **Committees of Jurisdiction**

***House Judiciary Committee:*** Rep. Lamar Smith (R-TX) will chair this committee, and Rep. John Conyers (D-MI) will take the Ranking Member slot. Chairman Lamar Smith has appointed Rep. Elton Gallegly (R-CA) to serve as Chairman of the Immigration Subcommittee, bypassing Rep. Steve King (R-IA), who had served as Ranking Member in the previous Congress. Rep. Zoe Lofgren (D-CA) was the Chair of the Subcommittee in the 111<sup>th</sup> Congress, and we expect her to remain as top Democrat, though no announcements have been made yet.

***Senate Judiciary Committee:*** Senator Patrick Leahy (D-VT) will remain the Chairman of the Judiciary Committee, but Senator Charles Grassley (R-IA) will take over as Ranking Member for current top-Republican Senator Orrin Hatch (R-UT) because Grassley is being forced out of his Finance Committee spot because of a GOP rule that limits chairmen and ranking members to 6 years. Grassley hopes to form an oversight subcommittee on the Judiciary Committee. Senator Chuck Schumer (D-NY) and Senator John Cornyn (R-TX) are expected to maintain the top spots for the Subcommittee on Immigration, Refugees and Border Security.

## **NATIONAL SECURITY AND DEFENSE**

In the days following the midterm elections, GOP leaders began calling for an emphasis on deficit reduction across all federal policy. While Republicans are coming to power with a history of protecting defense spending levels, the growing national deficit and weak economic conditions may position defense spending as more vulnerable in the new Congress.

With the House shifting to Republican control, it is anticipated that Republicans will increase oversight of the State Department, USAID, and foreign assistance programs, while continuing steadfast support for the military. As economic recovery and job creation continue to remain at the forefront of the national policy agenda, it is also likely that international defense sales and technology trade will be further explored as platforms for improving the economy and that domestic defense sales will be scrutinized more closely.

### **Issues**

***Budget Cuts/Appropriations:*** The final days of the 111<sup>th</sup> Congress saw fierce debates over individual programs to be authorized for funding in a FY2011 defense authorization bill. After a bill including a repeal of “Don’t Ask, Don’t Tell” and funding for the F-35 alternative engine program failed to garner Senate support, Congress passed a stripped-down version of the bill. The new proposal allocates spending to broad chunks of activities, such as research and development, while minimizing guidance on spending for particular programs. Several members who will hold leadership posts in the new Congress have made clear their intentions to carefully scrutinize foreign relations spending. The incoming chair of the House Foreign Affairs Committee Rep. Ileana Ros-Lehtinen (R-FL) has said that she will work to restore fiscal discipline to foreign affairs by excising waste, fraud and abuse in programs and organizations. State and Foreign Operations Appropriations Subcommittee Chairman Rep. Kay Granger (R-TX) has also expressed concern for high spending on State Department operations, USAID, foreign operations, foreign assistance, and humanitarian programs. While the future for defense earmarks, and appropriations in general, remains unclear, incoming Defense Subcommittee Appropriations Chairman Bill Young (R-FL), has been a strong advocate for high levels of spending at the Pentagon, which has been under mounting pressure to spend less in order to reduce record budget deficits.

***International Defense Sales:*** With several U.S. defense contractors competing against global counterparts for international sales, U.S. companies are concerned that the bureaucratic process for approving sales hinders success rates for international bids (which require State Department approval that is notified and approved by Congress). Most recently, the U.S. and Saudi Arabia finalized a \$60 billion arms deal, albeit with controversy in the form of a letter raising questions and a resolution, introduced by Rep. Anthony Weiner (D-NY) that sought to stall the sale. During a November trip to India, President Obama pledged serious efforts to relax export controls, in hopes of enhancing the U.S.-India relationship, and as a result, defense sales. This pledge resulted in a Boeing C-17 sale and could further U.S. companies competing for deals in India’s tactical aircraft competition. The sale is expected to be finalized by March 2011. The Department of Commerce also recently announced a February high technology trade mission to India, which could generate future business in the region. Several other international competitions, most notably those

surrounding fifth generation fighters, are ongoing, including sales likely to occur in the next year to the UAE, South Korea, Japan, and Israel.

**Export Control Reform:** At a December 9 meeting of the President's Export Council, the Obama Administration released a series of proposed revisions to export control regulations for comment. For the next month, the Administration is soliciting input on the criteria and procedures to be used in determining whether a product is subject to export controls, the application of these criteria to categories of items, such as technology with military applications, and a revamping of licensing policies. Shortly after the Administration released its proposal, the GAO issued a report identifying weaknesses and unaddressed concerns within the revised regulations, including national security risks, interagency conflicts between Commerce, State, and Defense Department officials regarding categories of items to remain on control lists, and a strategy for addressing existing international trade sanctions. An April 2010 proposal touted by Defense Secretary Gates calling for a single export control list is still under consideration. Other proposals under consideration include a two list proposal that draws a "bright line" between State and Commerce Department export control lists, and a proposal that includes three lists: critical military and intelligence technology, dual use technology, and widely available, commercial technology.

**Contractors:** Earlier this year, Secretary Gates launched a drive to identify wasteful spending at the Pentagon, aiming to realize savings of \$100 billion over the next five years. To help meet this goal, the President's Deficit Commission has called for doubling the number of defense contractor positions scheduled for elimination - a 20 percent decrease in defense contractors overall. The Commission has also called for a reduction in procurement by 15 percent and the elimination of many defense spending programs that generally go to contractors. While these recommendations may be further discussed in the new Congress, negative attitudes towards private contractors are already prevalent in both chambers. In the defense authorization bill passed at the close of the 111<sup>th</sup> Congress, provisions targeting contractors were included with the goal of realizing \$135 billion in savings over the next five years. Furthermore, throughout a series of hearings over the course of the past year, the independent and bipartisan Commission on Wartime Contracting probed for waste, fraud, and abuse in contracting and subcontracting in current conflict zones, also drawing attention to potential cost savings.

**Homeland Security:** With recent controversy surrounding heightened security measures at airports across the country, it is anticipated that early on, the 112<sup>th</sup> Congress will see an advocacy push from the scanning technology industry as some lawmakers argue for limits on airport security practices. Full body scanning devices have been under attack by privacy and civil liberties groups opposing the use of this technology to potentially detect and disrupt terrorist plots. In the 111<sup>th</sup> Congress, the House passed legislation that would prohibit TSA from using body scanners as primary passenger screening tools in airports. This bill was introduced by Rep. Jason Chaffetz (R-UT), who has been named the incoming Chairman of the House Oversight Subcommittee on National Security, Homeland Defense, and Foreign Operations, and has vowed to aggressively oversee TSA and hold the agency accountable for the performance of homeland security functions for airlines. Rep. Chaffetz has stated that he will re-introduce his bill in the new Congress.

**Iraq:** Although U.S. Forces Iraq spokesman, Brig. General Jeffrey Buchanan, has firmly stated that by the end of December 2011 all forces will be withdrawn from Iraq, few in Washington actually believe this deadline will be met. The U.S. must remove 48,000 people and huge amounts of equipment from Iraq. As the Army draws down, the State Department will take charge of some highly complex military operations, with aid from private contractors. This shift in authority will result in State Department oversight of over 25,000 private security contractors. According to the State Department's Office of Acquisitions Management, both the Logistics Civil Augmentation Program (LOGCAP) contract and the Baghdad Life Support Services (BLISS) contract will be used for carrying out contingency operations in Iraq. The medical component of the contract will be separated out first, followed by life support services and then operations and maintenance, with a roll out expected soon. The BLISS contact will ultimately supplant LOGCAP, which in the short term will continue to be administered by Rock Island. Additionally, State and USAID are taking further steps to prepare to assume more authority for overseas contingency operations. Using the first ever Quadrennial Diplomacy and Development Review (QDDR), Secretary Clinton has advocated for the reorganization of the State Department and USAID in order to improve the ability of diplomats and development experts to respond to international crises in conflict zones.

**Afghanistan:** On December 1, 2009, President Obama ordered the deployment of 30,000 additional U.S. troops to Afghanistan to reverse insurgent momentum. Simultaneously, the President called for a diagnostic assessment of the surge strategy after one year. The review was completed and delivered in December 2010. At a press event held in conjunction with the release of the report, President Obama noted that the U.S. is "on track to achieve our goals" in the Afghan War and to "start reducing our forces next July." According to the executive summary, the report calls for political and economic efforts to match the military success in eliminating Taliban strongholds in southern Afghanistan. Additionally, the report notes the challenge moving forward will be to sustain the progress made thus far to meet the agreed upon U.S. and NATO timeline for a complete transfer of responsibility to Afghan security forces by the end of 2014. Incoming Chairman of the House Oversight Committee Darrell Issa has expressed concern with President Obama's Afghanistan strategy and plans to conduct hearings on corruption in Afghanistan early in the new Congress.

**Administration Changes:** Defense Secretary Gates has made well known his plans to soon retire and Pentagon officials have indicated Gates' departure could come early in the new Congress. Possible Gates replacements include John Hamre, a Deputy Defense Secretary in the Clinton Administration who now leads the Center for Strategic and International Studies while running the Defense Policy Board, Rep. Ike Skelton, former Armed Services Committee chairman who lost reelection, Michele Flournoy, currently the Pentagon's Under Secretary for Policy, Senator Jack Reed (D-RI), who served in the 82nd Airborne Division and has served on the Senate Armed Services Committee, and Richard Danzig, a former Navy Secretary who signed on early to support the Obama campaign. Other important Administration changes are Tom Donilon's recent rise to replace James Jones as National Security Advisor to President Obama and Tom Nides' recent confirmation to serve as Deputy Secretary of State for Management and Resources.

## Committees of Jurisdiction

Between retirements and election defeats, there have been significant shakeups on several committees with jurisdiction over defense policy.

**House Appropriations:** While subcommittee chairmanships for the Appropriations Committee have yet to be officially handed out, it is assumed that Rep. Bill Young (R-FL) will lead the Defense Appropriations panel, while Rep. Norm Dicks (D-WA) will continue to hold the top Democratic spot. Rep. Robert Aderholt (R-AL) will likely chair the Homeland Security Appropriations Subcommittee. On the Military Construction and Veterans Affairs panel, Rep. John Culberson (R-TX) is expected to serve as chair. Rep. Kay Granger (R-TX) will likely chair the Appropriations Subcommittee on State and Foreign Operations.

**House Armed Services:** The House Armed Services Committee will see some of the biggest changes with 12 of the 37 Democrats not returning in the 112<sup>th</sup> Congress. 111<sup>th</sup> Congress Ranking Member Buck McKeon (R-CA) will take the gavel and Rep. Adam Smith (D-WA) will rise to the Ranking Member post.

**House Foreign Affairs:** Rep. Ileana Ros-Lehtinen (R-FL) will assume the Chairmanship, while Rep. Howard Berman (D-CA) will become Ranking Member.

**House Homeland Security:** 111<sup>th</sup> Congress Chairman Bennie Thompson (D-MS) will become Ranking Member and 111<sup>th</sup> Congress Ranking Member Peter King (R-NY) will assume chairman's the gavel.

**House Oversight and Government Reform:** Rep. Darrell Issa (R-CA) will serve as Chairman and Rep. Elijah Cummings (D-MD) will serve as Ranking Member.

**Senate Appropriations:** Chairman Daniel Inouye (D-HI) and Ranking Member Thad Cochran (R-MS) will continue to lead the Defense Appropriations Subcommittee. While other subcommittee leadership has yet to be determined, there has been some speculation. While it is unclear who will lead the Homeland Security Subcommittee, Senators Frank Lautenberg (D-NJ) and Mary Landrieu (D-LA) are frontrunners to chair the subcommittee, while Senator Shelby (R-AL) is positioned as most likely to rise to Ranking Member. Senator Tim Johnson (D-SD) is likely to chair the Military Construction and Veterans Affairs Subcommittee, while Senator Kay Bailey Hutchison (R-TX) will continue to hold the Ranking Member post. On the State and Foreign Operations Subcommittee, Chairman Patrick Leahy (D-VT) is expected to maintain the gavel, while the Ranking Member contest has been quiet.

**Senate Armed Services:** Chairman Carl Levin (D-MI) and Ranking Member John McCain (R-AZ) will maintain their leadership positions.

**Senate Foreign Relations:** Chairman John Kerry (D-MA) and Ranking Member Richard Lugar (R-IN) will continue to serve as the Committee's leaders.

**Senate Homeland Security and Government Affairs:** Chairman Joseph Lieberman (I-CT) and Ranking Member Susan Collins (R-ME) will also retain their positions.



## **TELECOMMUNICATIONS**

As with many issue areas in the 112<sup>th</sup> Congress, we expect substantial action on telecommunications from the Executive Branch, with a considerable amount of response/pushback from Congress. The Federal Communications Commission (FCC) has already been active in rulemaking with its controversial Open Internet order, and more (albeit less divisive) NPRMs are to be expected going forward. The GOP and some moderate Democrats will be launching a legislative counterattack, and we may see Chairman Genachowski and others in court to defend the legality of the FCC's actions. A large portion of telecom policy discussion in 2011 will be devoted to the net neutrality/Internet regulation debate. Some believe that with the net neutrality order out of the way, the FCC will now be able to cover a lot of ground on other issues that have been neglected over the past few months, including the Universal Service Fund, spectrum allocation, and other elements of the National Broadband Plan.

The Federal Trade Commission (FTC) and Commerce Department both released their highly-anticipated privacy reports in the final quarter of 2010, and we expect this to play a major role in legislation introduced in Congress this year. It remains to be seen which tack will be taken by members, whether in the form of a discrete "Do Not Track" bill such as Senator Pryor's (D-AR), or a more comprehensive bill as Senator Kerry (D-MA) plans to introduce. As yet, no GOP plan for privacy has emerged though there is certainly an appetite to get some form of legislation passed.

### **Issues**

***Reclassification/Net Neutrality:*** Just before Washington, D.C. emptied out for the holiday season, the FCC voted along party lines to pass "Open Internet" regulations that seek to uphold net neutrality principles. The order adopted by the FCC is focused on transparency, no blocking, no unreasonable discrimination, select definitions of "broadband Internet access service" and "reasonable network management," and proper treatment of paid prioritization, mobile broadband and specialized services. Generally speaking, the rule directs ISPs to give equal treatment to all web content on their networks, though this mostly does not apply to wireless carriers. Many consumer advocacy groups (including Public Knowledge and Free Press) are up in arms about the exclusion of wireless carriers from the net neutrality rules, calling it a "loophole" that will invite ISPs to test their limits. We expect to see more of this debate in the coming year.

For now, Chairman Genachowski's initial "Third Way" reclassification proposal seems to be off the table. Rather than shifting Internet regulation to Title II of the Communications Act, he relied solely on the FCC's Title I authority to enact the new rule. Many expect the Chairman's legal authority to be challenged in court (as it also would have been had he relied on Title II), and some believe the order may in fact be reversed. The congressional response has already been heated. Even before the rule was announced, dozens of Republicans sent letters to the FCC either requesting that the Commission hold off with its Open Internet rule, or simply stating their opposition to it. House Energy and Commerce Chairman Fred Upton (R-MI) and Communications, Technology and the Internet (CTI) Subcommittee Chairman Greg Walden (R-OR) have stated that they will be holding a hearing to examine whether the FCC has the authority put forth this order, and this will likely be one of the first hearings in the 112<sup>th</sup> Congress.

In a sign of what's to come, on the first day of the 112<sup>th</sup> Congress Rep. Marsha Blackburn (R-TN) introduced the Internet Freedom Act, H.R. 96, which is the exact same as her "Real Stimulus Act of 2009" bill (H.R. 3924) introduced last term. The bill would have regulation of the Internet fall under the sole jurisdiction of Congress, and was co-sponsored by 60 Republicans. Blackburn, Walden and other Republicans plan on invoking the Congressional Review Act in order to overturn the new FCC rule. Congress has 60 days after an order is published in the Federal Register to act on this. Senator Kay Bailey Hutchison, who attempted to stymie the FCC's plans in an amendment to the Omnibus Appropriations bill which was considered, but not passed, in the Senate last December, also has plans to limit any funds appropriated to the FCC to execute the order. House Energy and Commerce Committee Ranking Member Henry Waxman (D-CA) has said that any of these attempts to take away power from the FCC will not be enacted into law. Waxman would prefer for the parties to find areas of compromise, which may be difficult if Energy and Commerce GOP members stay this focused on net neutrality in the 112<sup>th</sup> Congress.

**Cyber security:** In December, Senate Majority Leader Harry Reid (D-NV) sent another letter to President Obama, asking him for guidance on moving cyber security legislation forward. There seems to be consensus on the need for some kind of cyber security package (as opposed to piecemeal legislation), but no agreement has been reached on which committee of jurisdiction should take the leading role. Although multiple bills were introduced in the 111<sup>th</sup> Congress, Reid has already assigned a bill number for a comprehensive Senate cyber security package, an indication that he intends the Senate to put aside their individual bills and work together.

**Privacy:** Much like cyber security, there are many cooks in the kitchen on this all-important issue for the 112<sup>th</sup> Congress. To date, the Commerce Department, FTC, Senator Kerry, Senator Pryor (D-AR), Rep. Rush (D-IL), and others have all taken active roles in the privacy debate. The two agencies released their highly-anticipated privacy reports this past fall, and we expect this to help shape legislative policy going forward.

Senator Kerry has been holding on to a discussion draft of privacy legislation for some time, waiting for the FTC and Commerce Department reports to be released, and also to obtain as much industry input as possible. He is reportedly working on a new draft that will be introduced early in 2011. According to Kerry, his legislation will include three "non-negotiable" rights for consumers:

1. Procedures in place at all businesses for securing personally identifiable information;
2. Clear and concise information about which information is being collected, and how and why it will be used; and
3. A simple mechanism by which consumers can opt out of data collection processes.

The White House also set up a special task force intended to codify the Commerce Department recommendations into policy. The newly-formed group is headed by Commerce Department General Counsel Cam Kerry and Justice Department Assistant Attorney General Christopher Schroeder. Although both Republicans and Democrats support the concept of online privacy generally, the major area of debate going forward will be the amount of regulation mandated by Congress, and by whom online companies will be regulated. The GOP is loathe to augment the enforcement authority of the FTC, though the agency has repeatedly asked for this precisely. Self-

regulation has been a repeated buzz word in the privacy debates, and we may see the creation of a safe harbor for businesses that implement “privacy best practices,” as suggested by some of the discussion drafts that were circulated (publicly and privately) in the 111<sup>th</sup> Congress.

**Universal Service Reform:** Although almost unanimously thought to be outdated, the Universal Service Fund (USF) continues to expand telephone access in the U.S., rather than Internet access. In a bipartisan act, Representatives Boucher (D-VA) and Terry (R-NE) introduced the Universal Service Reform Act of 2010 (H.R. 5828) in July of last year. A hearing was held by the House Energy and Commerce CTI Subcommittee, of which Boucher was the chair, but no further progress was made in the 111<sup>th</sup> Congress. Republican Representatives Cliff Stearns (R-FL) and Blackburn expressed their concern that the fund might grow too large without appropriate caps in place, and “throwing additional money at this makes little sense,” according to Stearns. Although major industry players, including AT&T and Verizon, supported the bill, we may see vocal GOP members like Blackburn taking vehement stances against elements of the bill. While awaiting Universal Service Reform from Congress, the FCC in the meantime published an order just before the end of 2010 that will take back unused high-cost funds and reduce caps in states where telecom carriers giving up the funds were operating. This may be the impetus of the creation of the FCC’s “Connect America Fund,” as it proposed in the National Broadband Plan. The FCC has its own plan for Universal Service Reform that would not require any authorization from Congress, but would necessitate a one-time appropriation of \$9 billion, staggered over three years, to aid in the transition to a broadband-subsidy fund. With Rep. Boucher, one of Universal Service Reform’s major proponents, no longer in Congress, it remains to be seen whether this will be enacted in the 112<sup>th</sup> Congress and who Rep. Lee Terry will look to for bipartisan support on a proposal. Like many other telecom issues, Universal Service Reform may take a back seat until the FCC’s Open Internet order is fully fleshed out.

**Spectrum:** The FCC will be voting on an uncontroversial spectrum issue – 700 MHz interoperability – at its next open meeting on January 25<sup>th</sup>. The NPRM will not be dealing with the more divisive issue of the future of the D-block until later in the year. Initially the FCC was expected to issue an NPRM on the opportunistic use of spectrum, but instead it will be releasing a notice of inquiry. Public support seems to be ramping up for the FCC to conduct voluntary incentive auctions, as the High Tech Spectrum Coalition demonstrated in its letter to the Commission just after the New Year. The Coalition formed last fall with the mission of advocating for FCC authority to hold voluntary incentive auctions, and is comprised of four major high tech trade associations. The National Broadband Plan and the Obama administration have also called for the availability of 500 MHz of spectrum for broadband by 2020. Multiple spectrum bills were introduced in the 111<sup>th</sup> Congress, but none came close to passing both houses. D-block continues to be the most contentious of the spectrum issues, and the one that keeps any legislation from being passed even though multiple legislators have stated that spectrum allocation is a top priority in the 112<sup>th</sup> Congress. The FCC supports the D-block auctions as a means of funding a public safety network, but many others would set up a nationwide broadband network for first responders without use of D-block proceeds. President Obama notably excluded any mention of the D-block in his 2010 executive order on the importance of freeing up spectrum. It will be interesting to see the potential interplay of spectrum auctions and deficit reductions in the coming years.

***National Broadband Plan:*** The National Broadband Plan will be celebrating its one-year anniversary this March, and to “celebrate,” the FCC is expected to issue several follow-up orders related to the Plan. The FCC has been unable to meet the many of its self-imposed action items – 21 out of the 68 tasks are still unfinished as of early January. By the one-year mark, the FCC states that its work will be 86% complete. Industry experts note that the Broadband Plan work has been delayed or disrupted by the FCC’s net neutrality work, in the same way that Congress was detracted from its own policy-making because of health care and financial regulatory reform. Expect congressional scrutiny, either at the House Energy and Commerce or Oversight Committees to coincide with the anniversary.

***Retransmission Consent:*** In the past couple years, retransmission consent disputes have begun to crop up more frequently, with some garnering a significant amount of press because of the millions of affected consumers. Most notable in the past year was the Cablevision/News Corp. dispute, in which the latter company pulled the broadcast signal from Cablevision’s 3 million customers in the New York metropolitan area for more than 2 weeks during Major League Baseball play-offs, the World Series, and other popular programming. As a result of this high-profile clash, the Senate Commerce Committee held a hearing to examine the different sides of the issue, and Sen. Kerry introduced a draft bill that would prohibit broadcasters from taking their signals down, and give the FCC authority to determine whether negotiations were occurring in good faith.

In response to the increasingly heated retransmission disputes, a group of 31 companies united in mid-2010 to form the American Television Alliance (ATVA). The coalition is comprised of cable companies and associations, satellite companies, consumer organizations and independent programmers. Upon its formation, the coalition took out advertisements in major papers calling on the FCC to act in protecting consumers and preventing blackouts by broadcasters. ATVA is continuing its work in 2011 by drawing attention to more broadcaster blackouts, and working with other consumer protection organizations to encourage Congress and the FCC to act.

In December, the FCC’s Media Bureau Chief, William Lake, announced the agency’s intention to take a second look at the rules governing retransmission consent, which induced Sen. Kerry to withdraw his draft bill. Although much ado was made about the potential FCC rule-making, the excitement seems to have died down as the issue is pushed to FCC meetings later in the year. We expect this issue to be discussed by the FCC in 2011, but it will probably not take precedence over other top-priority issues such as those listed above. That being said, with more retransmission consent disputes on the horizon (including, most significantly, one between Time Warner Cable and Sinclair Broadcast Group), we could see the issue come to the forefront if millions of consumers are once again harmed by the dispute.

## Committees of Jurisdiction

***House Committee on Energy and Commerce:*** Rep. Fred Upton (R-MI) won a well-fought battle for chairmanship of this committee, and named his top opponent, Joe Barton (R-TX), to Chairman Emeritus. Sue Myrick (R-NC) will be Vice-Chair of the Committee. Rep. Greg Walden (R-OR) was named Chairman of the Subcommittee on Communications, Technology and the Internet, and Lee Terry (R-NE) will be his Vice-Chair. Rep. Henry Waxman (D-CA) will remain the top Democrat on the Committee. Democratic Ranking Member slots on subcommittees will be determined on January 19. Reports center around Reps. Anna Eshoo (D-CA) and Bobby Rush (D-IL) to fill the Subcommittee on Communications, Technology, and the Internet subcommittee slot.

***House Committee on the Judiciary:*** Rep. Lamar Smith (R-TX) will chair this committee, and Rep. John Conyers (D-MI) will take the Ranking Member slot. Although Rep. Conyers had disbanded the Subcommittee on Courts, the Internet and Intellectual Property in the 111<sup>th</sup> Congress, Chairman Smith will be bringing this back in the form of an Intellectual Property, Competition and the Internet Subcommittee for the 112<sup>th</sup> Congress. Unsurprisingly, Rep. Bob Goodlatte (R-VA) was named as Chairman of the subcommittee – he was one of the key members in the 111<sup>th</sup> Congress to be active on IP issues and introduce IP legislation. Rep. Howard Coble (R-NC) was named as Vice Chair. On the Democrat side, subcommittee leadership has not yet been named, but there are rumors floating about Rep. Zoe Lofgren (D-CA) and Rep. Adam Schiff (D-CA) as potential Ranking Members, also because of their past interest and involvement in IP issues.

***House Homeland Security:*** 111<sup>th</sup> Congress Chairman Bennie Thompson will become Ranking Member and 111<sup>th</sup> Congress Ranking Member Peter King will assume the gavel.

***Senate Committee on Commerce, Science and Transportation:*** Senator Jay Rockefeller (D-WV) and Senator Kay Bailey Hutchison (R-TX) will remain as Chair and Ranking Member. Senator Kerry will also remain the Chairman of the Subcommittee on Communications, Technology and the Internet, and Senator John Ensign will continue to be the top Republican. The committee will play a leading role in privacy policy, indecency, spectrum allocation and net neutrality (this last issue to a much lesser extent than the House Energy & Commerce Committee).

***Senate Committee on the Judiciary:*** Senator Patrick Leahy (D-VT) will remain the Chairman of the Judiciary Committee, but Senator Charles Grassley (R-IO) will take over as Ranking Member for current top-Republican Senator Orrin Hatch (R-UT), who will chair the Finance Committee. Grassley hopes to form an oversight subcommittee on the Judiciary Committee.

***Senate Homeland Security and Government Affairs:*** Chairman Joseph Lieberman and Ranking Member Susan Collins will also retain their positions.

## TRADE

With the President staking out an aggressive position on expanding American exports, trade is an issue that will likely see significant activity in the new Congress, and one which is anticipated to present an opportunity for bipartisan cooperation; particularly since President Obama's views on trade are somewhat more in line with the GOP than with the more liberal members of his party.

In the waning days of the 111<sup>th</sup> Congress there was an effort to pass an *Omnibus Trade Act*, which included provisions to extend the *Andean Trade Preference Act* (ATPA), *Trade Adjustment Assistance* (TAA), and the *Generalized System of Preferences* (GSP), which were all set to expire at the end of 2010. The Omnibus bill also included Miscellaneous Tariff Bill (MTB) provisions. With bipartisan support, the Omnibus bill was approved by the House of Representatives in December 2010; however, the Senate instead chose to simply provide for six week extensions of the ATPA and TAA, allowing the GSP to lapse, and not moving on the MTB provisions. The House then acquiesced to the Senate and passed the pared down bill. The new Congress will therefore need to quickly take up long-term extensions of ATPA and TAA, and address the lapsed GSP.

### Issues

***Andean Trade Preference Act:*** First established in 1991 as an anti-drug measure, the ATPA provided duty-free access to imports from Peru, Ecuador, Bolivia and Colombia, in order to incent Andean region farmers to not participate in the coca and poppy trade. The ATPA no longer applies to Bolivia with former President George W. Bush having requested that Congress remove them from a previous extension due to a lack of coordination on counter-narcotics efforts. Ways and Means Chairman Dave Camp (R-MI) and Trade Subcommittee Chairman Kevin Brady (R-TX) both support a long-term extension, but with Colombia receiving the bulk of benefits from ATPA, Camp and Brady would prefer to see congressional action on the stalled Colombian Free Trade Agreement.

***Trade Adjustment Assistance:*** First authorized under the Trade Act of 1974, TAA provides assistance to American workers who have lost their jobs, or whose hours of work and wages are reduced, as a result of increased imports. Ways and Means Chairman Dave Camp (R-MI) and Trade Subcommittee Chairman Kevin Brady (R-TX) both support a long-term extension.

***General System of Preferences:*** The GSP provides duty-free treatment for goods produced in developing countries, but was allowed to lapse on December 31, 2010 when Senator Sessions (R-AL) raised objections over duty-free treatment of sleeping bags from Bangladesh. The GSP, which is strongly supported by many in Congress, has been allowed to expire before but was always later renewed, and there is hope that this will be the outcome with the current lapse.

***Miscellaneous Trade Bill:*** Having received bipartisan approval by the House of Representatives in the summer of 2010, the MTB was ultimately not included in the final Omnibus Trade Act of the 111<sup>th</sup> Congress, punting the issue to the new 112<sup>th</sup> Congress where its fate is uncertain.

Free Trade Agreements represent an opportunity for the President and congressional Republicans to find common ground, although there are outstanding issues toward achieving final approval of three existing FTAs:

***Republic of Korea-United States Free Trade Agreement (KORUS):*** Signed by former President George W. Bush in 2007, KORUS was stalled for several years over concerns about provisions related to the automobile and beef industries. In 2010, in a move that ultimately received much criticism, President Obama announced that he expected negotiations on addressing those concerns to be successfully completed in advance of the November G-20 Summit in South Korea. This deadline was not met; however, the Administration and the government of South Korea did conclude negotiations in early December 2010, with the South Koreans making significant concessions to the US on autos, but leaving the concerns about the beef industry unresolved, giving the Administration a significant trade victory.

***Panama-United States Trade Promotion Agreement:*** Signed by former President George W. Bush, the Panama FTA has already been ratified by the Panamanian government but awaits approval by Congress. This FTA does not face stiff opposition, particularly since the US and Panama have very little trade, but there are outstanding issues related to labor rights and the environment that are being addressed so that the FTZ can go to the Senate for approval.

***Colombia Free Trade Agreement:*** Facing strong opposition from congressional Democrats and the AFL-CIO over anti-union violence, and Minority Leader Pelosi, who, as Speaker, blocked a vote on the agreement in 2008, the White House stated in December 2010 that the President does not intend to send the FTA to the Congress for ratification in the near future because they do not feel that there are enough votes to ensure passage. Instead, the Administration is said to be working with the Colombian government on unspecified changes to the agreement that will make it more palatable to Democrats opposed to the FTA as written.

While KORUS likely has enough bipartisan support to move forward in the 112<sup>th</sup> Congress, Republicans are considering tying the agreement to approval of the Colombia and Panama FTAs. Whether the three FTAs are moved together or in a quick sequence of separate votes remains to be seen, and may make the difference on which FTAs are ultimately approved.

## **Committees of Jurisdiction**

The new Congress will see some changes at the committees of jurisdiction for trade:

***House Ways and Means Committee:*** Incoming Chairman Dave Camp (R-MI) will bring his pro-trade agenda as he takes over the gavel from Congressman Sander Levin (D-MI), who will take Camp's old job as Ranking Member. The Trade Subcommittee will be chaired by Representative Kevin Brady (R-TX), with the Ranking Member yet to be named.

***Senate Finance Committee:*** Senator Max Baucus (D-MT) will remain as Chairman, while the new Ranking Member will be Senator Orrin Hatch (R-UT), replacing Senator Chuck Grassley (R-IA) who has moved over to serve as Ranking Member of the Judiciary Committee. Senators Ron Wyden (D-OR) and Mike Crapo (R-ID) will remain as Chair and Ranking Member of the Subcommittee on International Trade, Customs, and Global Competitiveness.



## TRANSPORTATION AND INFRASTRUCTURE

As a newly emboldened Republican caucus prepares to take the reins of power in the House of Representatives, there is a great deal of speculation of how, and on what issues the two parties are going to be able to work together with the Democrats retaining the majority in the Senate, and the President serving for another two years. While many issues are ripe for partisan back and forth, transportation and infrastructure appears to present an opportunity for bipartisan leadership and we should expect to see movement on several major pieces of legislation with the debate focused not on what to do, but rather on how to pay for it.

The two leading transportation and infrastructure legislative efforts for the coming congress will center on a long-term surface transportation reauthorization bill, and a proposal for a national infrastructure bank which would serve as a means to finance surface transportation efforts such as highway construction, high-speed rail, freight mobility, and mass transit, which could be part of a reauthorization or a standalone effort.

### Issues

**Surface Transportation Reauthorization:** Also known as “the highway bill”, the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) was set to expire on December 31, 2011, but the Continuing Resolution passed in the final days of the lame duck session of the 111<sup>th</sup> Congress funding the government through March 4, 2011 included an extension. A long-term surface transportation reauthorization bill is a top priority for incoming House Transportation and Infrastructure Committee Chairman John Mica (R-FL), and is something on which he had worked closely with the previous chairman of the committee, former Rep. Jim Oberstar (D-MN), in the last congress. The bill proposed by Mica and Oberstar in 2009 will likely serve as a blueprint for new legislation this year; however, there will surely be a rigorous debate on how to pay for it. Along with the White House, Rep. Mica has ruled out an increase in the fuel tax, which has not gone up since 1993 and is no longer meeting the revenue needs of the Highway Trust Fund due to improved automotive fuel efficiency. The report of the President’s *National Commission on Fiscal Responsibility and Reform* (the “Deficit Commission”) calls for a gradual increase in the fuel tax by 15 cents per gallon beginning in 2013. The Commission was not able to garner sufficient votes from its members to adopt the report; however, many are using the report as a roadmap for policy proposals. For his part, Mr. Mica is said to be open to calls for doing away with the fuel tax entirely and replacing it with a percentage sales tax. He has also indicated his preference for Public-Private Partnerships as a means to finance the nation’s surface transportation needs through a new national infrastructure bank.

**National Infrastructure Bank:** While proposals for a national infrastructure bank have been circulating for the past several years, with legislation introduced in 2007 by former Senators Chris Dodd (D-CT) and Chuck Hagel (R-NE), the idea received new life when it was supported by President Obama in the 2008 presidential election, and he has since called for an investment of \$50 billion to fund transportation projects such as highways, rail lines and runways to be partly administered through an infrastructure bank. The President’s proposal would leverage private, state, and local capital to invest in projects and would likely be similar to the Dodd-Hagel bill and focus on mass transit, housing properties, roads, bridges, drinking water systems, and wastewater systems.

One widely discussed proposal in Congress for a national infrastructure bank has been offered by Senator John Kerry (D-MA), who would like to see the creation of an independent economic institution that would support a wide range of projects including transportation, energy, water, communications, etc., through high quality loans and loan guarantees, but not grants. This differs from other proposals that call for a fund within the Treasury or Department of Transportation.

In the previous Congress, Rep. Rosa DeLauro (D-CT), introduced the *National Infrastructure Development Bank Act*, which would have funded and created a bank that would direct public and private dollars toward infrastructure projects of national or regional significance. The Congresswoman, who would also like to see the funds administered by an independent panel, and not the Department of Transportation, has called the President's bank proposal "very disappointing," so we should look for her to push her own proposal again in the new congress.

Additional transportation and infrastructure priorities in the new congress include:

***Federal Aviation Administration Reauthorization:*** Since the expiration of the Federal Aviation Administration (FAA) authorization bill in late 2007, the House and Senate have been unable to complete work on a new multi-year reauthorization. Reauthorization bills have been passed by both the House and Senate, but concerns about various provisions have precluded action on final legislation. Instead, Congress has passed a series of short-term authorization extension bills - now totaling 17 - with the most recent passed in the final days of the 111<sup>th</sup> Congress and extending aviation programs through March 31, 2011. It is no surprise that FAA reauthorization is a top priority for incoming chairman Rep. John Mica, given his previous chairmanship of the Aviation Subcommittee.

***Water Resources Development Act Reauthorization:*** WRDA, which authorizes, but does not appropriate, funds for projects supporting the nation's waterways, ports and levees, is supposed to be reauthorized every two years. However, the last reauthorization was in 2007 and that was done with a bipartisan override of a veto by then President George W. Bush. Prior to 2007, the last reauthorization had been passed in 2000. While the House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee had hoped to complete a reauthorization bill in the 111<sup>th</sup> Congress, they were not able to do so. The leadership of both committees in the new congress has indicated that passage of a bill will be a priority, with Senate EPW Chair Barbara Boxer (D-CA) and Ranking Member Jim Inhofe (R-OK) stating that this is a bipartisan issue on which they can work together. The challenge for incoming House Transportation and Infrastructure Chairman John Mica will be the House ban on earmarks. There is disagreement about whether funding requests for WRDA projects, submitted to the Appropriations Committees, constitute earmarks, since WRDA authorizes projects but provides no funding therefore making such requests necessary. In the last Congress, House Republicans withdrew all WRDA project funding requests when their caucus chose a self-imposed moratorium on earmarks.

***Railroad reform legislation:*** In the previous Congress, Senate Commerce Committee Chairman Jay Rockefeller (D-WV) pushed for a railroad reform bill, S. 2889, the *Surface Transportation Board Reauthorization Act*, which was approved by the committee, but never gained enough support to make it to the Senate floor for consideration. Similarly, Senator Herb Kohl (D-WI) and Rep. Tammy Baldwin (D-WI) introduced companion bills, the *Railroad Antitrust Enforcement Act*, which were

approved by the Senate and House Judiciary Committees but also never received enough support for consideration by either chamber. In the new Congress, look for Rockefeller, Kohl and Baldwin to continue to push their legislation, although increased GOP numbers mean that success is likely to remain elusive.

***National Transportation Safety Board Reauthorization:*** In the 111<sup>th</sup> Congress, the House of Representatives and Senate each passed reauthorization bills for the NTSB, which is responsible for the investigation of civil transportation accidents. However, the bills were never reconciled and given final approval in the lame duck session, and will therefore need to be reintroduced in the new Congress.

## **Committees of Jurisdiction**

Numerous congressional committees claim jurisdiction over various aspects of transportation and infrastructure policy, and many will see changes in leadership in the new Congress:

***House Transportation and Infrastructure Committee:*** Rep. John Mica (R-FL) will take over as chairman of the committee – the largest on Capitol Hill – while the role of Ranking Member will be filled by Rep. Nick Rahall (D-WV), the former chair of the Committee on Natural Resources. Long-time Chairman Jim Oberstar (D-MN) was defeated for reelection, but he and Mica, who previously served as Ranking Member, shared many priorities and worked closely on drafting a surface transportation reauthorization bill in the previous congress that is likely to serve as a blueprint for a new bill, though it remains unclear whether Mica and Rahall will have the same relationship.

***House Ways and Means Committee:*** The new Republican majority in the House of Representatives means that Rep. Dave Camp (R-MI) and Rep. Sander Levin (D-MI) will reverse their roles as Ranking Member and Chairman. The committee is responsible for the revenue title of any surface transportation reauthorization bill.

***House Appropriations Committee:*** Rep. Harold Rogers (R-KY) will take over as chairman of the committee and new Ranking Member will be Rep. Norm Dicks (D-WA). Rep. Tom Latham (R-IA) will Chair the Transportation Subcommittee, while the Ranking Member has not yet been named.

***Senate Environment and Public Works Committee:*** Senator Barbara Boxer (D-CA) and Senator James Inhofe (R-OK) will remain as Chair and Ranking Member. EPW will play a leading role in the highway portion of any surface transportation reauthorization bill.

***Senate Commerce, Science and Transportation Committee:*** Senator Jay Rockefeller (D-WV) and Senator Kay Bailey Hutchison (R-TX) will remain as Chair and Ranking Member. The committee will play a leading role in the FAA reauthorization, the surface transportation reauthorization, and freight rail legislation.

***Senate Banking, Housing, and Urban Affairs Committee:*** Senator Tim Johnson (D-ND) will take the reins as chairman with the retirement of current chairman Chris Dodd (D-CT), while current Ranking Member Richard Shelby (R-AL) will continue in that role. The committee has jurisdiction over certain issues related to mass transit.

***Senate Finance Committee:*** Senator Max Baucus (D-MT) will remain as chair, while Senator Orrin Hatch (R-UT) will rise to Ranking Member due to Senate Republican term limit rules that forced Senator Charles Grassley (R-IA) to give up that role. The committee will be responsible for the revenue title of any surface transportation reauthorization bill.

***Senate Appropriations Committee:*** Senators Daniel Inouye (D-HI) and Thad Cochran (R-MS) will continue to serve as Chairman and Ranking Member, respectively. The Transportation Subcommittee will continue to have Senator Patty Murray (D-WA) as Chair, and Senator Richard Shelby (R-AL) as Ranking Member.