

# 2014 Midterm Election Results: What Do They Mean?

## Introduction

Midterm elections are historically very challenging for the political party occupying the White House. Since FDR's midterm election in 1934, the party of the incumbent president has lost, on average, 28 House seats and four Senate seats. The 2014 mid-term elections proved no exception to historical trends and produced results that provoked surprise and strong reactions on both sides of the aisle with Republicans in a near euphoric state of mind and Democrats sorting through an election night they aren't used to in recent history. Republicans won clear control of the Senate, expanded their majority in the House by winning some surprising races and expanded control in the states with gubernatorial victories.

With a current gain of seven seats, Republicans have recaptured control of the United States Senate for the first time since losing power in 2006. It is likely to take days, if not weeks, to see what the final majority number is for Republicans but the current split sits at 52-43. While votes are still being tallied in Alaska, as of this writing, Republican Dan Sullivan leads incumbent Senator Mark Begich. Even though Virginia's race between incumbent Senator Mark Warner and challenger Ed Gillespie has yet to be officially called, the current results have been much closer than anyone predicted. However, it is likely Democrats will retain that seat by a narrow margin. In Louisiana, the race between incumbent Senator Mary Landrieu and Republican challenger Bill Cassidy is headed to a December 6 runoff. The Louisiana runoff takes on greater importance, not only for determining what kind of governing majority Republicans will have in the Senate, but also for the 2016 elections, when Democrats will likely face a better political situation and seek to reclaim the majority. As it relates to the 2016 presidential election, which in effect begins today, the Republicans clearly asserted real force in Southern states. With respect to governance, there is no doubt this was a great night for Senate Republicans, but it is important to note that they are well short of the 60 votes needed to break a Democratic filibuster along party lines.

In the House, Republicans scored another midterm victory against the President and expanded their margin to a level that perhaps—when all votes have been counted—would be the largest in almost 70 years. Since a number of races have not been called as of this writing, a final majority number is not yet available. Most sources have the House sitting at 242-174 with a net pickup of eight seats. Should Republicans net 12 seats and get to 246, it will be their largest number since 1946. Democrats lost several long-serving Members who were institutions on Committees and nearly every open or toss-up race (although a couple are still yet to come in as of this writing). There were some bright spots for Democrats, as Republican incumbents Rep. Lee Terry (R-NE) and Rep. Steve Southerland (R-FL) were defeated. The expected final tally of Republican seats in the House has made some Democrat strategists wonder if reclaiming the House is viable before 2021 when Congressional maps are redrawn. Numbers like this also provide Speaker Boehner and his Leadership team increased, and in their minds critical, leverage in the caucus to move legislative priorities to the House floor.

The Republicans also enjoyed success in governor races across the country, winning 24 races including surprise victories in Maryland, Illinois, and Massachusetts. Maryland Lt. Gov. Anthony Brown conceded to Republican businessman Larry Hogan, even though registered Democrats outnumber Republicans 2-to-1 in the state. In the President's home state of Illinois, which also has the nation's lowest credit rating, Republican businessman Bruce Rauner defeated Democratic Governor Pat Quinn. In the Democratic stronghold of Massachusetts, Republican Charlie Baker bested Attorney General Martha Coakley. Republicans also held onto hotly contested seats in Wisconsin, Kansas, and Florida.

## I. Individual Race Results

### *Republican Pickups (Note: Since 1980, Republicans have never beaten more than two incumbent Senators)*

- Arkansas: Rep. Tom Cotton defeated Senator Mark Pryor
- Montana: Rep. Steve Daines defeated Democrat Amanda Curtis
- South Dakota: Gov. Mike Rounds defeated Rick Weiland
- West Virginia: Rep. Shelley Moore Capito defeated Natalie Tennant
- Colorado: Rep. Cory Gardner defeated Senator Mark Udall
- North Carolina: Thom Tillis defeated Senator Kay Hagan
- Iowa: Joni Ernst defeated Rep. Bruce Braley

### *Republican Holds of Note*

- Kentucky: Minority Leader Mitch McConnell defeated Allison Lundergan Grimes
- Nebraska: Ben Sasse defeated Democrat Dave Domina
- Kansas: Senator Pat Roberts defeated Independent Greg Orman
- Georgia: David Perdue defeated Michelle Nunn

### *Democrat Pickups*

- None

### *Democrat Holds of Note*

- Michigan: Rep. Gary Peters defeated Terri Lynn Land
- Senator Jeff Merkley defeated Monica Wheby
- Senator Jeanne Shaheen defeated former Senator Scott Brown (Note: Brown has not conceded)

### *Too Close to Call/Special Election/Runoff*

- Alaska: As noted above, Sullivan leads Sen. Begich but votes are still being counted and it could be a few days before we know the final outcome. Given what we know at this time, it would appear that Sullivan may win this seat, but Alaska has a way of surprising people when the rural areas of the state and other ballots are counted.
- Louisiana: Since neither incumbent Senator Mary Landrieu nor Republican Rep. Bill Cassidy broke the 50% threshold required to clinch the seat, a runoff will occur on December 6. This outcome has been anticipated for a while, and thus much TV time has already been reserved for political ads. Top political operatives will likely descend upon the Bayou State soon. Various arguments are being made as to what last night's results may mean in this state and so it is far too early to predict a winner in the runoff.

- Virginia: Sen. Warner currently leads Gillespie in a race that few expected would be this close. Gillespie has yet to concede and there is talk of a recount. The likely outcome has Warner narrowly re-elected, with Gillespie well positioned to run for governor in 2017.

#### ***Notable House Democrats Who Lost (as of this writing)***

- Rep. Nick Rahall (WV)
- Rep. John Barrow (GA)
- Rep. Tim Bishop (NY)
- Rep. Dan Maffei (NY)
- Rep. Bill Enyart (IL)
- Rep. Brad Schneider (IL)
- Rep. Joe Garcia (FL)
- Rep. Carol Shea-Porter (NH)
- Rep. Pete Gallego (TX)

#### ***Notable Republicans Who Lost***

- Rep. Lee Terry (NE)
- Rep. Steve Southerland (FL)
- Rep. Vance McAllister (LA)

## **II. What's Next: Organization**

Both the House and Senate will begin to organize for the 114<sup>th</sup> U.S. Congress before Thanksgiving and also begin negotiating what legislation will be moved during the "lame duck" session. This means new Member orientations, Leadership elections, electing Committee Chairmen and Ranking Members, setting Conference Rules, and so on. In the House, the Leadership elections and Steering Committee elections will take place the week of November 13, with Committee Chairman elections the following week. Most Committee rank-and-file slots won't be decided until the first week of December. Given the Republican pickups, the prime or "A" Committees will see a Democrat departure and at least one Republican addition. It is also unlikely that any freshman Member will draw an "A" Committee.

In the Senate, Leadership elections are scheduled for next week, with Committee gavels not that far off, likely December. Committee Chairmen decisions and Committees may not fully populate until January, given the special elections. An official announcement as to the schedule should be coming shortly. It is possible that Republicans will add one to two seats in some Committees and Democrats will lose one. A good rule of thumb may be to flip the current ratios that exist, especially in the most prominent Committees.

Below is a summary of what we expect regarding most Committee Chairmen and Ranking Members in both chambers.

### **A. House Leadership and Committees**

Following the loss of former Majority Leader Eric Cantor (R-VA), who was defeated in his primary election and resigned from Congress, House Republicans held a round of leadership elections in July. With this in mind, and given the pickup of additional seats, we expect no change at the top of the Republican leadership slate. Speaker John Boehner (R-OH) will remain the 61<sup>st</sup> Speaker of the House of Representatives, Majority Leader Kevin McCarthy (R-CA) and his deputy, Majority Whip Steve Scalise (R-LA) and Conference Committee Chairwoman Cathy McMorris Rodgers (R-WA) will continue to round out the “Big Four” of leadership. There are two lower-tier Leadership races to watch. The Republican Policy Chairmanship is open with Rep. Luke Messer (R-IN), Rep. Tom Reed (R-NY), and Rep. Rob Woodall (R-GA) competing against each other. Additionally, the Republican Study Committee (RSC), often referred to as the “majority of the majority,” will select a new Chairman. That race is between Rep. Mick Mulvaney (R-SC), Rep. Bill Flores (R-TX), and Rep. Louie Gohmert (R-TX). It appears that as of this writing, Messer and Mulvaney may have a leg up although nothing is certain. Absent a retirement or unexpected challenge, Minority Leader Nancy Pelosi (D-CA) and Minority Whip Steny Hoyer (D-MD) return to lead the Democrats.

#### ***Agriculture***

Chairman: Open

Ranking Member: Rep. Collin Peterson (D-MN)

Comments: Outgoing Chairman Rep. Frank Lucas (R-OK) is term-limited, and so a new Chairman will be selected. It is widely expected that Rep. Mike Conaway (R-TX) will become the new Chairman for the coming Congress. He would vacate the Chairmanship of the Farm Commodities Subcommittee, which would create an opening there.

#### ***Appropriations***

Chairman: Rep. Harold Rodgers (R-KY)

Ranking Member: Rep. Nita Lowey (D-NY)

Comments: The top of this Committee is unchanged, and this will be Rodgers’ last year, given the term limits that Republicans have in place. Given retirements, three Subcommittee gavels will be open and one Ranking Member slot will also be available. This Committee, once considered one of the most influential, should have a more important role than in previous years with Republicans now controlling the Senate.

#### ***Armed Services***

Chairman: Likely Rep. Mac Thornberry (R-TX)

Ranking Member: Rep. Adam Smith (D-WA)

Comments: Given Chairman Buck McKeon’s (R-CA) retirement, Republicans must pick a new Chairman. Sources indicate that Rep. Mac Thornberry (R-TX) is the favorite to assume this gavel. Rep. Randy Forbes (R-VA) recently announced his intention to run against Thornberry for the job. There’s little doubt that this Committee will be quite active in working to undo defense sequestration cuts slated for the coming year.

### ***Budget***

Chairman: Likely Rep. Tom Price (R-GA)

Ranking Member: Rep. Chris Van Hollen (D-MD)

Comments: It is widely anticipated that Rep. Price, who once served as Republican Policy Chairman and is widely respected in the caucus for his work on budgetary issues, will become the next Chairman of the Budget Committee, as current Chairman Rep. Paul Ryan will be assuming the Ways and Means gavel.

### ***Education and the Workforce***

Chairman: Likely Rep. John Kline (R-MN)

Ranking Member: Rep. Bobby Scott (D-VA)

Comments: Although term-limited, it is rumored that current Chairman Kline could receive a waiver for another term in this job. The Democrats must replace retiring Ranking Member Rep. George Miller (D-CA) and Rep. Bobby Scott (D-VA) is expected to get the call. Kline is expected to focus on a number of education reforms and address various labor-oriented issues that Republicans may seek to influence.

### ***Energy and Commerce***

Chairman: Rep. Fred Upton (R-MI)

Ranking Member: Rep. Anna Eshoo (D-CA) or Rep. Frank Pallone (D-NJ)

Comments: Current Chairman Fred Upton will be heading into his last two years as Chairman of this very influential "A" Committee before he is term limited. Meanwhile, the Democrats must pick a new Ranking Member. While there are varying rumors about who will win this race, it is too close to call at the moment. It is worth noting that this "A" Committee will be replacing as many as six Republicans, and the loss of Rep. Lee Terry (R-NE) means that the Commerce Manufacturing and Trade Subcommittee gavel is open. Potential new Members to this Committee include Rep. Bill Flores, Rep. Ann Wagner (R-MO) and it is likely that Rep. Darrell Issa will try to get his seat back which he placed on hold to become Oversight Chairman. Given the breadth of jurisdiction this Committee has, the campaigning for open slots will escalate over the coming days and weeks.

### ***Financial Services***

Chairman: Rep. Jeb Hensarling (R-TX)

Ranking Member: Rep. Maxine Waters (D-CA)

Comments: The top two of this "A" Committee that oversees the financial sector remain the same. With Rep. Shelley Moore Capito now becoming a Senator, her Financial Institutions Subcommittee gavel is open as is retiring Rep. John Campbell's (R-CA) gavel at the Monetary Policy Subcommittee.

### ***Foreign Affairs***

Chairman: Rep. Ed Royce (R-CA)

Ranking Member: Rep. Eliot Engel (D-NY)

Comments: Nothing changes at the top of this Committee, which oversees developments abroad, in the coming Congress. Expect a number of hearings on ISIL, Russia, the Middle East, and other topics of the day.

### ***Homeland Security***

Chairman: Rep. Mike McCaul (R-TX)

Ranking Member: Rep. Bennie Thompson (D-MS)

Comments: The current Chairman and Ranking Member remain atop this Committee. McCaul will enter his second cycle as Chairman while Thompson has been a longtime fixture at this Committee, including a stint as Chairman. Homeland Security is often a landing spot for freshmen Members, so expect to see some new faces here in 2015.

### ***Judiciary***

Chairman: Rep. Bob Goodlatte (R-VA)

Ranking Member: Rep. Jerry Nadler (D-NY)

Comments: While the Chairman remains the same, Democrats must replace the institution that is the departing Ranking Member Rep. John Conyers (D-MI). The highest-profile Subcommittee vacancy is the Intellectual Property gavel, which Rep. Darrell Issa (R-CA) is rumored to covet and possibly land. Additionally, the retirement of Rep. Spencer Bachus (R-AL) provides an opening for the Regulatory Reform and Antitrust Subcommittee, which could go to Rep. Tom Marino (R-PA) although no decisions have officially been made.

### ***Natural Resources***

Chairman: Rep. Rob Bishop (R-UT)

Ranking Member: TBD

Comments: Current Chairman and long-time fixture at the Committee, Rep. Doc Hastings (R-WA), is retiring and it is expected that Rob Bishop will take the reins. Congressman DeFazio faces the choice between the Ranking position on Natural Resources or ascending to that position on the Transportation and Infrastructure Committee—in which case Rep. Eni Faleomavaega is next in line on the Committee, followed by Rep. Frank Pallone and Rep. Grace Napolitano (D-CA).

### ***Oversight and Government Reform***

Chairman: Open

Ranking Member: Rep. Elijah Cummings (D-MD)

Comments: Current Chairman Rep. Darrell Issa (R-CA) is term-limited, so Republicans must pick a new Chairman to oversee the last two years of the Obama Administration. The candidates who will be presenting to the Steering Committee are: Rep. Jason Chaffetz (R-UT), Rep. Mike Turner (R-OH), Rep. Jim Jordan (R-OH), and Rep. John Mica (R-FL). There is no certain outcome to predict at this point, and Steering Committee votes are very much a black box process, although rumor seems to have the race between Chaffetz and Turner.

### ***Rules***

Chairman: Rep. Pete Sessions (R-TX)

Ranking Member: Rep. Louise Slaughter (D-NY)

Comments: There are no changes at the top of this Committee, which often works late into the night deciding what amendments to legislation see floor votes.

### ***Science, Space and Technology***

Chairman: Rep. Lamar Smith (R-TX)

Ranking Member: Rep. Eddie Bernice Johnson (D-TX)

Comments: The top of this ledger stays the same at the Science Committee, which is likely to be a landing spot for some incoming freshmen.

### ***Transportation and Infrastructure***

Chairman: Rep. Bill Shuster (R-PA)

Ranking Member: Likely Rep. Peter DaFazio (D-OR)

Comments: Shuster, the son of former Chairman Bud Shuster, will enter his second cycle as Chairman after fending off a primary challenge earlier in the year. With the retirement of Rep. Tom Petri (R-WI), the Highway Subcommittee gavel is up for grabs, as is the Water Resources and Environment Subcommittee Ranking Member slot with the loss of Rep. Tim Bishop (D-NY). Rep. Peter DeFazio (D-OR) is next in line to become Ranking Member in light of Rep. Rahall's loss but as discussed above he will likely have to make a choice between becoming the Ranking Member on this Committee or the Natural Resources Committee. Expect to see a number of freshmen populate this Committee next year.

### ***Ways and Means***

Chairman: Likely Rep. Paul Ryan (R-WI)

Ranking Member: Rep. Sander Levin (D-MI)

Comments: With the retirement of current Chairman Dave Camp (R-MI), the top slot at this prestigious "A" Committee that oversees tax, revenue, trade and a portion of health care issues, is open. Former Vice Presidential candidate and current Budget Chairman Paul Ryan is the likely to be the pick by the Steering Committee over Rep. Kevin Brady (R-TX). There are at least three slots open for the Majority, and sources indicate that Rep. Kristi Noem (R-SD) and Rep. Pat Meehan (R-PA) are leading contenders for two of those slots. Should Rep. Devin Nunes (R-CA) obtain the Intelligence Committee gavel, he would need to vacate his leadership spot on the Trade Subcommittee.

### ***Select Committee on Intelligence***

Chairman: Open

Ranking Member: Open

Comments: With Chairman Mike Rogers (R-MI) retiring, it is rumored that Rep. Devin Nunes will be named Chairman by the Speaker. The Republicans will have at least two openings to fill on this Committee, which has long been a favorite of Members because of the issues it addresses. Rep. Ruppertsberger (D-MD) has been the Ranking Member but is term limited. Mike Thompson (D-CA) is next in line and likely to become Ranking Member.

## **B. Senate Committee and Party Leadership**

The Republican leadership in the Senate will not change and will feature Senator Mitch McConnell (R-KY) as Majority Leader. Senator John Cornyn (R-TX) will remain as Majority Whip, along with John Thune (R-SD) as Conference Chair, Roy Blunt (R-MO) as Conference Vice Chair and John Barrasso (R-WY) as Policy Chair. For the Democrats, Senator Harry Reid (D-NV) will become Minority Leader, while Senator Dick Durbin (D-IL) will be the Majority Whip, and Senator Chuck Schumer (D-NY) will continue as Policy Chair.

Republicans, unlike Democrats, maintain conference rules that enforce term limits on Committee chairmanships. Given that eight years have gone by since Republicans held the Majority, some Senators still have time to serve as Chairman even if they just recently assumed the Ranking Member slot on another Committee. Therefore, current Committee seniority does not automatically dictate who will lead each committee while under Republican control. Chairmanships are determined by a vote of the full Republican conference. Some Committees will simply swap Chairmen and Ranking Members, but others will see significant change. Below, we offer the predictions below as the best estimate of Committee leadership in the 114<sup>th</sup> Congress.



### ***Agriculture***

Chairman: Senator Pat Roberts (R-KS)

Ranking Member: Senator Debbie Stabenow (D-MI)

Comments: After surviving a real re-election scare, Roberts is likely to become Chairman of this Committee which handles many issues critical to Kansas. While he is third on the seniority list, the two Senators ahead of him are expected to move into other roles. He was formerly the House Agriculture Committee Chairman some years ago and as of the 112<sup>th</sup> Congress, served as the Senate Committee's Ranking Member. Meanwhile, Stabenow will shift from Chairman to Ranking Member.

### ***Appropriations***

Chairman: Senator Thad Cochran (R-MS)

Ranking Member: Barbara Mikulski (D-MD)

Comments: Cochran, a longtime appropriator who had a real primary battle to remain in office, has two years remaining to serve as Chairman so he will be moving into that role and leaving his leadership role at the Agriculture Committee. Republicans could use this Committee as a springboard to challenge any number of Administration policies. Mikulski moves over to Ranking Member after serving as Chairman.

### ***Armed Services***

Chairman: Senator John McCain (R-AZ)

Ranking Member: Senator Jack Reed (D-RI)

Comments: McCain, one of the most outspoken Senators on defense and foreign affairs issues, has two years remaining to serve as Chairman of Armed Services, so he is expected to take that gavel over the one at the Homeland Security and Government Affairs Committee. He also faces re-election in 2016 and is seen as one of the staunchest defenders of the military and its role but also has a keen eye for anything he considers as wasteful at DOD. McCain will be an outspoken advocate for repealing DOD sequestration cuts as well. With the retirement of Senator Carl Levin (D-MI), Democrats are expected to select Reed as their Ranking Member on this Committee that could become even more visible depending on threats abroad.

### ***Banking, Housing and Urban Affairs***

Chairman: Senator Richard Shelby (R-AL)

Ranking Member: Senator Chuck Schumer (D-NY)

Comments: Shelby moves back into a Leadership role of this Committee after serving as Ranking Member of Appropriations during the current Congress and as Ranking Member of the Banking Committee during earlier Congresses including the one where the Dodd-Frank law was passed. He has been outspoken about his desire to pull back some of that law's provisions and is also up for re-election in 2016. Given the retirement of current Chairman Tim Johnson (D-SD), and the likelihood that Senator Jack Reed takes the Armed Services post, Senator Chuck Schumer is next in line from a seniority perspective and will be a real force on the committee.

### ***Budget***

Chairman: Senator Jeff Sessions (R-AL)

Ranking Member: Likely Senator Patty Murray (D-WA)

Comments: Sessions, the current Ranking Member, moves over to Chairman, and will play a large role in budget reconciliation efforts which may impact a host of legislation. If current Ranking Member, Senator Patty Murray (D-WA) leaves the Budget Committee to become Ranking Member on HELP, you could see a chain of seat-changing events occur that involve a number of Members. However, we tend to think that Senator Murray will stay put given the importance of budget reconciliation in the coming Congress.

### ***Commerce***

Chairman: Senator John Thune (R-SD)

Ranking Member: Senator Bill Nelson (D-FL)

Comments: Thune, the current Ranking Member who also serves as the number three in Senate Leadership, will chair the Senate Commerce Committee which handles technology, transportation, space, and consumer protection issues. Thune, along with as many as five of his colleagues on the Committee, will face re-election in 2016. The retirement of Senator Jay Rockefeller (D-WV) means Democrats will move Nelson, who has a keen interest in space issues, into that role.

### ***Energy and Natural Resources***

Chairman: Senator Lisa Murkowski (R-AK)

Ranking Member: TBD

Comments: Murkowski, a longtime member of the Committee who supports the Keystone XL pipeline, as well as efforts to open up more offshore oil and gas exploration and various exports, will become Chairman. She has also championed bi-partisan energy efficiency legislation. As noted earlier, Current Chairman Senator Mary Landrieu (D-LA) faces a run-off on December 6. Should she prevail, she would become Ranking Member. If she loses, the post could go to Senator Maria Cantwell (D-WA).

### ***Environment and Public Works***

Chairman: Senator Jim Inhofe (R-OK)

Ranking Member: Senator Barbara Boxer (D-CA)

Comments: Inhofe, one of the fiercest opponents of the EPA in Congress, moves back into a leadership role of this Committee given McCain's ascension at Armed Services. It is also worth noting that current Ranking Member Senator David Vitter (R-LA) is widely expected to run for Governor in 2015. Boxer will assume the Ranking Member slot for Democrats and is up for re-election in 2016.

### ***Finance***

Chairman: Senator Orrin Hatch (R-UT)

Ranking Member: Senator Ron Wyden (D-OR)

Comments: Hatch moves into the Chairman's role from Ranking Member as Senator Chuck Grassley (R-IA) will take the gavel at Judiciary. He has been one of the more vocal opponents of the President's health care law and has been active on many issues in that space, in addition to taking a real interest in tax reform and trade promotion authority. Wyden, the current Chairman who is up for re-election in 2016, moves over to Ranking Member. The relationship between these two Members will be interesting to watch as this Committee has jurisdiction over very important pieces of legislation, and like Ways and Means, is brought in to provide financing provisions for other Committee's legislation. From a Subcommittee perspective, Democrats must select a new Ranking Member for the Health Care Subcommittee. Otherwise, most Subcommittees simply flip existing Chairmen and Ranking Members.

### ***Foreign Relations***

Chairman: Senator Bob Corker (R-TN)

Ranking Member: Senator Bob Menendez (D-NJ)

Comments: The top of this Committee, long a favorite of Members because of its visibility, will stay the same besides the two Senators changing jobs. Corker and Menendez are said to have a good relationship despite Corker at times being critical of the Administration. This Committee could be a hot bed of activity from a hearing perspective depending on how world events unfold.

### ***Health Education Labor and Pensions (HELP)***

Chairman: Senator Lamar Alexander (R-TN)

Ranking Member: TBD

Comments: After cruising to re-election, Alexander will move into the Chairman's role after serving as Ranking Member of this Committee. He is a vocal opponent of No Child Left Behind waivers and has shown a real interest in reforming higher education, vouchers and financial aid. In addition, he and Leader McConnell are interested in national labor Relations Board (NLRB) reform. The retirement of current Chairman, Senator Tom Harkin (D-IA), means that Democrats must select a new Ranking Member, and as stated earlier, Senator Murray will have first choice. If she declines, the next two Senators in line are Bernie Sanders (I-VT) who would have to move from his Ranking position on the Veterans Affairs Committee and Bob Casey (D-PA).

### ***Homeland Security and Governmental Affairs***

Chairman: Likely Senator Ron Johnson (R-WI)

Ranking Member: Senator Tom Carper (D-DE)

Comments: Given Senator Tom Coburn's (R-OK) retirement and John McCain's likely selection to serve as the Armed Services Chairman, Johnson is expected to obtain this gavel. A former businessman who is staunchly anti-regulation, Johnson is up for a potentially challenging re-election in 2016 and could use this post to conduct oversight of the Administration, regulation reform, and border security reform, among other things. Carper, who currently serves as Chairman, moves into the Ranking Member post.

### **Judiciary**

Chairman: Senator Chuck Grassley (R-IA)

Ranking Member: Senator Patrick Leahy (D-VT)

Comments: Grassley, one of the toughest investigators and oversight-focused Members in the Senate, assumes the Chairmanship of this Committee. It is expected he will continue that focus as Chair and will likely seek to tackle patent reform early in 2015. The judicial appointment process, given the gavel flip, is expected to slow down as well. Leahy, who has served as Chairman over previous cycles, becomes the Ranking Member.

### **Select Committee on Intelligence**

Chairman: TBD

Ranking Member: Senator Dianne Feinstein (D-CA)

Comments: Senator Richard Burr (R-NC) is next in line here but he is in the same situation with the Veterans Committee. If he were to pass on the Chairmanship here, it would likely go to Senator Jim Risch (R-ID). Either way, expect a focus on ISIL and actions abroad. Feinstein, a vocal critic of the NSA and other spying initiatives, will move over from Chairman to Ranking Member.

### **III. Lame Duck**

Given that most of November will be consumed with organizing both chambers and the House has made it clear they want to adjourn by December 11, time will be of the essence to wrap up various items considered "must do's." Now that the Democrats have lost the Senate, it is unclear what path they may take regarding negotiating on a number of items. In the past, the party losing power has sought to have the lame duck be as unproductive as possible so that the incoming majority party inherits a multitude of problems that they would be forced to solve out of the gate. Meanwhile, the party coming into power has wanted to clear the decks of as much as they can so as to avoid that scenario.

One of the biggest issues remaining is that funding the government will need to be addressed. This will take the form of a Continuing Resolution (CR) at existing spending levels for a period of time or an Omnibus which will blend a number of Appropriations measures into one legislative vehicle. No decisions have been made as of this writing as far as what definitively will happen. Typically, the lowest common denominator CR wins the day although the House has its Appropriations Committee readying an Omnibus proposal. There are also a number of provisions that could be attached to either spending option which include: internet tax moratorium, Temporary Assistance For Needy Families (TANF), Trade Adjustment Assistance (TAA), and potentially something related to Ebola.

Another issue likely to be addressed is a series of tax extenders that expire at the end of the year. There are a number of different scenarios that could take shape here as the House and Senate have had different approaches. It is possible that a one-year retroactive fix for this year may happen, or perhaps a deal between Chairmen Camp and Wyden is struck, or the Senate package is slightly altered and accepted. Regardless, there seems to be a willingness among both parties to not sit on their hands.

Other items that are likely on the agenda include the Terrorism Risk Insurance Act (TRIA), a National Defense Authorization Act (NDAA) Conference Report, and the satellite television bill also known as STELA.

Some of the bigger ticket items that are unlikely to see action but could if circumstances fall into place perfectly include reforming the Sustainable Growth Rate (SGR) and Trade Promotion Authority (TPA).

Regarding judicial and agency nominees, it is expected that Leader Reid would try to clear as many people as he can prior to adjournment as Republicans will control that process as of January. It is also worth watching a likely Executive Order by the White House related to immigration policy.

#### IV. A Look Ahead to 2015

In essence, the 2016 Presidential cycle has started today. Both parties will need to nominate Presidential candidates and Republicans will face a challenging Senate situation with 20-plus Members up for re-election, some of whom are in blue or purple states. Thus, most of the substantive legislative initiatives will need to be finalized in the first eight to 10 or so months of 2015 before the election process begins to play an increasingly larger role and restrict movement of some items. The President may use his veto pen more than ever before and the nomination process he has leaned on for the last 6 years will change dramatically.

Due to the losses last night, the President will now face a fully Republican-led Congress for the first time since he has been in office. Among the questions that will need to be answered which may shape the coming year are:

- Does he take a page from the Clinton playbook and pivot to engaging with Congress more in order to secure legacy items?
- Are there staff changes coming inside the White House?
- Can he re-establish relationships with key Republicans such as Speaker Boehner to “go big” on fiscal issues and immigration?

The House and Senate Republicans, meanwhile, are soon to be in the position of needing to govern and regular order would appear to rule the day. Among the big questions they will face are:

- How does the Senate operate effectively with so many Republicans up for re-election and as many as four Senators looking at Presidential bids, not to mention the conservative wing of the party demanding sweeping legislative changes?
- How important do moderates and independents become given the final majority number?
- Do the additional House pickups mean a more cohesive conference regarding floor votes?
- Does Leader McConnell go back to the 60-vote threshold, and if so, for how long?
- How willing are both leaders to negotiate with the White House on big ticket items?

Republicans are likely to hold a bicameral retreat in January where they will formally work out a plan for the first 100 days and beyond for a Republican-controlled Congress. Expect that plan to focus on making an impression on the American people that Republicans can manage a functional Congress, create jobs, and conduct proper oversight of the Administration among other items. There is some “low hanging fruit” that Republicans are likely to focus on early in 2015 including medical device tax repeal, 40-hour work week, and Keystone XL pipeline. Beyond that, here is a brief summary of some issues that are likely to be impactful in the year ahead in the new political landscape.

#### *Health Care*

While the Affordable Care Act is wildly unpopular among the majority party in Congress, it is a certainty that the President will not sign a bill that repeals it in full. Thus, it is more likely that Republicans look for “rifle shots” where they can seek to repeal and/or adjust certain provisions. The expansion of Medicaid could be a hot topic as well as the subsidies contained in the President’s health care law. Also, look for efforts to reform entitlement programs and reform SGR plus the aforementioned medical device tax repeal.

### ***Technology***

The bicameral effort to update the Communications Act will be the big item here and will involve just about every aspect of the technology space. In addition, look for the Judiciary Committees to address patent reform early in 2015 and to keep working towards copyright reform. Further, look for Republicans to move quickly on FCC reform in the Commerce Committees.

### ***Oversight and Reform of Government Programs***

There is no doubt that this will be a centerpiece for Republicans heading into the last two years of the Obama Administration. House Majority Leader Kevin McCarthy recently sent a letter to the entire House Republican Caucus seeking ideas to reform government and how it functions. Couple that with new Chairmen that are hungry to perform vigorous oversight and it's easy to see that this will be a very active area. Regarding government programs, there are opportunities and threats that abound to government contractors both from an oversight perspective and from an appropriations perspective (with the exception being defense/intelligence).

### ***Trade***

This is an area that staffers on both sides of the aisle see a lot of potential in as far as moving legislation that is bi-partisan. The key trade priority for Congress following these elections will be passage of a Trade Promotion Authority (TPA) bill. A TPA bill would give Congress an "up-or-down" vote on trade agreements concluded by the Administration, and is considered to be a prerequisite for passing any trade agreement. The Administration has recently been pushing for a TPA bill in advance of concluding its Trans-Pacific Partnership (TPP) trade agreement, which may reach conclusion early next year. The administration is also negotiating a free-trade agreement with Europe called The Transatlantic Trade and Investment Partnership (TTIP) which has a longer timetable for completion. A TPA bill could be introduced in the lame duck session of Congress regardless of whether Republicans win the Senate, but Republicans and Democrats are still divided as to what should be included in any final bill.

Other trade legislative priorities that may see action in a new Congress include the renewal of the Generalized System of Preferences (GSP), Customs reform and reauthorization, Intellectual Property Rights (IPR) legislation and passage of the long-stalled Miscellaneous Tariff Bill. While some of these—such as GSP—may see movement regardless of the state of play over a TPA bill, others are likely to move forward only if coupled with TPA.

### ***Taxes***

There will almost certainly be a discussion related to reforming the tax code. Expect hearings and potential markups in Committees. Whether or not a full-scale reform effort can be signed into law depends on a number of factors that are not clear at this time. The possibility also exists that a large scale reform effort succumbs to an effort to find provisions to work on in order to achieve a final product.

### ***Transportation***

This sector will likely see efforts related to a Highway Bill (the Highway Trust Fund expires again next year), FAA Reauthorization, and possibly STB Reform. The Highway Bill could be a challenge to pay for and structure in a way to avoid previous issues that required multiple extensions.

### ***Energy and Environment***

There will be a big focus on the Keystone XL pipeline, developing a national energy plan, and opening up more oil and gas exploration sites. In addition, look for increased scrutiny of the EPA and its rulemakings as well as potential changes to the Endangered Species Act. The Toxic Substances Control Act should also receive renewed life in the coming Congress.

### ***Financial Services***

The attempted rollback of Dodd-Frank provisions will likely be a big priority here for Republicans. Additionally, the Export-Import Bank battle will begin anew next year.

### ***National Security***

Outside of the threats abroad which continue to make news and will be the focus of many hearings next year, the national security sector will see movement on cybersecurity legislation. Additionally, the NDAA and Defense Appropriations processes will dominate much of this area.

### ***Funding***

This is an area that will be especially interesting, as Republicans have long wanted to make their imprint here. The majority party will certainly want to pass budgets in both chambers and use the Appropriations process to dial back some Administration authority and various actions. Moreover, budget reconciliation and the return to a dynamic scoring model may provide for an opportunity to push through big ticket items. In addition, they will likely seek cuts in many areas except for defense/national security where they could look to bolster spending and avoid sequestration cuts scheduled for next year. One of the biggest challenges in the coming year could be the next fiscal cliff (debt ceiling) which looms as early as spring of 2015. Generally speaking, on fiscal and funding issues, the House Republicans will be able to operate relatively freely given the partisan split, but the Senate will need to find ways to get to 60 votes and that will likely include attracting independents and moderates, which is no easy task.

\*\*\*\*

Former Congressman Jim Slattery and former senior-level Capitol Hill staffer Scott Weaver lead the firm's bipartisan Public Policy Group, which consists of a number of former senior-level Hill staffers, government officials, and other policymakers from both sides of the aisle. The team is known for its deep bench of professionals who have an in-depth understanding of the legislative process, possess essential relationships with key personnel, and secure positive outcomes for clients. The team has an outstanding record in achieving clients' public policy goals at every level of government.

For more information, please contact:



Scott Weaver

202.719.3273

[sweaver@wileyrein.com](mailto:sweaver@wileyrein.com)