



# PB Washington Update

PREPARED BY CATHY CONNOR  
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## November 12, 2010

Congress returns to DC following the historic mid-term elections on Monday, November 15. They plan to be in session for one week, adjourn for the week of Thanksgiving and then return to DC. How long they remain in session after that point is unclear. While some congressional leaders have outlined an ambitious agenda for the lame duck session, other Members indicate that it is equally likely that they will tackle only must-do bills and then leave town.

The 112<sup>th</sup> Congress begins on January 5, 2011 when Members will be sworn into office. The new Congress will have a Republican majority in the House and a much smaller Democratic majority in the Senate. Both bodies will include large numbers of new members, the result of the significant number of retirements and losses.

## Lame Duck Session

The primary must-do legislation in the post-election session is the FY'11 federal agency appropriations bills. Congress did not complete any of the 12 funding bills before it adjourned for the election and programs are currently being funded under a short-term Continuing Resolution (CR) which simply extends FY'10 funding levels through December 3. Congress may opt to pass another short-term CR into early 2011 (perhaps even through the full fiscal year) or it may choose to roll all the pending FY'11 bills into one large omnibus appropriations bill. House Republicans may want to do a short-term CR so they can have an opportunity to influence FY'11 funding when they take control, particularly in light of their campaign pledge to reduce the deficit, or they may be willing to support a FY'11 omnibus bill in order to start fresh on the FY'12 process early next year. One issue that will come into play is earmarks. The pending FY'11 bills are full of them. Republicans seem to be split on the issue with House Republican leaders pledging an end to all earmarks, while the Senate Minority Leader and several other Republican senators continue to defend the practice.

Other bills of critical interest to the infrastructure industry are an extension of the short-term SAFETEA-LU bill which expires on December 31 and the short-term FAA authorization bill which expires on December 3. Congress clearly supports additional extensions, but the question is for how long – 3 months, 6 months, through the end of the fiscal year?

Congress must also act to extend some or all of the Bush tax credits and may opt to work on a tax extenders bill that could extend popular programs such as Build America Bonds and other legislation, depending on how long they remain in session.



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The parties will hold leadership elections during the Lame Duck. In the House, it seems clear that Rep. John Boehner (R-OH) will be elected as Speaker, Rep. Eric Cantor (R-VA) as Majority Leader and Rep. Kevin McCarthy (R-CA) as Majority Whip. On the Democratic side things are a little more complicated since the three top leadership positions shrink to two in the minority. To the surprise of many, Nancy Pelosi (D-CA) has opted to run for Minority Leader despite becoming a lightning rod during the campaign and the historic losses of Democratic members. This leaves current Majority Leader Steny Hoyer (D-MD), a moderate, and Majority Whip James Clyburn, a prominent African American, to fight it out for the remaining Minority Whip position. Pelosi has indicated she hopes to find some compromise to be able to accommodate both men with Hoyer likely to be named as Whip.

## Deficit Commission Report

This week the two chairmen of the bi-partisan National Commission on Fiscal Responsibility and Reform, Democrat and former White House Chief of Staff Erskine Bowles and Republican and former Senator Alan Simpson (R-WY), presented a draft chairmen's report on the deficit reduction recommendations which the Commission must formally transmit to Congress by December 1.

The draft report recommends a 15-cent increase in the Federal gas tax to be phased in beginning in 2013. All the revenue would be dedicated to transportation programs, not deficit reduction. In return, they recommend against any additional General Fund bailouts of the Highway Trust Fund (which the report refers to as the Transportation Trust Fund) and that surface transportation funding be limited solely to trust fund income. The draft report also recommends that trust fund spending be made "mandatory spending", rather than discretionary which would protect it from the annual appropriations process.

The draft calls for cuts to many very popular programs in order to stabilize the federal debt, including increasing the retirement age for Social Security, cuts in defense spending and elimination of many popular tax breaks, including some home mortgage interest deductions. The report also recommends terminating some Corps of Engineers projects, eliminating grants to large and medium-sized airports and eliminating earmarks. Here is a [link](#) to an overview of the draft report.

However, given the draconian and controversial nature of many of the recommendations, it appears unlikely that the Commission will be able to get the required 14 of the 18 members, many of whom are members of Congress, to vote to approve the recommendations or that Congress will be willing to act on the recommendations. But the report does set the stage for Congress, particularly the incoming House Republican majority who pledged during the campaign to reduce the federal deficit, to fully understand the tough and politically unpopular decisions it may need to make.



## Election Updates

- The latest tally of House races shows 238 Republicans and 189 Democrats will serve in the 112<sup>th</sup> Congress, with eight races still too close to call or undergoing a recount, which gives the Republicans their largest majority in history and a pickup of at least 60 new seats. All Senate races have been decided with the exception of Alaska, however since that seat will be held by a Republican regardless of the tally of write-in votes; there will be 53 Democrats and 47 Republicans in the new Congress.
- The House Republican leadership will need to make a decision about granting waivers to incoming committee chairmen who have already served the maximum three terms as Chair or Ranking Minority Member. This House Republican Conference rule affects the likely incoming chairs of several key committees including the House Appropriations, Energy and Commerce and Rules Committees and in two years the term limits would impact the presumptive House T&I Committee Chairman, Rep. John Mica (R-FL).
- Rep. Nick Rahall (D-WV) is expected to give up his leadership position on the House Natural Resources Committee to become the Ranking Minority Member on the House T&I Committee to replace defeated member and current chair Rep. Jim Oberstar. A possible challenge from the next two members in seniority, Reps. Peter DeFazio (D-OR) or Jerry Costello (D-IL), now seems unlikely.
- Junior Democratic members of the House T&I Committee did not fare well in the election with 14 of the of bottom 20 members losing their elections.
- Assuming the Democratic gubernatorial candidate in Minnesota, who is currently ahead by a small margin, is declared the winner, Republicans will have picked up ten governor's seats (IA, KS, ME, MI, NM, OH, OK, PA, TN and WI), while Democrats picked up five Republican seats (CA, CT, HI, MN and VT) for a net gain of five seats for the Republicans for a total of 29 Republican governors, 20 Democratic governors and one Independent. At least 26 states will have a new governor in 2011. A chart listing the state governors can be found [here](#).
- In 2012, of the 33 Senators up for election, 23 are Democrats. In the House, it is possible that there will be many retirements or even resignations among senior Democrats who are not interested in serving in the minority. There are only three gubernatorial races in 2011 – Kentucky, Louisiana, and Mississippi.
- Rep. Greg Walden (R-OR) has been named to lead the House Republicans Transition Team.
- Bios of the new House members can be found on the Hill newspaper website [here](#).



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## Other News

On November 4 FTA announced discretionary grants for the TIGGER and Clean Fuels programs. Here is a [link](#) to the list of project awards. The grants total \$75M for the Transit Investment in Greenhouse Gas and Energy Reduction (TIGGER) program and \$89.7M for the Clean Fuels Program which includes partial funding from the Bus and Bus Facilities program.