



1701 Pennsylvania Avenue
Suite 300
Washington, D.C. 20006
(202) 722-0167

December 2018 Insights

Midterm Election

As a result of the Tuesday special election in Mississippi, the new Senate will consist of 53 Republicans and 47 Democrats, meaning that the Republicans had a net gain of 2 seats over its current majority of 51-49. Organizationally, what that means is that committee sizes and ratio will change for the new Congress. The size of a committee is set by the majority leadership of that committee. The ratio on the committees - the number of Republicans versus Democrats - reflects the final overall ratio in the Senate. The former may be decided next month but if past Senate practice prevails, more likely early next year. Also, with at least seven new Members we're going to see a shift in current committee assignments. For example, Senator Nelson, who lost his reelection, is currently the senior Democrat on the Commerce Committee. Next in line is Senator Cantwell of Washington but for her to take the slot (which she is interested in) she would have to give up her full Committee position on the Energy and Natural Resources Committee, thereby triggering additional shuffling on that Committee, etc. We will continue to monitor committee makeups. As for Senate policy priorities in the next Congress, Senator McConnell identified three - health care reform, middle American tax reform and infrastructure. Nothing from the Senate Democrat Leadership as yet. Lastly, the Senate has elected its leaders for the next Congress and adopted its procedural rules.

In the House of Representatives, more dramatic changes. The Democrats will have as many as 235 seats (currently at 234 with one race still undecided, the Democrat leading in it) - a majority in the House is 218. Again, this will change the sizes and ratio of the committees and given the number of new Members, many changes from the current committee assignments. Unlike the Senate, most of these decisions will be reached next month (December). Regardless of the shuffle, there are certain situations which impact us and we will monitor developments. The Democratic Caucus held its leadership elections this week. Congresswoman Pelosi was nominated Speaker subject to formal approval by the full House on January 3. The Republicans also selected their leaders with Congressman McCarthy chosen as Minority Leader. On priorities for the new Congress, Congresswoman Pelosi listed three - ethics reform, prescription drugs cost, and infrastructure.

Infrastructure

While legislative action on infrastructure has been put on hold for the lame duck session, rhetoric in support of action next year continues. Congressman DeFazio, who will become House Transportation chairman, is bullish on infrastructure. "Welcome to the day after the election," he told reporters. "This is the day we begin planning to deliver a major infrastructure package." He's

met with Shahira Knight, White House Director of Legislative Affairs, and plans to meet with her again, and he's optimistic he can work with the President on a bipartisan infrastructure plan with "real investment" — not "pretend stuff" like the asset recycling that former adviser DJ Gribbin put into Trump's proposal. There's also a push from some Democrats, led by Congressman Blumenaur, to create an infrastructure subcommittee on Ways and Means, which would be a forum for House Democrats to focus on the issue that has long dogged infrastructure attempts: revenue. DeFazio said he "strongly supports" the concept. Congressman John Yarmuth, who is line to chair the Budget Committee, said that Democrats have an infrastructure proposal they're planning to introduce soon including bonding authority via an infrastructure bank, raising the gas tax and using a carbon tax to fund infrastructure. And Congresswoman Pelosi said this week that she "remains committed to bringing a \$1.5 trillion comprehensive infrastructure bill to the floor next year that will provide millions of good paying jobs to hardworking Americans." Senator Wicker, who is expected to chair the Commerce Committee, said that he "would love to sink my teeth into an infrastructure package." In terms of financing, Wicker is "interested in listening to suggestions, including those outside the box," he said. "The 3P idea, any number of innovative solutions that states have been successful in doing would be food for thought." Wicker added that soon-to-be House Transportation Chairman DeFazio "said it had to be a realistic pay-for. And who could disagree with that?" Senator Schumer, Senate Minority Leader, reiterated that Democrats will push for a "real" bill with "direct and robust federal investments." But Majority Leader Senator McConnell warned "there's no easy way to pay for infrastructure without impacting an awful lot of Americans," despite saying that he hoped the two parties could work together on infrastructure. He said Republicans are not interested in a \$900 billion stimulus package "which we did at the beginning of the Obama era."

Earmarks

House Republicans have decided punt on the question of whether to end the ban on earmarks, instead letting Democrats take the first step next year. Congressman Mike Rogers was expected to introduce a proposal to undo the earmark moratorium at a closed-door GOP meeting last week but restoring the practice of directing spending toward specific projects never came up. It's not clear how Democrats will approach the issue come January. As previously reported, incoming Majority Leader Hoyer has drafted an earmark proposal not yet public and recently Congressman David Price, who would take the Appropriations Transportation-HUD Subcommittee gavel next Congress, said that he would back the return of earmarks.

Other Bills

Met with Hill staff on the original Boozman/Feinstein SRF WIN bill to discuss legislative action in the lame duck session. Nothing definitive from staff. The support and interest is there but reading between the lines, the timing and politics might not be.

To review, S. 2364 was introduced by Senators John Boozman (R-AR), Chair of the Water Subcommittee of the Environment and Public Works Committee (EPW), and Senator Diane Feinstein (D-CA), Ranking Democrat of the Energy and Water Appropriations Subcommittee. H.R. 4902 was introduced by Congressmen John Katko (R-NY-24), a member of the Water Resources Subcommittee of the Transportation and Infrastructure Committee, and Earl Blumenauer (D-OR-3), a member of the Ways and Means Committee and, if you recall, the author of the voluntary fee labeling bill.

Generally, the bills - a new loan program - are intended to combine the "best aspects of the SRF's with the leveraging power of WIFIA." Specifically, the bills authorize \$200M for each of

FY19-23 for states to apply for loans. There is a \$7B per state loan cap for the 5 years. Fifty percent of the funds would be loaned at the current Treasury rate. The bill states that those funds would support \$10B in loans per year. The other fifty percent would go to states that receive less than 2 percent of the total amount of funds made available to the states for the state loan funds for the most recent fiscal year OR to major disaster declared states if the loan is for a project related to wastewater or drinking water infrastructure damaged by the disaster. The bills state that those funds would support \$850M in loans per year. The Federal share for loans is up to \$100%. Eligible project activities are those included in a state's SRF "intended use plan."

The \$100,000 WIFIA application fee is waived. The application process is limited to 180-days maximum. No new project approval requirements would be needed - existing approvals would suffice. The new program is tied to FY18 appropriation levels for the SRF's - if at any year in the appropriations process the SRF funding levels are below the FY18 levels, this new program will not kick in for that year.

To review, H.R. 5596 was introduced on April 24 by Congressmen Salud Carbajal (D-CA-24) and Tom Reed (R-NY-23) and H.R. 5609 and introduced on April 25 by Congressman Keith Ellison (D-MN-5). H.R. 5596 authorizes \$50M for each of FY18-22 for a new EPA grant program for owners or operators of water systems who wish to increase resiliency or adaptability to extreme weather events. Eligible projects include efforts to conserve water or increase efficiency in its use, preserve or improve water quality, rebuild or relocate threatened infrastructure, protect source waters, etc. The Federal share is 75%. H.R. 5609 creates a new water trust fund financed by increasing the corporate tax rate from 21 to 24.5% with an annual funding cap of up to \$35B going into the trust fund. Of that amount, 45% would be available for the Clean Water SRF and 44% for the Safe Drinking Water SRF. Other water programs – pollution control, non-point source, agriculture programs, etc. – make up the balance.

Also, there have been no substantive developments to the bills of interest to the Coalition - H.R. 3275, the WEST Act; H.R. 2510, the "Water Quality Protection and Job Creation Act of 2017;" H.R. 5127, the "Water Recycling Investment and Improvement Act;" and, H.R. 1647, the Water Infrastructure Trust Fund Act of 2017" - since the last report.

Lastly, the Democrats on the House Natural Resources Committee continue to look at McNerney's WEST Act (H.R. 3275), which the Coalition was very much involved in, with the goal of re-writing the bill to reflect the Committee's jurisdiction and introducing it as such. Progress is slow and at best, will spill over to the new Congress.

FY 19 Federal Funding Generally

Congress passed a Continuing Resolution extending funding until Dec. 7 at FY18 levels for those appropriations bills not enacted by Oct. 1. That includes the Interior (SRF funding) and Transportation Appropriations Bills which are currently in conference. It does not include the Energy and Water Appropriations Bill (Corps of Engineers) which was signed into law on Sept. 21.

FY19 Interior Appropriations Bills

The Senate version contains higher appropriations for CWSRF and WIFIA than the House version. Specifically, the House bill contains lower numbers (\$1.34 for the CWSRF and \$900M for the SDWSRF) than the Senate despite the FY19 raised budget caps. The Senate has the same

numbers as for FY18, which are \$1.694B for the CWSRF and \$1.16B for the SDWSRF. The House provides \$75M for WIFIA and the Senate \$63M.

FY19 Transportation Appropriations Bills

Even though both the House and Senate bills have not been passed, they are in conference with funding levels that are not far apart.

Program	FY'17 Enacted	FY'18 Enacted	House Committee-Passed FY'19 Bill	Final Senate 19 Bill
Highway Program	\$43.26B	\$47.5BB	\$50.3B	\$48.57B
BUILD/TIGER Grants	\$500M	\$1.5B	\$750M	\$1B
FTA CIG Grants - New Starts/Small Starts/Core Capacity	\$2.41B	\$2.65B	\$2.61B	\$2.6B
FTA Formula Grants	\$9.73B	\$10.5B	\$10.7B	\$10.7B
FTA WMATA	\$150M	\$150M	\$150M	\$150M
FAA Airport Improvement Program (AIP)	\$3.35B	\$4.35B	\$3.85B	\$4.1B
Amtrak NEC	\$328M	\$650M	\$650M	\$650M
Amtrak National Network	\$1.16B	\$1.29B	\$1.29B	\$1.29B
FRA CRISI Grants	\$68M	\$593M	\$300M	\$255M
FRA SOGR Grants	\$25M	\$250M	\$500M	\$300M
FRA Restoration Grants	\$5M	\$20M	\$0	\$10M

WRDA Reauthorization

To review one last time, on October 23 the President signed into law (P.L. 115- 270) S.3021, “America’s Water Infrastructure Act of 2018.” which combines the biennial Water Resources Development Act (WRDA) that funds the Corps of Engineers along with the Safe Drinking Water Act, authorization of hydropower projects, and reauthorization and expansion of WIFIA financing for storm water and wastewater infrastructure improvements, as follows:

- Authorizes the Corps of Engineers to undertake 15 major new construction projects that will cost a total of \$8.3B and feasibility studies for 65 new projects.
- Provides for a two-year \$100M reauthorization of the WIFIA program for large-scale water infrastructure projects loans at the Treasury Department's long-term interest rate.
- Includes a title dedicated to water energy to open up the potential of sending more hydropower onto the grid through a streamlined federal approval process. The title would

give operators credits for actions already taken before their re-licensing process as well as those required by the new license.

- Nearly doubles grants to states for Drinking Water Revolving Loan Funds. This is the first reauthorization of the Drinking Water SRF in more than two decades. It authorizes \$1.17B for FY19; \$1.3B for FY20; and \$1.95B for FY21 for the Drinking Water SRF funds. This nearly doubles the current annual authorization.
- Includes S. 1137, the Clean, Safe, Reliable Water Infrastructure Act, to address the need to invest in the nation's drinking water, sewer and stormwater systems. It also provides for increased water efficiency, specifically by including \$450M to protect the sources of drinking water and funding to repair and eliminate combined sewer overflows (CSOs). And it formally authorizes the voluntary WaterSense program, which identifies and promotes water-efficient products through voluntary labeling.
- Creates Multiagency Federal Task Force on Stormwater Infrastructure. The task force will, with feedback from permittees, state and local governments and other stakeholders, provide in a report to Congress suggestions for improving the funding and financing of stormwater systems.
- Expands onsite wastewater treatment by addressing the need for information about onsite waste water recycling as one alternative for communities who cannot afford the upfront costs or ongoing maintenance costs of traditional wastewater infrastructure.
- Includes S. 451, the Water Resources Research Amendments Act, for additional research into increasing the effectiveness and efficiency of new and existing water treatment works.
- Enhances drinking water infrastructure resiliency and sustainability by directing the EPA to establish a "Water Infrastructure Resiliency and Sustainability Program" to award grants in each of FY19 and FY20 to increase the resiliency or adaptability of drinking water systems to regional changes in hydrologic conditions like droughts, floods and sea level rise. This section authorizes \$4M to carry out this section for each of the two fiscal years.

Bill Tracking

H.R.434 — 115th Congress (2017-2018) **New WATER Act Sponsor:** Rep. Denham, Jeff [R-CA-10] (Introduced 01/11/2017) **Cosponsors:** (9) **Committees:** House - Natural Resources

Status Update: no change since the last report.

H.R.23 — 115th Congress (2017-2018) **Gaining Responsibility on Water Act of 2017 Sponsor:** Rep. Valadao, David G. [R-CA-21] (Introduced 01/03/2017) **Cosponsors:** (14) **Committees:** House - Natural Resources, Agriculture **Latest Action:** Passed House on July 12.

Status Update: no change since the last report.

H.R.465 — 115th Congress (2017-2018) **To amend the Federal Water Pollution Control Act to provide for an integrated planning and permitting process, and for other purposes.** **Sponsor:** Rep. Gibbs, Bob [R-OH-7] (Introduced 01/12/2017) **Cosponsors:** (1, now 8) **Committees:** House - Transportation and Infrastructure

Status Update: no change since the last report.

H.R.547 — 115th Congress (2017-2018)
National Infrastructure Development Bank of 2017
Sponsor: Rep. DeLauro, Rosa L. [D-CT-3] (Introduced 01/13/2017) **Cosponsors:** (73, now 86)
Committees: House - Energy and Commerce, Transportation and Infrastructure, Financial Services, Ways and Means

Status Update: no change since the last report.

H.R.2479 — 115th Congress (2017-2018)
Leading Infrastructure for Tomorrow's America Act
Sponsor: Rep. Pallone, Frank, Jr. [D-NJ-6] (Introduced 05/17/2017) **Cosponsors:** (25)
Committees: House - Energy and Commerce, Science, Space, and Technology, Transportation and Infrastructure, Ways and Means, Natural Resources

Status Update: no change since the last report.

H.R.100 — 115th Congress (2017-2018)
Support Local Transportation Act
Sponsor: Rep. Brownley, Julia [D-CA-26] (Introduced 01/03/2017) **Cosponsors:** (0, now 2)
Committees: House - Transportation and Infrastructure

Status Update: no change since the last report.

H.R.481 — 115th Congress (2017-2018)
REBUILD Act
Sponsor: Rep. Calvert, Ken [R-CA-42] (Introduced 01/12/2017) **Cosponsors:** (0)
Committees: House - Natural Resources

Status Update: no change since the last report.

H.R.966 — 115th Congress (2017-2018)
TIGER CUBS Act

Sponsor: [Rep. Larsen, Rick \[D-WA-2\]](#) (Introduced 02/07/2017) **Cosponsors:** (5, now 8)
Committees: House - Appropriations, Budget.

Status Update: no change since the last report.

[S.846](#) — 115th Congress (2017-2018)

SAFE Bridges Act of 2017

Sponsor: [Sen. Shaheen, Jeanne \[D-NH\]](#) (Introduced 04/05/2017) **Cosponsors:** (4)
Committees: Senate - Environment and Public Works

Status Update: no change since the last report.

[H.R.1670](#) — 115th Congress (2017-2018)

Infrastructure 2.0 Act

Sponsor: [Rep. Delaney, John K. \[D-MD-6\]](#) (Introduced 03/22/2017) **Cosponsors:** (21)
Committees: House - Ways and Means, Transportation and Infrastructure, Rules

Status Update: no change since the last report.

[H.R.1669](#) — 115th Congress (2017-2018)

Partnership to Build America Act of 2017

Sponsor: [Rep. Delaney, John K. \[D-MD-6\]](#) (Introduced 03/22/2017) **Cosponsors:** (23, now 27)
Committees: House - Transportation and Infrastructure, Ways and Means

Status Update: no change since the last report.

[S.1756](#) — 115th Congress (2017-2018)

Rebuild America Now Act

Sponsor: [Sen. Sullivan, Dan \[R-AK\]](#) (Introduced 08/03/2017) **Cosponsors:** (11)
Committees: Senate - Environment and Public Works

Status Update: no change since the last report.