

## Policy Alert

### Lame Duck Update

November 19, 2010

---

Akin Gump Strauss Hauer & Feld LLP is pleased to offer the first in a series of updates that will provide an overview of activities in the lame duck congressional session. We will provide these updates periodically to review legislative activity and activities to organize for the 112<sup>th</sup> Congress, which will convene on January 5.

### Leadership Elections: Some New Faces—And Some Not So New

The incoming House Republican majority formally selected their leadership team for the 112<sup>th</sup> Congress. **Rep. John Boehner (R-OH)** will serve as speaker of the House of Representatives. Others elected to leadership roles include **Rep. Eric Cantor (R-VA)**, majority leader; **Rep. Kevin McCarthy (R-CA)**, majority whip; **Rep. Jeb Hensarling (R-TX)**, Conference chairman; and **Rep. Cathy McMorris Rodgers (R-WA)**, Conference vice chairman. **Rep. Tom Price (R-GA)** was elected chair of the Republican Policy Committee, and **Rep. John Carter (R-TX)** was elected Conference secretary. In an effort to respond to the historic number of members comprising the “freshman” class, the leadership appointed two representatives from that class to participate in leadership: **Rep. Kristi Noem (R-SD)** and **Rep. Tim Scott (R-SC)**.

Democrats in the House will keep their leadership team in place, although in different roles: **Rep. Nancy Pelosi (D-CA)**, will serve as the Democratic leader; and **Rep. Steny Hoyer (D-MD)** as Democratic whip. A compromise was reached to allow the current whip, **Rep. Jim Clyburn (D-SC)**, to continue serving in leadership in a still-to-be-defined capacity of “assistant leader.” Other members of the leadership include **Rep. John Larson (D-CT)**, caucus chairman, and **Rep. Xavier Becerra (D-CA)**, caucus vice chairman.

In the Senate, the Democratic majority and Republican minority leadership teams were re-elected in their entirety. **Sen. Harry Reid (D-NV)** will continue as majority leader, and **Sen. Richard Durbin (D-IL)** as majority whip. **Sen. Charles Schumer (D-NY)** was re-elected as vice chairman of the Democratic Conference and chairman of the Democratic Policy Committee, but was given an expanded role whereby he will coordinate the policy and messaging functions of the Conference. Other members of the Senate Democratic leadership team include **Sen. Patty Murray (D-WA)**, secretary of the Conference; **Sen. Debbie Stabenow (D-MI)**, vice chairman of the Democratic Policy Committee; and **Sen. Mark Begich (D-AK)**, chair of the Steering and Outreach Committee.

The Republican Senate leadership team will include **Sen. Mitch McConnell (R-KY)**, Republican leader; **Sen. Jon Kyl (R-AZ)**, Republican whip; **Sen. Lamar Alexander (R-TN)**, Conference chairman; **Sen. John Barrasso (R-WY)**, Conference vice chairman; and **Sen. John Thune (R-SC)**, Chairman of the Republican Policy Committee.

### Republicans Adopt Earmark Moratorium

Republicans in both the House and the Senate have adopted a two-year moratorium on “earmarks,” broadly defined to include congressionally directed spending as well as tax and tariff provisions of limited benefit. While the resolutions are nonbinding, the Republicans controlling the House will, in all likelihood, be able to enforce this moratorium in that chamber. A different picture is emerging in the Senate, where the Democratic majority has largely dismissed the Republican move to voluntarily forgo earmark requests. Given this posture by Republicans in both chambers, it is unclear whether Congress will be able to pass the outstanding



[www.twitter.com/akin\\_gump](http://www.twitter.com/akin_gump)

FY10 appropriations bills during the lame duck session, or whether a short-term continuing resolution (CR) will be necessary to fund the government past December 3 when the current CR expires.

## Legislative Agenda

Most of the focus this week was on leadership and organizing activities. The Senate, however, debated food safety legislation and is poised to continue consideration of the legislation when they return. The House and Senate have recessed for the Thanksgiving holiday and will return on November 29. Congressional leaders from both parties will meet with President Obama on November 30 to discuss the path forward on several key issues that may be addressed during the remainder of the lame duck session, including—

- extension of the 2001/03 tax cuts
- the “Doc Fix” to address the automatic 23 percent cut in Medicare reimbursement rates for physicians that goes into effect December 1
- FY10 spending bills or a short-term CR
- reauthorization of the Federal Aviation Administration
- extension of the surface transportation authorization.

## Committee Leadership

Parties in both chambers will use the remaining legislative calendar to continue organizing for the 112<sup>th</sup> Congress. Leadership positions on a number of key committees will be finalized in early December, including—

### House

- Appropriations – **Rep. Jerry Lewis (R-CA)**, who is term-limited by Republican conference rules, is seeking a waiver to continue as chairman. If he is unsuccessful, the gavel will likely pass to **Rep. Hal Rogers (R-KY)**. **Rep. Norm Dicks (D-WA)** will serve as ranking member for the Democrats.
- Energy and Commerce – **Rep. Joe Barton (R-TX)** is also seeking a waiver to serve as chairman but **Rep. Fred Upton (R-MI)** is also seeking the post.
- Government Reform and Oversight – **Rep. Darrell Issa (R-CA)** will chair this committee in the next Congress. It is not clear who will serve as ranking member for the Democrats. Current Chairman **Ed Towns (D-NY)** is expected to be challenged by former presidential candidate **Rep. Dennis Kucinich (D-OH)**.
- Resources – **Rep. Doc Hastings (R-WA)** will chair the committee, and **Rep. Ed Markey (D-MA)** has indicated his interest in assuming the ranking position.
- Transportation and Infrastructure – **Rep. John Mica (R-FL)** will assume the chairmanship, and **Rep. Nick Rahall (D-WV)** is expected to lead the Democrats on the committee.
- Ways and Means – **Rep. Dave Camp (R-MI)** will lead the committee in the next Congress, but it is unclear which Democrat will serve in the ranking slot, as both **Rep. Sander Levin (D-MI)** and **Rep. Richard Neal (D-MA)** are vying for the position.

### Senate

- Agriculture – After the defeat of current Chairman **Blanche Lincoln (D-AR)**, **Sen. Debbie Stabenow (D-MI)** is expected to assume the Ag Committee gavel.
- Energy and Natural Resources – **Sen. Jeff Bingaman (D-NM)** will continue as chair; however, who will lead the Republicans on the committee is not clear at this date. **Sen. Lisa Murkowski (I-AK)**, who has served as ranking member, is returning to

the Senate as an independent (see related discussion below). There was an unsuccessful effort to strip her of her leadership role at the committee when she lost the Republican primary, and there may still be an effort to do so in the coming weeks. If she is stripped of this position, **Sen. Richard Burr (R-NC)** is expected to take the slot.

- Finance – **Sen. Max Baucus (D-MT)** will continue to lead the committee as chairman, but the Republican conference rules will term-limit **Sen. Charles Grassley (R-IA)**. Accordingly, **Sen. Orin Hatch (R-UT)** will take on the ranking member role.
- Judiciary – **Sen. Patrick Leahy (D-VT)** will remain the committee chairman. **Sen. Grassley**, who is losing his leadership role on the Finance Committee, is expected to assert his seniority on Judiciary to assume the ranking position over current ranking member **Sen. Jeff Sessions (R-AL)**. In turn, **Sen. Sessions** will take on the ranking role on the Budget Committee being vacated by retiring **Sen. Judd Gregg (R-NH)**.

## 2010 Election Update

**Sen. Murkowski** won re-election to the Senate as a result of her write-in campaign, becoming the first candidate for the Senate to do so in 60 years. Republican nominee **Joe Miller** has not yet decided whether to ask for a recount. Six races for the House have not been decided, including two seats in California, two in New York and one each in North Carolina and Texas. Of those six, Republicans are currently leading in four races.

---

### CONTACT INFORMATION

If you have any questions concerning this alert, please contact —

**J. David Carlin**  
[dcarlin@akingump.com](mailto:dcarlin@akingump.com)  
202.887.4133  
Washington, D.C.

**James R. Tucker Jr.**  
[jtucker@akingump.com](mailto:jtucker@akingump.com)  
202.887.4279  
Washington, D.C.