

114th Congress: Bipartisan Compromise, Partisan Contrast, or Both?



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OVERVIEW

The 114th Congress convenes this week after a successful midterm election for Republicans. The GOP will hold the Senate majority for the first time in eight years while expanding its majority in the House to the largest number since 1929.

The GOP agenda can be divided into two categories: (1) deadline-driven agenda, and (2) policy-driven agenda. While there is obvious overlap between the two categories, it is helpful to look first at key deadlines in the 114th Congress. Several programmatic and funding laws are set to expire in 2015, and Congress will debate their renewal over the coming months. These items include the statutory limit on U.S. debt, the highway bill and tax extenders. Lawmakers will decide if, and for how long, these programs and laws will be renewed or extended. With Republicans in control, many of these items are likely to be reformed in a conservative direction.

- **Jan. 6:** 114th Congress convenes
- **Feb. 27:** DHS funding expires
- **Mar. 15:** Debt limit suspension expires
- **Mar. 31:** Current Doc Fix of the SGR formula expires
- **Apr. 15:** Deadline for Congress to produce budget for FY16
- **May 31:** Highway Bill expires
- **Jun. 1:** PATRIOT Act expires
- **Jun. 30:** Export-Import Bank authorization expires

The policy-driven agenda will feature items that Republicans highlighted during the 2014 midterm election, including reforms to the Affordable Care Act (ACA), tougher oversight of the Environmental Protection Agency (EPA), and further debate on comprehensive tax reform. The policy agenda can be divided further into two categories: (a) bipartisan policy where the GOP and the White House might work together, and (b) partisan policy that will not become law but will serve to draw a contrast between the two parties in advance of the 2016 presidential and congressional elections.

Areas of potential policy agreement include trade issues, tax reform, and repealing or reforming troublesome portions of the ACA that do not go to the core of the law. In contrast, GOP policy areas that are likely to be filibustered by Democrats or vetoed by the President include a repeal of the ACA, blocking the President's executive action on immigration, delaying or blocking EPA rules for power plants, and approving the Keystone XL Pipeline, which will be the first item that the Senate will vote on in 2015 with the House following soon after.

The specifics of the GOP congressional agenda will be hammered out at the Republicans' upcoming bicameral retreat starting on January 14 in Hershey, Pennsylvania. The combined conference is seen as an effort among Republican leaders to forge a united front that can act as a strong counterweight to the White House and push forward the Republican list of priorities.

The following report analyzes both the deadline-driven and policy-driven items that the GOP is most likely to pursue.

THE NEW POLITICAL REALITY

When the new Congress convenes, members will face an altered political dynamic. Many Senate Republican candidates campaigned on a promise to return the upper chamber to regular order, and GOP leaders in both houses are hoping that the new Senate Majority will accomplish just that, making it easier to send legislation to the President's desk. The GOP leadership in the House and the Senate will focus on one primary goal: demonstrate that Republicans can govern.

Republicans will face obstacles, internal and external, to achieving their legislative goals. First, Senate rules requiring a supermajority of sixty votes to pass most legislation in the Senate will still allow Democrats to stall or defeat legislation they oppose. Incoming Senate Majority Leader Mitch McConnell (R-KY) will likely need to reach across the aisle to red and purple state Democrats to secure votes on key legislation.

A second challenge for Leader McConnell and House Speaker John Boehner (R-OH) is the internal divisions among Republican members. Conservative lawmakers in both chambers have shown little reluctance to go against Republican leadership on crucial and controversial votes. The right flank of the party is expected to continue to push for conservative policies and urge confrontation with the Obama Administration.

GOP leaders will be aided by the influx of freshmen House members from swing districts and the seven Republican senators up for reelection in states that the President won in the past two presidential elections. Both of these groups are likely to look for high-profile opportunities to compromise on areas where the White House is willing to work with Republicans.

Democrats are expected to continue to experience division and challenges between the more liberal wing of the party led by House Minority Leader Nancy Pelosi (D-CA) and Senator Elizabeth Warren (D-MA) and the more mainstream wing of the party traditionally led by former President Bill Clinton, former Secretary of State Hillary Clinton, and House Minority Whip Steny Hoyer (D-MD).

Republicans are expected to move swiftly with their newly empowered majority and utilize legislative procedure to push their agenda forward. (See the budget section for a discussion on reconciliation.) The ultimate challenge for the GOP, however, will be the President. Republicans do not have large enough majorities in either chamber to overcome a presidential veto, and President Obama has indicated that he is ready and willing to oppose Republican legislation that he finds unsavory, particularly those that seek to roll back portions of his major policy achievements, namely the ACA and EPA proposals regarding greenhouse gas emissions. On more controversial issues, Republican leaders will need to negotiate directly with the President in order to advance their ideas from legislation into law.

ISSUE—DEBT CEILING

Another fiscal issue that will need to be addressed early in the 114th Congress is the statutory limit on U.S. debt. In February 2014, lawmakers agreed to suspend the debt ceiling until March 15, 2015. The U.S. Treasury often has been able to extend the actual date of default on U.S. debt past the statutory date by instituting “extraordinary measures”, and they will likely take similar action if Congress does not lift the debt ceiling prior to March 15, 2015.

The issue has become a source of contention in Congress as conservative legislators have frequently demanded that any increase in the debt limit be met with corresponding cuts to federal spending, a position which incoming House Budget Committee Chairman Tom Price (R-GA) has indicated a desire to enforce once again. Democrats oppose this tactic. Leader McConnell and Speaker Boehner have stated strongly that they will not allow a default on the debt, increasing the likelihood that the debt ceiling will be raised in the first half of the year.

ISSUE—ENERGY

Republicans have promised to move swiftly on energy matters in the new Congress. In addition to the overarching issues below, the House is expected to vote on the Natural Gas Pipeline Permitting Reform Act during the first month of session.

Keystone XL

The Keystone XL pipeline project is expected to be a top priority for Republican leaders, with Leader McConnell stating that the first bill to pass under his leadership of the Senate would authorize the project. As such, the Senate Energy and Natural Resources Committee has scheduled a January 8 vote on a Keystone approval bill, which is expected to pass. The House will vote on its version of the bill the following day.

The Obama Administration has moved slowly to approve the pipeline’s construction, and the White House opposes any congressional mandate that circumvents the executive branch review process. Nevertheless, the bill will almost certainly pass both chambers, forcing the President to sign or veto the bill. Senator Chuck Schumer (D-NY), a member of the Senate Democratic leadership, recently stated that he believes Republicans lack enough votes to override a presidential veto of the Keystone bill.

EPA Regulations

Republicans are also expected to continue to probe the Administration’s efforts to regulate carbon emissions. In the past two years, the EPA has proposed various rules to curb emission rates from existing and future coal-burning power plants and to set new standards for the disposal of coal ash waste. The proposed rules have been heavily criticized by Republicans and a handful of red state Democrats. Republicans are expected to seek to delay or defund the new EPA rules. The House Energy and Commerce Committee and Senate Environment and Public Works (EPW) Committee will also explore the regulations’ effects on the economy, focusing on the “endangerment” finding in 2009 that opened the door to GHG regulation and the Obama Administration’s cost-benefit analysis that gave significant weight to the “social” cost of carbon.

Energy Exports

A final energy issue that may present itself for consideration in the new Congress is liquefied natural gas (LNG) and crude oil exports. The recent energy boom in the U.S. has resulted in America overtaking Saudi Arabia and Russia as the world's biggest oil producer. Many energy leaders in Congress see an opportunity for the U.S. to become a net LNG and oil exporter. Legislators, such as former House Energy and Commerce Chairman Joe Barton (R-TX), are expected to introduce bills to ease restrictions on LNG exports and lifting the ban on exporting crude oil. Environmentalists will be opposed to these measures, and it is uncertain if Republican leaders would make them a priority given some of the concerns in the oil and natural gas industry over increased exports.

ISSUE—FINANCIAL SERVICES

Financial services issues are expected to be probed by the new Republican-controlled Congress.

Dodd-Frank Reform

The GOP has long opposed the Wall Street Reform and Consumer Protection Act (also known as Dodd-Frank), which was signed into law in 2010 and heavily regulates the financial sector. Republicans successfully used the CROmnibus debate in December to scale back a Dodd-Frank provision related to trading of financial derivatives by banks, and are expected to advance legislation to roll back additional provisions in the 114th Congress.

One item that Republicans could attack is the Administration's proposal on the Volcker Rule, which bans proprietary trading by commercial banks. The banking industry would like to see the Rule amended, and Republicans could push for small banks to be exempt as well as lifting restrictions on banks holding private equity businesses or securities made up of corporate debt.

Another reform Republicans are likely to push is a restructuring of the Consumer Financial Protection Bureau (CFPB). Currently, the CFPB is governed by a single director, and Republicans prefer the agency to be run by a bipartisan commission, similar to the Federal Communications Commission (FCC) or the Securities and Exchange Commission (SEC). The GOP is also expected to push to bring the CFPB's funding under congressional review rather than receiving its funding directly from the Federal Reserve. All of these attempts to reform Dodd-Frank are expected to come up against stiff Democratic opposition, especially with the emergence of Senator Elizabeth Warren (D-MA) as a powerful progressive voice within the Senate Democratic Caucus.

Export-Import Bank

Lawmakers will also need to address reauthorization of the Export-Import Bank, a federal credit agency that finances and insures foreign purchases of U.S. goods. In 2014, the Bank's reauthorization temporarily stalled due to objections from Republicans, many of whom believe

that the Bank's programs are unnecessary and put taxpayer money at risk. In the end, Congress negotiated a nine-month reauthorization, which expires on June 30, 2015.

Lawmakers are divided on the issue. Positions range from Speaker Boehner's support for structural reforms to House Majority Leader Kevin McCarthy's calls for the agency to be shuttered. House Financial Services Chairman Jeb Hensarling (R-TX) has been a strong critic of the bank while incoming Senate Banking Chairman Richard Shelby (R-AL) has supported reauthorizing the bank in the past.

Business leaders are expected to push heavily for reauthorization, warning that allowing the Bank's charter to expire could lead to foreign competitors poaching America's international customers.

ISSUE—FOREIGN POLICY AND NATIONAL SECURITY

Last year was marked by several high-profile foreign policy incidents, the fallout from which is likely to continue to draw action and attention from the 114th Congress.

Terrorism Risk Insurance Act

One of the most pressing national security issues before Congress is the now-expired Terrorism Risk Insurance Act (TRIA). The Act was passed following the attack on the U.S. on September 11, 2001, and sets up an insurance program that helps cover losses incurred from any future terrorist acts. During the Lame Duck session of the 113th Congress, lawmakers attempted to pass a temporary TRIA extension, but failed to complete action on the measure before adjourning in mid-December. The program expired on December 31. Leader McConnell and Speaker Boehner have indicated that quick passage of TRIA is a top priority for them when the new Congress convenes.

Islamic State

With the battle against Islamic State forces ongoing, the new Republican-controlled Congress will likely take a closer look at the Obama Administration's strategy and whether to authorize more power to fight the terrorist group. Congress passed an authorization for use of military force (AUMF) against the Islamic State in Syria and Iraq. The AUMF was included in the annual National Defense Authorization Act (NDAA) and will expire at the end of 2015. The provision allows the Administration to fund, train, and equip Iraqi and Syrian forces fighting against the Islamic State.

Incoming Senate Foreign Relations Committee Chairman Bob Corker (R-TN) plans to hold additional hearings on the Islamic State, a move that the House is also likely to take. Republicans have been critical of the President's handling of military strategy and will demand a fuller account of how the Administration plans to degrade Islamic State forces before authorizing further powers to combat the threat.

Russia/Ukraine

Congress will also keep a close eye on ongoing developments in Russia and the country's handling of relations with neighboring Ukraine. Following the spring 2014 Russian invasion and annexation of the Crimean Peninsula as well as the ongoing economic instability in Russia, Eastern European affairs are likely to be high on both the Executive and Legislative Branch's watch list. Republicans could push additional sanctions on Russia, increasing pressure on Russian President Vladimir Putin to reduce his country's involvement in the ongoing conflict in Eastern Ukraine. Additional hearings on the situation are expected.

Cuba

The Obama Administration surprised the nation in December when it announced that the U.S. would reestablish diplomatic relations with the Cuban government, ending nearly fifty years of mutual alienation. The State Department intends to open a new embassy in Havana and will ease travel restrictions. The U.S. trade embargo on Cuba, however, will remain in place.

Bipartisan opposition to the Cuba deal remains strong. Lawmakers may put forward legislation to stop the deal from moving forward, probably by denying the State Department appropriations for the proposed embassy. Legislators could also vote to reaffirm the trade embargo, which can only be ended through a congressional vote.

PATRIOT Act

The Bush-era law governing domestic anti-terror programs is set to expire on June 1, 2015. The PATRIOT Act has been the source of endless controversy since it was signed into law in 2001 following the September 11 terrorist attacks. While supported by many Republicans, some members of the GOP are likely to join with Democrats in opposing the law's extension. As of yet, it is unclear what a PATRIOT Act reauthorization bill will look like, but discussion of the bill is likely to be affected by the ongoing controversy surrounding the National Security Agency's bulk phone record collection, a program that was born from Section 215 of the PATRIOT Act.

ISSUE—FUNDING

In December, Congress avoided another government shutdown by passing the CRomnibus, an omnibus bill that fully funded the federal government, with the exception of the Department of Homeland Security (DHS), which was funded by a stop-gap Continuing Resolution (CR) through February 27, 2015. Republicans will seek to use its limited leverage over DHS funding to push back against the President's executive action on immigration that deferred the deportation of over four million undocumented workers.

Budget and Appropriations

The new Congress will quickly begin work on the federal budget for FY16, which will set the overall spending levels for the fiscal year. The President's budget request is due to Congress by February 2. Over the last several years, the Administration has missed this deadline, and it may do the same in 2015. While this would likely delay the budget process, in recent years, Congress has worked independent of the President's budget request. Lawmakers could pass a budget

resolution as early as March. Congressional budget resolutions are not signed by the President and do not have the force of law.

Once Congress sets the top-line spending levels in the budget, the House and Senate Appropriations Committees will begin work on drafting the twelve annual programmatic funding bills. Typically, appropriations bills begin to receive floor consideration in the House in May, with a goal of finishing up passage of all the bills in both houses before the August recess. While this ambitious timeline has not come close to happening in recent years, both Leader McConnell and Speaker Boehner have indicated their intent to return to the regular appropriations process and hope to avoid funding by repeated CRs, which has been the norm over the past several years.

One issue that is likely to have a huge impact on budget negotiations is the fate of sequestration, the automatic and indiscriminate spending cuts that were set in motion following the protracted debt ceiling talks during the summer of 2011. In 2013, Senator Patty Murray (D-WA) and Rep. Paul Ryan (R-WI), the chairs of their respective chambers' Budget Committees, reached a deal that halted the sequestration for FY14 and FY15. However, the cuts will return in FY16 unless Congress passes legislation to postpone or reallocate the spending reductions. Republican majorities in the House and Senate are expected to push for some of the cuts to go forward, though Republican leaders may seek to lessen the impact on defense programs. Democrats would most likely oppose any protection of defense-related funding at the expense of appropriations for domestic programs. One area of compromise may be to give agencies more flexibility on how and where to implement the cuts.

Reconciliation

The budget could provide Republicans with additional means to advance their agenda in the form of budget reconciliation. This legislative procedure may be used by lawmakers to bring public spending into compliance with direct spending, revenue and debt limit levels enacted by Congress.

Reconciliation is a two-step process. First, Congress must include language in a budget resolution instructing committees of jurisdiction to report statutory changes that bring spending, revenue and debt limit levels into accord with those passed in the budget resolution. Subsequently, the committees produce language that is incorporated into reconciliation bills that are considered under special rules. The most appealing of these rules for the majority party is the inability for lawmakers to filibuster the bill in the Senate, facilitating easier and quicker passage. In other words, the Senate will not be required to meet its standard supermajority requirement of sixty votes to cut off debate. That being said, reconciliation legislation can only consider a narrow set of policy issues that meet several requirements in order to be germane, including having a direct impact on spending.

Congress has used reconciliation in the past to pass controversial pieces of legislation, including the 1996 welfare reform bill, the Bush tax cuts, and changes to the ACA. Republicans are likely to consider using the procedure to advance some of their agenda items that may be otherwise

difficult to pass in the Senate. This could range from a full repeal of the ACA to the repeal of the medical device tax or even tax reform.

Ultimately, Republicans use of reconciliation will be met with the President's ability to veto bills he opposes, a move the GOP will unlikely be able to override. So while Republican leaders may turn to the procedure to achieve their legislative goals, the success of reconciliation ushering Republican priorities into law will depend directly on buy-in from the White House. GOP leadership and the House and Senate Budget Committee chairmen have yet to determine whether the reconciliation process should be used pass difficult legislation that the President might sign, like tax reform, or whether the process should produce "veto-bait" legislation like a full repeal of the ACA.

ISSUE—HEALTHCARE

Republicans are eager to take on healthcare issues in the new Congress, particularly as they relate to the ACA.

ACA

Republicans remain forcefully opposed to one of the President's signature legislative achievements and will attempt to roll back as many of its provisions as possible. Republican leaders in both chambers have stated that they will schedule votes on a full repeal bill. Those efforts are certain to run up against Democratic opposition, with Senate Democrats able to filibuster the bill and President Obama assuredly ready to veto repeal legislation.

Aside from a full repeal of the ACA, Republicans are confident that they can alter some of the law's provisions, including some that have bipartisan support. First up, Congress will consider legislation to repeal the tax on medical devices, a move which has been supported in the past by a bipartisan group of legislators. Lawmakers are also planning votes to reinstitute the traditional 40-hour work week as the threshold for employer-mandated coverage, an idea that also enjoys bipartisan support. Republicans may also push a bill to delay or repeal the individual and employer mandates, which would garner significant opposition from Democrats.

A fourth ACA provision that could come under attack by Republicans is the Independent Payment Advisory Board (IPAB) that was set up by the law to make cost-controlling recommendations for the Medicare program. GOP legislators have long opposed the board, which they believe could ultimately lead to rationing of care. Republicans are also opposed to IPAB's ability to easily cut Medicare rates, which can only be reversed by congressional supermajorities. Republicans plan to introduce legislation in the new Congress to abolish the board, though Democrats may be able to prevent the bill's passage.

Medicare Reimbursement

Lawmakers will look for a way forward on reforming the method of Medicare reimbursement known as the Sustained Rate Growth (SGR) formula when the new Congress convenes. In April 2014, President Obama signed a bill to temporarily shield physicians from a 24 percent cut in

Medicare reimbursement rates, the so-called “doc fix.” However, the law expires on March 31, 2015, and many in Congress are looking to provide a long-term solution to the ongoing reimbursement problem.

In 2014, negotiators essentially reached an agreement on the structure of a permanent SGR reform. The deal called for a half of a percent annual increase in payments and would have instituted incentives for physicians to provide less costly services. Despite this agreement, negotiators were unable to compromise on a funding mechanism for the new system.

The 114th Congress will need to address the reimbursement issue quickly before the current patch expires in March. Both the House and Senate passed SGR bills in 2014. The new Republican-controlled Senate may facilitate easier passage of a reform bill in early 2015.

ISSUE—TAX

The new Congress will have the opportunity to drastically alter tax policy if Republican leaders can unite their rank-and-file members and compromise with key Democrats.

Tax Reform

A comprehensive rewrite of the federal tax code has remained elusive over the past few years. Former Senator Max Baucus (D-MT) and retiring Rep. Dave Camp (R-MI), the two chairs of the congressional tax-writing committees, spent the last two congresses working to convince their fellow lawmakers of the need for tax reform, but no legislation was advanced beyond the introduction phase. Signs show that incoming Senate Finance Chairman Orrin Hatch (R-UT) and House Ways and Means Chairman Paul Ryan (R-WI) will face similar challenges.

Chairmen Hatch and Ryan have stated publicly their commitment to rewriting the tax code and are expected to hold hearings on the subject when they take their gavels. Additionally, President Obama and Leader McConnell have both indicated that tax reform is an area where they hope to work together.

Debate continues to swirl over what a tax code rewrite should actually entail. Lawmakers on both sides of the aisle are divided on whether to tackle business-only tax reform or to pursue a more comprehensive approach. Senator Hatch has indicated his support for a comprehensive rewrite, as has Chairman Ryan. Some Republicans like Senator Rob Portman (R-OH), a strong voice on economic and tax matters, are more inclined to advance corporate reform only, a move Democrats are likely to oppose, but Ryan has said he is open to considering.

Differences also remain over a key question on tax reform’s revenue potential. Republicans remain steadfast in their calls for tax reform to remain revenue-neutral while Democrats are equally as adamant in their calls for a tax rewrite to produce a net gain in federal tax receipts, which would likely be earmarked for specific spending, such as the highway bill.

Even if Republicans and the President reach an agreement, finding the means to reduce the top marginal tax rate is likely to open a contentious debate over which current deductions should be struck from the tax code. Already, representatives from across industries have cried out against eliminating their preferred tax preferences. When Chairman Camp released a draft tax reform proposal in February 2014, the package's elimination of key tax provisions was met with sharp opposition from businesses across varying sectors. If Congress and the White House are to successfully advance tax reform legislation, they will need to allay industry concerns over the base broadening that will be required to finance the reduction in rates, particularly if the debate is framed as pitting the deductions of one business sector against another.

Overall, Republicans seem more prepared to address tax reform than Democrats. The GOP is expected to continue to take steps to move forward on the issue, but efforts will be constrained by the amount of buy-in they are able to extract from the President. The shape that tax reform ultimately takes will be determined by the parameters upon which Republicans and the White House are able to agree. Republican leaders will not force their members to take tough votes on controversial legislation if the President is uncooperative in negotiating on the basic principles that reform legislation should embody.

Tax Extenders

Congress will once again be faced with the issue of expiring tax extenders, a package of personal and corporate tax provisions. Before the 113th Congress ended, legislators passed a one year extension of the expired tax extenders, making them retroactive for 2014. As such, the latest extension expired on December 31, 2014. Congress will need to decide if it will renew extenders again and for how long. This process has become increasingly difficult over the years, but single party control of the House and Senate could improve the chances of an extension.

However, it is unlikely that a Republican-controlled Congress will quickly pass an extension. Many conservatives in both chambers are opposed to some of the industry-specific deductions, most notably the wind production tax credit. The issue could be resolved in a larger tax reform effort, but few believe a comprehensive rewrite of the tax code will be completed by the end of the year, when an extension would be needed for the provisions to apply to 2015 income.

Industry leaders are likely to put heavy pressure on Congress to pass a multi-year deal. These leaders argue that uncertainty over whether tax extenders will be available for 2015 income is likely to continue to make business planning increasingly difficult as the year progresses. The most likely outcome is that the tax-writing committees will turn to the extension process if and when it becomes clear that tax reform will not happen by the end of 2015.

ISSUE—TECHNOLOGY

Two high-profile issues that could come before the new Congress include patent reform and cybersecurity.

Patent Reform

The House passed patent reform by a large bipartisan margin in the previous Congress, but the Senate was unable to act when Democrats and Republicans on the Senate Judiciary Committee disagreed on key elements of the underlying bill. House Judiciary Committee Chairman Bob Goodlatte (R-VA) and incoming Senate Judiciary Committee Chairman Chuck Grassley (R-IA) have both indicated that they will advance patent reform legislation in the new Congress. Additionally, Senate Majority Whip John Cornyn (R-TX), who also serves as a senior member of the Senate Judiciary Committee, has stated that he believes that patent reform should be one of the early bills to pass the Senate.

There is widespread agreement that Congress should crack down on frivolous litigation brought by so-called “patent trolls.” However, there is still deep disagreement between the high-tech community and the biotech/pharmaceutical industry over how far the bill should go. Many patent holders believe that well-meaning legislation will have the unintended effect of making it extremely difficult for legitimate patent holders to enforce rights against infringers. Congressional leaders will have to contend with a wide range of stakeholder input and overcome strong opposition from a variety of business sectors concerned about limits on enforcing intellectual property rights.

Cybersecurity

The North Korean hack of Sony Pictures over the controversial film “The Interview” has further exposed vulnerabilities in America’s cybersecurity network. The cyber attack has put pressure on Congress to produce a comprehensive cybersecurity bill that will facilitate better information sharing between the federal government and the private sector when cyber attacks are imminent. President Obama called on Congress to act, and several intelligence leaders have indicated that the issue will be a priority.

ISSUE—TELECOMMUNICATIONS

Congress is expected to tackle telecommunications issues in 2015, including continuation of a major reform effort of the Comm Act.

Telecommunications Reform

Republicans have been working toward a comprehensive rewrite of the Telecommunications Act of 1996 over the past two years and will continue to do so in the new Congress. Incoming Senate Commerce Committee Chairman John Thune (R-SD) will likely hold hearings investigating reform. The House Energy and Committee, led by Chairman Fred Upton (R-MI) and Communications & Technology Subcommittee Chairman Greg Walden (R-OR), spent much of the last Congress building support for their reform efforts. With Republicans in control of both chambers, the 114th Congress may provide a better opportunity for the telecommunications leaders to advance legislation reforming the Telecommunications Act, which many in Congress believe is far outdated and inadequate for the high-speed Internet age. Such efforts, however, will face many challenges.

Net Neutrality

The largest challenge to passing a Telecommunications Act Update will be the ongoing discussion over net neutrality. The Federal Communications Commission (FCC) indicated that they are proceeding with new rules that could enshrine net neutrality into public law, forcing Internet service providers to treat all online traffic equally. Republicans are strongly opposed to the move, believing that it would foist onerous regulations on Internet companies. Democrats have largely supported the FCC's efforts, and the White House went a step further last year by calling for Internet services to be treated as a utility under Title II of the Telecommunications Act. The President's announcement sparked further backlash from Republicans, and telecommunications leaders are expected to introduce legislation in the new Congress that would stop the FCC from both imposing net neutrality and classifying broadband Internet as a utility. Ultimately, the effect of the FCC's actions may be to freeze the telecommunications reform debate. A vote on the FCC's net neutrality rules could happen as early as February.

ISSUE—TRADE

In addition to tax reform, Leader McConnell has identified trade policy as an area where Republicans and the President could negotiate and make some significant progress. Two treaties that could come before the Republican-controlled Senate are the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), free trade agreements with the Pacific Rim and European Union countries, respectively. Both treaties are currently being negotiated between the United States Trade Representative (USTR) and other governments. Several Senate Republicans have spoken in favor of approving these treaties once they are finalized. Conversely, Democrats have expressed concern on the effect the agreements (particularly the TPP) would have on American jobs.

One of area of trade that could be a point of negotiation between the White House and congressional Republicans is trade promotion authority (TPA). TPA legislation often includes goals and guidelines for administrations to follow when negotiating trade agreements. More importantly, they also contain provisions to expedite Senate consideration, including banning amendments to treaties under consideration, mandatory floor action and time-limited debate. Passing TPA legislation has become increasingly difficult in recent years. The last TPA bill was signed into law by President Bush in 2002 and has since expired. Much of this difficulty lies with Democrats' reluctance to fast track trade issues. Some industry leaders hope that the new Republican Congress will advance TPA legislation. Chairmen Baucus and Camp introduced TPA legislation in January, and incoming Chairman Hatch has indicated that he will do the same.

Nevertheless, there is already some apprehension among some Republicans members who are skeptical of the legislation and less inclined to give the President more power. Technically speaking, however, TPA grants no new authority to the White House, and USTR can negotiate without it. Even with TPA legislation, the Senate would have the final say on any proposed agreement.

Other trade-related items that could come before the 114th Congress include renewal legislation for Trade Adjustment Assistance, Generalized System of Preferences, the African Growth and Opportunity Act, Customs and Border Protection Reauthorization, and a miscellaneous tariffs bill.

ISSUE—TRANSPORTATION

When the new Congress convenes in January, attention will again turn toward surface transportation programs. In July, President Obama signed an extension of the 2012 highway bill (MAP-21) that reauthorized the programs until May 31, 2015. The extension also transferred \$11 billion dollars from the Treasury's general fund to supplement the shortfall in the Highway Trust Fund (HTF). Discussions of a MAP-21 replacement thus far have been relatively cordial, at least on the issue of general principles that the next highway bill should espouse.

In the Senate, there was bipartisan agreement on the shape the new highway bill should take, with the top transportation leaders of both parties producing a document outlining the general principles that would be in their bill. The EPW Committee successfully, and unanimously, passed a MAP-21 reauthorization bill, but it did not pass during the 113th Congress. The House failed to produce a highway bill.

Legislators are likely to face many challenges as they work to craft a new surface transportation reauthorization bill in the new Congress. First, portions of the highway bill are within the jurisdiction of several committees. Committees of original jurisdiction will shape the policy provisions of the bill while the tax-writing committees are responsible for developing the mechanisms required to pay for the new bill.

Another challenge facing negotiators is how to fund a reauthorization bill. Ideas have ranged from raising the gas tax, which funds the HTF, to restructuring the tax into a percentage of fuel sales rather than a flat sum, automatically accounting for changes in prices during periods of inflation. Additional proposals include replacing a gas tax with a miles-travelled formula and temporarily reducing the repatriation rate to incentivize corporations to return foreign earnings, which then could be taxed to in order to replenish the HTF. All of these proposals have drawbacks, and each has faced resistance from lawmakers.

If Congress is unable to devise a new funding mechanism, it is likely that legislators will be forced to approve another transfer from the Treasury's general fund, a move that neither party wishes to make. Republican leaders have indicated that they hope to avoid this scenario, with House Republican Conference Chair Cathy McMorris Rodgers (R-WA) stating recently that reauthorization is a key priority for the new Congress.

CONCLUSION

The 114th Congress will mark the first time in four years that both chambers are under single-party control, and the first time in eight years that both chambers are controlled by the GOP. The GOP will need to show it can govern effectively, but also draw policy contrasts with President Obama and congressional Democrats. Constantly looming over legislative affairs will be President Obama, who has indicated an eagerness to use his veto pen after six years of being protected by a Senate Democrat majority. The 2016 elections may force compromise on a handful of key issues as Republicans seek to protect incumbents in blue states. On the other hand, Republican senators seeking the White House will look for opportunities to appeal to the largest bloc of conservatives in the party as the presidential primary begins to heat up.

114TH CONGRESS: PARTY LEADERSHIP

House Republicans		House Democrats	
Speaker	John Boehner (OH)	Minority Leader	Nancy Pelosi (CA)
Majority Leader	Kevin McCarthy (CA)	Minority Whip	Steny Hoyer (MD)
Majority Whip	Steve Scalise (LA)	Assistant Leader	Jim Clyburn (SC)
Republican Conference Chair	Cathy McMorris Rodgers (WA)	Democratic Caucus Chair	Xavier Becerra (CA)
Senate Republicans		Senate Democrats	
Majority Leader	Mitch McConnell (KY)	Minority Leader	Harry Reid (NV)
Majority Whip	John Cornyn (TX)	Minority Whip	Dick Durbin (IL)
Republican Conference Chair	John Thune (SD)	Democratic Conference Vice Chair	Chuck Schumer (NY)
Republican Conference Vice-Chair	Roy Blunt (MO)	Democratic Conference Secretary	Patty Murray (WA)
President Pro Tempore	Orrin Hatch (UT)		

114TH CONGRESS: COMMITTEE LEADERSHIP

114th Congress: Senate Committees		
Committee	Chair (R)	Ranking Member (D)
Agriculture	Pat Roberts (KS)	Debbie Stabenow (MI)
Appropriations	Thad Cochran (MS)	Barbara Mikulski (MD)
Armed Services	John McCain (AZ)	Jack Reed (RI)
Banking	Richard Shelby (AL)	Sherrod Brown (OH)
Budget	Mike Enzi (WY)	Bernie Sanders (VT)
Commerce	John Thune (SD)	Bill Nelson (FL)
Energy	Lisa Murkowski (AK)	Maria Cantwell (WA)
Environment and Public Works	Jim Inhofe (OK)	Barbara Boxer (CA)
Finance	Orrin Hatch (UT)	Ron Wyden (OR)
Foreign Relations	Bob Corker (TN)	Bob Menendez (NJ)
Health, Education, Labor, and Pensions	Lamar Alexander (TN)	Patty Murray (WA)
Homeland Security	Ron Johnson (WI)	Tom Carper (DE)
Indian Affairs	John Barrasso (WY)	Jon Tester (MT)
Intelligence	Richard Burr (NC)	Dianne Feinstein (CA)
Judiciary	Chuck Grassley (IA)	Pat Leahy (VT)
Rules	Roy Blunt (MO)	Chuck Schumer (NY)
Small Business	Jim Risch (ID)	Ben Cardin (MD)
Veterans Affairs	Johnny Isakson (GA)	Richard Blumenthal (CT)

114th Congress: House Committees

Committee	Chair (R)	Ranking Member (D)
Administration	Candice Miller (MI)	Robert Brady (PA)
Agriculture	Mike Conaway (TX)	Colin Peterson (MN)
Appropriations	Hal Rogers (KY)	Nita Lowey (NY)
Armed Services	Mac Thornberry (TX)	Adam Smith (WA)
Budget	Tom Price (GA)	Chris Van Hollen (MD)
Education and the Workforce	John Kline (MN)	Bobby Scott (VA)
Energy and Commerce	Fred Upton (MI)	Frank Pallone (NJ)
Financial Services	Jeb Hensarling (CA)	Maxine Waters (CA)
Foreign Affairs	Ed Royce (CA)	Eliot Engel (NY)
Homeland Security	Mike McCaul (TX)	Bennie Thompson (MS)
Intelligence	Devin Nunes (CA)	Dutch Ruppersberger (MD)
Judiciary	Bob Goodlatte (VA)	John Conyers (MI)
Natural Resources	Rob Bishop (UT)	Raul Grijalva (AZ)
Oversight and Govt Reform	Jason Chaffetz (UT)	Elijah Cummings (MD)
Rules	Pete Sessions (TX)	Louise Slaughter (NY)
Science, Space, and Tech	Lamar Smith (TX)	Eddie Bernice Johnson (TX)
Small Business	Steve Chabot (OH)	Nydia Velazquez (NY)
Transportation	Bill Shuster (PA)	Peter DeFazio (OR)
Veterans Affairs	Jeff Miller (FL)	Corrine Brown (FL)
Ways and Means	Paul Ryan (WI)	Sander Levin (MI)