



Washington Update

December 1, 2014

Lawmakers returned from the mid-term election recess with a host of issues to address in the lame duck session. At the top of the list is government funding, which is set to expire on December 11. Negotiations over funding are complicated by President Obama's executive action on immigration. The status of "tax extenders" remains in limbo, while reauthorization of expiring defense programs is inching closer to an agreement. Observers are also closely watching healthcare issues as the Affordable Care Act (ACA) begins its second open enrollment. Congress has returned from the Thanksgiving recess with less than two weeks to wrap up a host of key issues prior to the target adjournment date of December 11. Discussion on all major issues will continue to be affected by the reality that Republicans will return in January with control of both the House and the Senate for the 114th Congress.

ELECTION RECAP

Republicans rode a wave to victory on Election Day, expanding their majority in the House of Representatives and regaining control of the Senate for the first time in eight years. Though a handful of races have yet to be called, Republicans have won 244 House seats in the new Congress and could pick up three more, giving the House GOP its highest overall majority since the 1920s. In the Senate, Republicans will have at least 53 seats in the 114th Congress with the addition of eight new GOP senators, and are likely to win the Louisiana run-off election on December 6, bringing them to 54 seats. Republicans also saw gains at the state level, picking up key governorships and majorities in state legislatures.

Party leadership in both chambers will remain largely unchanged, with Speaker John Boehner (R-OH) retaining his post and Senator Mitch McConnell (R-KY) rising to the position of Senate Majority Leader. A list of leadership members, as well as committee chairmen and ranking members, can be found at the end of this report.

ISSUE – GOVERNMENT FUNDING DEADLINE: DECEMBER 11

One of the most pressing issues awaiting action is funding the federal government. In September, Congress passed a continuing resolution (CR) to temporarily fund the government through December 11. Both parties are eager to avoid another federal government shutdown, and both Speaker Boehner and incoming Majority Leader McConnell are committed to finding a funding solution.

As lawmakers continue to seek a path forward on funding, the biggest question is what shape the funding legislation should take. Appropriators in each chamber are working on omnibus bills that would fund the government through the remainder of Fiscal Year 2015 (FY15), which runs through September 30, 2015. Some Republican leaders in Congress prefer this option, which would allow them to clear the appropriations deck and immediately begin work on FY16 funding bills when they have control of both chambers in 2015.

Conservative opposition to an omnibus package continues to grow, particularly following President Obama's executive action on immigration (see below for more information). Instead, these Republican members would prefer another short-term CR that would allow a newly-convened Republican Congress to adjust spending levels for the rest of FY15.

Still yet, a third option may provide the basis for an agreement. Some have suggested a middle ground approach in which Congress would pass full-year funding for most federal agencies, while funding the immigration portions of the Department of Homeland Security through a short-term CR. Such an arrangement would alleviate shutdown concerns by funding most of the government through the end of FY15 while giving Republicans the opportunity to express opposition to the President's executive action. It would also give the GOP some leverage to negotiate with Obama in the new year when Republicans will control both the House and the Senate.

ISSUE – IMMIGRATION

On November 21, President Obama took his long-rumored executive action on immigration. The directive has two components. First, the Department of Homeland Security would provide a legal reprieve for undocumented immigrants who are parents of U.S. citizens or permanent residents so long as they have lived in the country for five or more years. Second, the President's executive action expands his 2012 decision to defer deportation of residents who arrived in the country as children. The White House maintains that the President's actions were necessary to end the constant threat of deportation. The plan is expected to affect 4.4 million unauthorized immigrants.

Reaction on Capitol Hill was mixed. Democrats largely supported the President's move, while Republicans criticized the White House for abusing its executive power and skirting the legislative process. The Administration has long complained that Congress

has neglected to solve the issue of illegal immigration and was therefore forced to take unilateral action.

The effects of the White House's decision remain to be seen. Republican leaders have promised to respond, and some conservative lawmakers are urging their leadership to use the ongoing funding battle to strip away the President's power to enforce the order, a position that Republican leaders have yet to embrace and one that may be difficult to attain given the way the White House structured the action.

The House may act as soon as this week, with time tentatively reserved on the floor for a to-be-announced bill. The House GOP Conference will meet on Tuesday, December 2 to try to come to an agreement on a response.

Ultimately, the lasting effect of the executive action may be to further limit the possibility of comprehensive immigration reform. In response to the President's decision, Speaker Boehner indicated that the White House's actions have essentially removed any chance of Congress passing immigration overhaul legislation. Senator Flake (R-AZ), on the other hand, has argued that Congress should respond by passing a strong border security bill early in 2015.

ISSUE – TAXES

In November, leaders in Congress worked to address a couple of pressing tax issues, but final action is likely to be taken in December or beyond.

Tax Extenders

The Lame Duck session of Congress has yet to produce a solution to the expired package of personal and corporate tax provisions known collectively as tax extenders. With no solution in sight, the House is moving forward this week with a one year extension for 2014 as a last resort.

Just prior to Thanksgiving, a rumored bipartisan compromise on extenders made headlines, but was quickly shot down by the Administration. The approximately \$400 billion deal would permanently extend the R&D credit, as well as Section 179 expensing and the American Opportunity Tax Credit. Other extenders in the permanent category would include the state and local sales tax deduction, a public transit subsidy, and several charitable tax extenders. Most of the remainder would get a two year extension, with the wind production tax credit phased out over a number of years.

However, the White House promptly issued a veto threat because the child tax credit and earned income tax credit were not included. While the House is readying a short-term backstop, there is still a small window of time where a compromise could come together on a big deal.

The most recent extenders legislation expired at the end of 2013, and business leaders spent 2014 urging lawmakers to pass an extension. Additionally, Internal Revenue Service Commissioner John Koskinen warned Congress that punting the issue to early 2015 would likely delay the tax filing season.

Earlier this year, the Senate Finance Committee produced [legislation](#) (the EXPIRE Act) that would extend the provisions for two years (with the first year retroactive for 2014), but the bill stalled on the Senate floor amid a fight over the amendment process. Eschewing the Senate's approach of continuing to temporarily extend certain tax provisions, the House focused on passing several bills that permanently extended key tax provisions, such as the R&D tax credit.

As negotiations continue, conservative outside groups are likely to continue to pressure Republican lawmakers to delay action on the issue until the 114th Congress convenes, allowing the GOP greater control over what is extended.

Internet Tax Moratorium

A temporary extension of the Internet Tax Freedom Act (ITFA) was included in the CR, but the moratorium is set to expire on December 11 unless Congress takes action. Previously, advocates of the Marketplace Fairness Act (MFA), which would allow states to tax Internet purchases, sought to attach MFA to the ITFA extension. However, Speaker Boehner has indicated that the House will not pass the MFA. ITFA is likely to be extended again as part of the CR funding agreement.

ISSUE – HEALTHCARE

November saw the beginning of the open enrollment period for the second year of the Affordable Care Act (ACA). Unlike last October, the online federal insurance exchange, Healthcare.gov, has run smoothly. The Department of Health and Human Services (HHS) has set a goal of enrolling between 9 and 9.9 million people before the close of the enrollment period.

In a related story, the Supreme Court announced in November that it will hear another case related to the ACA in the coming session. At issue is the decision by HHS to offer insurance premium subsidies to eligible citizens living in states serviced by the federal exchange. The plaintiffs in *King v. Burwell* argue that HHS overstepped its authority in providing the subsidies since the ACA made no provision for the policy. Supporters of the law contend that the drafters of the ACA never intended for eligible enrollees to be excluded because their state declined to set up an exchange and that HHS is therefore acting within the scope of its legislative mandate when offering the subsidies. Supporters further argue that if the Court strikes down the subsidy support, the decision could leave more than 5 million low-income Americans without insurance.

ISSUE – EXPIRING PROGRAMS

With the end of the year quickly approaching, several federal programs and authorization bills are set to expire. Below is a list of upcoming expiration dates:

- **National Defense Reauthorization Act (NDAA):** Dec. 31
- **Authorization for the Use of Military Force (AUMF) in Syria:** Dec. 11
- **Terrorism Risk Insurance Act (TRIA):** Dec. 31

National Defense Reauthorization Act (NDAA)

Congress has yet to reauthorize the National Defense Authorization Act, the annual defense reauthorization bill that has been passed for 52 consecutive years. The House passed its version of the NDAA in May, and defense leaders in both chambers are working to cobble together a bill before lawmakers leave in mid-December.

The bill's progress is being impeded largely by a dispute over soldiers' benefits, which is expected to be resolved. Senate Armed Services Committee Chairman Carl Levin (D-MI) says that he has the support of Republicans on his committee and Pentagon officials in his call to increase Tricare pharmacy co-pays and reduce housing benefits. House Armed Services Committee Chairman Buck McKeon (R-CA) opposes these changes. Negotiations are ongoing, and some observers believe the fact that both chairmen are retiring will prompt them into an agreement.

Authorization for the Use of Military Force (AUMF) in Syria

Another item that must be addressed before the end of the year is the renewal of the AUMF to fight the Islamic State (alternatively known as ISIS or ISIL) in Syria. The AUMF was originally included in the CR passed in mid-December and will also expire on December 11 if not renewed.

There is currently no clear consensus on how to move forward on an AUMF renewal. Reports indicate that the Administration is conflicted on what a new AUMF should include. On Capitol Hill, there is equally diverse opinion among legislators. Many Democrats oppose even the possibility of authorizing the use of combat troops. Conversely, Republicans do not want to rule out any option to fight the ISIS threat.

The chances of Congress dealing with the issue in 2014 are slipping away. Some Democrats, such as current Senate Foreign Relations Committee Chairman Bob Menendez (D-NJ), are still hopeful that a deal could be reached this year. However, Speaker Boehner has indicated that he would prefer members of the new Congress take the vote. It is likely that legislators will allow the AUMF to expire and return to the issue when the new Congress convenes.

Terrorism Risk Insurance Act (TRIA)

Following the attacks on the U.S. on September 11, 2001, Congress approved a government backstop insurance program, known as the Terrorism Risk Insurance Act

(TRIA), to help cover losses incurred from any future terrorist acts. That program is set to expire at the end of the year, and lawmakers have yet to pass legislation extending it. While the Senate overwhelmingly approved a bill that would extend TRIA for seven years, the House has moved at a slower pace. Some House Republicans, including House Financial Services Committee Chairman Jeb Hensarling (R-TX), are concerned that the program unnecessarily puts federal funds on the line.

One point of contention for Republicans is the threshold of losses required to be incurred before federal cost-sharing kicks in. Chairman Hensarling's plan would increase the threshold to \$500 million, which Democrats oppose. Other issues surrounding the program include the duration of the renewal, whether the program should differentiate between types of terrorist attacks, and if an extension should be paired with corresponding cuts in mandatory spending. Negotiations are ongoing, but it remains to be seen if an agreement can be reached before the end of the year.

Satellite Television Extension and Localism Act (STELA)

In November, Congress passed a STELA reauthorization [bill](#), about a month before the current law was set to expire. The bill permits satellite companies to provide broadcast signals to areas of the country that do not offer full over-the-air programming. The bill is a five-year extension and ensures continued service to more than 1.5 million people. The legislation included several new provisions, including a ban on multiple broadcasters negotiating as a bloc over retransmission consent contracts. The bill will also allow TV stations more time to end business relationships that the FCC deemed to be inappropriate in March 2014. The President has yet to sign the bill into law, but he is expected to do so in the coming days.

ISSUE – NOMINATIONS

The Senate is expected to continue to move forward on the President's executive and judicial nominations. However, action will likely be delayed on the high-profile nominations for the posts of Defense Secretary and Attorney General. The President has yet to nominate a successor to retiring Defense Secretary Chuck Hagel, likely pushing the nomination process into 2015. The Senate is also moving slowly on Loretta Lynch's nomination to replace Eric Holder as Attorney General, following the agreement from the White House and Senate Democrats to postpone the Lynch confirmation hearings until the new Congress convenes. Both nominations could set up a showdown between the White House and Republicans when the GOP takes control of the Senate next year.

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

114 th 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)

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) or Chuck Schumer (NY)
Budget	Jeff Sessions (AL) or Mike Enzi (WY)	Patty Murray (WA) or Bernie Sanders (VT)
Commerce	John Thune (SD)	Bill Nelson (FL)
Energy	Lisa Murkowski (AK)	Mary Landrieu (LA)*
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) or Bernie Sanders (VT)
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)	Maria Cantwell (WA)**
Veterans Affairs	Johnny Isakson (GA)	Bernie Sanders (VT) or Sherrod Brown (OH) or Richard Blumenthal (CT)

*Likely Maria Cantwell (WA) if Landrieu loses her Dec. 6 Senate runoff

** Ben Cardin (MD) is next in line to lead Democrats at Small Business if Cantwell moves to Energy

RECENT POLLING**Job Approval: President Obama**

Poll	Date	Results
Rasmussen Reports	Dec. 1	Approve 45, Disapprove 50
Gallup	Dec. 1	Approve 48, Disapprove 50
The Economist/ YouGov	Nov. 29	Approve 39, Disapprove 58

Job Approval: Congress

Poll	Date	Results
The Economist/ YouGov	Nov. 24	Approve 14, Disapprove 64
Fox News	Oct. 27	Approve 13, Disapprove 81
CBS News	Oct. 27	Approve 14, Disapprove 76

Direction of the Country

	Date	Results
The Economist/ YouGov	Nov. 24	Right Direction 27, Wrong Direction 63
Rasmussen Reports	Nov. 23	Right Direction 26, Wrong Direction 67
NBC News/ Wall St. Journal	Nov. 17	Right Direction 25, Wrong Direction 65