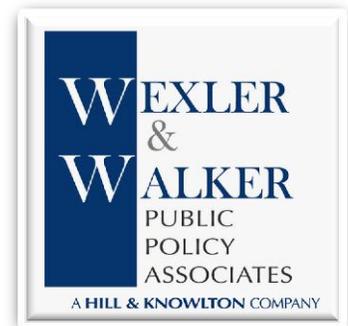

What's Next?

**2012 Election
Outcomes, Impacts
& Analysis**



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Date: November 8, 2012

About Wexler & Walker Public Policy Associates

Wexler & Walker Public Policy Associates is a Washington, D.C.-based, full-service, bipartisan government affairs and public policy firm founded in 1981. Our principal business is to assist our clients in making their cases effectively before the federal government. We offer a wide range of services, a wealth of experience, and demonstrated expertise and success in all elements of our profession.

Our philosophy in conducting business is simple - the combination of highly personalized service, practical government experience, and a total bipartisan commitment to client success.

Key to our long-running success has been our ability to hire high quality, motivated individuals from both political parties who have served in the highest levels of the U.S. government and have expertise in the broad array of federal issues. As a result, on nearly every issue involving the Administration, Congress, or federal agencies, someone in our firm is likely to know the issue, its subtleties, and a strategy to educate the principal players; moreover, one or more of us will know personally or have access to those players.

Wexler & Walker principals know all of the major Congressional players of both political parties in House and Senate leadership and key committees. In addition, the firm offers a team of principals who collectively enjoy strong and long lasting relationships with many senior Executive Branch officials. These relationships run the gamut from the Executive Office of the President to just about every Department and agency within the federal government.

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Executive Summary

Wexler & Walker Public Policy Associates is pleased to bring you this comprehensive analysis of the 2012 elections including detailed election outcomes for the Presidency, House of Representatives and the Senate; evaluation of the results; previews of President Barack Obama’s second term; and potential scenarios for the lame-duck session of Congress. The following is an executive summary of our report.

Election

The 2012 elections concluded Tuesday, November 6, with President Barack Obama defeating Governor Mitt Romney decisively to earn a second term as the 44th President of the United States. In addition, despite expectations of Republican gains in the U.S. Senate, Republicans lost two seats – giving Democrats a wider majority. In the House of Representatives, Republicans will remain in the majority with a similar margin as the last Congress. The outstanding races that remain too close to call will only add or subtract a few seats from Republicans’ current 40 seat advantage.

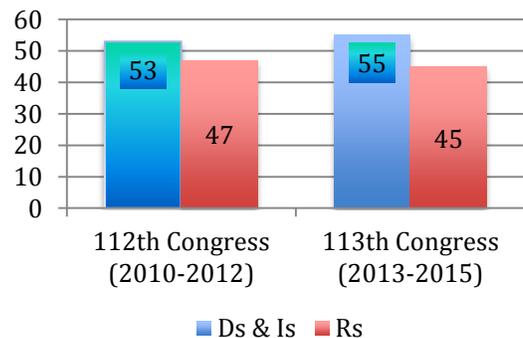
This election cycle featured a bitterly divided electorate and record levels of political spending, including the new and largely unlimited expenditures by Super PACs. With Democrats maintaining control of the White House and the Senate and Republicans holding their majority in the House, Wexler & Walker expects the next two years to look similar to the last two, with a gridlocked Congress and political and policy battles between Republicans and Democrats. Further, because the outcome of the election will prevent Republicans from dismantling the Democrats’ signature achievements including the Affordable Care Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, we expect the ongoing implementation of these laws to create additional partisan rancor. That said, we believe that there is a distinct window of opportunity during which significant progress can be made on the pressing issues of the day if White House officials and Congressional Leaders can approach them correctly and with the sobriety and seriousness they deserve.

In the Presidential election, President Obama captured 303 electoral votes compared with 206 electoral votes for Mitt Romney. President Obama ended up winning six out of seven of the key swing states including Ohio. The President could add to his total if he wins Florida’s 29 electoral votes; the state is currently too close to call. In addition, President Obama held onto the traditional Democratic states of Pennsylvania and Wisconsin despite late attempts by the Romney campaign to score victories there.

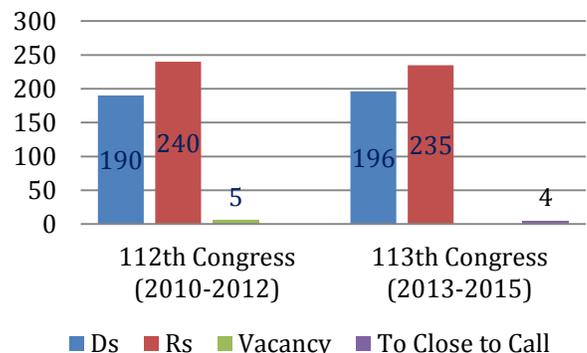
In the Senate, Republicans lost 2 seats, increasing the Democrats’ likely majority to 55 seats considering that independent Senator Bernie Sanders (I-VT) and newly elected Independent Senator Angus King (I-ME) are considered likely to caucus with Democrats. Over 10 Senate races were considered toss-ups in the final week of the campaign and Democrats won six of those, including Montana, Virginia and Missouri. Republicans won seats in Nevada and Arizona.

In the House of Representatives, Republicans maintained their majority. Republicans beat 10 Democrat incumbents and Democrats beat 12 Republican incumbents. Four races remain “too close to call.” Additionally, long-term Members of Congress, including Ben Chandler, Roscoe Bartlett, and Pete Stark lost their bids for reelection.

U.S. Senate Breakdown



U.S. House Breakdown



Key Observations

Overall, the 2012 elections proved that the nation remains deeply polarized with moderates of both parties and in both chambers of Congress becoming increasingly scarce. In addition, despite almost even popular vote margins, the changing voter demographics in key swing states will make it harder for Republicans to compete nationally in the Electoral College vote in the future without a shift in the way the Party communicates and reaches out to those specific demographic voter groups.

Also, while some may view this election as simply status quo considering that the party that controls the Presidency, the Senate and House of Representatives did not change, in important and lasting ways, the 2012 Election had anything but a status quo outcome. The American people did indeed vote to retain a check and balance system that prevents any one party from dominating the legislative agenda, but they also voted to end the Congressional stalemate in favor of more bipartisan efforts and outcomes.

However, given the “fiscal cliff” and the immense challenges facing the country in the very near term, the question will be whether a Congress and President that look across Washington and see the same personalities as the last two years can actually change their tone and method of operation to accomplish needed objectives.

In addition to macro level shifts, the 2012 election will also change the diversity of the Congress. Eighteen women will be sworn in as U.S. Senators in the 113th Congress and Hispanics will pick up a third Senate seat; both historic highs.

Lame Duck

Despite the election outcome, President Obama and the existing Congress must address, or pass a delaying measure on a multitude of issues in the lame-duck session before President Obama’s second term can begin and before any newly elected Members of Congress take office. This all-important session begins on November 13th and is expected to last anywhere from two to six weeks. Issues that are likely to be addressed in the lame-duck session include the sequester, expiring Bush-era and Payroll tax cuts, the “Doc” fix, the Alternative Minimum Tax (AMT), corporate tax extenders and potentially, the federal debt ceiling.

Principal Lame Duck Insights

- Wexler & Walker expects Congress to pass a delaying measure in the Lame Duck session that will put off most of the harsh consequences of the fiscal cliff for 3-6 months into 2013.
- This stop-gap measure will likely delay the sequester, extend the Bush tax cuts at some level, apply a short-term fix to the Medicare reimbursement rate (Doc Fix) and the AMT, and pass some tax extenders.
- The Alternative Minimum Tax has never been patched retroactively and because tax filing begins on January 1, 2013, the Lame Duck session will have to address this issue at a minimum
- The deadline to increase the Federal Debt Ceiling may not occur during the Lame Duck, but it will loom large over negotiations in the Lame Duck session.

Next Six Months

After the lame-duck session, President Obama has indicated that his second term priorities will include immigration, education, energy independence and critical infrastructure. The U.S. economic climate will also require President Obama to keep economic development and job creation at the forefront of his priorities. In addition, President Obama will need to devote attention to the full implementation and funding of the Affordable Care Act. President Obama will also have to make a number of key personnel moves, including replacing several Cabinet Secretaries and White House senior staff. The confirmation process over some of those positions could prove quite contentious.

Complicating the President’s stated goals will be the likely delay of the sequester and fiscal cliff issues from the Lame Duck session of Congress. President Obama will need to negotiate a type of long-term “grand bargain” with Congress in early 2013 that involves expiring tax matters, federal spending and the sequester. In addition, President Obama

could be facing foreign policy challenges with Iran, Israel and the ramifications of the “Arab Spring” in the first few months of his second term.

In sum the new Congress and President Obama will have many leftover issues to handle early in 2013, but will also be focused on longer-term issues like tax and entitlement reform, deficit reduction and federal spending.

Presidential Election Recap

President Obama was elected to a second term after capturing 303 electoral votes¹ as compared to Mitt Romney's 206 electoral votes. President Obama ended up winning six out of seven of the key swing states including Ohio. In addition, President Obama won traditionally Democratic states, Pennsylvania and Wisconsin despite a late push for those states by the Romney campaign.

Upon close inspection, Obama's keys to victory included support from independent voters, Democratic turnout equal to his historic 2008 election, a significant advantage among Hispanic and women voters and the ability to maintain an edge over Romney in other key voter demographics.

Exit polling indicates that voters overwhelmingly made their decision based on the economy and jobs; but a few other issues ranked surprisingly high on the minds of voters including the Federal response to Hurricane Sandy.

Specifically in Nevada, Colorado, Iowa and New Hampshire, the President averaged a better than 5-point margin in each of these swing states despite public polling that indicated it might be tighter. And in Ohio, the President's gamble to highlight the bailout of the auto industry paid off and union voters flocked to the president. In fact, the President's turnout among white males in Ohio was higher than almost anywhere else in the country.

In Florida, while votes continue to be counted, the President closed the gap with Governor Romney with overwhelming margins among Hispanic and African American voters. This was also the case in North Carolina, which the President lost by two points, but kept close despite issue-based voters who were predicted to drift away from the President substantially.

Cementing his victory, the President solidly won traditional Democratic States like Pennsylvania, Wisconsin, Michigan and Minnesota despite late attempts by the Romney campaign to win them. While each of these states is different, union voters and high turnout in Democratic rich urban centers largely carried each of for the President



Swing State	Obama	Romney
Colorado	51.2%	46.5%
Florida	49.9%	49.3%
Iowa	52.1%	46.5%
New Hampshire	52.2%	46.5%
North Carolina	48.4%	50.6%
Nevada	52.3%	45.7%
Ohio	50.1%	48.2%
Virginia	50.8%	47.8%

¹ The President could add to his total if he wins Florida's 29 electoral votes; the state is currently too close to call.

Obama Administration Second Term Preview



When President Obama begins his second term in January, the bulk of his big ticket policy items including healthcare reform, ending the Iraq War, financial regulatory reform, repealing the military's Don't Ask, Don't Tell policy and allowing a path to citizenship for children of illegal immigrants will have been accomplished in his first term.

"With the election behind him, the President will squarely focus his attention on securing a lasting and meaningful solution to the nation's fiscal challenges. It is an historic opportunity, perfectly meshed to his "no-nonsense" talents. He must put a fair and balanced proposal on the table and sell it to Congressional Leadership, away from the glare of the media, as the responsible path forward. This will be the defining achievement of his presidency and establish his legacy as a transformational leader."

*~ Joel Malina
Executive Vice President & Managing Director*

However, the President's agenda for his second term is equally ambitious, including calls for greater investments in education, small businesses, clean energy, and infrastructure. Also, after dealing with the Bush tax cuts in early 2013, President Obama is expected to promote a tax plan consisting of tax cuts for small businesses and a higher tax rate for individuals and households earning over \$1M. Moreover, we expect President Obama's focus will shift to a number of fiscal issues outlined in his campaign, including job creation and the economy, and that he will remain vigilant in the full implementation and funding of the Affordable Care Act. Finally, we expect that the President will attempt to work with Congress to move Cyber Security legislation. Prior to the election, President Obama directed his staff to draft an Executive Order to encompass key components of stalled Senate legislation and any new action is likely to be consistent with the President's May 2011 legislative proposal on the issue.

All that said, before the President can focus on any of these longer term issues, he must work with Congress to immediately delay the looming fiscal cliff in the lame duck session of Congress and then look towards securing agreement on a type of "grand bargain" that attempts to wrap up a multitude of precarious fiscal issues in early 2013.

Specifically, the "fiscal cliff" references tax provisions that expire on January 1, 2013, such as the AMT, Bush-era rates and Payroll tax cuts, as well as budget sequestration, which is set to reduce both domestic and defense spending in the new year. After a likely short-term delay of these issues in the "lame-duck" session, the President will be motivated to work with Members of Congress to develop a deficit reduction scheme including these and other looming issues. Such an arrangement may contain a replacement of the sequester with many of the proposals outlined in the National Commission on Fiscal Responsibility and Reform's report (Simpson-Bowles) and could also include processes and targets for major entitlement and tax reform in addition to decreased federal spending.

Speaking on the potential for a comprehensive deal during his campaign, President Obama called for a "balanced plan of spending cuts and revenue increases that reduces the deficit by more than \$4 trillion over the next decade." To achieve a 'balanced plan,' President Obama will likely push for the same ratio reduction/revenue ratio as in his first term - \$2.50 in spending cuts for every \$1 in revenue increases. However, other than \$1 trillion in spending cuts that President Obama signed into law in his first term, specific new cuts remain unidentified.

Second Term Cabinet & Key Personnel

As President Obama fine tunes policy objectives for his second term he will also be retooling his Cabinet and core White House team. Despite having one of the lowest Cabinet turnover rates in history, of the fifteen Cabinet-level officials and seven officials with Cabinet rank, several have announced their intent to leave after President Obama's second term and speculation remain around at least four more. Treasury Secretary **Tim Geithner** has announced his intent to leave and Secretary of State **Hillary Clinton** – until recently – was also on record as having expressed a desire to only serve one term. Meanwhile, the departures of Attorney General **Eric Holder**, Energy Secretary **Steven Chu**, and EPA Administrator **Lisa Jackson** are seen as increasingly likely. Rumors are also circulating that **Jack Lew** will resign his post as White House Chief of Staff for the President's second term.

The President's second-term Cabinet selections are also expected to be more focused on outreach to the business community. With the departure of Secretary Geithner, Federal Reserve Chairman **Ben Bernanke's** recent

announcement that he will not stay on when his current term ends in 2014, and possible shuffles at OMB and the National Economic Council, we expect the President will select people with business experience, stronger corporate ties, and solid legislative relationships to round out his team of economic advisors. These criteria will become increasingly important if substantial deals are not reached in the Lame Duck session to deal with the Nation's financial and tax challenges.

Former Clinton Administration officials such as **Erskine Bowles, Gene Sperling, and Sheryl Sandberg**, Facebook's Chief Operating Officer and former Chief of Staff at Treasury under President Bill Clinton are among the names circulating to join Mr. Obama's economic team. In addition, **Roger Ferguson**, President and CEO of TIAA-CREF and **Larry Fink**, Chairman and CEO of Blackrock are also likely to receive Cabinet-level consideration.

At the staff level, in addition to a new chief of staff, the President is expected to appoint a fresh set of core advisors. White House aide **David Plouffe** is expected to leave, and campaign advisors **David Axelrod** and **Robert Gibbs** will not rejoin the White House staff for President Obama's second term. **Jay Carney** is also not likely to return as WH Spokesman. Replacing Jack Lew as White House Chief of Staff could be **Tom Nides** who currently serves as Deputy Secretary of State. Vice President Biden's former Chief of Staff **Ron Klain** or Valerie Jarrett who remains a close advisor to both President Obama and the First Lady are also potential replacements. **John Podesta**, chairman of the Center for American Progress could also sign on as Chief of Staff or Secretary of Energy.

Jennifer Palmieri, who currently serves as Deputy Communications Director could take over for Director of Communications, **Dan Pfeiffer**. Should Mr. Carney decide to move on his successor could be **Jen Psaki** or **Josh Earnest** – both currently hold positions in the WH Communications office.

Others that could land top spots include Los Angeles Mayor Antonio Villaraigosa and former Governor Charlie Crist who spoke on the President's behalf at the Democratic National Convention in Charlotte.

Provided below are projections for nominations to key positions in President Obama's second term.

Cabinet Position	Potential Appointees
White House Chief of Staff Jacob Lew <i>(could move to another post)</i>	<ul style="list-style-type: none"> Valerie Jarrett, Senior White House advisor Ron Klain, former Chief of Staff to Vice President Biden Tom Nides, Deputy Secretary of State
Secretary of State Hillary Clinton <i>(previously announced departure)</i>	<ul style="list-style-type: none"> Tom Donilon, Obama National Security Adviser Sen. John Kerry (D-MA), Chairman of Senate Foreign Relations Committee Susan Rice, UN Ambassador
Secretary of the Treasury Tim Geithner <i>(expected departure)</i>	<ul style="list-style-type: none"> Roger Altman, former Clinton Administration Deputy Treasury Secretary Erskine Bowles, Chair, Fiscal Responsibility Commission Larry Fink, Chairman & CEO of Blackrock Jack Lew, current White House Chief of Staff

Cabinet Position	Potential Appointees		
Secretary of Defense Leon Panetta <i>(expected to stay through 2014)</i>	<ul style="list-style-type: none"> Ashton Carter, current Deputy Secretary at Defense former Senator Chuck Hagel (R-NE) John Hamre, President, Center for Strategic and International Studies Sen. Jack Reed (D-RI) 	Secretary of Education Arne Duncan <i>(expected to stay)</i>	<ul style="list-style-type: none"> Gov. Jack Markell (D-DE)
Secretary of the Interior Kenneth Salazar	<ul style="list-style-type: none"> John Berry, Director, Office of Personnel Management Gov. Christine Gregoire (D-WA) David Hayes, Deputy Secretary of Interior 	Secretary of Veterans Affairs Eric Shinseki <i>(Has not indicated if he'll stay on)</i>	<ul style="list-style-type: none"> Lt. Gov. Anthony Brown (D-MD)
Secretary of Agriculture Thomas Vilsack	<ul style="list-style-type: none"> Sen. Kent Conrad (D-ND) (retiring) former Sen. Blanche Lincoln (D-AR) 	Secretary of Homeland Security Janet Napolitano <i>(speculated departure)</i>	<ul style="list-style-type: none"> Ray Kelly, NYC Police Commissioner Bill Bratton, former chief, NYPD and LAPD Thad Allen, retired Coast Guard general Clark Ervin, former DHS Inspector General
Secretary of Commerce Rebecca Black (acting)	<ul style="list-style-type: none"> Steve Case, co-founder AOL Dan Doctoroff, CEO Bloomberg L.P. Fred Hochberg, President Ex-IM Bank Ron Kirk, USTR head Karen G. Mills, current Small Business Administrator 	Officials with Cabinet-ranking	
Secretary of Labor Hilda Solis <i>(expected to stay)</i>	<ul style="list-style-type: none"> Maria Echaveste, former Clinton WH Deputy Chief of Staff former Rep. Dick Gephardt (D-MO) Seth Harris, Deputy Secretary Olena Berg Lacy, Assistant Secretary for Pensions under President Clinton 	EPA Administrator Lisa Jackson <i>(speculation of departure)</i>	<ul style="list-style-type: none"> Robert Perciasepe, current Deputy Administrator Gina McCarthy, EPA air chief Mary Nichols, chairwoman, California Air Resources Board
Secretary of Health and Human Services Kathleen Sebelius <i>(has indicated she would like to stay on until Affordable Care Act is implemented)</i>	<ul style="list-style-type: none"> Nancy-Ann DeParle, Obama Deputy Chief of Staff Gov. John Kitzhaber (D-OR) Gov. Martin O'Malley (D-MD) Lois Quam, Global Health Initiative at State Department 	Office of Management and the Budget Jeffrey Zients (acting)	<ul style="list-style-type: none"> Gene Sperling, NEC Chairman Rob Nabors, White House director of legislative affairs Douglas Elmendorf, CBO director Sen. Kent Conrad (D-ND) (retiring)
Secretary of Housing and Urban Development Shaun Donovan <i>(expected to stay)</i>	<ul style="list-style-type: none"> Carol Galante, current Assistant Secretary 	U.S. Trade Representative Ronald Kirk <i>(could move into new position)</i>	<ul style="list-style-type: none"> Gene Sperling, NEC Chairman
Secretary of Transportation Ray LaHood <i>(likely to stay)</i>	<ul style="list-style-type: none"> Rep. Steven LaTourette (R-OH) (retiring) former Gov. Ed Rendell (D-PA) Antonio Villaraigosa, Los Angeles Mayor 	Small Business Administration Karen G. Mills	<ul style="list-style-type: none"> TBD if Mills is reassigned
Secretary of Energy Steven Chu <i>(speculated departure)</i>	<ul style="list-style-type: none"> John Podesta, Chairman, Center for American Progress Jim Rogers, Chairman, President & CEO, Duke Energy former Sen. Byron Dorgan 	Key White House & Independent Agency Officials	
		Federal Communications Commission Chairman Julius Genachowski	<ul style="list-style-type: none"> Jessica Rosenworcel, FCC Commissioner Mignon Clyburn, FCC Commissioner
		National Economic Council Chairman Gene Sperling <i>(could move to USTR)</i>	<ul style="list-style-type: none"> Sheryl Sandberg, Facebook COO, and Chief of Staff at Treasury under Clinton
		Federal Reserve Chairman Ben Bernanke <i>(expected to leave at end of term {2014})</i>	<ul style="list-style-type: none"> Larry Summers, Obama economic adviser and Clinton Treasury Secretary Janet Yellen, current Federal Reserve vice chair Tim Geithner
		National Security Adviser Tom Donilon <i>(could become Secy of State)</i>	<ul style="list-style-type: none"> Denis McDonough, Obama foreign policy adviser Susan Rice, UN Ambassador Michele Flournoy, Obama campaign National Security Adviser

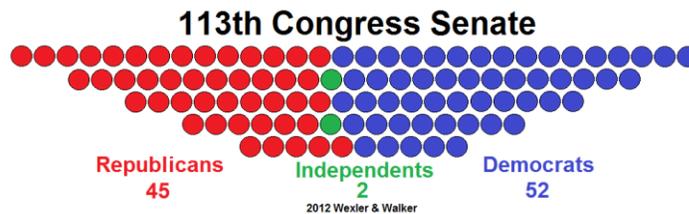
U.S. Senate Preview

When the new Congress convenes in January 2013, the Democratic Party will expand its control of the United States Senate. Democrats were able to keep control by winning 23 of the total 33 seats that were up for reelection including 2 seats held by retiring or incumbent Republicans in Massachusetts and Maine. Republicans on the other hand, lost several seats that they were expected to pick up in the early days of the campaign including races in Missouri, Indiana, and North Dakota. The new Senate will be composed of 55 Democrats and Independents and 45 Republicans.

"With an enlarged majority, but a very diverse set of home state politics that allowed the Senate Democratic Leadership to keep control, look for more time spent letting regular order work on the Senate floor. In the last Congress, 100% of bills that went through the time-consuming process of amendments and predictable late night votes were indeed passed and several of the Senate's bipartisan bills fared well in the Republican controlled House. This fact will inform the approach the Leadership will take going forward."

*~ Dale Snape
CEO & Managing Director*

With Democrats able to build on their majority despite the odds stacked against them, the election results are considered a major win for the party. After the 2010 Midterm elections and domestic factors including the slow economic recovery and the high level of unemployment, Republicans were clearly favored to take over control of the Senate. Additionally, Republicans had an advantage over Democrats entering the election due to the make-up of the seats in play. Of the 33 contested seats in the Senate, Democrats were required to defend 21 seats whereas Republicans only had to defend 12.



Discussion

Polls throughout the election season indicated that many Senate races were going to be extremely close and the only clear difference between winning and losing in some races was voter turnout. Due to the close margin in Nevada, a recount is likely but we do not believe that these will affect the Democratic majority in the Senate.

In terms of how Democrats maintained their majority in the Senate, many factors played a critical role. Perhaps one of the largest was the turnout of voters and the make-up of the electorate. While both parties were happy with voter turnout, Democrats were able to make significant strides in reaching women, non-white voters, and young adults. These groups voted significantly in favor of President Obama and Senate Democratic candidates, which helped Obama retain the presidency and Democrats keep the Senate.

Key wins by Democrats in various states helped the Democratic Party keep control of the U.S. Senate. Some of the most notable wins for Democrats on Election Night include Chris Murphy in Connecticut, where he faced a formidable challenge from Republican candidate and millionaire Linda McMahon. At some points in the last few months, this election was considered a toss-up. Despite the initial polls, Connecticut ultimately went for Murphy as a result of Presidential dynamics in the state. Additionally, Claire McCaskill's race in Missouri was one of the most-watched races throughout the entire country. Senator McCaskill faced off against Republican Congressman Todd Akin. Initially, it was believed that McCaskill was perhaps the most endangered incumbent seeking reelection; however, controversial comments from Todd Akin ultimately sunk his chances for winning the election. Controversial comments by Republican candidate Richard Mourdock in Indiana also cost the Republican party a chance to retain a seat in the U.S. Senate. Rep. Joe Donnelly (D-IN) was able to win the Indiana Senate election despite many believing he was a long-shot earlier this year.

Democrats were also able to retain seats in Virginia, where former Governor Tim Kaine defeated former GOP Senator George Allen, in Montana, where Jon Tester defied the odds and beat Republican Congressman Denny Rehberg, in Ohio, where Democratic incumbent Sherrod Brown won his reelection easily against Republican candidate Josh Mandel, and in Wisconsin where Tammy Baldwin defeated GOP candidate Tommy Thompson in a highly contentious Senate race. Perhaps the most surprising win for Democrats was in North Dakota where Heidi Heitkamp won her bid for the U.S. Senate and ensured that Democrats would maintain control of the seat currently held by Senator Kent Conrad (D-ND).

In a few places, Democrats were able to pick up seats that were controlled by Republicans in the last session of Congress. In addition to Indiana, Elizabeth Warren defeated Republican Incumbent Scott Brown to become the first female Senator in Massachusetts history. Warren’s race against Brown was one of the most expensive elections in the country and extremely contentious. Her win is historic for the state and gives Democrats control of the seat once held by the late Senator Ted Kennedy. Independent Candidate Angus King won his election bid in Maine. It is believed that this win is also a win for the Democratic Party as King is expected to caucus with Democrats over the next two years.

Despite their enlarged majority in the Senate, Democrats will be forced to work with an emboldened Republican House. In this position, Senate Democrats will be unable to pass most of President Obama’s agenda without compromising with Republicans.

State-by-State Results				
Arizona	Flake	50.4%	Carmona	45.2%
California	Emken	38.6%	Feinstein*	61.4%
Connecticut	McMahon	43.3%	Murphy	55.0%
Delaware	Wade	29.0%	Carper*	66.4%
Florida	Mack	42.4%	Nelson*	55.1%
Hawaii	Lingle	37.4%	Hirono	62.6%
Indiana	Murdock	44.4%	Donnelly	49.9%
Maine	Summers	30.3%	King	53.3%
Maryland	Bongino	27.5%	Cardin*	54.3%
Massachusetts	Brown*	46.3%	Warren	53.7%
Michigan	Hoekstra	38.5%	Stabenow*	58.3%
Minnesota	Bills	30.6%	Klobuchar*	65.2%
Missouri	Akin	39.2%	McCaskill*	54.7%
Montana	Rehberg	44.7%	Tester*	48.9%
Nebraska	Fischer	58.2%	Kerrey	41.8%
Nevada	Heller*	45.9%	Berkley	44.7%
New Jersey	Kyrillos	39.9%	Menendez*	58.4%
New Mexico	Wilson	45.4%	Heinrich	51.0%
New York	Long	26.5%	Gilibrand*	72.0%
North Dakota	Berg	49.5%	Heitkamp	50.5%
Ohio	Mandel	45.1%	Brown*	50.3%
Rhode Island	Hinckley	35.0%	Whitehouse*	65.1%
Pennsylvania	Smith	44.7%	Casey*	53.6%
Tennessee	Corker*	65.0%	Clayton	30.4%
Texas	Cruz	56.6%	Sadler	40.5%
Utah	Hatch*	65.2%	Howell	30.2%
Vermont	MacGovern	24.9%	Sanders*	71.2%
Virginia	Allen	47.6%	Kaine	52.4%
Washington	Baumgartner	40.6%	Cantwell*	59.4%
West Virginia	Raese	36.5%	Manchin*	60.6%
Wisconsin	Thompson	45.9%	Baldwin	51.5%
Wyoming	Barasso*	75.9%	Chesnut	21.6%

Leadership

Senate Leadership for both parties will largely remain unchanged for the next two years. Majority Leader Harry Reid (D-NV), Assistant Majority Leader and Majority Whip Dick Durbin (D-IL), and Vice Chair of the Conference and Communications Center Chuck Schumer (D-NY) are each expected to maintain their leadership roles.

On the Republican side, Leader Mitch McConnell (R-KY), Conference Chair John Thune (R-SD), and Policy Committee Chair John Barrasso (R-WY) are each expected to retain leadership roles for the Republican Party. However, Republicans will need to elect a new Minority Whip. Current Minority Whip Jon Kyl (R-AZ) did not seek reelection in 2012. Senator John Cornyn (R-TX) is the only publicly announced candidate for the position.

"Both Mitch McConnell and John Cornyn, the only announced candidate for GOP Whip, have their work cut out for them. Both of them will be up for re-election in 2014, so it will be interesting to see how they balance their own re-election dynamics with efforts to negotiate with both House Republicans and the White House. To add to the drama, it will be interesting to see how many other Senators begin taking steps to run for President in 2016 and whether that complicates the Leadership's maneuvering room."

*~ Jack Howard
Vice Chairman & Chief Operating Officer*

Senate Coalitions

Over the last decade in the Senate, specific groups of Senators have arisen to meet challenges that the entire body has been able to take-on or to stand together in opposition to legislation. With yesterday's election outcome, both the Republican Steering Committee and other "gangs" will continue to be influential.

The Gang of 8 is a bipartisan group of Senators who have come together over the last several years in an attempt to find a grand bargain aimed at cutting the deficit and finding common ground on such issues as tax reform, sequestration, and the fiscal cliff. In 2011, the group introduced a deficit-reduction framework, in response to the debt-ceiling crisis, that would cut \$3.7 trillion over the next decade by adopting many of the measures that were first introduced in the Simpson-Bowles plan. Despite this framework, the plan was not pursued or adopted by Congress. In an effort to avoid the fiscal cliff, which is set to begin on January 1, the group has once again convened to find a long-term solution that would improve that nation's fiscal health. At this time, no specifics have been published, but it is believed that many of the provisions are similar to provisions in Simpson-Bowles.

Current members of the group include: Senator Mark Warner (D-VA), Senator Saxby Chambliss (R-GA), Senator Dick Durbin (D-IL), Senator Tom Coburn (R-OK), Senator Kent Conrad (D-ND), Senator Mike Crapo (R-ID), Senator Michael Bennet (D-CO), and Senator Mike Johanns (R-NE).

For the conservative Republican Steering Committee, despite Democratic gains in the Senate, the newly elected Republican Senators are more conservative than not and will increase the Steering Committee's prominence. Sen. Pat Toomey (R-PA) will be taking over the helm of the Committee from long-time leader, Sen. Jim DeMint (R-SC) in the new Congress, and the group is poised to continue its rise from relative obscurity to increased prominence in fighting against increases in the size of government and federal spending. In fact, with yesterday's election of Senators-elect Ted Cruz (R-TX), Deb Fisher (R-NE) and Jeff Flake (R-AZ), along with the election of Sen. Rand Paul (R-KY) and Sen. Mike Lee (R-UT) in 2010, the group is becoming as influential as its House counterpart, the Republican Study Committee.

Committee Chairs/Ranking Members

In the coming weeks, Senate leaders will meet to determine committee sizes and ratios. Committee ratios will be determined by the ratios of Democrats to Republicans in the incoming 113th Congress. The general election produced a 55/45 Democrat to Republican ratio which means Democrats will make up 55% of each committee and Republicans will fill the remaining 45%.

“Even with just a slightly increased majority, we’re likely to see Democratic Chairmen pursue more aggressive agendas in their respective areas. A number of the new elected liberal Democrats will populate these committees and have a profound effect on committee priorities.”

~ Chad Wolf
Vice President & Managing Director

Once those determinations are made, Senators will receive their assignments and Committee Chairmen and Ranking Members will be elected. Senate Democrats will use a Steering and Coordination Committee while Republicans will use a Committee on Committees to assign the majority of their members {with one exception: the Republican Leader nominates Senators for assignment to some standing committees.} Democrats generally use a number of factors including seniority and committee category to determine committee assignments. Republicans generally stick with seniority and committee category.

Below is a snapshot of key Senate Committees in the 112th and 113th Congresses. Because the Democrats will retain control of the Senate we expect most of the current Committee Chairmen and Ranking Members will also retain their seats atop their respective Committees. However, we are likely to see several new members of key committees. For example, Senate Armed Services Committee members, Senators Lieberman (CT), Webb (VA) and Akaka (HI), are all retiring. Senate Finance will bring on at least one new member if Senator Kerry is indeed nominated to replace outgoing Secretary Clinton at the State Department

Appropriations Committee

Committee Dynamic – Throughout most of its history, the Appropriations Committee has been bipartisan as Senators worked to find a fair and balanced way to fund the U.S. Government. In the past two years, the Committee has become more partisan as a result of fiscal issues facing our nation and the political environment in Congress. Should Senator Richard Shelby become the new Ranking Member, his long-established relationship with Chairman Inouye and history of cross-party outreach will smooth the transition. Another interesting dynamic will be member-directed funding. While Congressional earmarks will likely be banned in the 113th Congress, the Committee will look to find a new way to address this issue.

Armed Services Committee

Committee Dynamic – When Congress convenes in January, the Armed Services Committee will have new leadership on the Republican side. Although it is expected that Chairman Carl Levin (D-MI) will continue to serve as Chairman, Republicans will need to

112 th Congress (Jan. 2011 - Jan. 2013)	113 th Congress (Jan. 2013 - Jan. 2015) (Projected)
Cmte (D/R ratio)	
Chairman/Ranking Member	
Appropriations (16/14) Daniel Inouye (D-HI) / Thad Cochran (R-MS)	Daniel Inouye (D-HI) / Richard Shelby (R-AL)
Armed Services (14/12) Carl Levin (D-MI) / John McCain (R-AZ)	Carl Levin (D-MI) / Jim Inhofe (R-OK)
Banking, Housing, and Urban Affairs (12/10) Tim Johnson (D-SD) / Richard Shelby (R-AL)	Tim Johnson (D-SD) (or Tom Carper (D-DE) / Michael Crapo (R-ID)
Commerce, Science and Transportation (13/12) John D. Rockefeller (D-WV) / Kay Bailey Hutchison (retiring)	John Rockefeller (D-WV) / Jim DeMint (R-SC)
Finance (13/11) Max Baucus (D-MT) / Orrin Hatch (R-UT)	Max Baucus (D-MT) / Orrin Hatch (R-UT) or Chuck Grassley (R-IA)
Foreign Relations (10/9) John Kerry (D-MA) / Dick Lugar (R-IN)	John Kerry (D-MA) / Bob Corker (R-TN)
Homeland Security (9/8) Joe Lieberman (I-CT) (retiring) / Susan Collins (R-ME)	Tom Carper (D-DE) / Tom Coburn (R-OK)
Senate Intelligence (8/7) Diane Feinstein (D-CA) / Saxby Chambliss (R-GA)	Diane Feinstein (D-CA) / Saxby Chambliss (R-GA)

select a new Ranking Member for the Committee. Current Ranking Member John McCain (R-AZ) will not maintain his current role. Wexler & Walker expects that Senator James Inhofe (R-OK) will become the next Ranking Member of the Committee. In the past, Democrats and Republicans have had a difficult relationship at times, their relationship will need to be closer as the Committee and the Congress search for a long-term solution to sequestration. Additionally, Democratic membership on the Committee could significantly alter as a result of senator retirements.

Banking, Housing, and Urban Affairs Committee

Committee Dynamic – The Senate Banking Committee could look very different in the 113th Congress. While Chairman Johnson is expected to retain his chairmanship, we believe that Ranking Member Shelby will become the new Ranking Member on Appropriations. As a result, Republicans would need to select a new Ranking Member for the Committee. This change in addition to the continued focus on Dodd-Frank and financial regulatory reform, could significantly impact the manner in which the Committee moves forward over the next two years.

Commerce, Science, and Transportation Committee

Committee Dynamic – Current Chairman Rockefeller will continue to be the Democratic lead on the Senate Commerce Committee. Republicans will have to select a new Ranking Member for the Committee as current Ranking Member Hutchison decided not to seek reelection in 2012. Depending on the lead Republican, the Commerce Committee could become a very contentious policy environment.

Finance Committee

Committee Dynamic – Both Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) are expected to keep their positions in the 113th Congress. Ranking Member Hatch may face a challenge for Ranking Member; however, it is unclear at this point if that will happen. Over the next two years, the Finance Committee will be one of the most important committees in Congress. The Committee will search for consensus on such major issues as deficit reduction, individual tax reform, and corporate tax reform. Chairman Baucus and Ranking Member Hatch have a good relationship that will be needed if Congress is to make significant progress on these major issues.

Committee on Foreign Relations

Committee Dynamic – The Committee on Foreign Relations could be significantly altered in the next Congress. Chairman Kerry could become the next Secretary of State while current Ranking Member Lugar lost his seat in the Indiana Republican Primary. As a result, leadership would change and the direction of the Committee would also be altered. At this point, it is unclear what the Committee might look like in January, but Senator Bob Corker (R-TN) is expected to become Ranking Member.

Committee on Homeland Security and Governmental Affairs

Committee Dynamic – Democrats will select a new Chairman of the Homeland Security Committee in January as current Chairman Joe Lieberman (I-CT) decided not to seek reelection. We expect Senator Tom Carper (D-DE) to take Lieberman's place if he does not replace Senator Tim Johnson (D-SD) on the Senate Banking Committee. We expect Republican leadership on the Committee to remain the same for the next two years; however, Ranking Member Susan Collins (R-ME) could face a potential challenge for the Ranking Member position. At this point, it remains unclear if this will happen.

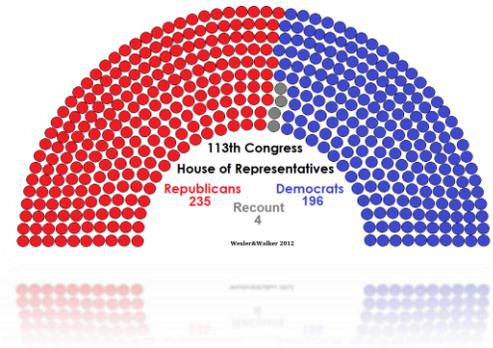
Select Committee on Intelligence

Committee Dynamic – Wexler & Walker expects the makeup the Senate Select Committee on Intelligence to remain the same in the next Congress. Chairman Dianne Feinstein (D-CA) and Ranking Member Saxby Chambliss (R-GA) will likely remain in their leadership roles. Traditionally, the Committee has worked in a bipartisan fashion when addressing issues such as national security. Bipartisanship and consensus will be key as the Committee moves forward over the next two years.

Additional Senate Committees	
112 th Congress (Jan. 2011 - Jan. 2013) Cmte (D/R ratio)	113 th Congress (Jan. 2013 - Jan. 2015) (Projected)
Chairman/Ranking Member	
Agriculture, Nutrition and Forestry (11/10) Debbie Stabenow (D-MI) / Pat Rogers (R-KS)	Debbie Stabenow (D-MI)/ Pat Roberts(R-KS) or Thad Cochran (R-MS)
Budget (12/11) Kent Conrad (D-ND) / Jeff Sessions (R-AL)	Patty Murray (D-WA)/ Jeff Sessions (R-AL)
Energy and Natural Resources (12/10) Jeff Bingaman (D-NM) / Lisa Murkowski (R-AK)	Ron Wyden (D-OR)/ Lisa Murkowski (R-AK)
Environment and Public Works (10/8) Barbara Boxer (D-CA) / James Inhofe (R-OK)	Barbara Boxer (D-CA)/ David Vitter(R-LA)
Health, Education, Labor and Pensions (12/10) Tom Harkin (D-IA) / Michael Enzi (R-WI)	Tom Harkin (D-IA)/ Lamar Alexander (R-TN)
Judiciary (10/8) Patrick Leahy (D-VT) / Chuck Grassley (R-IA)	Patrick Leahy (D-VT)/ Chuck Grassley (R-IA)
Rules and Administration (10/8) Chuck Schumer (D-NY) / Lamar Alexander (R-TN)	Chuck Schumer (D-NY)/ Pat Roberts (R-KS) or Thad Cochran (R-MS)
Small Business and Entrepreneurship (10/9) Mary Landrieu (D-LA) / Olympia Snowe (R-ME (retiring))	Mary Landrieu (D-LA)/ Jim Risch (R-ID) or Mike Enzi (R- WY)
Veterans' Affairs (8/7) Patty Murray (D-WA) / Richard Burr (R-NC)	Sherrod Brown (D-OH)/ Johnny Isakson (R-GA)
Indian Affairs (8/6) Daniel Akaka (D-HI) (retiring) / John Barrasso (R-WY)	Maria Cantwell (D-WA)/ John Barrasso (R-WY) or John McCain (R-AZ)
Select Ethics (3/3) Barbara Boxer (D-CA) / Johnny Isakson (R-GA)	Barbara Boxer (D-CA)/ Johnny Isakson (R-GA)
Special Aging (11/10) Herb Kohl (D-WI) / Bob Corker (R-TN)	Ben Nelson (D-FL)/ Susan Collins (R-ME)

House of Representatives Preview

When the next session of Congress convenes in early January 2013, the Republican Party will maintain its control of the House of Representatives. While Democrats were able to pick-up at least 7 seats, Republicans did damage to Democratic incumbents and thus the Republicans ultimately prevailed in key races that determined who would control the House in the next Congress. While 4 races remain “too close to call”, the next House of Representatives will be composed of approximately 38 more Republicans than Democrats out of the total of 435 seats in the body, meaning that Republicans will continue to preside over the overall legislative business and each of the various committees.



Even though Democrats were able to pick off some races, the House was never really in play for Democrats this cycle and other than a few new faces and missing old faces, the House make-up will largely remain status quo in the next Congress. That said, and as outlined in this report, the House may experience changes in its Committees and Leadership.

Although the Republican majority will remain about the same as the last session of Congress, we believe the House will continue its more conservative trend of the last two years given that the Senate and Presidency remain in Democratic hands. We also expect the Republican House to continue using its majority to pass significant legislation. The degree of cooperation from House Democrats and the White House will be one of the central dramas of the opening months of the new Congress.

Discussion

With only about twenty-five toss-up races in the House this cycle, the Republicans path to victory was simply to hold its majority. Democrats could not overcome the Republican majority despite picking up approximately 8 seats. House Speaker John Boehner (R-OH) noted on Election Night that Republicans retaining the House was a mandate from the American people that higher taxes are not an option and that President Obama and Senate Democrats should work with Republicans in the House to find agreement on several issues facing the nation.

“House Republicans have every reason to believe their strategy of offering solutions to the problems facing the country has been successful. Despite having raised tough issues such as Medicare reform and significant spending restraints, they maintained their majority. What they will look for is Presidential leadership which addresses entitlement reform, tax policy reform, reduced spending and national security strength.”

*~ Robert Walker
Executive Chairman*

Some of the key wins for Republicans on Election Day include Rep. Michele Bachmann in Minnesota. Bachmann, a former presidential contender and often out-spoken member, faced a tough bid from Democrats, but was able to win reelection. Republicans were also able to beat such Democratic Incumbents as Larry Kissell in North Carolina and Ben Chandler in Kentucky. Additionally, Republican incumbent Tom Latham defeated Democratic incumbent Leonard Boswell in a tough election in Iowa. As a result of redistricting, the two long-time incumbents faced off in a highly-watched race.

On the Democratic side, Democrats were able to beat a few Tea Party favorite Republicans including Joe Walsh in Illinois and Allen West in Florida. It should be noted that West is slightly behind at the current time, but he has requested a recount. Democrats also won tough reelection seats in Georgia, where Rep. John Barrow won reelection, and Utah, where Rep. Jim Matheson won a tough challenge against Republicans. In California, Democrats were able to defeat Republican incumbent Rep. Mary Bono Mack. Also, another interesting race in California featured two democratic incumbents. Because of redistricting and new election laws, Rep. Howard Berman (D-CA) faced off against Rep. Brad Sherman (D-CA) in a highly contested, and somewhat physical, election contest. Sherman ultimately prevailed in his quest to return to Congress.

Leadership

Both political parties could have new House Leaders in the 113th Congress. On the Republican side, it is expected that current leadership will likely remain the same. House Speaker John Boehner (R-OH), Majority Leader Eric Cantor (R-VA), and Majority Whip Kevin McCarthy (R-CA) are each expected to keep their leadership responsibilities in the next Congress. The key race to watch is for the Republican Conference Chair where Cathy McMorris Rodgers (R-WA) is running against Tom Price (GA). The Conference Vice-Chair and Conference Secretary positions are also open.

"If the House of Representatives is to be effective with bipartisan, legislative solutions, it will be the Blue Dog Democrats and centrist Republicans that will make this happen."

*~ Robert "Bud" Cramer, Jr.
Chairman*

On the Democratic side, there could be changes in leadership given the current speculation about whether Nancy Pelosi (D-CA) will continue to serve as Minority Leader. While it is reported that Pelosi has a succession plan in place, it is unclear who would ultimately replace her if she steps down. Current Democratic leaders including Steny Hoyer (D-MD) and James Clyburn (D-SC) could be in this mix. Whatever happens with respect to Minority Leader will determine other Democratic leadership roles.

Depending on circumstances, Hoyer, who currently serves as Minority Whip, and Clyburn, who serves as Assistant Democratic Leader, could maintain their positions or have different roles in the next Congress. Should their posts become open, rising Democrats that could replace them include: Rep. Xavier Becerra (D-CA), Rep. Debbie Wasserman Schultz (D-FL), Rep. Chris Van Hollen (D-MD) and Rep. John Larson (D-CT).

House Coalitions

Similar to the Senate, the House of Representatives contains several groups of Members aligned around specific ideology or policy objectives. With Tuesday's election, several of these groups will experience changes in their membership and influence Moderates, including moderate Republicans and Blue Dog Democrats, will see their numbers diminished in the lower Chamber as most either did not seek reelection or were defeated in November. Additionally, the Tea Party will continue to be a major factor over the next two years.

Though reduced in numbers over the last four years, Wexler & Walker believes that the Blue Dog Coalition, a coalition of fiscally-conservative Democrats, will continue to play a major role in the next Congress. Although four Blue Dogs faced defeat on Election Day and five announced their intent to retire, the group's influence may grow

over the next couple of years due to an expected growth in membership. Speaker Boehner may need to work with this group of Democrats to offset dissenting votes in his party. Blue Dogs are not shy about breaking with Democratic Leadership and bucking party lines. We expect Blue Dogs, the New Democrats and other moderates, to have a major effect on what specific policies are included in pending legislation.

Notable Election Day Results include:

Currently Too Close to Call

(i) Denoted Incumbent

District	Democrat	%	Republican	%
CA-7	Bera	50.1%	Lungren (i)	49.9%
CA-36	Ruiz	51.4%	Mack (i)	48.6%
CA-52	Peters	50.2%	Billbray (i)	49.8%
NC-7	Mcintyre (i)	50.1%	Rouzer	49.9%

Notable Defeats

CA-30	Berman (i)	39.5%	Sherman (i)	60.5%
FL-18	Murphy	50.4%	West (i)	49.6%
IL-8	Duckworth	54.7%	Walsh (i)	45.3%
NV-4	Horsford	50.1%	Tarkanian	42.1%
NH-2	Kuster	50.2%	Bass (i)	45.4%
NY-24	Maffei	48.4%	Buerkle (i)	43.7%
NC-8	Kissell (i)	45.9%	Hudson	54.1%
MD-6	Delaney	59.1%	Bartlett (i)	37.7%
MN-8	Nolan	54.4%	Cravaack (i)	45.4%
OH-13	Sutton (i)	47.8%	Renacci	52.2%
UT-4	Matheson (i)	49.3%	Love	48.1%

Regarding conservatives, the Republican Study Committee (RSC) represents about 2/3 of the Republican caucus, and after Tuesday's election, the group remains as strong as ever. Despite some changes to its membership the RSC will continue to challenge Speaker John Boehner's ability to compromise with President Obama and Senate Democrats and will continue to push the House in a more conservative direction in the 113th Congress.

Committee Chairs & Rankings Members

While Republicans will continue to control the House of Representatives in the next Congress, there will be new leadership for both parties on a few committees as a result of Election Day defeats and Member retirements. The bulk of these decisions will be made by Republican and Democratic Leadership beginning later this month; however, here is a breakdown of potential committee leadership in the next Congress.

Appropriations Committee
Committee Dynamic - Traditionally, the Appropriations Committee has been a bipartisan Committee; however, over the last two cycles, that dynamic has shifted with the increased focus on reduced spending, the banning of Congressional earmarks and protection of political priorities. The next session could continue this partisan trend, depending on who Democrats ultimately select as their Ranking Member.

112 th Congress (Jan. 2011 - Jan. 2013) Committee Ratio (Ds 53%/Rs 47%)	113 th Congress (Jan. 2013 - Jan. 2015) Committee Ratio (Ds xx%/Rs xx%)
Chairman / Ranking Member	Projected Chairman / Ranking Member
Appropriations (29/21) Hal Rogers (R-KY) / Norm Dicks (D-WA) (retiring)	Chairman: Hal Rogers (R-KY) RM: Nita Lowey (D-NY) or Marcy Kaptur (D-OH)
Armed Services (35/27) Buck McKeon (R-CA) / Rep. Adam Smith (D-WA)	Buck McKeon (R-CA) / Adam Smith (D-WA)
Energy and Commerce (31/23) Fred Upton (R-MI) / Henry Waxman (D-CA)	Fred Upton (R-MI) / Henry Waxman (D-CA)
Financial Services (34/27) Spencer Bachus (R-AL) / Barney Frank (D-MA), (retiring)	Chairman: Jeb Hensarling (R-TX) or Ed Royce (R-CA) RM: Maxine Waters (D-CA) or Carolyn Maloney (D-NY)
Foreign Affairs (26/20) Ileana Ross Lehtinen (R-FL) / Howard Berman (D-CA)	Ileana Ross Lehtinen (R-FL) / RM TBD
Homeland Security (19/14) Pete King (R-NY) / Bennie Thompson (D-MS)	Pete King (R-NY) / Bennie Thompson (D-MS)
Permanent Select Intelligence (12/8) Mike Rogers (R-MI) / Dutch Ruppersberger (D-MD)	Mike Rogers (R-MI) / Dutch Ruppersberger (D-MD)
Oversight & Government Reform (23/17) Darrell Issa (R-CA) / Elijah Cummings (D-MD)	Darrell Issa (R-CA) / Elijah Cummings (D-MD)
Ways and Means (22/15) Dave Camp (R-MI) / Sandy Levin (D-MI)	Dave Camp (R-MI) / Sandy Levin (D-MI)

Armed Services Committee

Committee Dynamic - Over the past two years, the Armed Services Committee has had good bipartisan cooperation, especially compared to other committees in the Chamber. Chairman McKeon and Ranking Member Smith enjoy a close working relationship which helped the Committee pass the FY 2013 NDAA in overwhelming bipartisan fashion. The measure was adopted by the Committee on a 56-5 vote. We expect this relationship to continue to be strong over the next two years. Their relationship will be important as Congress works to find a long-term solution to sequestration.

"While the dynamics of the House of Representatives will not change significantly in the next Congress, the tone and mood of the Chamber will need to improve if Congress is to be successful addressing major issues facing our nation. Members will need to come together to bridge the gaps of ideology and build consensus."

*~Adam Christopher
Public Policy Associate*

Energy and Commerce Committee

Committee Dynamic - The Energy and Commerce Committee has been one of the most productive Committees in the House. Several pieces of contentious legislation have been passed through the Committee, such as health care reform and climate change in 2009. After Republicans took control in 2010, the party used the Energy and Commerce Committee to dismantle many of the provisions in health care reform and to exercise aggressive oversight of many Federal departments and agencies, including the EPA and FCC, which promote Administration policies. Given that most of the Committee leadership and Committee is set to return in 2013, we believe that the Committee will continue to have a very aggressive agenda with perhaps more of an emphasis on overhauling telecommunications laws and developing comprehensive energy legislation.

Financial Services Committee

Committee Dynamic - The Financial Services Committee has become one of the most contentious Committees on Capitol Hill since the financial crisis began in 2008. As a result of the crisis and the Democratic-controlled Congress in 2009, Congress passed comprehensive financial reform legislation. This legislation, which is known as Dodd-Frank, was extremely controversial in the Committee and Democrats and Republicans remained far apart on policy priorities. Since Republicans captured the majority in 2010, the Committee has worked to dull the effects of Dodd-Frank and replace many of its policies. Rep. Jeb Hensarling (R-TX), the leading Republican candidate for Chairman, is one of the more conservative Members of Congress. Conversely, Rep. Maxine Waters (D-CA), the leading Democratic candidate for Ranking Member, is one of the more liberal Members of Congress. Chairman Hensarling can be expected to pursue an aggressive legislative and oversight agenda, but given the gap in ideology between the two leaders, it will be interesting to see whether the Committee will be able to find common ground on any of the issues in its jurisdiction.

Committee on Foreign Affairs

Committee Dynamic - The Foreign Affairs Committee will likely to be another venue for partisanship. Chairman Ros-Lehtinen has been a strong Republican advocate over the last two years, and this trend is likely to continue. Her relationship with Ranking Member Howard Berman was often strained, but with Berman's defeat, there will be an opportunity for a fresh start with the new Democratic Ranking Member on the Committee.

Homeland Security Committee

Committee Dynamic - There will likely be a new Chairman of the Homeland Security Committee, as Peter King (R-NY) is term limited. A small possibility remains that Republican leaders in the House will grant Rep. King a waiver to continue his Chairmanship, but we believe there will be new leadership next Congress. His eventual successor will likely come from the Committee. In recent years Chairman King has pursued several controversial issues, such as the radicalization within the Muslim-American community and the housing of terrorists held at Guantanamo Bay, that has caused divisions with his colleagues on the Democratic side. It's unclear if new Republican leadership will continue oversight into these issues or seek out more common ground on looming security issues, such as cybsersecurity.

Committee on Oversight

Committee Dynamic - Traditionally, the Oversight Committee is one of the most partisan and political committees on Capitol Hill - perhaps a close second to the House Rules Committee. Because leadership will go unchanged in the next Congress and President Obama was able to win reelection, we expect Chairman Issa to continue investigations into the Obama Administration. Don't expect a renewed relationship between Chairman Issa and Ranking Member Cummings as the two remain extremely far apart on almost every issue.

Ways and Means Committee

Committee Dynamic – Over the past four years, the Ways and Means Committee has been one of the most productive Committees in the House, leading the way on economic policy for House Republicans. Republicans and Democrats on the Committee have very different views on how to address such issues as taxes, revenue, and U.S. debt. Most members of the Committee are either staunch Republicans or Democrats, and compromise has been difficult to come by. It is expected that this trend will continue as leadership and membership of the Committee is unlikely to be significantly altered. The Committee is expected to be even busier in the next Congress as it tackles individual and corporate tax reform, debt ceiling legislation and efforts to restrain entitlement spending.

House Permanent Select Committee on Intelligence

Committee Dynamic – During the last session of Congress, the House Permanent Select Committee on Intelligence was one of the most bipartisan committees in the Congress. Chairman Mike Rogers (R-MI) and Ranking Member Dutch Ruppersberger (D-MD), and their perspective staff, enjoy a close working relationship that has enabled the Committee to reach consensus on a number of issues including a bipartisan intelligence authorization bill. Both Chairman Rogers and Ranking Member Ruppersberger won reelection on Tuesday. As a result, we expect both will likely retain their leadership roles on the Committee.

Lame Duck Session Preview

Several recent economic staples – like the payroll tax holiday and the Bush tax cuts – are set to expire on December 31. In addition, sequestration looms, which if implemented would result in automatic, across the board spending cuts in all federal discretionary spending. Inaction would have a near catastrophic impact on the nation’s economic foundation and future generations.

“Before Republicans agree to significant action during the Lame Duck session, they will want the President to put forward a real budget proposal that he is prepared to have the Senate act upon and for which he will take responsibility. Such a proposal would then have the credibility of a starting point for real negotiations.”

*~ Robert Walker
Executive Chairman*

We expect that a term-limited President, low Congressional approval ratings, and domestic factors including the slow economic recovery and the high level of unemployment will force a longer-term grand bargain. That said, it is unclear how such an agreement will be reached as both Congress and the Administration have failed to reach an agreement in the past. President Obama and the new members of his Administration will likely spend the bulk of 2013 working on these issues that affect all Americans and the American economy.

While longer term discussions will take place over the next four years, the incoming Lame Duck session of Congress must deal with the most pressing fiscal policies and economic measures to avoid the all-to-real ‘fiscal cliff’. In the short term, we expect Congress and the White House to implement several stop gap measures and short-term fixes to avoid severe financial and economic consequences.

Provided below are the key issues facing the Lame Duck Congress:

- Sequestration
- Payroll Tax Holiday
- Bush tax Cuts
- Tax Extenders
- Alternative Minimum Tax
- The “Doc Fix”
- The Debt Ceiling

Because the two chambers of Congress will continue to be split between Democrats and Republicans, compromise and bipartisanship will be key to addressing such issues as meaningful tax reform, entitlement reform, and debt & deficit reduction. Yet, the pursuit of bipartisan fiscal policy will be difficult as the President must continue to work with a divided Congress. In a recent interview, Speaker Boehner said that the lame-duck Congress, “probably shouldn’t do big things...the best you can hope for is a bridge.”

Components of The “Fiscal Cliff”	Expiration Date	Some Short-term Action Required	Additional Action Likely in 113 th Congress
Alternative Minimum Tax	Dec. 31, 2011	✓	✓
Bush Tax Cuts Analysis	Dec. 31, 2012	✓	✓
The “Doc Fix”	Dec. 31, 2012	✓	✓
Payroll Taxes/Social Security Tax	Dec. 31, 2012	✓	
Tax Extenders	Dec. 31, 2012	✓	
Debt Ceiling	Jan. 1, 2013?		✓
Sequestration	Jan. 2, 2013	✓	✓

Sequestration

In August 2011, President Barack Obama signed the Budget Control Act of 2011 into law. Among other things, the legislation authorized raising the Federal Debt Ceiling by up to \$2.4 trillion, reduced Federal spending by \$900 billion, and created additional pathways to reducing Federal deficits by \$1.2 trillion over the next decade. Specifically, the Budget Control Act established two options for achieving \$1.2 trillion in deficit reduction over the next ten years.

"Sequestration will be disastrous for our armed forces and for the defense industrial base in this country, not to mention the domestic programs it will hit. Sequestration was never intended as a real cut – only a trigger to force action on a deal. Given the failure to find that deal, now is the time for Congress to come together and find a smart solution so that these blunt cuts do not take effect."

*~ Bud Cramer
Chairman*

The first option for deficit reduction, established by the legislation, was Congressional action. The Budget Control Act created a Joint Select Committee on Deficit Reduction, which was evenly composed of Democrats and Republicans from the House and Senate. The purpose of the Joint Select Committee, also known as the "Super Committee," was to develop and advance a plan that would achieve \$1.2 trillion in deficit reduction from FY2012 to FY 2021. If the Super Committee failed to produce an agreement, then automatic spending reductions, in accordance with the Budget Control Act, would ensure deficit reduction over the next decade. These automatic spending reductions, also known as sequestration, are the second deficit reduction option established by the Budget Control Act.

As we now know, the Joint Select Committee on Deficit Reduction ultimately failed to reach an agreement. As a result, sequestration, which was included in the Budget Control Act to put pressure on the Super Committee, is scheduled to begin on January 2, 2013. Unless new legislation is passed, the total deficit must be reduced by \$1.2 trillion over the next 10 years. These cuts are evenly split between defense spending and discretionary spending; however, Federal spending on wars and entitlement programs, such as Medicare and Social Security, are exempt from this process. Assuming that no new legislation is enacted, defense and discretionary spending will each be reduced by \$54.7 billion per year for each of fiscal years 2013-2021. According to the White House, the sequester for FY 2013 will result in cuts of \$109 billion.

Since the failure of the Super Committee, lawmakers on Capitol Hill have been working to develop a measure that would counter sequestration in both the short-term and long-term. Although no solution or agreement has been signed into law, both Democrats and Republicans have introduced legislative language to offset automatic reductions for FY 2013. In 2012, the Republican-controlled House of Representatives passed the Sequester Replacement Reconciliation Act. The legislation would cancel most of the overall reductions by lowering the FY 2013 cap on discretionary spending from \$1.047 trillion to \$1.028 trillion. Additionally, it would cut spending for mandatory non-defense programs such as the Supplemental Nutrition Assistance Program, provisions in the Affordable Care Act, and changes to Medicaid and the Children's Health Insurance Program. The legislation was agreed to - largely on party lines - by a vote of 218 to 199.

While considering this legislation, House Democrats offered an alternative to the Sequester Replacement Act. The alternative, known as the Van Hollen amendment, would have replaced the entire FY 2013 sequester through revenue increases and spending reductions. The amendment was ruled out of order by the House of Representatives and was not considered. As a result, Democrats and Republicans remain far apart on how to deal with automatic reductions and have yet to reach an agreement on moving forward. A bipartisan group of Senators, known as the "Gang of Eight," is continuing to meet to reach an agreement between the two parties.

Despite President Obama winning reelection and Democrats maintaining control of the Senate, Wexler & Walker is not optimistic that Congress will adopt a comprehensive measure to address sequestration during the "Lame Duck session." Although the Democratic Party appears to have more leverage entering the Lame Duck, it is possible that a long-term solution will be not reached before the next session of Congress convenes in January.

Senator Mark Warner (D-VA), one of the leaders of the Gang of Eight continues to work with his Republican counterpart Senator Saxby Chambliss (R-GA) on finding a long-term solution to sequestration; however, no details have been presented at this time.

Warner recently said, "I do believe that we will avoid sequestration...This is a challenge ...that is going to require both sides. It's going to require extra revenues, it's going to require entitlement cuts." Chambliss added, "I wish we could walk in here and tell you that we have a silver bullet, but it is going to be a very tough political slugfest in that period of time."

It is important to note that when Congress returns in November, they will have limited time to address the FY 2013 sequester. Wexler & Walker does believe that Congress will advance a short-term measure that offers a temporary solution and a framework for addressing this issue in the future, but even the slightest slip of political posturing could be detrimental to negotiations and could result in the sequester process beginning on January 2, 2013.

Payroll Tax Holiday/Social Security Tax

Implemented in 2011 and extended in 2012, the Social Security Tax or Payroll Tax is a temporary 2%-point reduction in the tax that employees pay into the Social Security Trust Fund. The employer's portion remained unchanged at 6.2%. The tax, deducted each pay period, is usually 6.2% of an employee's wages up to an annual wage maximum for Social Security. In 2012 the wage maximum is \$110,100. Wage earners also pay an additional 1.45% in taxes to fund Medicare. The bipartisan measure also extended jobless benefits [for between 63 weeks and 73 weeks] and averted a big cut in the reimbursements doctors get for treating Medicare patients.

"Two years ago, enough Democrats and Republicans agreed that passing the payroll tax holiday's short-term rate cut to 4.2% was a sound way to boost spending. Recently, Democrats and Republicans alike have expressed concerns about the tax holiday risking harm to Social Security. Extending the tax holiday will remain a bargaining chip in fiscal cliff negotiations through the Lame Duck, and is a rare opportunity for bipartisanship, but protecting Social Security will win out in the end."

*~Malcolm C. Grace, Esq.
Vice President & General Counsel*

The payroll tax cut, implemented to aid the economic recovery is set to expire December 31, 2012. The White House and economic experts noted at the time of its passage that for a wage earner making approximately \$50K annually the 2% point reduction would equal approximately \$2,200 in additional take-home pay annually. If the payroll tax cuts are allowed to expire, economists expect 160 million Americans will see their taxes "raised" on January 1, creating an estimated \$125 billion hit to the economy next year alone. That \$125 billion would then be redirected to the Social Security Trust Fund. However, very little attention was paid to the cut or its expiration date by President Obama, Governor Romney or any influential members of Congress during the general election. Instead, most discussions and campaign rhetoric centered around the "Bush tax cuts".

Publically, the Obama Administration and Democratic leaders in the House have taken a "wait-and-see" approach to the cuts. One factor driving this approach was the outcome of the presidential election and the margins of control in the House and Senate.

While lobbies representing seniors like the AARP support letting the tax holiday expire during the Lame Duck session, House Democrats may hold out for an additional one-year extension in the payroll tax holiday if Republicans are still unwilling to allow the Bush tax cuts to expire for anyone – including those earning over \$250K annually. But the reality is that without offsets or some compromise, Democrats and Republicans agree privately that payroll tax cuts are not likely to survive another extension in the Lame Duck session of the 112th Congress.

Bush Tax Cuts

In 2001 and 2003, the Congress, with the aid of the George W. Bush Administration, passed a series of changes to the individual income tax system. Among other things, the changes reduced tax rates for individuals in all income tax brackets. Additionally, these cuts reduced long-term capital gains rates and the tax rate on dividends, repealed limitation on personal exemptions and itemized deductions, expanded refundable credits, and reduced estate tax liabilities. The tax cuts, which are known as the Bush tax cuts, were first enacted in 2001 and extended in 2003. The tax cuts were later extended on a temporary basis by President Obama in 2010. As it stands, the Bush tax cuts are set to expire at the end of this year. Millions of Americans will face higher rates unless Congress intervenes.

"We expect when the dust settles that the Bush tax cuts will be extended at some level for at least three months and maybe even six. Ideally Congressional Republicans would like them extended for a year but unless the White House and Senate Democrats agree, that is a bridge too far."

~ Jack Howard

Wexler & Walker expects Congress to pass another short-term extension of the Bush tax cuts in some form during the Lame Duck session, but the issue will be at what income-level. While both political parties wish to reform the tax code in the long run, both remain very far apart on this issue. Several Democrats, including the Democratic-controlled Senate, are pushing for the Bush tax cuts to expire on individuals making above \$200,000. Many Republicans wish to see all of the Bush tax cuts extended.

The reelection of President Obama will provide leverage to the Democratic Party as Congress moves forward in the next session. However, Democrats will have to ultimately reach an agreement with Republicans in the Senate and the Republican-controlled House of Representatives. The two parties remain far apart at the current moment, but several Members of Congress are hoping to reach an agreement. Specifically, Senator Dick Durbin (D-IL) has floated an idea that would temporarily extend the Bush tax cuts, in addition to other factors causing the "fiscal cliff, for a six-month period. While it is unclear what level Durbin is seeking, he believes that the temporary extension will allow Congress to reach consensus on how to address these issues in the long-term. Ideally, this short-term extension, which Durbin would prefer to be paid for, would give Congress more time to address the issue.

Senator Durbin said, "I want to show good faith that the six months we are using to come up with a long-term plan will be paid for so those on the outside won't say, 'Oh sure, they are going to put it off for six months, and they're going to now do it again. If our goal is to reduce the deficit an additional \$4 trillion, then we need to pay for the six months."

While it is unclear if the White House or Senate will pursue Durbin's approach, we expect Congress to pass a short-term extension of current policy and to provide a framework for Congress to address tax reform in 2013.

Tax Extenders

Over the past several years, Congress has routinely considered legislation – close to the end of the year – that would extend temporary tax provisions on a short-term basis. These provisions, also known as "tax extenders," are mostly extended on a one to two year basis. These extenders affect a broad array of individual and corporate tax rates, credits and deductions for a variety of specific interests.

Among other provisions, some of the most notable provisions include: the deduction for state and local sales taxes, the refundability of the credit for prior minimum tax liability, bonus depreciation provisions for businesses, the business research and experimentation credit, incentives for ethanol, incentives for biodiesel and renewable diesel, section 1603 grants, the production tax credit for wind

"Despite attempts to contrary, these tax extenders will never go away immediately. Consequently, I think we will see phase outs, but business interests will need to pay attention to the transition rules, as they will be the conditioner that makes all the difference. The key is knowing what to look for and what it really means."

*~ Robert Healy
Senior Vice President*

energy, and qualified zone academy bonds. Some of these provisions expired in 2011 while others are set to expire at the end of 2012.

In the past, Congress has packaged these provisions into a single piece of legislation that was typically signed into law. Because of the increased focus on reducing Federal spending and the desire to reform the tax code overall, Congress will face a tough challenge in extending many of these provisions.

When Congress reconvenes in November, they will have to address these provisions and various other items. Currently, several tax provisions - including the Bush tax cuts, the AMT Patch, and the Payroll Tax Extension, are set to expire on December 31st. While many Members of Congress hope to address these issues before the end of the year, it is unclear what approach they will take. We expect no action to be taken, and consideration of these provisions in the broader context of corporate and individual tax reform.

Before Congress adjourned in September, Senate Finance Chairman Max Baucus (D-MT) introduced a measure, known as the Family and Business Tax Cut Certainty Act of 2012, which extended several tax provisions. Among other things, the legislation includes tax provisions relating to small businesses, families, research and development, and renewable energy and mass transit. Specifically, it includes a controversial provision that would extend the wind energy production tax credit. The overall measure, which would cost approximately \$205 billion, was agreed to by the Senate Finance Committee on a bipartisan basis; however, it has not been considered by the full Senate.

Retiring Senator Olympia Snowe, a Finance Committee member and supporter of the Senate bill, said, "It's important to send messages about certainty and predictability in the tax code. There are many entities that depend on those tax extenders."

The House Ways and Means Committee is continuing to develop legislation, and it hopes to introduce a measure during the *Lame Duck*. Wexler & Walker believes that Congress will likely pass a short-term extension of these tax provisions. Although it is not clear what will be included, we expect it to be a smaller package that reduces the overall cost and political controversy.

Alternative Minimum Tax (AMT)

The AMT, a parallel tax imposed on individuals, C corporations², estates, and trusts with incomes above a certain threshold, was put in place in 1969 to ensure wealthier Americans and those with higher incomes could not simply use deductions, tax shelters and other loopholes to reduce their tax liability to zero. However, the AMT was never indexed for inflation – unlike regular tax thresholds. As a result, more and more middle income/middle class workers and families become subject to the system every year.

"The need for the 2012 Income tax filing season to get underway in January may make the AMT Patch the "engine that could" in the Lame Duck, perhaps pulling the focused tax extender package along with it, while everything else moves into 2013 and the new Congress with a "process" leading to an agreement next year."

*~ Dale Snape
CEO & General & Manager*

Affected taxpayers must pay the higher of the regular income tax or AMT. No deductions are allowed for state taxes or miscellaneous itemized deductions when calculating AMT income. Also, taxpayers with incomes above the exemption whose regular Federal income tax is below the amount of AMT must pay the higher AMT amount.

Congress has made frequent legislative adjustments or "patches" – usually one-year fixes – to minimize the impact of the tax. These "patching" raise the income level automatically exempt from the AMT, usually for one year or two.

² A small corporation is one with average gross receipts for the prior three years of \$7.5 million or less. Once they are subject to the AMT they are no longer considered a small corporation for future tax purposes.

For 2011, the AMT exemption for an individual is \$48,450. The alternative minimum tax exemption amounts for 2012 are scheduled to revert to the following levels:

- \$33,750 for single and head of household filers,
- \$45,000 for married people filing jointly and for qualifying widows or widowers, and
- \$22,500 for married people filing separately. Source: Code Section 55(d)(1). Lower exemption levels mean that more taxpayers will be subject to the alternative minimum tax calculations.

Senate Finance Committee passed the Family and Business Tax Cut Certainty Act of 2012 in August 2012 which includes “mortgage forgiveness relief and other housing-related tax extensions along with alternative minimum tax relief, research-and-development tax credits and dozens of other targeted tax benefits.”³ The Finance Senate bill (Sen. 3412) would increase the AMT exemption amount to \$50,600 for single individuals for 2012 and to \$78,750 for married couples filing a joint return for 2012. The House bill (HR 8) would increase the AMT exemptions for 2012 by the same amounts.

The proposed AMT patch for 2012 would aim to prevent approximately 34 million taxpayers entering into a higher Alternative Minimum Tax bracket.⁴ However, the Senate bill was never passed and thus, the AMT patch for 2012 was not enacted before the most recent Congressional recess. Further, while most fixes can be made retroactive if action is delayed until the opening of the 113th Congress, the AMT has never been handled in that manner. Consequently, the Lame Duck session must address the AMT patch before individuals and corporations can begin filing 2012 tax returns at the first of the year which likely means that it will be drawn into the larger partisan fight during the Lame Duck session.

The “Doc Fix”

The Medicare Sustainable Growth Rate (SGR) is the legislatively established formula used by the Centers for Medicare and Medicaid Services (CMS) to establish budget control on annual updates in Medicare payments for physician services. The SGR is designed to ensure that the yearly increase in the expense per Medicare beneficiary does not exceed the growth in GDP.^[3] The SGR sets an expenditure target pegged to general economic growth and controls both volume and inflation for physician service payments. For example, if the expenditures for the previous year exceeded the target expenditures the SGR conversion factor decreases physician payments for the next year. If the expenditures were less than expected, the SGR conversion factor would increase the payments for the next year. Over the last decade the SGR, if implemented, would have reduced physician fees each year.

“The cumulative cost of a decade+ of annual ‘SGR’ fixes exceeds the cumulative cost of a permanent, thoughtful fix of this flawed formula. A decade long solution to the SGR is essential for the quality, value and fiscal health of the nation’s Medicare program.”

*~ Jody Hoffman
Senior VP & Managing Director*

Congress can and usually does adjust or suspend the implementation of the updated physician fee schedule. The most recent one-year delay was included in the Middle Class Tax Relief and Job Creation Act of 2012 signed by President Obama on February 22, 2012. The 2012 “Doc Fix” is scheduled to expire causing full implementation of the SGR conversion factor on January 1, 2013. The full implementation would yield an estimated 27.4% cut in physician reimbursements.

And, while Democratic and Republican leaders have said they do not want Medicare physicians' payments to be cut or services to be reduced, disagreements remain as to how to offset the costs of a short term or more permanent fix.

The Lame Duck Congress will have several proposals to fix the reimbursement rates – although none of the proposals in recent years have garnered enough bipartisan support to pass. For example, in October 2011, MedPac

³ <http://articles.latimes.com/2012/oct/07/business/la-fi-harney-20121007>

⁴ <http://www.reuters.com/article/2012/10/11/us-usa-congress-fiscalcliff-idUSBRE89A1I720121011>

recommended eliminating the conversion formula without increasing the deficit by cutting fees for specialists and imposing a 10-year freeze on rates for primary care physicians. That proposal was strongly opposed by health industry groups, as well as the American Medical Association (AMA). The AMA has recommended a five-year transition fee scale that allows time to test new payment approaches, including several being tested as part of the 2010 health care law. Additional options to a permanent fix include:

- Using money saved from Iraq and Afghanistan wars to finance a permanent fix. (There is traction from Democrats to pursue this option however Republicans are opposed to this alternative.)
- Reducing Medicare payment rates to hospitals, nursing homes and other providers.
- Cutting approximately \$8 billion from the Prevention Fund and increase Medicare premiums for higher income seniors, netting another \$31 billion

Rep. Allyson Schwartz (D-PA) submitted her own proposal on Nov. 16, 2011 which included freezing all doctors' pay in 2012, followed by a slight increase from 2013 through 2016 and directing HHS to come up with four new payment models that doctors could begin to choose from starting in 2018. Doctors who do not move onto one of the new payment models, and stay on traditional fee-for-service Medicare, would see their payments gradually reduced. Rep. Schwartz's legislation, which would certainly cost money, did not include any cuts or revenues to pay-for the transition to a new payment formula.

If nothing is done in the Lame Duck session, Medicare physician will drop by 27% on January 1, 2013. The cost to fix the SGR on a permanent basis, holding physician payments at 2012 levels, total over \$300 billion and Congress can't agree on where to find that kind of cash. As a result, Congress annually prefers blocking SGR on a short-term basis. However, given the growing costs and current deficit and "fiscal cliff" facing the Country, Members are beginning to understand that a long term remedy is imperative. That said, if Congress acts, any fix in the Lame Duck session will be a short term postponement 'cut' and the delay time period is expected to be the same as the delay given to the Bush tax cuts.

A more permanent fix would have to be part of the 'grand bargain' tax reform package, a package in which several hundred billion dollars is a component, but not the largest component. Congress will also have to give consideration to a larger debate of Medicare/Medicaid reform which Wexler and Walker expects to be part of that bigger, later in 2013 package.

The Debt Ceiling

The federal government will reach the current statutory debt limit of \$16.394 trillion as early as December 31, 2012, but technical Treasury maneuvers will likely allow the government to continue functioning until early next year. At that point, and without a Congressionally-approved increase in the debt ceiling, the US will not be able to borrow to meet its commitments and could default on its current debt obligations.

Historically, the debt ceiling has been raised almost 100 times since its establishment in 1917 and until recently, increases in the debt ceiling were largely pro-forma. However, with U.S. debt nearing record levels unseen since WW II as a percent of GDP, every increase in the debt limit has become contentious. If Congress fails to increase the debt ceiling, the Treasury Department would be faced with an unprecedented scenario that would roil financial markets around the world and would undoubtedly plunge the US, and possibly the global economy, back into recession.

"Without a balanced budget amendment to the Constitution or some similarly enforceable parameters on spending, Congress is going to be required to raise the debt ceiling over and over again and at a faster pace than in the past. For Conservatives, these endless votes to take on more debt are a non-starter, and without the type of after mentioned safeguards in place, I could see a point down the road where Republicans just say, "not again." Probably not next year, but we may soon get closer to seeing the other side of default than we got in 2011 or 2012."

*~ Tom Carpenter
Vice President*

Given the absolute requirement to increase the debt ceiling by early 2013, some believe such an adjustment will be included in a larger legislative package in the lame-duck session of Congress, but Wexler & Walker believes Congress will wait until the actual deadline to act on the debt ceiling. This will set up a familiar showdown between Republicans and Democrats that may not end until the last possible moment.

In recent weeks, Obama Administration officials have indicated increased anxiety about the debt ceiling issue, as they know that the timing of the request is critical. Too early and it will be dismissed by Congress given the ability of the Treasury Department to delay an actual default by several weeks or longer. Too late and it may not leave enough time for Congress to arrive at a solution or have a legislative vehicle ready that such an increase can “ride on.”

A spokesman for Speaker John Boehner (R-OH) recently reiterated the Speaker’s requirement from this past summer that any increase in the debt ceiling must be linked to spending cuts and reforms that, “exceed any debt hike,” and House Republicans - emboldened by their election victory to keep the House of Representatives are unlikely to yield on this principle.

Should Congress fail to raise the debt ceiling, we would not be surprised to see Treasury Department officials seriously consider using the extraordinary Constitutional authority in the 14th Amendment to avoid default.

Additional items the might be addressed in the Lame Duck session are as follows:

Trade

Given the long list of imminently disastrous issues that Congress faces in the lame-duck session, trade policy is clearly a lower priority. However, free trade advocates are ramping up pressure for Congress to act on at least some trade-related legislation before the end of the year.

President Obama successfully pressed Congress towards the passage of free trade agreements with Columbia, Panama and South Korea in 2011—embracing trade as a key part of his Administration’s agenda and signifying one of the few areas of bipartisan agreement with Congressional republicans. All three agreements are now fully in effect.

“The TPP negotiation is an exciting development that signifies a major step toward a new relationship with our trade partners in Asia. It also sends the message that on trade policy matters, the U.S. continues to be the major driver towards liberalized trade.”

~ R.D. Folsom
Senior Vice President

While Congress continues to be more free trade oriented than in recent years, there will be few opportunities in the Lame Duck session or in the new Congress in 2013 to fully demonstrate that proclivity. It is possible that Congress might pass the Russian PNTR legislation, granting “most favored nation” status during the Lame Duck session. Russia has already been admitted to the WTO (summer, 2012) which, as a result of the failure to pass the PNTR bill means that U.S. companies are unable to take full advantage of the benefits of exports to that country. This failure particularly harms U.S. agricultural exports to Russia

The most important trade initiative on the horizon, by far, is the Trans Pacific Partnership (TPP) trade negotiations—a vast free trade agreement involving 11 countries on both sides of the Pacific—which is an ambitious proposal to promote trade, while following Obama’s strategic “pivot” towards Asia. Whatever the motivations behind the policy, there can be no doubt that when completed these negotiations will bring significant economic value to all the participants. Because of the sheer size of the agreement—the number of countries and the contentious issues involved—finalizing it will take some time, therefore it is not likely to be ready for Congressional consideration in 2013. The TPP will be the focal point of U.S. trade policy for the immediate future, signaling the final death knell for the Doha Round of world trade negotiations.

The TPP negotiation is an exciting development that signifies a major step toward a new relationship with our trade partners in Asia. It also sends the message that on trade policy matters, the U.S. continues to be the major driver towards liberalized trade. When completed, it will have a big impact on trade relations in the Pacific region that U.S. companies should be following closely. It won't be easy to complete, and we may see more countries trying to join the party before it is finally negotiated once they realize how significant it is," commented R.D. Folsom, Wexler & Walker's trade policy advisor. "There's a lot at stake for American exporters, making it all the more important the Congress follows this closely"

Finally, the Obama Administration will likely continue its stepped-up enforcement of trade violations against China, utilizing the WTO enforcement mechanism as a means to challenge perceived Chinese violations of world trade rules. The creation of the Interagency Trade Enforcement Center (ITEC) by Executive Order, will continue to be the focal point for the Obama Administration's efforts to be tough on countries that violate trade rules. In conclusion, while there may not be major trade legislation considered in 2013, look for continued active administrative action and focus on enforcement through the WTO.

Defense Authorization

The House passed its National Defense Authorization Act for 2013, but the Senate failed to bring its version of the measure up for a vote prior to the Election recess. There is interest in trying to resolve these measures prior to the end of this Congress, and although Majority Leader Reid has promised Chairman Levin floor time it is unclear whether there will be time for regular floor consideration. The Chairmen of both House and Senate Committees are considering a pre-conferenced vehicle that could be voted on before the end of 2012.

"House and Senate defense authorizers and appropriators will press their respective leaderships for floor time to bring these measures to the floor. But given the short Lame Duck session and competing priorities, passage may be considered something of a long shot."

*~ Patric (Paddy) Link
Senior vice President*

There is also interest on the part of some House and Senate Appropriators to pass the Defense Department Appropriations bill before the end of the year, perhaps as part of a "security" mini-omnibus and staff has been working with their respective counterparts to be ready if the Leadership provides time for such an effort. There was some thought that of all the appropriations bills that might be resolved before the end of the session, Defense and some related agencies might have the best chance. There was also discussion that the Defense Appropriations bill could carry a provision extending the January 1, 2013 sequestration deadline for another 6 months. But the issue of "balance" in dealing with Defense and Domestic spending may make this effort useful only as a prelude to the Continuing Resolution which expires at the end of March 2013.

The Farm Bill

On September 30, the current authorization of the Farm Bill, which funds an array of agricultural programs including conservation programs, crop subsidies, and food stamps, expired. The bill is currently deadlocked in Congress. While the Senate passed its own reauthorization of the Farm Bill earlier this year – and a bipartisan measure passed the House Agriculture Committee – the full House has not moved forward on any legislation.

"Given the importance of the agriculture industry in this country, allowing the Farm Bill to continue to languish will further regulatory uncertainty and depress job creation and economic development – especially in hard hit rural areas. The direction Congress takes on reauthorization should include balanced reforms and regulatory clarity that will allow legislation to move either in the Lame Duck or in early 2013."

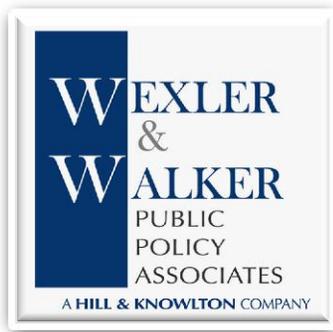
*~Patrice L. Stanley
Director*

The Senate's measure would reauthorize the Farm Bill for 10 years at a cost of \$969 billion. The staple of the Senate bill's cost

cutting measures is reducing federal insurance subsidies which the Senate believes would save taxpayers \$1.1 billion over 10 years. The House on the other hand is targeting food stamps; cutting the program by \$16 billion over 10 years. Majority Leader Eric Cantor has indicated he would bring the Farm Bill to the floor in Lame Duck. However, at this time, we do not believe the full reauthorization will occur in the Lame Duck session of Congress.

House Speaker John Boehner (R-OH) recently said, “We will deal with the Farm Bill after the election. The current situation that we face is we've got people who believe there's not enough reform in the Farm Bill that came out of [the House Agriculture] committee, [and] we've got others who believe that there's too much reform in the bill that came out of the committee.”

Despite the desire to advance legislation, the Farm Bill remains a very contentious topic among House Republicans and the votes currently aren't there to move any measure forward. If the House moves to act at all on the Farm Bill in the Lame Duck session, we expect that a short-term measure which will likely extend current funding levels and provisions will be enacted. Doing so will enable the House and Senate to reach an agreement on comprehensive legislation this spring.



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