

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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NAHMAanalysis: Midterm Elections 2010

Effective Date

The 112th Congress will convene on Wednesday January 5, 2011.

Background

On November 2, the Republicans were voted into the majority in the House and the Democrats' majority was reduced in the Senate for the 112th Congress. Major Republican campaign themes that surrounded the 2010 midterm elections included: a desire to reduce government spending; disapproval of the Democrats' approach to health care; anti-incumbent sentiment; unhappiness with the Democratic response to the economic crash and unemployment; and the rise of the Tea Party movement. The results of these elections have implications for the leadership of each chamber and the committee chairmanships. Generally speaking, the party with the most members in each chamber sets the agenda for consideration of bills and controls the committee chairmanships.

Summary

In January, the Republicans will take over the House as the majority party for the 112th Congress. They will have at least 243 seats. The Democrats will have at least 192 seats in the new Congress.

The Senate will be comprised of 53 Democrats and 47 Republicans in January. The Democrats will not have a filibuster-proof majority. The term "filibuster" refers to a parliamentary procedure in the Senate where a senator, or a series of senators, may speak for as long as they wish on any topic they choose to delay or prevent consideration of a piece of legislation. A filibuster may only be broken when 60 of the 100 Senators, typically of the same party, decide to end the debate by invoking cloture.

The Republicans will control key committee chairmanships in the House, while Democrats will maintain control of key committee chairmanships in the Senate.

Although the Democrats controlled the House, Senate, and White House during the 111th Congress, they had difficulty moving bills through the legislative process. Because the House and Senate will be controlled by different parties in the 112th Congress, NAHMA expects numerous conflicts between the chambers on policies and priorities. We expect it will be difficult for Congress to pass controversial legislation in this climate.

DISCLAIMER: The committee and subcommittee chairs have not yet been officially named. *The analysis below represents predictions based on the best information available at this time.*

House Leadership

112th Congress Speaker of the House: John Boehner (R-OH)

The Speaker of the House must be elected by the entire House as the first order of business in the new Congress. It is worth noting that the Speaker is also third in the line of succession for the Presidency, behind the Vice President. The Speaker controls the agenda for the House.

John Boehner is expected to become the Speaker of the House in the 112th Congress. He has enough votes in his caucus to win the Speaker election that will be held in January 2011.

112th Congress Majority Leader: Eric Cantor (R-VA)

The Majority Leader schedules votes on the House floor, and is charged with making sure the proverbial “trains run on time.” He will likely oversee the day-to-day operations of the legislative agenda.

Eric Cantor will be the House Majority Leader in the 112th Congress.

112th Congress Minority Leader: Nancy Pelosi (D-CA)

The Minority Leader is the recognized leader of the party with fewer members.

Nancy Pelosi will be the House Minority Leader.

Senate Leadership

Majority Leader: Harry Reid (D-NV)

In the Senate, an individual becomes majority leader if he was the elected leader of his party and has the most Senators caucusing, or aligning themselves, with his party. The Senate Majority Leader is a position recognized by tradition, not a full vote by the Senate. The Senate Majority Leader’s job is to set the agenda for each chamber; he decides what business comes to the Senate floor, and when it gets a vote.

Following the close election Harry Reid won to keep his seat, he will continue as the Majority Leader.

Minority Leader: Mitch McConnell (R-KY)

The Senate Minority leader is the recognized head of his or her party. He is generally the person who tries to ensure that his party members get an opportunity to vote on desired amendments, and negotiates time agreements on debate and amendments with the Majority Leader.

McConnell will continue to serve as the Senate Minority Leader.

House Committees

Republicans and Democrats have their own rules for choosing committee chairman. Committee chairs control the legislative agenda, schedule, and enjoy subpoena power. They are members of the majority party. Ranking Members of the committees lead the minority party. They do not control the agenda or schedule of the committees, but they can be influential in crafting legislation and choosing witnesses at hearings.

The Republicans and Democrats started discussing new committee leadership and seat assignments this month. We are unsure of when those committee assignments will be announced. This section will be updated when those assignments are announced. Once committee chairs are chosen, the chairs will select the various subcommittee chairs.

House Financial Services Committee

112th Congress Chairman: Spencer Baucus (R-AL)

112th Congress Ranking Member: Barney Frank (D-MA)

The House Financial Services Committee and its subcommittees have oversight responsibility of HUD and the Rural Housing Service. As the appropriate “authorizing committee” for housing issues, consideration of most new housing-related legislation in the House begins here.

Spencer Baucus (R-AL) will become the Chair of the House Financial Services Committee, while Barney Frank (D-MA) will become the Ranking Member in the 112th Congress.

Shelley Moore Capito (R-WV) is expected to take the Housing and Community Opportunities Subcommittee Chair position, while Maxine Waters (D-CA) will likely assume the ranking member position on the Subcommittee in the 112th Congress.

NAHMA expects the House Financial Services Committee to focus on legislation to reform the government-sponsored entities (GSE), Fannie Mae and Freddie Mac, in the 112th Congress. NAHMA believes the Committee will likely explore legislation that privatizes Fannie Mae and Freddie Mac with no government guarantees, as well as other options to reform the mortgage giants.

Appropriations Committee

112th Congress Chairman: Harold Rogers (R-KY)

112th Congress Ranking Member: Norm Dicks (D-WA)

The Appropriations Committee decides how much money federal programs will receive each year and how the agencies will use that money. Their jurisdiction is limited to funding discretionary programs. They do not fund entitlements such as Social Security. The Transportation, Treasury HUD Subcommittee is responsible for funding HUD programs. The Subcommittee on Agriculture funds USDA-RHS programs.

The Appropriations Committee Chair in the 112th Congress will be Harold Rogers (R-KY). Norm Dicks (D-WA) will assume the Committee Ranking Member position.

Tom Latham (R-IA) is expected to become the T-HUD Subcommittee Chairman, while John Olver (D-MA) is expected to become the Subcommittee Ranking Member in the 112th Congress.

If Kingston is not chosen as the Appropriations Committee Chair, he will likely be the Agriculture Subcommittee Chair. Rosa DeLauro is expected to become the Subcommittee Ranking Member.

The Obama Administration and Congress, both Republicans and Democrats, agree that cuts need to be made to the federal budget. However, the Obama Administration and the Republicans will likely disagree on how much should be cut and where those cuts should be made. The Office of Management and Budget (OMB) has asked agencies to make cuts of at least 5 percent across their budget requests for FY 2012. The Republicans have expressed a strong desire to cut the federal budget by at least \$100 billion in the first half of the 112th Congress, which would include cuts to the bail-out program and cancelling all unspent stimulus funds. There is talk, even now, about eliminating earmarks from the FY 2011 appropriations in an effort to be more fiscally conservative. NAHMA believes it will be very difficult to obtain overall increases in spending for federally-subsidized housing programs in the 112th Congress, we are committed to working with Congress to protect funding for affordable housing programs.

Ways and Means Committee

112th Congress Chairman: Dave Camp (R-MI)

112th Congress Ranking Member: Sander Levin (D-MI)

This is the tax-writing committee and the authorizing committee for entitlement programs such as Social Security, Medicare, etc. Legislation to amend the Low Income Housing Tax Credit (LIHTC) program falls under the jurisdiction of this committee.

Dave Camp (R-MI) will be the Committee Chairman, while Sanders Levin (D-MI) will be the ranking member in the 112th Congress.

NAHMA believes the Ways and Means Committee will focus on repealing and replacing the health care bill and extending the 2001 and 2003 Bush tax cuts for all income brackets. We are unsure of where legislation to amend the LIHTC will rate among the Committee's priorities for the 112th Congress.

Senate Committees

While there are specific procedures followed by the Republican and Democratic Caucuses in selecting Committee Chairmen, the tradition of the Senate generally recognizes that the member of the majority party having the most seniority on the committee becomes chairman. Likewise, the member of the minority party who has the most seniority on the committee becomes the ranking member.

There will be very few Committee leadership changes since the Democrats retained control of the Senate.

Banking, Housing & Urban Affairs Committee

The Banking Committee is the Senate counterpart to the House Financial Services Committee. The Subcommittee on Housing and Transportation is the counterpart to the House Subcommittee on Housing and Opportunity.

Current Committee Chair Chris Dodd (D-CT) did not run for re-election. Tim Johnson (D-SD) is expected to take-over the chairmanship. Richard Shelby (R-AL) is expected to remain the committee's ranking member.

Robert Menendez (D-NJ) is expected to remain the Housing and Transportation Subcommittee Chair, while David Vitter (R-LA) is expected to retain the ranking member position.

Senator Menendez has been a strong supporter of affordable housing programs. He has introduced legislation increase the number of Section 811 properties, introduced LEP authorizing language, and has voiced strong support for SEVRA.

Appropriations Committee

Like its House counterpart, the Senate Appropriations Committee decides how much money federal programs receive, and how it should be spent. The subcommittees noted fund HUD and USDA-RHS programs.

Daniel Inouye (D-HI) will remain Appropriations Committee Chair, while Thad Cochran (R-MS) will remain ranking member.

Patty Murray (D-WA) is expected to remain chair of the T-HUD Subcommittee. Because Senator Christopher Bond (R-MO), the current ranking member, retired, the ranking member position is open. The next Republican in line for the position is Senator Kay Bailey Hutchinson (R-TX).

Herb Kohl (D-WI) will likely remain chair of the Agriculture Subcommittee. Because the current ranking member Senator Sam Brownback (R-KS) did not run for Senate, the ranking member position is open.

NAHMA believes flat-lining or reducing spending will also be an issue of importance to the Senate Appropriations Committee. Nevertheless, NAHMA will continue working with Congress to protect funding for affordable housing programs in the 112th Congress.

Finance Committee

This is the Senate counterpart to the House Ways and Means Committee. The Finance Committee has jurisdiction for LIHTC bills.

We expect Max Baucus (D-MT) to remain chair of this committee. There is strong possibility Charles Grassley will step down from his Ranking Member position on the Finance Committee to take the Ranking Member position on the Senate Judiciary Committee in the 112th Congress. If this is the case, Senator Orrin Hatch (R-Utah) would be next in line for the Ranking Member position.

Senator Baucus is working on legislation to repeal the requirement in the health care bill that businesses file 1099 forms for payments of \$600 or more to corporations. If he cannot get it passed in the 111th Congress, he will likely take it up again in the 112th Congress.

Positive Aspects of the Election Outcome

NAHMA is pleased that many members NAHMA has built a relationship with are returning in the 112th Congress in key positions. Such members in the House include: Rep. Spencer Baucus (R-AL) as one of the contenders for the House Financial Services Committee Chair position; Rep. Barney Frank (D-MA) as Ranking Member of the House Financial Services Committee; Reps. Shelley Moore Capito (R-WV) and Maxine Water (D-CA) as the House Financial Services Subcommittee on Housing and Opportunity chair and ranking member respectively; and Rep. John Olver (D-MA) as the Ranking Member of the House Appropriations T-HUD Subcommittee. Such members in the Senate include: Sen. Richard Shelby (R-AL) as Ranking Member of the Senate Banking Committee; Senator Robert Menendez (D-NJ) as the Chair of the Senate Banking Housing and Transportation Subcommittee; Sen. Patty Murray (D-WA) as the chair of the Senate Appropriations Subcommittee on Transportation and HUD; and Sen. Max Baucus as the chair of the Senate Finance Committee. We will continue to work with these members to authorize

new legislation and to provide adequate funding for federally assisted multifamily housing programs. NAHMA will also reach out to new members of Congress to gain their support for affordable housing issues.

Issues of Concern to NAHMA

NAHMA recognizes it has been very difficult to pass bipartisan, industry supported legislation in the 111th Congress. Bills like S. 118, the Section 202 Supportive Housing Act for the Elderly, and H.R. 1675/S. 1481, the Frank Melville Supportive Housing Investment Act of 2009, have had difficulty getting consideration in the Senate. House leadership has been reluctant to bring housing bills like H.R. 3045, the Section 8 Voucher Reform Act, to the floor because they contain controversial immigration and gun rights provisions, which are concerning to many Democrats. However, we believe the philosophical differences between the Republicans, who control the House, and the Democrats, who control the Senate, will make it even more difficult to pass new affordable housing authorization language in the 112th Congress. The Republicans and Democrats have different priorities and different issues of concern in regards to housing.

Furthermore, NAHMA is unsure affordable multifamily rental housing programs will receive needed appropriations increases in the FY 2012 and FY 2013 appropriations bills with the both the Obama Administration and Congress's focus on reducing government spending. The programs for new construction—Section 202 and 811—and block grants will likely take the brunt of any funding cuts.

Because of these hurdles, it is extremely important for NAHMA members to remain active in their grassroots advocacy efforts to keep affordable housing issues at the forefront of Congressional and the Administration's agenda.

In addition, Congress has not approved the FY 2011 Appropriations. Congress has approved a continuing resolution (CR) to fund government programs at FY 2010 levels through December 3, 2010. It is very likely that Congress will authorize another CR next week, authorizing government program funding at FY 2010 levels through early February 2011, instead of passing the FY 2011 Appropriations. This is problematic because each time the CR is extended, the project-based Section 8 program often experiences delays in receiving housing assistance payments (HAP).

Furthermore, if Congress extends the CR through February, the project-based Section 8 program will have been funded at a level below the program's 12-month contract needs for almost one-third of the fiscal year. FY 2011 proposed appropriations—which HUD estimates would fully fund all 12-month contracts—provide almost \$1 billion more for the project-based Section 8 program than the FY 2010 appropriations. We are concerned that an underfunded long-term CR could result in the partial funding of project-based Section 8 contracts or HAP delays to property owners.

NAHMA's position

A key tenant of NAHMA's mission is to advocate for the production and preservation of affordable multifamily housing. NAHMA welcomes the opportunity to work with all interested members of Congress and the Obama Administration to achieve these goals.

As NAHMA reaches out to the 112th Congress on affordable housing issues, we recommend our members to do the same. NAHMA urges members to take NO votes for granted and to make no assumptions about what a senator or representative's position will be based solely on party affiliation. Take the time to advocate for the issues that are important to you. We would also encourage you to use the NAHMA Maps program to help educate your representatives about affordable housing in their Districts and States. If you have questions about policy issues and / or the legislative process, please know that NAHMA is here to help.

Much work lies ahead in 2011. With your support, we can make positive things happen for this important industry and for the residents who need communities of quality to call home.