



Potomac Partners DC

Monthly Legislative Report – November 2018

November Advocacy Meetings

Senator Dianne Feinstein (D-CA) – We met with staff in Senator Feinstein's office to invite the Senator or her staff to attend the groundbreaking for the OC Streetcar. We also followed up on ways to improve the CIG process.

Congressman Mario Diaz-Balart (R-FL) – We met with Congressman Diaz-Balart and his staff this month to discuss the THUD appropriations process and the timeline for a final spending package in December. We also discussed the possibility of congressionally directed spending in the appropriations bills for FY20. Congressman Diaz-Balart intends to remain on the THUD Subcommittee as Ranking Member.

Senate Banking Committee – We met with senior staff on the Senate Banking Committee to discuss TIFIA reform issues and legislation introduced by Senators John Cornyn (R-TX) and Tim Kaine (D-VA). We also discussed ways to streamline TAM and System Safety Plans and followed-up to provide feedback on our discussions.

Congressman Lou Correa (D-CA) – We met with Congressman Correa and his senior staff to invite the Congressman and his staff to the OC Streetcar's groundbreaking at the end of the month. We also discussed ways to work with the new OC Congressional delegation to ensure that they are fully briefed on the needs of OCTA and the region. We also discussed the possibility of congressionally directed spending the new year.

Congresswoman Grace Napolitano (D-CA) – We met with senior staff in the office of Congresswoman Napolitano to discuss next steps for bus safety legislation. We also discussed the aviation fuel tax issue that could be introduced by House Democrats and the possibility for including in an infrastructure bill next year. We also discussed committee assignments and possible candidates for Subcommittee leadership on the House T&I Committee in the 116th session.

House Transportation and Infrastructure Committee Staff – We met with senior majority staff on the House T&I Committee to discuss the possibility of a lame duck infrastructure proposal. We also discussed what they expect to see in a Democrat infrastructure bill in the 116th Session of Congress and the possible return of congressionally directed spending for infrastructure projects.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal's senior staff to invite the Congressman and his staff to attend the OC Streetcar's groundbreaking at the end of the month. We also discussed what to expect in the next

session of Congress and the possibility of including favorable language in any major infrastructure legislation.

Senator John Cornyn (R-TX) – We met with staff in Senator Cornyn's office to discuss the Senator's TIFIA legislation. We discussed the timeline for the bill in the lame duck session and whether they expect to make any changes to the legislation in the next session.

House Committee on Appropriations, Surveys and Investigations (S&I) Staff – Along with OCTA staff we met with House Appropriations (S&I) Staff. S&I is the committee's analytic and investigative arm and operates as a non-partisan entity that provides oversight, investigations, and evaluation of issues and programs at the request of the Committee's majority and minority leaders. All analyses are produced for sole use by the Committee. The House Committee on Appropriations Majority office asked S&I to conduct a study on the Federal Transit Administration's (FTA) Capital Investment Grant (CIG) program. We provided an overview of OC Street and the process and timeline for the FFGA.

FY19 Appropriations and Budget Update

In September, Congress passed a total of five appropriations bills for Fiscal Year 2019. Three of these bills were passed as a minibuss package ([H.R. 5895](#)) that included Energy and Water, Legislative Branch, and Military Construction-Veterans Affairs. The two remaining bills were also packaged as a minibus ([H.R. 6157](#)) including Defense and Labor-Health and Human Services-Education (LHHSE) appropriations. The Defense-LHHSE appropriations bill also included a Continuing Resolution (CR) to extend funding for the seven appropriations bills that Congress was unable to pass before the end of the fiscal year on September 30th. The Continuing Resolution provides funding at FY18 enacted levels until December 7th.

The White House and Congressional appropriators are working on a deal to pass at least some of the remaining seven appropriations bills and potentially attach a continuing resolution (CR) to extend funding for any remaining bills. Details of this deal, and which bills would be passed, have yet to emerge and will likely not become public until sometime in the first week of December. The main points of contention in the spending negotiations are due to the President's request for a minimum of \$5 billion for a Southern Border wall and disbursements to sanctuary cities and states.

Democrats do not support the increase funding for a border wall. Senate Democrats, however, did approve in the Senate Homeland Security bill \$1.6 billion for border wall funding, but said that this would be the highest amount they would support in this year's spending package. The THUD appropriations bill does seem to have bi-partisan support and at the times of this report does seem likely to be one of the bills included in a year-end spending package.

Tax Extenders Legislation

In addition to finalizing the appropriations bills, another priority for GOP leaders in the House is a passage of a tax bill. During the last week of November, House Republicans unveiled a 297-page tax bill that they hope to pass before the end of the year and the start of the new Congress. The bill (found [HERE](#)) includes tax extenders that did not make it into the GOP's tax overhaul (HR 1) earlier this year such as the extension of the alternative fuels excise tax credit. The full text of the extension of excise tax credits relating to alternative fuels is included below:

SEC. 134. EXTENSION OF EXCISE TAX CREDITS RELATING TO ALTERNATIVE FUELS.

(a) EXTENSION.—

- (1) **IN GENERAL.**—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (2) **OUTLAY PAYMENTS FOR ALTERNATIVE FUELS.**—Section 6427(e)(6)(C) is amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (3) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel sold or used after December 31, 2017.

(b) **SPECIAL RULE FOR 2018.**—Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2018, and ending on December 31, 2018, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

Other provisions would provide new tax incentives for small businesses and start-ups, and address technical issues in the tax reform legislation passed this session (HR 1). The bill will need Democratic support to pass the Senate. Senate GOP leaders may decide to tether some of the key House tax bill provision to the year-end spending package mentioned above in order to garner more House GOP support for a deal.

Capital Investment Grant (CIG) Funding Announcements

At the end of the month, the Federal Transit Administration announced a total of \$281 million in additional FY18 disbursements to five transit projects in the Capital Investment Grants (CIG) program. For FY18 the OC Streetcar was allocated \$98.9 million by the FTA and received a signed FFGA this month. FTA Acting Administrator K. Jane Williams said that the FTA will continue to evaluate and advance projects in the CIG program.

Congressional Leadership in the 116th Congress (2019-2020)

For the 116th Congress (2019-2020) that convenes on January 3rd. A link to the House legislative calendar can be found [here](#).

During the week of November 12th, the Senate and House Republicans elected their leaders for the next session. Those leaders include the following:

Senate Majority, Republicans

- **Senate Majority Leader:** Sen. Mitch McConnell (R-KY)
- **Republican Whip:** Sen. John Thune (R-SD)
- **Republican Conference Chairman:** Sen. John Barrasso (R-WY)
- **Policy Committee Chairman:** Sen. Roy Blunt (R-MO)
- **Republican Conference Vice Chairman:** Sen. Joni Ernst (R-IA)

House Minority, Republicans

- **House Minority Leader:** Rep. Kevin McCarthy (R-CA)
- **House Minority Whip:** Rep. Steve Scalise (R-LA)
- **Chair, House Republican Conference:** Rep. Liz Cheney (R-WY)
- **Vice-Chair, House Republican Conference:** Rep. Mark Walker (R-NC)
- **Secretary, House Republican Conference:** Rep. Jason Smith (R-MO)
- **Chair, National Republican Congressional Committee:** Rep. Tom Emmer (R-MN)

Senate Minority, Democrats

- **Senate Democratic Leader and Chair of the Conference:** Sen. Charles Schumer (D-NY)
- **Democratic Whip:** Sen. Dick Durbin (D-IL)
- **Assistant Democratic Leader:** Sen. Patty Murray (D-WA)
- **Chair of Policy and Communications Committee:** Sen. Debbie Stabenow (D-MI)
- **Vice Chair of the Conference:** Sen. Elizabeth Warren (D-MA)
- **Vice Chair of the Conference:** Sen. Mark Warner (D-VA)
- **Chair of Steering Committee:** Sen. Amy Klobuchar (D-MN)
- **Chair of Outreach:** Sen. Bernie Sanders (I-VT)
- **Vice Chair of Policy and Communications Committee:** Sen. Joe Manchin (D-WV)
- **Senate Democratic Conference Secretary:** Sen. Tammy Baldwin (D-WI)

During the last week of the month House Democrats elected their slate of leaders for the next congress, pending full elections on the floor of the House in January. Democrats nominated Congresswoman Nancy Pelosi (D-CA) to be the new Speaker of the House by a vote of 203-32. Her nomination came despite reservations from a number of her caucus Members and Members-elect who have expressed a desire for new leadership. Congressman Steny Hoyer (D-MD) was also elected the new Majority Leader in the 116th. Rep. James Clyburn (D-SC) will serve as the party whip, while Rep. Hakeem Jeffries (D-NY) will serve as Democratic Caucus Chairman.

The Democratic and Republican steering committees in each chamber are in control of making final decisions regarding who will lead each committee in the new session. In the Senate, there is expected to be very little turnover with a few exceptions. For instance, Senator Grassley (R-IA) has indicated that he would like to lead the Senate Finance Committee that was previously chaired by retiring Senator Orin Hatch (R-UT). That move leaves the chairmanship for the Senate Judiciary Committee open, for which Senator Graham (R-SC) has expressed interest.

Regarding the Transportation Committees in the new session, Senator Thune will be forced to give up his gavel on the Senate Commerce, Science and Transportation Committee as he becomes Senate Majority Whip. That Chairmanship would likely fall to Senator Wicker (R-MS). The ranking Member of the Committee will likely be Senator Cantwell (D-WA) who will replace Senator Nelson (D-FL) who lost his re-election bid to incoming Senator Rick Scott (R-FL). Senator Wicker said this month that he would consider raising the federal gas tax to pay for a large infrastructure bill if President Trump decides to use the gas tax as an infrastructure pay-for.

In the House Rep. Peter DeFazio (D-OR) will likely become the new Chairman of the full House T&I Committee, with Rep. Sam Graves (R-MO) chosen the last week of November as the Ranking Member. Congressman Jeff Denham (R-CA), another Republican in the running for the top GOP spot on the Committee, lost his race for reelection in November. Rep. Denham was also the Chairman of the Railroad and Hazardous Materials Subcommittee. We will continue to meet with members of the House T&I Committee, the Senate Commerce Committee, and the new Orange County Delegation to discuss OCTA legislative priorities and projects for 2019. As mentioned above, a large infrastructure package in addition to a return to congressionally directed infrastructure spending are already being discussed for this next Congress.

Other changes in committee leadership in the House are briefly outlined below:

House Committees

House Appropriations Committee: Ranking Member Nita Lowey (D-NY) is expected to take control of the House Appropriations Committee as the senior Democratic appropriator. At the end of the month it was announced that Congresswoman Kay Granger (R-TX) would take the full committee's Ranking Member position for Republicans. Subcommittee assignments will likely follow in the next couple of weeks. Commerce, Science, and Justice Subcommittee Chairman John Culberson (R-TX) will not be returning in 2019 after losing his reelection race, along with Homeland Security Subcommittee Chairman Kevin Yoder (R-KS). Another Republican appropriator who will not be returning is Rep. David Young (R-IA) and potentially Rep. David Valadao's (R-CA) who race is undecided as they continue to count ballots with most recent margins putting him behind.

House Agriculture Committee: Current Ranking Member Collin C. Peterson (D-MN) is expected to become the Chairman of the House Agriculture Committee in January. It is

likely that current Chairman Conaway (R-TX) will choose to remain on the Committee as Ranking Member to continue work on the 2018 Farm Bill if an extension becomes necessary.

House Armed Services: Ranking Member Adam Smith (D-WA) is the most likely candidate to become Chairman of the House Armed Services Committee, with Current Chairman Mac Thornberry (R-TX) remaining on the Committee as Ranking Member.

House Budget Committee: will likely be led by Rep. John Yarmuth (D-KY) with current Chairman Steve Womack (R-AR) becoming the Ranking Member.

House Education and Workforce Committee: will likely be chaired by current Ranking Member Bobby Scott (D-VA). Rep. Virginia Foxx (R-NC) is the current Chairman and is the most likely candidate for the Ranking Member position.

House Financial Services Committee: Current Ranking Member Maxine Waters (D-CA) is expected to become the next Chairwoman of the Committee. For Republicans, the top post on the committee, seems likely to fall to Rep. Patrick McHenry (R-NC) who announced his intent to run for the position.

House Foreign Affairs Committee: Ranking Member Elliot Engel (D-NY) is expected to become the new Chairman of the full committee. Current Homeland Security Committee Chairman Mike McCaul (R-TX) is expected to become the Ranking Member.

House Homeland Security Committee: Rep. Bennie Thompson (D-MS) has served eight terms on the homeland Security Committee, serving as both Ranking Member and Chairman since the Committee was elevated to standing status in 2005. It is not yet clear who will take the Ranking Member position since current Chairman Mike McCaul is seeking the top GOP spot on the Foreign Affairs Committee.

House Judiciary Committee: Rep. Jerry Nadler (D-NY) is expected to become Chairman of the House Judiciary Committee in the 116th session. Chairman Robert Goodlatte (R-GA) is retiring this year so the Ranking Member position is not yet clear. In the running are for the Ranking Member position are Reps. Steve Chabot (R-OH) and Doug Collins (R-GA).

House Rules Committee: will most likely be led by Rep. Jim McGovern (D-MA). Current Chairman Pete Sessions (R-TX) will not be returning to Congress after a major upset loss in the midterm elections so it is unclear who will take the Ranking Member position.

House Committee on Science, Space and Technology: The new Chairman is expected to be Rep. Eddie Bernice Johnson (D-TX), the current Ranking Member. It is not yet clear who will become the Committee's Ranking Member.

House Veterans Affairs Committee: will most likely be led by current Ranking Member Tim Walz (D-MN), with current Chairman Phil Roe (R-TN) becoming the Ranking Member.

House Ways and Means Committee: Current Ranking Member Richard Neal (D-MA) is expected to become the Chairman of the committee, replacing Kevin Brady (R-TX). Infrastructure spending and protecting health insurance for pre-existing health care conditions are among the top priorities for in the incoming Chairman.

Senate Committees

Senate Appropriations Committee: Sen. Richard Shelby (R-AL) will remain on as Chairman, with Sen. Patrick Leahy (D-VT) also remaining on the Committee as Vice Chairman.

Agriculture, Nutrition, and Forestry Committee: Sen. Pat Roberts (R-KS) will remain the Committee Chairman, with Sen. Debbie Stabenow (D-MI) also remaining on the Committee Ranking Member.

Banking, Housing, and Urban Affairs Committee: Sen. Mike Crapo (R-ID) will remain the Committee Chairman, with Sen. Sherrod Brown (D-OH) remaining on the Committee as Ranking Member.

Budget Committee: Mike Enzi (R-WY) will remain the Committee Chairman, with Bernie Sanders (I-VT) also remaining on the Committee as Ranking Member.

Energy and Natural Resources Committee: Sen. Lisa Murkowski (R-AK) is likely to remain the Committee Chairman. Sen. Cantwell will likely become Senate Commerce Ranking Member, leaving this RM position dependent on other committee assignments.

Foreign Relations Committee: Sen. Bob Corker (R-TN) will remain the Committee Chairman, with Sen. Bob Menendez (D-NJ) likely to stay on as the Committee's Ranking Member.

Health, Education, Labor and Pensions Committee: Sen. Lamar Alexander (R-TN) will remain the Chairman of the Committee, with Sen. Patty Murray (D-WA) possibly remaining as the Ranking Member of the Committee.

Small Business and Entrepreneurship Committee: Sen. Jim Risch (R-ID) will remain the Committee Chairman, with Sen. Ben Cardin (D-MD) remaining on the Committee as Ranking Member.

Veterans' Affairs Committee: Sen. Johnny Isakson (R-GA) will likely remain the Committee's Chairman, with Sen. Jon Tester (D - MT) remaining the Committee Ranking Member.

Armed Services Committee: Sen. James Inhofe (R - OK) will likely remain on the Committee as Chairman, with Sen. Jack Reed (D - RI) remaining the Committee Ranking Member.

TIFIA Reform Legislation

On November 15th, Senators John Cornyn (R-TX) and Tim Kaine (D-VA) introduced [S. 3631](#) – *Revitalizing American Priorities for infrastructure Development RAPID Act*, a bill that seeks to improve the Transportation Infrastructure Finance and Innovation (TIFIA) program. The bill seeks to encourage more participation in the TIFIA program by expediting projects that meet certain specifications. USDOT only approve three TIFIA loan applications in 2018 totaling \$1.8 billion, which is less than half of the new loan authority authorized by the FAST Act. Despite efforts by the President and Congress to bolster the TIFIA program with additional funding, there are not enough qualified projects to take advantage of the program, which has caused a carryover of unused funds from prior years to accumulate. The Office of Management and Budget estimates that this carryover could be used to make \$18 billion in new TIFIA loans, but there are not enough qualified applications. By streamlining the application process and raising the project threshold, Senators Cornyn and Kaine are hoping to encourage greater participation in the program and pave the way for additional reforms that will align the program's implementation with the intent of congress.

According to Senator Cornyn, the legislation would make a number of notable changes to streamline TIFIA:

Eligibility Requirements

In order to be eligible for federal assistance under TIFIA, an application's senior debt obligations must obtain investment grade ratings from at least two nationally recognized credit rating agencies. The process of securing these ratings can be a lengthy and expensive, which may not always be necessary for low-risk projects. The *RAPID Act* would raise this threshold for securing multiple credit rating agency opinions from \$75 million to \$150 million, reducing the overall review timeline and potentially encouraging greater participation in the program.

Expedited Application Process

The *FAST Act* required USDOT to establish a "fast-track" application process for projects that meet certain criteria. Unfortunately, this streamlined process has been underutilized and has not met congressional intent. The *RAPID Act* would add the new criteria to the streamlined application process, increasing the likelihood that the Build America Bureau will be comfortable moving qualifying projects through the process expeditiously.

Process Reports and Status Updates

The bill would increase overall transparency in the process by ensuring applicants, the general public, and Congress are well-informed regarding projects seeking TIFIA assistance by requiring USDOT to publish status reports online.

While this bill may not be enacted this year, we do expect this similar legislation to be re-introduced next session and possibly be included in a future infrastructure or surface transportation authorization bill.