



## 113TH CONGRESS ADJOURNS SINE DIE; 114TH CONGRESS COMMENCES JANUARY 6, 2015

DECEMBER 18, 2014

This update reviews the major results of the lame duck session of the 113<sup>th</sup> Congress, which adjourned sine die Tuesday evening, December 16<sup>th</sup>. The 114<sup>th</sup> Congress will commence January 6, 2015. Also in this update will be further developments regarding the leadership of congressional committees for the 114<sup>th</sup> Congress.

This will be our last public policy update of 2014. During the week of January 5<sup>th</sup>, we will distribute an update that focuses solely on the Budget Control Act of 1974 which established the budget reconciliation process – a likely major vehicle for policy development in the 114<sup>th</sup> Congress.

Until then, we wish all of you a wonderful holiday season and a peaceful, prosperous and successful 2015.

### PRESIDENT SIGNS \$1.1 TRILLION FUNDING PACKAGE

Congress passed and the President signed into law on December 16<sup>th</sup> the \$1.1 trillion government funding package, which earned the nickname CROmnibus because it funds most of the government for the remainder of Fiscal Year 2015 through an “omnibus” appropriations bill, but funds the Department of Homeland Security through the end of February 2015 with a “continuing resolution”.

Although the legislation was negotiated by a bipartisan, bicameral team of negotiators and the Administration, the bill faced significant bipartisan opposition in the House. Finally, after some procedural maneuvering and drama, the House passed the legislation Thursday, December 11<sup>th</sup> by a vote of 219-206. Fifty-seven Democrats voted with 162 Republicans to pass the CROmnibus.

Drama surrounded the funding legislation in the Senate as well. Despite an agreement between Senators Harry Reid (D-NV) and incoming Senate Majority Leader Mitch McConnell (R-KY) to resume consideration of the spending bill on Monday, December 15<sup>th</sup>, Senator Ted Cruz (R-TX) succeeded in using procedural tactics to continue Senate consideration of the legislation through Saturday, December 13<sup>th</sup>. During the extended Senate session to consider the CROmnibus, the Democratic Majority was able to move at least two dozen nominees for Executive Branch positions toward confirmation.

The Senate passed the CROmnibus on Saturday, December 13<sup>th</sup>, by a vote of 56-40.

### TAX EXTENDERS

On Tuesday, December 16<sup>th</sup>, the Senate approved the retroactive one-year tax extenders package (H.R. 5771) by a vote of 76 to 16. The House had approved the legislation on December 3<sup>rd</sup> by a vote of 378-46. This legislation includes almost every business and individual tax provision that expired at the end of 2013. The legislation’s key provisions that benefit the energy industry and were renewed through December 31, 2014, include:

- Second generation biofuel producer credit – §40(b)(6);
- Incentives for biodiesel and renewable diesel – §40A;
- Production credit for Indian coal facilities placed in service before 2009 – §45(e)(10);
- Production tax credit for the following qualifying facilities: wind, closed-loop biomass, open-loop biomass, geothermal, landfill gas, municipal solid waste, qualified hydropower, and marine and hydrokinetic renewable energy (maintains beginning of construction language to qualify a project) – §45;
- Special allowance for second generation biofuel plant property – §168(l);

- Energy efficient commercial buildings deduction – §179D;
- Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities – §451(i);
- Excise tax credits relating to certain fuels – §6426 & §6427;
- Non-business energy property credit – §25C;
- Credit for Energy Efficient New Homes – §45L;
- 50-percent Bonus Depreciation – §168(k); and
- R&D tax credit – §41.

The overall tax extender package is estimated to cost \$41.6 billion over 10 years and does not include any revenue offsets. The bill also includes two additional packages of tax provisions: a package of revenue neutral technical corrections to the Internal Revenue Code that the House Ways and Means Committee and the Senate Finance Committee recently finalized and the Achieving a Better Life Experience (ABLE) Act of 2014.

### **NDAA**

We reported fully on the lands package contained in the National Defense Authorization Act (NDAA) of 2014 in our [December 5<sup>th</sup> update](#). On Monday, December 15<sup>th</sup>, the Act passed the Senate by a vote of 89 to 11 with no changes from the content of the legislation that passed the House on December 4<sup>th</sup>. As of today, it does not appear that the bill has yet reached the White House for the President's signature.

### **NOMINATIONS**

During the 18 days that the Senate was in session post-election, 115 nominations to Executive Branch positions were confirmed. Confirmed nominees included Colette Honorable to be a Commissioner of the Federal Energy Regulatory Commission; Jeff Baran to be a Commissioner of the Nuclear Regulatory Commission for the remainder of the term expiring June 30, 2018; Virginia Tyler Lodge to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2019; and Christopher Smith to be Assistant Secretary for Fossil Energy at the Department of Energy. A full list of the 115 confirmations approved during the lame duck session is available [here](#).

### **RECESS APPOINTMENTS COULD OCCUR**

Because the 113<sup>th</sup> Congress adjourned sine die until the 114<sup>th</sup> Congress begins on January 6, 2015, all presidential nominations that were not considered by the Senate are returned to the President. These nominations must be re-initiated by the President in 2015, if he so chooses, and be confirmed during the 114<sup>th</sup> Congress. Because of the manner in which the 113<sup>th</sup> Congress adjourned (sine die), the President now has the power to make recess appointments who may serve without confirmation until the end of the first session of the 114<sup>th</sup> Congress, after which point the nominee would need to be confirmed by the Senate. Each Congress has two one-year sessions with each session normally ending in December.

### **SENATE COMMITTEE ORGANIZATION**

The newest development with regard to congressional committee leadership in the 114<sup>th</sup> Congress is that Senator Jeff Sessions (R-AL) and Senator Mike Enzi (R-WY) have agreed that Senator Enzi will chair the Budget Committee in the 114<sup>th</sup> Congress.

The Senate Republican and Democratic caucuses have announced committee leadership and membership rosters for the 114<sup>th</sup> Congress. Next year, Republicans will hold a 54-46 majority in the Senate, and Democrats will lose one or two seats on each congressional committee. [Click here](#) to view the full committee roster lists for Republicans and [here](#) for Democrats (note: Senate Republicans have not officially released Chairmanship selections, perhaps because of the recently resolved outstanding

contest between Senators Sessions and Enzi over who will chair the Budget Committee). [Click here](#) to view our updated Leadership and Committee assignment list which includes new members to the Committees. Leadership and Committee rosters will be ratified when the 114<sup>th</sup> Congress convenes in January. Furthermore, the Senate will continue to finalize subcommittee leadership and membership selections.

Regarding the Senate Energy and Natural Resources Committee, Republicans have 12 spots and Democrats have 10 spots in the new Congress, a decrease of 2 seats for Democrats. The new Democratic Senators on the Committee will be: Hirono (D-HI), King (I-ME) and Warren (D-MA), and the new Republican Senators-elect who will be on the Committee are: Cassidy (R-LA), Gardner (R-CO), Daines (R-MT) and Capito (R-WV). [As reported earlier](#), Senator Lisa Murkowski (R-AK) will serve as Chair of the committee and Senator Maria Cantwell (D-WA) will serve as Ranking Member.

### **VAN NESS FELDMAN PUBLICATIONS**

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