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January 2023 Insights

Midterm Election Final Results

House of Representatives: 222 Republicans, 213 Democrats, majority 218

Senate: 51 Democrats, 49 Republicans

Leadership

House of Representatives:

Speaker – Congressman Kevin McCarthy (R-23-CA) nominated – see below

Majority leader – Congressman Steve Scalise (R-1-LA)

Minority Leader – Hakeem Jeffries (D-8-NY)

Minority Whip – Katherine Clark (D-5-MA)

Senate:

Majority Leader – Senator Chuck Schumer (D-NY)

Majority Whip – Senator Dick Durbin (D-ILL)

Minority Leader – Senator Mitch McConnell (R-KY)

Minority Whip – Senator John Thune (R-ND)

Speaker

Full House vote on Jan. 3. A majority – 218 – is needed for election as Speaker. Given that there are 222 Republicans, McCarthy can only afford to lose 4 Republican votes (all the Democrats expected to vote against him). At this time, 5 Republicans have said they will not vote for him. Maybe more. There is also a rumor about a challenge to McCarthy and a Plan B just in case. Congressman Scalise????

Committee/Subcommittees

Committee and subcommittee assignments still a work in progress.

House: With a change in majority there will be new committee and subcommittee chairs, with the number of majority to minority members on committees and subcommittees reflecting the overall ratio of majority to minority members in the full House. The Democrats are moving

ahead on assignments. For example, Congressman Rick Larson (D-2 -WA) will be the new Ranking member of the Transportation and Infrastructure Committee replacing the current Chair Peter DeFazio who is retiring. On the Republican side, McCarthy has deferred committee assignment until after the Speaker election presumably to give him some leverage on votes for his speakership.

Senate: Don't expect significant changes in committee and subcommittee chairs and ranking members given the few changes in the election. Given Senator Warnock's victory, the Democrats will get one more slot than the Republicans on committees and subcommittees making it easier to move legislation.

Possible Concerns

Repeals – guard against any effort to repeal policies of interest.

Spending cuts - support continuation of “add-ons” to the BIF in the annual appropriations bills and congressional directed spending (earmarks).

Consolidated Appropriations Act, 2023

Included in the FY23 omnibus appropriations bill is \$1.639B (state allotments and earmarks) for the Clean Water SRF, which is in addition to the \$2.750B provided in the Infrastructure Investment and Jobs Act aka the Bipartisan Infrastructure Law, \$1.126B (state allotments and earmarks) for the Safe Drinking Water SRF, which is in addition to the \$2.750B provided in the Infrastructure Investment and Jobs Act aka the Bipartisan Infrastructure Law, and “not less than \$20M” for WIIN grants.

Also included for transportation programs - \$800M for national infrastructure investments (RAISE/TIGER/BUILD), \$1.145B for bridge replacement and rehabilitation, \$150M for PROTECT grants, \$800M for local and regional projects, \$19B for the FAA, \$62.9B for the FHWA formula programs including \$3.4B for discretionary highway programs and projects, \$873.6M for FMCSA, \$1.2B for NHTSA, \$3.4B for FRA including \$555M for the Intercity Passenger Rail grant program, \$560M for CRISI grants, \$2.45B for Amtrak, including \$1.26B for the Northeast Corridor and \$1.19B for National Network grants, \$16.9B for the FTA, including \$13.6B for buses, \$2.6B for capital investment grants, and \$542M for transit infrastructure grants; and, \$896.1M for MARAD.

Lame Duck Session

Of interest:

- 1) “Build Back Better” Bill: Round Two?

The effort by Senators Sherrod Brown (D-OH) and Michael Bennet (D-CO) to extend the child care credit and pair it with the renewal of an expired R&D tax break for businesses and other non-controversial items (not disclosed) did not materialize as agreement could not be reached with Senate Republicans. Their plan is to try again in the new Congress. If so, we would continue to advocate for funding for the Alternative Water Source Program and large scale water recycling projects, inclusion of H.R. 5118 or some variation, and any other items of interest.

Included in the House-passed “Build Back Better” bill of interest to the Coalition (see bold):

- \$30B for Safe Drinking Water SRF lead service line replacement projects;
- \$100M for state public water systems;
- \$700M to reduce lead in school drinking water;
- \$100M for large scale water recycling projects;
- \$1.15B for emergency drought relief;
- \$125M for Alternative Water Source Program grants;
- \$2B for sewer overflow and storm water reuse grants;
- \$4B for reduction of carbon in the surface transportation sector;
- \$4B for affordable and safe transportation access; and,
- \$6B for local surface transportation projects.

No funding for the Clean Water SRF is included in the House BBB. It does include new taxes.

Unofficially, the Senate Environment and Public Works Committee released its BBB title which includes \$9B for SDWSRF-funded lead remediation projects, \$225M for rural and low-income water assistance grants, \$125M for Alternative Water Source Program grants, and \$500M for sewer overflow and storm water reuse municipal grants.

- 2) WRDA 2022 – conference agreed to. Only Corps of Engineers issues.
- 3) FY23 Appropriation Bills – see Consolidated Appropriations Act, 2023, section above.
- 4) H.R. 5118, the “Wildlife Response and Drought Resiliency Act” and S. 4231, the “STREAM Act” (Support to Rehydrate the Environment, Agriculture and Municipalities Act)

H.R. 5118 has passed the House. S. 4231 has been introduced in the Senate. The Coalition supports enactment of H.R. 5118 or some variation.

No action in the lame duck session.

H.R. 5118 authorizes \$600M for WIIN grants. This is in addition to the \$550M appropriated in the Bipartisan Infrastructure Law for both traditional Title XVI and WIIN grants. The bill also increases the Federal share from \$20M to \$50M, provides priority project funding and authorizes \$700M (again, this is in addition to the \$450M appropriated in the Bipartisan Infrastructure Law) for large water recycling projects with total estimated cost of at least \$500M.

S. 4231 authorizes \$300M for FY24-28 for WIIN grants. These funds are over and above the BIF WIIN grant appropriated amount of \$550M. The Federal share is \$20M. Priority funding is given to projects that meet certain criteria.

Funding Opportunities

USBR FY23 Title XVI Recycled Water Grants – the USBR announced that \$150M plus what is provided in the FY23 appropriations bill would be available for FY23 WIIN grants. To date, solicitation and application process not announced.

State and Tribal Assistance grants – no new grant opportunities because of the number of FY22 STAG earmarks and the projected number of FY23 earmarks.

Alternative Water Source Program grants – pending action on a second round of infrastructure spending.

“Inflation Reduction Act of 2022” (IRA)

One last review, the Senate passed the bill on August 7, the House on August 12 and the President signed it into law on August 16. Highlights include:

- \$369B in energy and climate change programs, with the goal of reducing carbon emissions by 40% by 2030;
- Medicare would negotiate the prices of certain medications and cap out-of-pocket costs at \$2,000 for those enrolled in Medicare drug plans. The Health and Human Services Secretary would negotiate the prices of 10 drugs in 2026, and another 15 drugs in 2027 and again in 2028. The number would rise to 20 drugs a year for 2029 and beyond;
- It would also redesign Medicare's Part D drug plans so that seniors and people with disabilities wouldn't pay more than \$2,000 a year for medication bought at the pharmacy;
- The deal would require drug companies to pay rebates if they increase their prices in the Medicare and private-insurance markets faster than inflation;
- The agreement would also extend expiring enhanced subsidies for Affordable Care Act coverage for three years
- Tax credits for electric vehicles are in. Electric Vehicle tax credits will continue at their current levels, up to \$4,000 for a used electric vehicle and \$7,500 for a new EV. However, there will be a lower income threshold for people who can use the tax credits.

To pay for the agreement, the bill would impose a 15% minimum tax on corporations, which would raise \$313 billion over a decade. The current deal also closes the carried interest loophole, which allows investment managers to treat their compensation as capital gains and pay a 20% long-term capital gains tax rate instead of income tax rates of up to 37%. The package also calls for providing more funding to the IRS for tax enforcement. Families making less than \$400,000 per year would not be affected and there would be no new taxes on small businesses.

“Infrastructure Investment and Jobs Act” (BIF)

One last review, the \$1.2T law (P.L. 117-58) includes the following (it does not include any new taxes) –

- For FY22-26 \$12.838B for the Clean Water State SRF, starting at \$2.127B in FY22 and going up to \$2.828B in FY26;
- \$35.713B over five years for the Safe Drinking Water SRF, starting at \$6.702B in FY22 and going up to \$7.403B in FY26;
- No appropriations are included for the Alternative Water Source Projects program (an authorization of \$125M over 5 fiscal years is included);
- \$8.3B for the USBR for FY22-26 with an annual cap of \$1.66B per year including a number of programs under USBR's jurisdiction with specific appropriated amounts but without specifying annual funding amounts for each program;
- For water recycling, the bill appropriates \$1B over 5 FY's, broken down to \$550M for Title XVI and WIIN Act grants and \$450M for “large scale” projects (those with project costs >\$500M);

- \$400M over 5 FY's for WaterSMART;
- \$1.2B for water storage and groundwater;
- \$25M for desalination; and,
- S. 914, as passed by the Senate, which authorizes \$14.65B over five fiscal years for the Clean Water SRF and the Safe Drinking Water SRF, and \$125M for the AWSP and which includes the Feinstein-Padilla amendment which limits the prohibition against applying for Alternative Water Source Program (AWSP) grants to USBR projects that received construction funds; and,

Other core infrastructure -

- \$65B for Broadband
- \$17B for Ports
- \$25B for Airports
- \$7.5B for Zero and Low-Emission Buses and Ferries
- \$7.5B for Plug-In Electric Vehicle Chargers
- \$65B to Rebuild the Electric Grid
- \$21B for Superfund and Brownfield sites

Highway Bill (FAST Act reauthorization)

One last review, the Senate FAST Act reauthorization bill is included in the enacted BIF. It authorizes \$287B in highway spending, ninety percent of which would be distributed to the states by formula. It also authorizes \$10.8B for various programs addressing resiliency and \$2.5B for electric, hydrogen, and natural gas vehicle charging and fueling stations. It provides billions for curbing emissions, reducing congestion and truck idling. It also streamlines infrastructure permitting and sets a two-year target for environmental reviews. Lastly, the bill authorizes \$12.5M per year to fund state and regional pilot testing of user-based alternative revenue mechanisms to the gas tax.

Bill Tracking

Tracking bills that are marked up by committees and/or come to our attention.