

Insights and Commentary from Dentons

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This document was authored by representatives of one of the founding firms prior to our combination launch, and it continues to be offered to provide our clients with the information they need to do business in an increasingly complex, interconnected and competitive marketplace.

US Election Insight 2012

Four More Years: America Leans Forward?

“Status quo, you know, is Latin for the mess we’re in.”

~ Ronald Reagan

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“Tonight, you voted for action, not politics as usual.
You elected us to focus on your jobs, not ours.”

~ President Barack Obama

With a renewed commitment to consensus, and a commanding Electoral College victory, President Barack Obama claimed reelection last night, as the coalition of firewall states built for 2008 remained virtually untouched in 2012. Defying more than 75 years of electoral history, President Barack Obama fought back an all-out Republican assault, maintaining strong margins in swing states across the US to achieve victory despite a national unemployment rate above seven percent, and the overhang of an economy and unresolved fiscal cliff that remains the top worry among voters.

The President secured a sizeable lead in electoral votes, a total which may well increase as Florida finalizes its returns. Core demographic groups that launched the President to victory in 2008 again carried the day, as young voters, Latinos and women all backed President Obama by wide margins once again. In the US House of Representatives and US Senate, Democrats were also able to hold the line against further Republican gains, maintaining the status quo of split party control in the US Congress — a Democratic-led Senate and Republican-led House — even as more than 90 new faces will grace the halls of Congress.

As the polls closed, states that formed the backbone of the President's path to victory in 2008 again fell into line — as Ohio, Iowa, Virginia, Colorado, and Wisconsin all voted to retain the President. Despite a late surge of spending by Governor Mitt Romney, and victories in Indiana and North Carolina, ultimately the President was able to carve a wide path to victory.

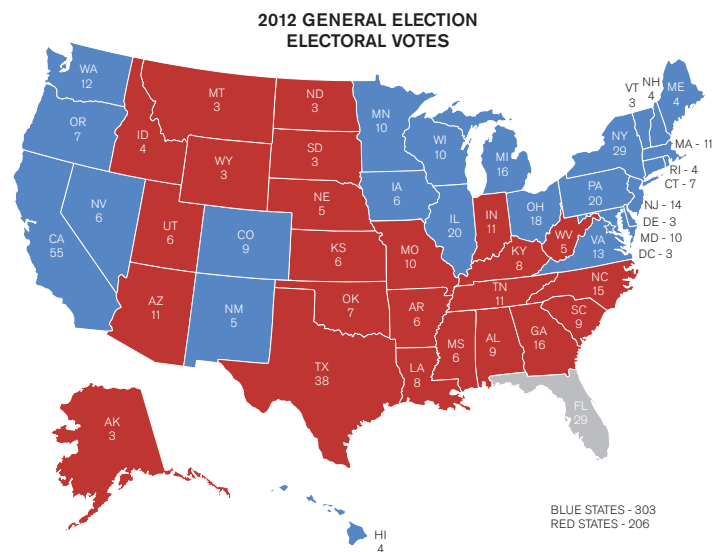
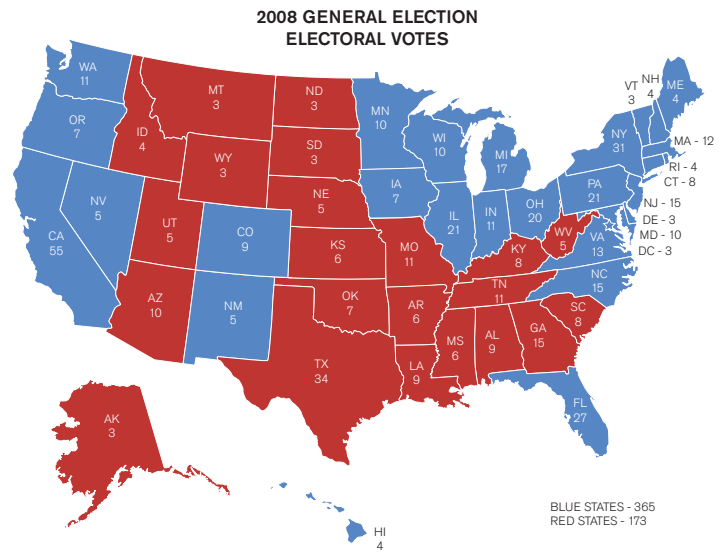
As memories of Big Bird, binders, and bayonets fade into campaign lore, the President and his team must assess how to most effectively claim the mandate of a second term, and manage the seemingly intractable gridlock on Capitol Hill. Issues such as the fiscal cliff, a prolonged and incremental economic recovery, America's leadership role in global issues and continuing national security threats remain foremost in the forthcoming attention of President Obama and the Congress. While much post-campaign soul searching and inevitable finger pointing will begin within a chastened Republican Party and its internal factions, the fact remains that the President must still govern without a filibuster-proof majority in the US Senate and navigate with Republican Speaker John Boehner and a deeply divided Congress.

Election Insight 2012 offers a glimpse into the key races, themes, and impacts of last night's elections, and profiles the new leaders, issues, and priorities that will form the contours of the 113th Congress, state houses, and the Obama Administration's second term in office.

This election season also revealed key themes that will inform governance and politics going forward:

- **2012 may well be the “Year of the Woman.”** Election night victories included at least four female freshman Senators (Tammy Baldwin (D-WI), Elizabeth Warren (D-MA), Mazie Hirono (D-HI), Deb Fischer (R-NE)), a victory by Tammy Duckworth in the competitive House race for Illinois’ 8th District, and victories by Democratic Senate candidates in Missouri and Indiana that ultimately turned on women’s issues. The 113th Congress will have at least 19 female Senators, an historic number, and President Obama retained a lead among female voters in realizing his second term. As a capstone, New Hampshire becomes first state with all female congressional delegation and female governor.
- **The shadow of former Presidents loomed large.** President Obama leaned heavily on the record of economic growth under Bill Clinton in making the case for a path “Forward,” not to mention the barnstorming efforts by the former president in key swing states. On the Republican side, the legacy of George W. Bush weighed on voters, many of whom continued to view their economic woes as originating with the 43rd President. Also for Republicans, there is a dawning recognition that the need for inclusiveness within the party, demonstrated by the swing of Latino voters from Republicans under George W. Bush to Democrats under Barack Obama — and the consequences of this seismic shift for their future electoral prospects on the national stage.
- **The pace of election spending is unlikely to diminish.** The 2012 contests saw close to \$6 billion in spending through traditional candidate channels, but nearly \$1 billion in spending by outside interest groups formed in the wake of the Citizens United decision.
- **Voters repudiated divisive politics and campaigns built on social issues.** At the national level, voters picked candidates focused on economic solutions and inclusiveness. At the top of the ticket, close to 60% of voters focused on electing the candidate they felt most “understood” their situation — ultimately returning the President to a second term. The President’s ability to cast Governor Romney as “out of touch” was pronounced in key swing states such as Ohio and Michigan, where the auto bailout and Romney’s opposition to it were decisive.

With the return of the current Congress on Tuesday for a lame duck session, a central question for a Second Obama Term will be whether the White House can avoid the “Sophomore Curse” that has plagued many incumbent Presidents. With the balance of power in Congress remaining status quo, the need to bridge a partisan divide on very difficult economic and security issues will be critical if the expectations expressed yesterday at the polls are to be met.



The Election Landscape: Demographics and the Democratic Firewall

President Dwight D. Eisenhower once famously noted that “things are more like they are now than they ever were before.” However, the 2012 election spotlights a growing reality of changing demographics — one which Republicans may take as an omen for challenges facing the identity of their party.

Exit polls indicate that white voters, and in particular white males and older voters, selected Governor Romney by a wide margin. However, Governor Romney’s gains simply could not outpace President Obama’s turnout advantage among minority and female voters, and those in the “Millennial” category — younger voters between the ages of 18 and 29. President Obama’s grassroots campaign focus paid off in his final “get-out-the-vote-efforts” throughout key battle ground states, where the network and organization built during the hustings of 2008 again paid dividends in 2012.

In the course of the presidential race, the conventional wisdom first said that President Obama was a sure loser because of persistent high unemployment. It then said that he was a sure winner because Governor Romney was a weak candidate. It then briefly said he would be narrowly defeated because Governor Romney had become such a strong candidate. Finally, the President was reelected narrowly, and could easily have lost, if voters had not been leery of Governor Romney as well. Whether this year’s “October Surprise” proves to be Superstorm Sandy will be debated by political scientists and pundits for some time, but what is clear is that that storm itself and its timing and follow-on period of “anti-politics” as attention prioritized on the recovery proved to be an advantage for the President and a negative for Governor Romney.

CONTROL CHANGE		
	CURRENT	2013
White House	D	D
US Senate	D	D
US House	R	R
Governors	R	R

Meet the New Boss, Same as the Old Boss: Charting a Second Term Agenda

President Obama likely will claim a mandate as a result of the convincing victory in both the Electoral College and the popular vote. Facing blustery economic headwinds, strong partisan division, and unprecedented outside spending, the President's win suggests an important victory for Democrats and their message. Modest and continued economic recovery may well provide a tailwind for a second term agenda focused on fiscal issues, entitlements, and potentially challenging domestic issues such as immigration reform. With Republicans still in control of the House and Democrats the Senate, the President and his team will have to lean on the experiences of their first term, learn from their mistakes in managing a divided Congress, and forge consensus if they hope to advance a meaningful agenda.

President Obama's second term will see full implementation of signature legislative efforts of the last four years, notably the Affordable Care Act ("Obamacare") and Dodd-Frank. Republican opposition remains to both of these laws, but the result of last night's election ultimately places major overhaul of these legislative juggernauts on the shelf. In the weeks to come, it should be expected that the Administration will advance a regulatory agenda held at bay by the realities of seeking reelection, particularly in the arena of environmental regulation, labor considerations, and consumer protection matters.

President Obama offered few concrete details for a second term agenda, but nevertheless several central themes and proposed initiatives are clearly on the short list. While the economy and the impending fiscal cliff top that list, investments in education, a renewed commitment to infrastructure, and immigration reform find their place on the agenda.

Energy policy will also receive substantial attention, as will global trade considerations. These two issues make commercial and diplomatic relations within North America a significant attention for the President, given the importance of cross-border trade flows among the US, Canada and Mexico, and the increasing number of joint energy investments and development of Canadian oil sands only increases the importance of this issue for a second term agenda.

President Obama is also likely to seek the same sort of budgetary compromise for which he has previously advocated. Any championed approach would include some increase in income tax rates in the higher brackets, some "broadening of the base" with regard to tax expenditures and as yet unspecified cuts in some discretionary programs and perhaps some decreases in defense spending. One challenge that will test the President's commitment to a budget compromise is entitlement reform, an election flashpoint that will continue into the 113th Congress.

New players will also enter the roster as is traditional for a second term president. Among the potential transitions:

- **Treasury:** Current Treasury Secretary Tim Geithner has made clear that he hopes to exit at the end of the first term. Among potential replacements are Erskine Bowles, Gene Sperling, and Lael Brainard.
- **State:** It is also widely anticipated that Secretary of State Hillary Clinton will look to leave public service, having in many respects weathered one of the more challenging terms on the international front. Current Massachusetts Senator John Kerry has been frequently named as a prospective replacement, but his appointment could be mired in Democratic concerns as to Senate composition.
- **Federal Communications Commission:** Although the Federal Communications Commission (FCC) has enjoyed a full compliment of five Commissioners for less than a year, Chairman Julius Genachowski is expected to depart. Larry Strickling, the National Telecommunications and Information Administration Administrator, is the current frontrunner to become the next FCC Chairman. Also named as under consideration are former National Cable and Telecommunication and CTIA President Tom Wheeler, current FCC Media Bureau Chief Bill Lake, and Neustar Executive Vice President Scott Harris.
- **Federal Trade Commission:** Changes may also occur at the top of the Federal Trade Commission (FTC). It is widely believed that Chairman Jon Leibowitz will leave the FTC shortly. Chairman Leibowitz's replacement is expected to be one of the two Democratic Commissioners, either Julie Brill or Edith Ramirez.

- **Commerce:** The role of Commerce Secretary is presently vacant. Leading candidates for this important trade and commercial role are Rebecca Blank, currently the Acting Secretary, or Fred Hochberg, president of the Export-Import Bank. However, this key appointment is often one awarded to a major campaign supporter, and the combination of the current vacancy and discussions of a potential consolidation in certain federal government's business and trade functions may redefine the pool of candidates considered by the White House.

OBAMA CABINET POSSIBILITIES

POSITION	CURRENT	POSSIBLE REPLACEMENTS	NOTES
Secretary of State	Hillary Clinton	Tom Donilon	National Security Advisor
		John Kerry	Senator (MA)
		Susan Rice	UN Ambassador
Defense Secretary	Leon Panetta	Michele Flournoy	Former Under Secretary of Defense for Policy
		Richard Danzig	American lawyer who served as the 71st Secretary of the Navy under President Bill Clinton
		Ash Carter	Deputy Defense Secretary
		Chuck Hagel	Former Senator (NE)
Attorney General	Eric Holder	Deval Patrick	Governor (MA)
		Amy Klobuchar	Senator (MN)
		Sheldon Whitehouse	Senator (RI)
		Claire McCaskill	Senator (MO)
		Janet Napolitano	Homeland Security Secretary
		Lisa Madigan	AG (IL)
CIA Director	Gen David Petraeus	John Brennan	Counterterrorism Advisor
Director of National Intelligence	Gen. James Clapper	John Brennan	Counterterrorism Advisor
National Security Advisor	Tom Donilon	Denis McDonough	Deputy National Security Advisor
		Susan Rice	UN Ambassador
		James Steinberg	Former Deputy Secretary of State (Clinton)
		Michele Flournoy	Former Under Secretary of Defense for Policy
Homeland Security Secretary	Janet Napolitano	Ray Kelly	NYC Police Commissioner
		Bill Bratton	Law enforcement expert
		Thad Allen	Retired Coast Guard Admiral
		Clark Ervin	Former Inspector General
Treasury Secretary	Tim Geithner	Jacob Lew	White House COS
		Erskin Bowles	Clinton White House COS, Simpson Bowles co-chair
		Gene Sperling	Director of National Economic Council

OBAMA CABINET POSSIBILITIES

POSITION	CURRENT	POSSIBLE REPLACEMENTS	NOTES
Director of OMB	Jeffrey Zients	Doug Elmendorf	Director of the CBO
		Gene Sperling	Director of National Economic Council
		Rob Nabors	Head of WH Leg Affairs
		Kent Conrad	Senator (ND)
		Chris Van Hollen	Representative (MD)
Chairman of the Council of Economic Advisors	Alan Krueger	Peter Diamond	MIT Economist
		David Cutler	Harvard Economist
		Jeffrey Liebman	Harvard Tax and Budget Scholar
Commerce Secretary		Ron Kirk	USTR
		Fred Hochberg	President of the Ex-Im Bank
		Karen Mills	Administrator of the Small Business Administration
Energy Secretary	Steven Chu	Byron Dorgan	Former Senator (ND)
		John Podesta	Chairman, Center for American Progress
HHS Secretary	Kathleen Sebelius	Lois Quam	Exec. Director, Global Health Initiative, State Dept.
		Martin O'Malley	Governor (MD)
		Deval Patrick	Governor (MA)
		John Kitzhaber	Governor (OR)
		Nancy-Ann DeParle	Deputy Chief of Staff
HUD Secretary	Shaun Donovan	Carol Galante	Acting FHA Commissioner
Interior Secretary	Ken Salazar	Christine Gregoire	Governor (WA)
		John Berry	OPM Director
		Seth Harris	Former Deputy Secretary (Clinton Administration)
Labor Secretary	Hilda Solis	Maria Echaveste	Deputy COS (Clinton Administration)
		Olena Berg Lacy	Asst. Secretary for Pensions and Welfare Benefits (Clinton Administration)
		Arlene Holt Baker	Executive VP, AFL-CIO

OBAMA CABINET POSSIBILITIES

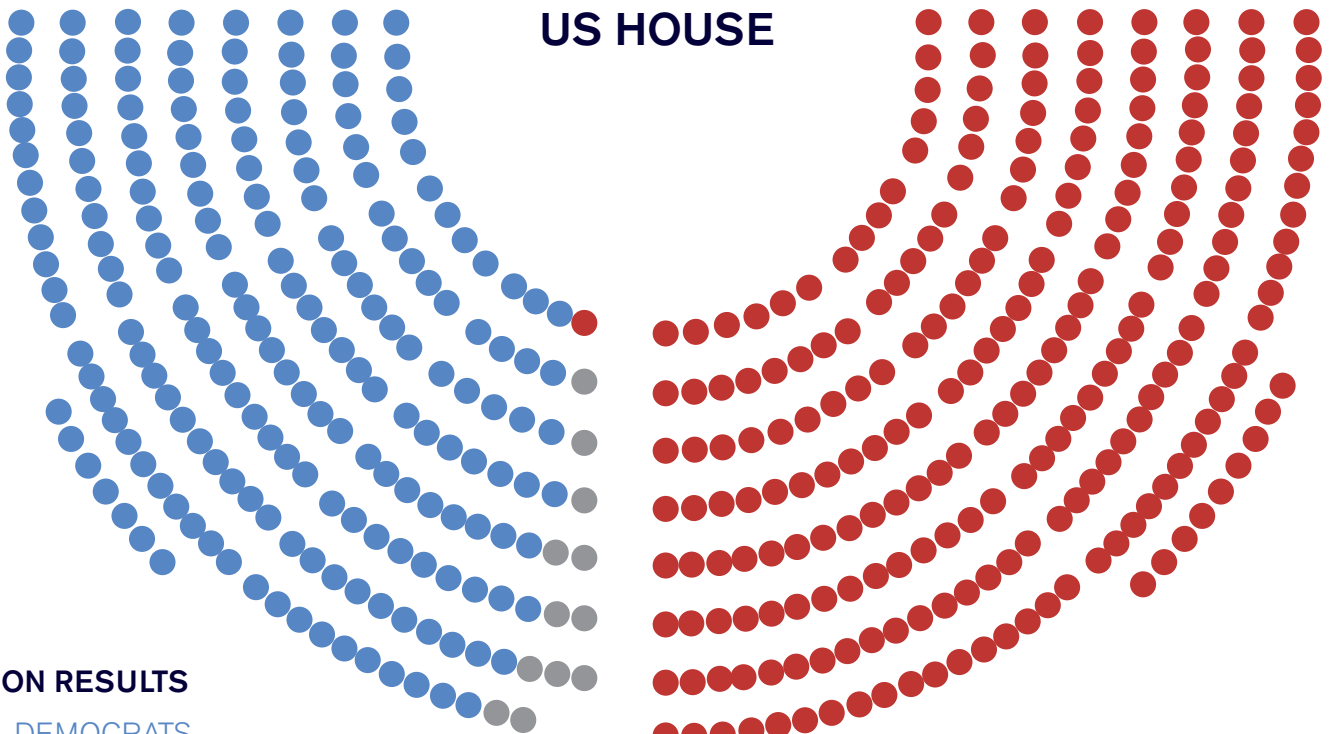
POSITION	CURRENT	POSSIBLE REPLACEMENTS	NOTES
Agriculture Secretary	Tom Vilsack	Blanche Lincoln	Former Senator (AR)
		Kent Conrad	Senator (ND)
		Jon Tester	Senator (MT)
Transportation Secretary	Ray LaHood	Antonio Villaraigosa	Mayor of Los Angeles
		Ed Rendell	Former Governor (PA)
		Michael Bloomberg	Mayor NYC
		Arnold Schwarzenegger	Former Governor (CA)
		Steven LaTourette	Representative (OH)
Education Secretary	Arne Duncan		
EPA Administrator	Lisa Jackson	Bob Perciasepe	Deputy Administrator (EPA)
		Heather Zichal	WH Aide on Energy and Climate issues
		Bradley Campbell	Commissioner of the New Jersey Department of Environmental Protection (2002-2006)
		Mary Nichols	Chairwoman, California Air Resources Board
Supreme Court		Merrick Garland	Judge US Court of Appeals, DC Circuit
		Amy Klobuchar	Senator (MN)
		Jennifer Granholm	Former Governor (MI)
		Kamala Harris	AG of California
Federal Reserve Board	Ben Bernanke	Janet Yellen	Fed Vice Chair
		Donald Kohn	Vice Chairman of the Fed 2006-2010
		Lawrence Summers	Former Treasury Secretary

House of Representatives: Same as it Ever Was?

Despite a vigorous and costly campaign by House Democrats, Republicans will maintain their House majority in the 113th Congress, retain their Committee chairmanships and continue to set the House legislative calendar for the next two years. Unless the results change through recounts or as the few remaining races are resolved, the next Congress will have about 237 Republicans and 198 Democrats, a net Democratic pickup of 5 seats — far less than the 25 seat net gain that was required for Democrats to recapture the House.

Hopes of a Democratic takeover of the House were dashed in part by significant strengthening of marginal Republican districts during redistricting activities over the last two years, as well as by the failure to successfully nationalize messaging on Medicare. Democrats also had limited success in making a major issue of the budget plans that had been proposed by Republican Vice Presidential nominee Paul Ryan. Moreover, while the President eventually managed to recover from his poor performance in the first debate, many believe that the October 3 debate so fundamentally altered the political landscape throughout the month of October as to preclude any possibility of a “wave” election that could have significantly enhanced the Democrats’ chances of recapturing the House.

Several of the seats Democrats gained last night were at the expense of freshman Republican lawmakers, a sign that voters may be evening their partisan keel a bit after the conservative wave that occurred in the 2010 midterm elections. It remains to be determined whether these modest changes in the balance of power in the House can be seen as a rejection of the House Republican agenda, or whether these election results are better explained simply by the more robust voter turnout produced by the presidential election.



ELECTION RESULTS

191 DEMOCRATS
232 REPUBLICANS
12 UNDECIDED

US HOUSE SCORE CARD — COMPETITIVE SEATS

DISTRICT	PARTY	WINNER	DISTRICT	PARTY	WINNER
AZ-1		Ann Kirkpatrick (D) / Jonathan Paton (R)	MD-6		John Delaney
AZ-2		Martha McSally	MI-1		Dan Benishek (R) / Gary McDowell (D)
AZ-9		Kyrsten Sinema (D) / Vernon Parker (R)	MN-6		Michele Bachmann
CA-21		David Valadao	MN-8		Rick Nolan
CA-24		Lois Capps	NC-11*		Mark Meadows
CA-26		Tony Strickland (R) / Julia Brownley (D)	NC-13*		George Holdings
CA-36		Mary Bono Mack (R) / Raul Ruiz (D)	NC-7		Mike McIntyre (D) / David Rouzer (R)
CA-41		Mark Takano	NC-8		Richard Hudson
CA-52		Brian Bilbray (R) / Scott Peters (D)	NH-1		Carol Shea-Porter
CA-7		Dan Lungren (R) / Ami Bera (D)	NH-2		Ann McLane Kuster
CA-9		Jerry McNerney	NJ-3		Jon Runyan
CA-10		Jeff Denham	NV-3		Joe Heck
CO-3		Scott Tipton	NY-11		Michael Grimm
CO-6		Mike Coffman	NY-18		Sean Maloney
FL-10		Daniel Webster	NY-19		Chris Gibson
FL-18		Allen West (R) / Patrick Murphy (D)	NY-21		Bill Owens
FL-22		Lois Frankel	NY-24		Dan Maffei
FL-26		Joe Garcia	NY-25		Louise Slaughter
GA-12		John Barrow	NY-27		Chris Collins
IA-3		Tom Latham	OH-16		Jim Renacci
IA-4		Steve King	OH-6		Bill Johnson (R) / Charlie Wilson (D)
IL-10		Brad Schneider	OK-2*		Markwayne Mullin
IL-11		Bill Foster	PA-8		Mike Fitzparick
IL-12*		Bill Enyart	PA-12		Keith Rothfus
IL-17		Cheri Bustos	RI-1		David Cicilline
IL-8		Tammy Duckworth	TX-23		Pete Gallego
IL-13*		Rodney Davis	UT-4		Jim Matheson
IN-2		Jackie Walorski	WA-1*		Suzan DelBene
KY-6		Andy Barr	WI-7		Sean Duffy
MA-6		John Tierney	WI-8		Reid Ribble

KEY

* = Open Seat

= Democratic New Seat

= Democratic Pick Up

= Democratic-Retained Seat

= Incumbent Loss

= Republican New Seat

= Republican Pick Up

= Republican-Retained Seat

US HOUSE — NEW MEMBER

STATE	DISTRICT	WINNER	PARTY	STATE	DISTRICT	WINNER	PARTY
AZ	2	Martha McSally	DEM	MN	8	Rick Nolan	DEM
AZ	9	Kyrsten Senima	DEM	MO	2	Ann Wagner	REP
AZ	1	Anne Kirkpatrick	DEM	MT-AL		Steve Daines	REP
AZ	5	Matt Salmon	REP	NC	8	Richard Hudson	REP
AR	4	Tom Cotton	REP	NC	9	Robert Pittenger	REP
CA	1	Doug LaMalfa	DEM	NC	11	Mark Meadows	REP
CA	2	Jared Huffman	DEM	NC	13	George E.B. Holding	REP
CA	7	Bera/Lungren		ND	At large	Kevin Cramer	REP
CA	8	Paul Cook	REP	NH	1	Carol Shea-Porter	DEM
CA	15	Eric Stalwell	DEM	NH	2	Ann McLane Kuster	DEM
CA	21	David Valadao	REP	NJ	10	Donald M. Payne Jr.	DEM
CA	26	Brownley/Strickland		NM	1	Michelle Lujan Grisham	DEM
CA	29	Tony Cardenas	DEM	NY	6	Grace Meng	DEM
CA	41	Mark Takano	DEM	NY	8	Hakeem Jeffries	DEM
CA	47	Alan Lowenthal	DEM	NY	18	Sean Patrick Maloney	DEM
CA	35	Gloria McLeod	DEM	NY	24	Dan Maffei	DEM
CA	51	Juan C. Vargas	DEM	NY	27	Chris Collins	REP
CT	5	Elizabeth Esty	DEM	NV	1	Dina Titus	DEM
FL	3	Ted Yoho	REP	NV	4	Steven Horsford	DEM
FL	6	Ron DeSantis	REP	OH	2	Brad Wenstrup	REP
FL	9	Alan Grayson	DEM	OH	3	Joyce Beatty	DEM
FL	19	Trey Radel	REP	OH	14	David Joyce	REP
FL	22	Lois Frankel	DEM	OK	1	Jim Bridenstine	REP
FL	26	Joe Garcia	DEM	OK	2	Markwayne Mullin	REP
GA	9	Doug Collins	REP	PA	4	Scott Perry	REP
HI	2	Tulsi Gabbard	DEM	PA	12	Keith Rothfus	REP
IL	8	Tammy Duckworth	DEM	PA	17	Matt Cartwright	DEM
IL	10	Brad Schneider	DEM	SC	7	Tom Rice	REP
IL	11	Bill Foster	DEM	TX	14	Randy Weber	REP
IL	12	Bill Enyart	DEM	TX	16	Beto O'Rourke	DEM
IL	13	Rodney Davis	REP	TX	20	Joaquin Castro	DEM
IL	17	Cheri Bustos	DEM	TX	23	Pete Gallego	DEM
IN	2	Jackie Walorski	REP	TX	25	Roger Williams	REP
IN	5	Susan W. Brooks	REP	TX	33	Marc Veasey	DEM
IN	6	Luke Messer	REP	TX	34	Filemon Vela	DEM
KY	4	Thomas Massie	REP	TX	36	Steve Stockman	REP
KY	6	Garland "Andy" Barr IV	REP	UT	2	Chris Stewart	REP
MA	4	Joseph P. Kennedy III	DEM	WA	1	Suzan DelBene	DEM
MD	6	John Delaney	DEM	WA	6	Derek Kilmer	DEM
MI	5	Dan Kildee	DEM	WA	10	Denny Heck	DEM
MI	11	Kerry Bentivolio	REP	WI	2	Mark Pocan	DEM

Northeast

The northeast region was largely a wash for the balance of power as Democrats and Republicans traded seats.

Connecticut Democrat Elizabeth Esty was elected to the seat which was vacated by the state's newly-elected Senator Chris Murphy.

Maryland Democrat John Delaney won a decisive victory of more than 20% over 10-term Republican Congressman Roscoe Bartlett.

Massachusetts Defying the predictions of virtually all of the pundits who said that controversy over his wife's criminal activities would send him to defeat, long-time Democratic member John Tierney narrowly won re-election by 1% over the Republican candidate, Richard Tisei. Democrat Joseph Kennedy III also was easily elected to succeed long-time member Barney Frank.

New Hampshire Democrats captured both of the state's seats from Republican incumbents. Former Representative Carol Shea Porter defeated Frank Guinta and Anne Kuster defeated Charlie Bass.

New Jersey Democrat Donald Payne Jr. was elected to a serve both a special election term and a full-two year term. Payne succeeds his late father, the veteran Democrat Donald Payne. All other current members of the delegation were re-elected.

New York Two Republican incumbents and one Democratic incumbent were defeated. Sean Patrick Maloney defeated first term representative and Tea Party favorite, Nan Hayworth. In a rematch of their 2010 race, former member Dan Maffei defeated first-term Republican Anne Marie Buerkle. After redistricting made her district significantly more Republican, Democrat Kathy Hochul, who had gained national recognition while winning a special election to Congress on the strength of the Medicare issue, narrowly lost her bid for re-election to Republican Chris Collins.

Pennsylvania Demonstrating that southwestern Pennsylvania, historically a Democratic area, is becoming increasingly purple, Republican Keith Rothfus defeated two-term Congressman Mark Critz. Republican redistricting had forced Critz into a primary with Democratic

Congressman Jason Altmire and required Critz, after his defeat of Altmire, to run in a district that was largely new to him.

Rhode Island Democrat David Cicilline, the former Mayor of Providence, surprised many by easily winning re-election by over 12%.

Midwest

Republicans won two hotly contested Democrat vs. Republican member match-ups, while Illinois Democrats, on the strength of redistricting by a Democratic state legislature, captured the seats of four Republican incumbents.

Illinois The delegation will see wholesale changes next year as Democrats won the seats of four Republican incumbents. Democrat Tammy Duckworth won an easy victory against controversial Tea Party favorite, Joe Walsh. Former member Bill Foster won by over 15% against veteran Republican Congresswoman Judy Biggert, who had been Chair of the Insurance and Housing Subcommittee of the Financial Services Committee. Democrat Brad Schneider narrowly defeated Republican Bob Dold and Democrat Cheri Bustos defeated first-term Republican Bobby Schilling. Democrat Bill Enyart and Republican Rodney Davis each also won an open seat.

Indiana Republican Susan Brooks joins the delegation, keeping the seat of retiring member Dan Burton. Luke Messer was elected to fill the 6th District seat of Mike Pence, who ran and won the gubernatorial race. Joe Donnelly's 2nd District seat switched to Republican Jackie Walorski by a narrow margin of 4,000 votes. The Hoosier state's other incumbents were re-elected.

Iowa In a hard-fought member vs. member race involving two veteran members, Republican Tom Latham, a close ally of Speaker John Boehner, defeated Leonard Boswell, by more than 8%. The three other incumbents, Bruce Braley, Dave Loebsack, and Steve King all easily won re-election.

Kentucky Republicans picked up one seat formerly held by Democrats. Andy Barr, the 2010 Republican nominee who lost in a squeaker that year to Blue Dog Democrat Ben Chandler, reversed the tables this time, defeating Chandler by about 4%. Chandler's loss is another blow to the Blue Dog Coalition whose membership has been shrinking rapidly in the last two elections.

Michigan In a rematch of their 2010 race, first-term Republican member Dan Benishek defeated Democrat Gary McDowell by less than 1%.

Minnesota After being out of Congress for over 30 years, former Democratic Congressman Rick Nolan will be returning to the House, having defeated first-term Republican member Chip Cravaack. In a closely watched race, former Republican presidential candidate, Michelle Bachmann, also narrowly won her bid for re-election.

Ohio In another member vs. member match-up, first-term Republican Jim Renacci won re-election by around 4.5% over Betty Sutton, a Democrat who is a favorite of organized labor in the state.

Wisconsin While Democrat Marc Pocan will fill the seat that was vacated by Tammy Baldwin, the state's new Senator, there is no change in the balance of power in the delegation. All seven incumbents who stood for re-election will be returning to Congress.

South

Alabama Incumbents rolled to an election day victory, with all seven Members of the delegation returning in the 113th Congress. Republicans hold six of seven seats in the delegation.

Arkansas With Congressman Mike Ross's retirement, Republicans finally succeeded in capturing the one seat represented by a Democrat. Republicans gained control of all four of the state's Congressional seats.

Florida The Tea Party saw one of their higher profile members lose when first-term Member Allen West went down to Democrat Patrick Murphy. Republican David Rivera, who was plagued with ethics questions since before he was sworn in to Congress, lost his South Florida seat to Democrat Joe Garcia.

Georgia John Barrow, one of the last remaining "Blue Dog Democrats," held on to his seat after a spirited campaign and a newly drawn district.

Louisiana Louisiana's 3rd district featured two Republican incumbents squaring off on election day. The battle between Charles Boustany and Jeff Laundry will continue in a run off election in December. Republicans hold six of seven seats, except for Democrat Cedric Richmond's New Orleans district.

Mississippi Mississippi's congressional delegation will return to Washington intact for the 113th Congress. Republicans hold three of the state's four Congressional seats.

North Carolina Redistricting and retirements in the Tar Heel state led to a Republican pick up of three — and potentially four — seats. The Republicans captured two open seats and knocked off at least one incumbent. 7th District Democrat Mike McIntyre holds a 398 vote lead over Republican challenger David Rouzier.

South Carolina South Carolina gained a new seat in the 2010 census and Republicans captured it on election day. Republicans hold six of seven seats in the Palmetto state.

Tennessee The Volunteer state will be sending back the full cadre of their 112th Congressional Delegation, with seven Republicans and two Democrats.

Virginia Status quo for the 11 members of the delegation. All incumbents won re-election in a day with record-setting voter turnout.

West

Arizona The census gave Arizona two additional seats, which were split between the two parties. Incumbent Democrat Ron Barber, elected to fulfill the remaining months of Gabby Giffords' term, lost.

California As we go to print, the Golden state remains an open question for both parties. Republican incumbents Dan Lungren, Mary Bono Mack and Brian Bilbray are locked in tight races that will likely trigger recalls. In a "top two finisher race," Democrat Pete Stark lost to his Democratic challenger Eric Stalwell. In another "top two finisher," Joe Baca lost to his Democratic challenger Gloria McLeod. Central Valley Democrat Jerry McNerney handily beat back his Republican challenger. In the state's two member vs. member races, Brad Sherman defeated Howard Berman and Janice Hahn prevailed over Laura Richardson.

Election Insight | 2012

Colorado With the state enjoying the attention of a swing state label, the Congressional delegation was far less up in the air. All seven members of the delegation will return to Congress in January

Hawaii Status quo for the 50th state as Democrats maintained a seat made open by Mazie Hirono's decision to run for the Senate. Tulsi Gabbard succeeded the Congresswoman, winning 80% of the vote.

Idaho Idaho's two-member delegation, both of whom are Republicans, were re-elected.

Nevada Nevada picked up one seat in redistricting and Democrats were able to add it to their win column on Tuesday night. Republicans and Democrats each hold two of the state's four Congressional seats.

New Mexico Democrats were able to hold the seat made open by Martin Heinrich's jump into the open Senate race, keeping the partisan division of the delegation the same for the 113th Congress.

Texas Democrats knocked off an incumbent by beating Republican Freshman Francisco Canseco in the 23rd district. With Ralph Hall's win in Texas, he is now the oldest Member of Congress at 89.

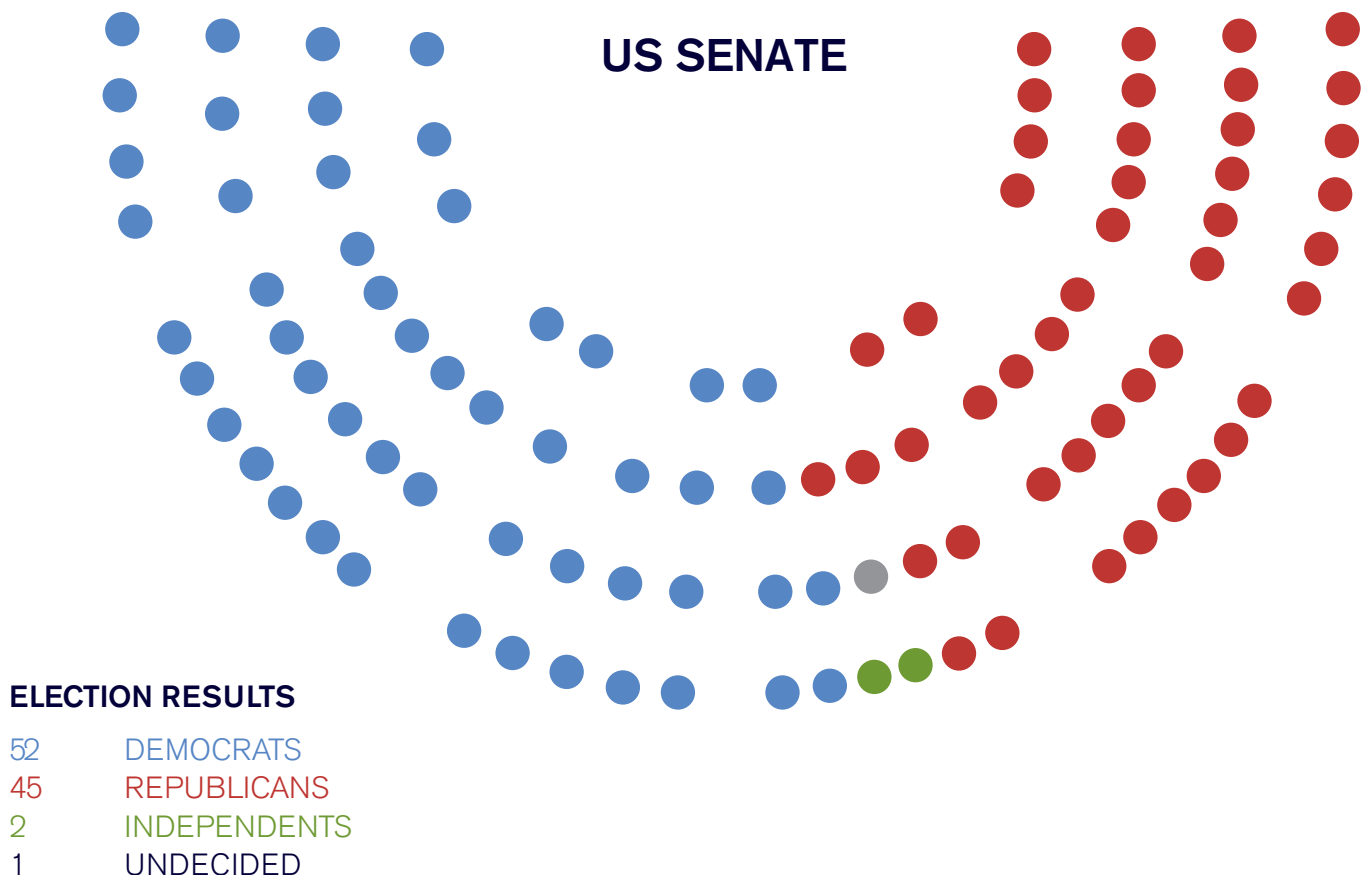
Washington Suzan DelBene won the 1st District seat vacated by Jay Inslee. The state's remaining eight Members were reelected.

US Senate: Holding Back the Wave

In a cycle where Democrats faced long odds, party leaders managed to use a combination of strong candidates, an effective ground game, and exploitation of Republican missteps to hold their Democratic majority and make marginal gains. While the outcome of the North Dakota senate race remains undecided as of this writing, it is anticipated that the Chamber will have a minimum of 51 Democrats, 45 Republicans, and two Independents who will Caucus with the Democrats in 2013. National Republicans entered the 2012 election cycle with high hopes of regaining control of the Chamber with 23 Democratic seats being contested while having to defend only 10 of their own. A combination of candidate mistakes, stronger than expected Democratic candidates, and President Obama's coat tails in swing states with contested Senate races dashed these hopes. Tough Republican primaries also affected the outcome of general elections, as campaign resources were depleted and reputations damaged ahead of the general election.

Five states saw a change in party: Massachusetts and Indiana flipped from Republican to Democrat; Nebraska changed from Democrat to Republican; Maine switched from Republican to Independent; and Connecticut switched from Independent to Democrat.

The dynamics of the Senate in 2013 are likely to mirror those of 2011-2012, with Democrats still short of the 60 votes necessary to overcome a filibuster and the prospect of continued gridlock on the horizon. Many in the Chamber will also quickly turn their attention to the 2014 mid-term elections, which will reflect the performance of those freshmen Democratic Senators who rode President Obama's coattails in 2008 and now must face reelection.



US SENATE SCORE CARD

STATE	PARTY	WINNER	STATE	PARTY	WINNER
AZ*	R	Jeff Flake	NJ	D	Robert Menendez
CA	D	Dianne Feinstein	NM*	D	Martin Heinrich
CT*	★	Chris Murphy	NY	D	Kristen Gillibrand
DE	D	Tom Carper	ND*		Heidi Heitkamp (D) Rick Berg (R)
FL	D	Bill Nelson	OH	D	Sherrod Brown
HI*	D	Mazie Hirono	PA	D	Bob Casey
IN	★	Joe Donnelly	RI	D	Sheldon Whitehouse
ME	★	Angus Kings	TN	R	Bob Corker
MD	D	Ben Cardin	TX*	R	Ted Cruz
MA	★	Elizabeth Warren	UT	R	Orrin Hatch
MI	D	Debbie Stadenow	VT	I	Bernie Sanders
MN	D	Amy Klobuchar	VA*	D	Tim Kaine
MS	R	Roger Wicker	WA	D	Maria Cantwell
MO	D	Claire McCaskill	WV	D	Joe Manchin
MT	D	Jon Tester	WI*	D	Tammy Baldwon
NE*	★	Deb Fischer	WY	R	John Barraso
NV	R	Dean Heller			

KEY

- * = Open Seat
- = Incumbent Loss
- ★ = Democratic Pick Up
- ★ = Republican Pick Up
- ★ = Independent Pick Up
- D = Democratic-Retained Seat
- R = Republican-Retained Seat
- I = Independent-Retained Seat

Key Races

Arizona Republican Congressman Jeff Flake is headed to the Senate to succeed retiring Senator John Kyl (R). Following a tough primary, Flake beat former Surgeon General, and Independent turned Democrat, Richard Carmona 50% to 45%. While demographic trends in Arizona have changed in the past several election cycles, this remained a long shot for Democrats despite a strong performance from Carmona.

Connecticut Another House Member will make the move to the Senate as Chris Murphy (D) has defeated former World Wrestling Entertainment CEO Linda McMahon (R) in the race to replace retiring Senator Joe Lieberman (I). Obama carried the state amid heavy voter turnout, with voters indicating that party control in the Senate played an important part in deciding which Senate candidate would get their vote. Murphy, 39, will be the youngest member of the Senate.

Florida While the outcome of the Presidential race in Florida remains undecided, the Senate race outcome is not in doubt. Current Senator Bill Nelson (D) won 55.1% of the vote against Republican Congressman Connie Mack, who won 42.4%. Preliminary exit polling showed an increase in the number of Hispanic voters, who likely provided an advantage to Obama, as well as to the Democratic Senate candidate. Nelson was favored throughout the race.

Indiana Democrats had a notable win in Indiana, as Democratic Congressman Joe Donnelly, a Blue Dog in the House, claimed victory over state Treasurer Richard Mourdock. The open seat was a result of Mourdock, a Tea Party candidate, ousting veteran Senator Richard Lugar (R), a more moderate Republican, in the primary. While Romney won Indiana, Mourdock's damaging comments on abortion likely undermined the upticket win and overall red slant in the state, resulting in the Democratic pick up.

Maine The three-way race for Maine's Senate seat resulted in a clear victory for former Maine Governor and Independent Angus King, who claimed 53% of the vote against Republican Secretary of State Charlie Summers and Democrat Cynthia Dill, who won 30% and 13%, respectively. King replaces retiring moderate Republican Senator Olympia Snowe and is expected to caucus with the Democrats.

Massachusetts The expensive, hotly contested and closely watched Massachusetts Senate race resulted in a significant pickup for Democrats as Elizabeth Warren defeated current Republican Senator Scott Brown 54% to 46%. The first Republican in the seat for decades, Brown could not capture the number of Independent and Democratic voters needed to hang on to the seat formerly held by the late Senator Ted Kennedy (D), notwithstanding his relatively high approval ratings.

Missouri Senator Claire McCaskill (D), who was once thought to be the most vulnerable Democrat in the Senate, easily defeated Representative Todd Akin (R). Akin's comments regarding "legitimate rape" sparked intense controversy and initially led to calls from Republican party leaders for him to drop out of the race. Ultimately, while Akin made some strides in closing the gap, the damage was done and McCaskill will return to the Senate.

Montana This hard-fought race was the most expensive in the history of the state and among the most expensive races in the United States in spending per voter. It is estimated that the candidates spent a combined \$20 million with outside groups spending an additional \$30 million. In the end Tester narrowly prevailed his seat in one of the closest races this cycle.

Nebraska State Senator Deb Fischer (R) defeated former Democratic Senator and Governor Bob Kerrey to claim the seat previously held by retiring Senator Ben Nelson (D). Republicans attacked Kerrey for spending the past decade living in New York City and being out of touch with voters of Nebraska. Nebraska could become the only Republican pickup in the 2012 Senate elections depending on the outcome of the North Dakota Senate race.

Nevada Incumbent Senator Dean Heller (R) narrowly defeated seven-term Democratic Congresswoman Shelley Berkley to win his first full term after being picked by Republican Governor Brian Sandoval to replace John Ensign (R), who resigned after a 2011 scandal. Heavy spending by interest groups throughout the campaign attacked Berkley and accused her of using her position in Congress to enrich her husband's medical practice. Ultimately, despite a strong performance by President Obama in Nevada, voters nevertheless split the ticket this year and chose Heller.

North Dakota At publication time, the race between popular former state Attorney General Heidi Heitkamp (D) and Representative Rick Berg (R) remains too close to call. Heitkamp is 3,000 votes ahead with 100% of precincts reporting. It would be a major victory for the Democrats to hold onto the seat vacated by retiring Senator Kent Conrad (D) in a state that increasingly favors Republicans, despite its tradition of ticket-splitting.

Ohio First term Democratic Senator Sherrod Brown (D) defeated state Treasurer Josh Mandel (R) in this battleground state that was key to the Presidential election. Outside groups and super PACs spent more than \$40 million to unseat Brown, while left-leaning groups spent nearly \$12 million to oppose Mandel. Despite the 4-to-1 spending ratio, the Republicans were not able to unseat Brown in a race that was often overshadowed by presidential politics in the state.

Pennsylvania Senator Bob Casey (D) held off a challenge from former coal mining magnate Tom Smith (R), who spent nearly \$17 million of his money to unseat the first term Senator. While Casey enjoyed a strong lead in the polls for

most of the race a late surge by the Republican and an increased focus of the Romney campaign in the state made this race closer than expected.

Virginia Former Virginia Governor Tim Kaine (D) defeated former US Senator and Governor George Allen (R) 52% to 48% for the hotly contested Senate seat being vacated by retiring Senator Jim Webb (D). Once considered a strongly conservative state, the changing population and growth in the Northern Virginia suburbs of Washington, DC have made the state very competitive. This contest saw the highest level of super PAC spending of any Senate race.

Wisconsin Wisconsin stays in the Democratic column as six-term Congresswoman Tammy Baldwin (D) becomes the first openly gay member of the US Senate. Baldwin won 51% of the vote, trumping former Republican Governor and HHS Secretary Tommy Thompson's 46%. The state delivered its electoral votes to President Obama, despite being Republican Vice Presidential candidate Paul Ryan's home. Wisconsin had high voter turnout, which likely helped Baldwin win the seat left open by retiring Senator Herb Kohl (D).

The 113th Congress

While last night's elections have brought new players to the table whose presence will alter the political dynamics of the public Washington policy dialogue, the 113th Congress will focus primarily on the same broad suite of issues that have consumed debate for the past two years. The question of how best to restore America's economy will remain the paramount domestic issue. With many "fiscal cliff" issues likely to require resolution when the next Congress convenes, Congress will be confronted with the dual challenge of quickly achieving more robust economic growth while also concurrently determining, and many hope implementing, the steps required to put the nation on a path toward long-term fiscal sustainability.

Though congressional Democrats and Republicans bring sharply differing approaches to solving these key issues, voter sentiment has clearly demonstrated a strong desire for consensus. The tension between this charge from voters and the increased ideological purity of Democratic and Republican caucuses in both the House and Senate will be a driving factor in the legislative debate in 2013 and prompts a number of fundamental questions: Will deal makers come to the table? Will party leaders reach across the aisle to finally achieve the "Grand Bargain" on taxes and spending that has eluded them thus far? Will new faces at the leadership table and at the top of key committees alter the substance of debate? And finally, how quickly do Members of the House and Senate turn their attention to the 2014 mid-term elections?

The major policy areas that will be on the agenda for the next Congress include: tax and entitlement reform and deficit reduction; continued implementation of the Obama Administration's hallmark legislative accomplishments, the Affordable Care Act and the Dodd-Frank Act; debate on the future of American energy; and job creation and economic growth. Given the increasingly intertwined nature of legislating in these areas amid questions of longer term fiscal considerations, debate on myriad issues in the 113th Congress will not be easily divided into industries or issue areas, but will become part of the broader debate over the economy.

Many pundits and political observers believe that an incumbent president has a critical window in the first year of the second term to address important public policy issues before the mid-year election intrudes. With the president freed of the need to consider the personal electoral ramifications of policy choices, the potential exists for President Obama to pursue initiatives that are far more difficult to address when facing reelection. It remains to be seen whether the sheer size and importance of the fiscal

cliff issues will cause the president and congressional leaders to seize this opportunity to address these issues in a bipartisan manner, or whether congressional party leaders, in an effort to satisfy the ideologues in their respective caucuses, will quickly return to their talking points and mount what in effect would become a permanent political campaign.

Lame Duck

The effects of last night's elections will be felt even before the gavel opens the 113th Congress. The 112th Congress returns for a lame duck session beginning next week, and the impending fiscal cliff will dominate the agenda. The fiscal cliff refers to the combination of expiring tax provisions and across-the-board spending cuts (sequestration) that are set to take place on January 2, unless Congress intervenes. Thus far, the Administration and congressional Democrats have advocated a deficit-reduction agreement, which includes both spending cuts and tax increases on high-income taxpayers, while Republican Members of both Chambers have opposed tax increases and cuts to defense, pushing instead for additional spending reductions.

The list of cliff items includes:

- Expiration of the 2001 and 2003 tax cuts;
- Sequestration, including \$55 billion in defense cuts and \$55 billion in non-defense cuts that are scheduled to occur during this fiscal year;
- The new 3.8% Medicare tax on wages and investment income on high-income taxpayers and the excise tax on medical device makers included in the Affordable Care Act;
- Expiration of current extended unemployment insurance;

- Medicare sustainable growth rate formula (i.e., the “doc fix”);
- Whether to continue the current 2% reduction in the payroll tax;
- Retroactive extension of expired provisions — Alternative Minimum Tax (AMT) patch, research and development tax credit, the production tax credit for wind energy, and other “tax extenders;” and
- Current estate and gift tax rules.

Numerous proposals have been offered throughout this year on how best to address the fiscal cliff, but many have been dismissed as partisan political jabs from the left and the right, designed for scoring political points during the campaign. Amid this environment, multiple ad hoc bipartisan groups have emerged, especially among Members of the Senate, to attempt a bipartisan solution. However, none of these groups has produced legislation or even a broad framework of a proposal for how to move forward.

Many believe there is simply not enough time to reach an agreement on these issues during the lame duck, which has led to speculation that the fiscal cliff issues will be punted to the next Congress (either by “going off the cliff” or through enactment of temporary relief). With President Obama’s reelection and the return of a divided Congress, it appears likely the Bush-era tax cuts will be temporarily extended with a push by the Obama Administration to let the Bush tax cut rates expire for those making more than \$1 million a year. To win GOP support for increasing the debt ceiling, which is expected to be reached in mid-January, Democrats would likely need to agree to some cuts to entitlement spending. In regards to sequestration, both parties may delay sequestration for one year, instead of tackling it as part of a larger deficit reduction or tax reform plan.

Tax and Budget

No matter the outcome of this year’s lame duck session, tax and budget issues will find themselves at the center of the congressional agenda in 2013. This debate is has been an ongoing throughout the 111th and 112th Congresses, with both Democrats and Republicans meeting stakeholders, developing legislative products, and laying the foundation for debate on individual and corporate tax reform. In the last 12

to 18 months, the intensity of this debate has been heightened as the concepts behind competing visions of tax reform have become a central element of the broader discussion about how to achieve both long-term economic growth and deficit reduction. With the election behind us and the pieces finally in place, 2013 will be a critical year for debate on tax and budget issues in Washington.

Continuity in the leadership of the tax writing committees in the 113th Congress will mean that legislative efforts going forward will likely resemble those of the recent past. The leadership of the House Ways and Means Committee and Senate Finance Committee have done extensive work in preparation for this debate during the last several years. As such, the broad conceptual framework for two approaches for tax reform has been laid. Both Democrats and Republicans broadly agree on concepts: lowering the corporate rate and encouraging domestic job growth through corporate tax reform, simplifying the individual tax system, fixing the AMT, and more clearly justifying tax expenditures within the tax code.

Despite these areas of general agreement, the approaches taken by the two parties differ significantly. Areas of disagreement that will need to be hashed out in this discussion include tax treatment of high-income earners with respect to both income as well as capital gains and dividends, establishment of a territorial tax system, modification of preferences and “loopholes” within the code (for example, policies that advantage oil and gas and renewable energy), and proper levels of corporate taxation. Legislating in these areas will be an incredibly complex, difficult, and grueling process, and it is probable that this debate will extend beyond 2013.

Given the small Democratic majority in the Senate, bipartisanship will be required to legislate. Further shaping this debate will be numerous partisan and bipartisan groups that will develop their own tax and budget packages. Members of the Senate Gang of Six (or Eight), acolytes of the Bowles-Simpson approach, and other yet-to-be-formed groups will likely help shape this debate in the Senate, and may prove critical to passage of any legislation.

The White House also will play a key role in this debate. President Obama has promised to reduce the deficit by more than \$4 trillion over the next decade, proposing what he characterizes as a “balanced plan of spending cuts and revenue increases.” Obama’s individual tax reform policies

reflect his repeated desire not to raise taxes on the middle class, calling for an extension of the Bush-era tax cuts for middle class families, while at the same time advocating for an increase in taxes on households with income above \$250,000 or individual income above \$200,000. In this same vein, the president has stated his desire to tax carried interest as ordinary income and reinstate the estate tax at 2009 levels, meaning estates worth more than \$3.5 million would be subject to a top rate of 45%. President Obama has stated his desire to tax capital gains at 20% and for the top dividend rate to revert to 39.6%. He supports permanently adjusting the AMT for inflation and making permanent some expanded tax breaks for the middle class.

In February 2012, President Obama unveiled a corporate tax reform plan that would emphasize the domestic production sector, small businesses, and global competitiveness. His plan calls for a lowering of the corporate tax rate from 35% to 28%, and reducing the manufacturing income rate to 25%. To pay for these proposals, the president would eliminate several business tax breaks, most notably subsidies for oil companies. In addition, Obama's plan would make the Research and Development (R&D) tax credit permanent while creating a simpler formula for its calculation. In addition, the president has proposed making the tax credit for renewable electricity production permanent. The President's plan also would require companies to pay minimum tax on overseas profits and remove tax deductions for moving production overseas, while giving a 20% income tax credit for the expenses of moving back to the US. Finally, the president's plan would allow small business to expense up to \$1 million in investments, allow cash accounting on businesses with up to \$10 million in gross receipts, allow double the deductions for start-ups costs, and expand the health insurance tax credit for small businesses.

Health Care and Entitlements

Federal spending on entitlement programs (Medicare, Medicaid, Social Security, and now, the ACA) is growing at an unsustainable level and becoming an increasing driver of the federal budget deficit. Both public and private sector voices in support of maintaining the status quo remain strong and politically powerful, however, the level of public interest in reforming entitlements has grown significantly in recent years. Policymakers on both sides of the political aisle agree that federal government spending on these programs needs to get under control, however, a compromise on how to solve this crucial problem remains elusive.

The entitlement reform debate is likely to be equally if not more contentious than the tax reform debate, which may join together to form a single conversation in the event a large-scale deficit reduction package gains momentum. Compounding this challenge is the jurisdictional overlap between taxes and entitlements.

President Obama has proposed reforming entitlement programs as part of his plan to achieve deficit reduction of more than \$4 trillion over the next decade. As opposed to drastic changes to the structure of Medicare and Medicaid, the president has promoted reforming these programs through reducing fraud, waste, and abuse, encouraging greater provider efficiency, and continuing to implement delivery system payment reforms that improve quality while reducing costs. Through the ACA, the basic structure of Medicare is preserved and the Department of Health and Human Services (HHS) is provided with substantial discretion to test innovative payment designs. The Obama campaign made the issue of entitlement reform and entitlements a central focus on the campaign trail, drawing sharp contrasts with the controversial Ryan Budget, which despite Governor Romney's electoral defeat, will still form the basis of the Republican position on entitlement policy.

With the status quo essentially winning the day, the Affordable Care Act will march forward toward full implementation in 2014. "Repeal and replace" no longer is achievable with President Obama's reelection. Due to the tight presidential race and the inherent politics surrounding any Executive Branch decision, the Obama Administration effectively halted the release of crucial Affordable Care Act regulations to prevent political attacks from influencing the election. With Obama's reelection, the Administration is expected to release regulations implementing important provisions of the ACA in the coming weeks and months. With the major provisions of the law slated to become effective January 1, 2014, stakeholders and states have demanded sufficient time to respond to the regulations.

Energy and Environment

Focus in the 113th Congress will lie in the continued debate on the future development of American energy resources, with deep-seated disagreement between those championing fossil fuels and those urging a greater emphasis on renewable development. The Obama Administration will likely continue to champion renewable energy sources like wind, solar, and the safe development of natural gas through conventional and unconventional drilling.

The Administration, through the EPA, will also look to move forward with finalization of numerous rules that it either stayed or delayed until after the election, actions that many congressional Republicans considered blatantly politically motivated. These actions include moving ahead with new source performance standards (NSPS) for greenhouse gas (GHG) emissions from new power plants and possibly proposing similar standards for existing power plants and other sectors; implementing the long-delayed Mercury Air Toxic Standards (MATS) rule, and reconsideration of whether and how to revise the Cross State Air Pollution rule (CSAPR), which was struck down by the federal courts in August 2012. EPA also will likely move ahead on a number of other air pollution and water pollution regulations that will impact the power and manufacturing sectors, including new air quality standards for soot and ozone, toxics standards for industrial and commercial boilers, effluent discharge limitations for power plants, regulations on coal ash residue and on cooling intake water, and implementation of increased fuel efficiency standards. In addition to its air emissions agenda, EPA also will focus on oil and gas drilling issues, including finalizing a report on water use in hydraulic fracturing and potential further regulation of this practice.

Should the Administration choose to move ahead with these priorities at EPA, congressional Republicans will make rigorous oversight of these measures a key driver of policy in 2013. In addition to scrutinizing all Administration activity, we expect a number of pieces of legislation curtailing EPA's authority to enact regulations and staying the implementation of current regulations to be introduced and acted on by the Republican-controlled House. In the House, additional legislation is likely to be passed that would overhaul the Clean Air Act, expand domestic oil and gas drilling, and address cross-border pipeline construction. This "status quo" election result suggests that major energy policy will continue to be made through judicial review, rather than by the Congress. While legislative gridlock is likely to continue on most major energy policy issues, changes in the leadership of the committees with jurisdiction over energy policy will affect the legislative agenda moving forward.

The new Chairman of the Senate Committee on Energy and Natural Resources will be Senator Ron Wyden (D-OR) and the Senator Lisa Murkowski (R-AK) will continue as Ranking Member. Many observers believe that Wyden will advocate views similar to retiring Chairman Senator Jeff Bingaman (D-NM) regarding renewable energy incentives, while seeking to cut fossil fuel subsidies. Wyden will be the first

Chairman in over a decade whose home state does not have significant fossil fuel production. He has been highly focused on the development of natural gas and will spend significant time on natural gas issues, particularly regarding the export of liquefied natural gas. In the House, it is possible that Representative Doc Hastings (R-WA), the current Chairman of the House Natural Resources Committee, will take the helm of the Rules Committee. If that occurs, it is expected that Representative Rob Bishop (R-UT) would rise to the top spot on the Natural Resources Committee.

The energy sector also will draw attention in the context of tax reform, with debate continuing on tax policy affecting both oil and gas companies and renewable generators.

Financial Services and Dodd-Frank

Major changes will occur in the leadership of the House Financial Services Committee and the Senate Banking Committee for the next Congress. Spencer Bachus (R-AL) is stepping down as the Chairman of the House Financial Services Committee and Jeb Hensarling (R-TX) is expected to succeed him. Current Ranking Member Barney Frank (D-MA) did not stand for reelection and Maxine Waters (D-CA) is expected to become the Ranking Member in the 113th Congress.

Hensarling, a leading conservative voice, and Waters, a progressive icon, are each strong partisans with a penchant for sharp, sometimes biting rhetoric. As a result, many expect the atmosphere in the committee to become less collegial and more confrontational than has been the case in recent years. This transition could cause the committee to start off more slowly than in the past to allow the new leaders time to get their bearings. Conversely, committee Republicans may simply choose to pick up where they left off in the 112th Congress in pursuing their agenda to reform or eliminate the Dodd-Frank Act, rein in the powers of the Consumer Financial Protection Bureau (CFPB), and achieve fundamental GSE reform.

While Senator Tim Johnson (D-SD) is expected to continue as the Chairman of the Senate Banking Committee, Senator Richard Shelby (R-AL) must step down because of Republican term limits. Many expect Senator Mike Crapo (R-ID) to replace Shelby as Ranking Member. While Crapo's priorities will likely differ to some degree from Shelby, few expect the transition in the Republican leadership of the

Banking Committee to produce a fundamental change in the committee's agenda or how it conducts its business.

Oversight of Dodd-Frank Act implementation along with continuing Republican efforts to reform the Act will be important issuers during the 113th Congress. The Act's derivatives provisions along with the Financial Stability Oversight Council and its process for designating firms as systemically important financial institutions (SIFIs) are expected to receive significant committee attention. Both Republicans and Democrats on the Banking Committee are likely to concentrate on whether Dodd-Frank has actually achieved its goal of ending federal support for so-called "too-big-to-fail" institutions.

The Consumer Financial Protection Bureau (CFPB) will undoubtedly receive particular focus as Republicans continue their efforts to make the CFPB subject to the appropriations process or to replace the CFPB Director with a five-person commission. Finally, GSE reform will be a key part of the Financial Services Committee's agenda and also could be on the Banking Committee's agenda should President Obama want to take on this issue.

Now that the president no longer has to concern himself with reelection, the prospect of GSE reform takes on a different tone. It remains to be seen whether the Obama Administration will actively pursue GSE reform, or whether gradual improvements in the housing market will make GSE reform less of a priority. The fact that Fannie Mae and Freddie Mac are now far more financially sound could lead the Administration to conclude that the risks to the availability of affordable mortgage financing that could arise from GSE reform exceed the benefits of addressing the GSEs' future.

Appropriations

The combination of Congress' failure to enact a budget resolution for FY2013, its inability to pass any of the 12 appropriations bills, and the desire by leadership of both parties to punt on these issues led Congress to enact a Continuing Resolution (CR) to fund the federal government from October 1, 2012 through March 27, 2013 at an annualized rate of \$1.047 trillion, as required by the Budget Control Act of 2011 (BCA). The CR includes a government-wide, across-the-board increase of 0.6% to most accounts. Given the crowded lame duck agenda, it is unlikely that Congress will seek to fund the government beyond March

27 until spring. Further complicating the appropriations debate, the extensive damage caused by Hurricane Sandy could require passage of an emergency supplemental appropriations measure to help address needs along the Atlantic Coast. It is unclear if such a measure will be enacted in a lame duck or in the 113th Congress.

In addition to general appropriations concerns, both Republicans and Democrats will remain under intense pressure to unwind budget sequestration in the lame duck or early 2013. These automatic defense and non-defense funding cuts required by the BCA are set to go into effect beginning on January 2, 2012 unless the 112th Congress can devise a way to avoid them. The BCA requires that \$1.2 trillion in automatic reductions over a nine-year period be evenly split between defense and nondefense spending categories. In order to comply with the BCA-mandated reductions, once the savings from reduced debt service are deducted, the Office of Management and Budget (OMB) has determined that \$54.7 billion from defense and \$54.7 billion from the nondefense budget will have to be cut each fiscal year from 2013 through 2021.

With President Obama winning the election, there might now be more room for compromise in the lame duck than had Governor Romney been elected. President Obama stated several times recently that he will not allow sequestration to happen, which has led many to believe there could be some budget deal brokered by the end of the year, which would include two steps — first, a deal to turn off sequestration, and second, an agreement or at least a framework for an agreement on a long-term budgetary deficit reduction package.

Leadership changes on both the Senate and House Appropriations Committees for the 113th Congress may also impact the dynamics of the lame duck session and will have serious impact should a path to undo sequestration not be completed before 2013. In the Senate, Chairman Dan Inouye (D-HI) will remain Chairman, but with Ranking Member Thad Cochran (R-MS) term-limited, the new Ranking Member will be Richard Shelby (R-AL). In the House, Representative Harold Rogers (R-KY) will remain Chairman. However, with current Ranking Member Norm Dicks (D-WA) retiring, Democrats must choose a new Ranking Member. Frontrunners include Representative Nita Lowey (D-NY) and Marcy Kaptur (D-OH).

Defense

If the budget sequestration is not resolved in the lame duck session, defense spending priorities — in terms of missions, equipment, and personnel — are likely to be a key area of focus for the new Congress.

Many observers do not believe that the current Congress can reach a comprehensive agreement on resolving the sequestration issue in the limited time remaining for legislative business. Instead, the current Congress is expected either to reach an agreement on the first year of required spending reductions and a framework for avoiding the rest of the BCA-mandated reductions, or else punt the issue in its entirety to the 113th Congress thereby allowing the BCA-mandated spending cuts to commence. In addition to addressing sequestration in the lame duck, Congress also must determine a path forward for the FY 2013 Defense Authorization bill. While the House managed to pass a FY 2013 National Defense Authorization bill (H.R. 5856), the Senate has not yet acted on the bill reported by the Senate Armed Services Committee (S. 3254).

In 2013, both the House and Senate Armed Services Committees will see substantial changes to their membership. The Senate Armed Services Committee also will see a change in its leadership, as Senator John McCain (R-AZ) is term-limited, leaving Senator James Inhofe (R-OK) to take over as Ranking Member. No changes are expected to occur among the senior leadership of the House Armed Services Committee.

Insurance

Federal Insurance Office

The focus of the insurance industry in Washington continues to be on the pending release of the Federal Insurance Office (FIO) report mandated by Title V of the Dodd-Frank Act on how to modernize the current state insurance regulatory system. The report, which was required by statute to be released in January 2012, has been delayed despite FIO Director Mike McRaith's public comments indicating that it would be released as required by law, or shortly thereafter. Many have speculated that the delay is attributable to bureaucratic entanglements at the White House and the Department of the Treasury due to the numerous reported criticisms of the state insurance regulatory system included in the report. Others have suggested that the White House

did not want to release the report in the midst of the President's campaign for reelection. Given President Obama's reelection, it is now expected that the report will be released closely following the election or early next year.

Aside from the report, the FIO has been very active in its role in the international arena, specifically in the International Association of Insurance Supervisors (IAIS). Director McRaith was recently elected as the head of the Technical Committee at the IAIS, defeating Kevin McCarty, Florida insurance commissioner and president of the NAIC. His election is seen as a boost for the newly created office, as international insurers and officials are concerned about transparency in the development of global regulatory standards by the IAIS. We continue to closely monitor this important international dialogue.

We also continue to observe the activities of the Federal Insurance Advisory Committee (FACI), which was created by the Obama Administration to advise the FIO. The Committee, comprised of 15 members from various areas of the industry and chaired by Brian Dupperreault, CEO of Marsh and McLennan, has met twice publicly to discuss various issues facing the industry. A third open meeting is scheduled on November 14 to discuss international insurance matters. As part of their role to support and advise the FIO, we expect a report or comprehensive set of recommendations to be released at the end of the FACI's tenure, which functions for a two-year period before renewal or termination.

Affordable Care Act (ACA)

The insurance industry primarily was concerned about the impact of the election on the implementation or dismantling of the ACA. Although the industry as a whole initially opposed the ACA, it has now spent hundreds of millions of dollars preparing for its implementation and large parts of the industry now view the ACA, at least in some respects, as a business opportunity due to increased enrollment opportunities. Given President Obama's reelection and Senate Democrats' retention of their majority, implementation under the current set of deadlines and understandings will likely proceed.

Consumer Financial Protection Bureau (CFPB)

The industry has also kept a close eye on the activities of the Consumer Financial Protection Bureau (CFPB) as they

relate to the business of insurance. Many have been wary of “mission creep” at the CFPB, for example, oversight of gap, credit, and other insurance products. Although insurance was specifically carved out of the jurisdiction of the CFPB when it was enacted into law under Dodd-Frank, many insurance products are considered quasi-financial services products and could potentially be drawn under the umbrella of the new agency. With the President’s reelection, insurers offering non-traditional products who are skeptical of overregulation and/or duplicate regulation at both the state and federal level will continue to be on guard to ensure that the CFPB does not extend its reach to the business of insurance.

Other important issues facing the insurance industry in Washington include:

- Reauthorization of the Terrorism Risk Insurance Act (TRIA), which is set to expire on January 1, 2014;
- Designation by the Financial Stability Oversight Council of non-bank Systemically Important Financial Institutions (SIFIs) which would subject the chosen non-banks to heightened supervision;
- Potential overhaul of the tax code in the next Congress that may include changes to the treatment of annuity and life insurance products (“inside buildup”);
- Potential progress of discussions between US and EU regulators (and regulators from other jurisdictions) regarding harmonization of regulatory regimes; and
- Implementation of Basel III and Section 171 of the Dodd-Frank Act (the Collins Amendment) and the Federal Reserve’s proposed capital standards rules, regarded by many as bank-centric and inapplicable to the business of insurance. In the months prior to the election, several members of Congress on both sides of the aisle sent letters of concern on this topic to the Federal Reserve.

Trade

With the ongoing public policy focus on creating US jobs and spurring US economic growth, international trade issues may receive heightened visibility in the 113th Congress. Promoting US exports was a key platform plank for both Democrats and Republicans in the 2012 elections, and efforts to increase the amount of US goods and services

sold overseas are likely to be part of the economic agenda in the new Congress.

While expanding US exports is one of the few economic policies on which there is a bipartisan consensus, there are often partisan differences regarding how best to carry out trade promotion activities. Some Democrats and labor unions argue that the US should focus on measures to provide a level playing field for US companies and workers, and that any US trade agreements must incorporate protections for the environment, workers’ rights, and human rights. While broadly sharing the same ultimate objective, many Republicans and members of the business community place greater emphasis on reaching free trade agreements that eliminate tariffs and other barriers to trade.

Northern hemisphere trade issues, particularly in the context of increased globalization of foreign investment flows, remain critical for the President. The volume of cross border trade with both Canada and Mexico remains substantial, and the increased discussions around multi-lateral agreements with the EU, as well as broader North American energy independence, will continue to be a central part of the trade dialogue.

Democrats and Republicans in the 113th Congress are likely to consider addressing what many see as “unfair trade practices” by other countries, particularly China, that unduly stifle US exports and, thus, US job creation and economic growth. Democrats and Republicans are likely to look to other measures that they believe will create a more level playing field for US goods and services, such as by increasing pressure on China to allow the value of its currency to increase. Some policymakers on both sides of the aisle have even discussed legislative approaches to labeling China as a “currency manipulator,” a determination that would trigger retaliatory trade actions under several existing US laws.

In addition to these efforts, work will also continue on reaching a Trans-Pacific Partnership (“TPP”). The TPP is a major Asia-Pacific trade agreement that is billed as a “next-generation” framework for reducing barriers to trade, including by making regulatory systems more compatible, and addressing emerging trade issues, such as investments in innovative products and services. The Trans-Pacific Partnership currently includes the United States and eight other countries: Australia; Brunei; Chile; Malaysia; New Zealand; Peru; Singapore; and Vietnam.

Communications and Technology

The continued polarization in Congress and changes in leadership on key committees may hinder the movement of comprehensive communications and technology legislation. While this may hurt the prospects for a major telecommunications rewrite, pressure to act on issues such as cybersecurity and online privacy could result in significant activity in both the Executive Branch and Congress.

The retirement of current Ranking Member Kay Bailey Hutchison (R-TX) will result in significant changes on the Republican side of the Senate Commerce Committee. With Senator Olympia Snowe (R-ME) also retiring this year, Senator Jim DeMint (R-SC) will likely take over the top Republican spot on the committee, which will have a significant impact on how this traditionally bipartisan committee operates, particularly with respect to telecommunications issues. On the House side, Representative Bob Goodlatte (R-VA) is expected to take over as Chairman of the House Judiciary Committee. Goodlatte is no stranger to technology issues and despite failed efforts to pass legislation to combat online piracy in the 112th Congress, Goodlatte will likely remain active on this issue and his efforts to amend video privacy rules, update the Electronic Communications Privacy Act and pass the STEM Jobs Act if it fails to pass in the lame duck session.

Cybersecurity

While comprehensive cybersecurity legislation stalled in the Senate prior to the August recess, efforts to enhance the nation's cybersecurity will continue in the lame duck and into the 113th Congress. Senate Majority Leader Harry Reid (D-NV) has vowed to bring retiring Homeland Security and Governmental Affairs Committee Chairman's Joe Lieberman's (I-CT) Cybersecurity Act of 2012 up for another vote during the lame duck session, but it is unlikely to pass unless the Democrats remove provisions granting the Department of Homeland Security authority to develop and implement cybersecurity standards for critical infrastructure, which is not likely. Although legislation is not likely, the Obama Administration is currently developing an Executive Order (EO) that reportedly would require agencies with regulatory authority over critical infrastructure to develop cybersecurity standards, which may be voluntary or mandatory depending upon the applicable legal framework. If the Administration issues the EO as expected,

Republicans may have a greater incentive to come back to the table in the next Congress in order to adopt the liability protections that businesses have been seeking, which cannot be provided through an EO.

Privacy

Cybersecurity will likely remain the top communications and technology issue that Congress will seek to address in the 113th Congress, but efforts to enhance online consumer privacy protections also will remain a high priority. Despite calls by the Obama Administration for Congress to pass a "Consumer Privacy Bill of Rights," legislative action regarding issues such as "Do Not Track" have remained stalled in Congress. Instead, the Administration has relied on industry to self-police, as well as voluntary guidance from the FTC and the Department of Commerce. However, many Members of Congress, including Senate Commerce Committee Chairman Jay Rockefeller (D-WV), remain convinced that voluntary standards are insufficient, so he is expected to continue to push for a legislative solution. Bipartisan support for measures like the online privacy legislation introduced by Senators John Kerry (D-MA) and John McCain (R-AZ) and legislation in the House aimed at curbing online tracking of children increase the likelihood that Congress will address these issues during 2013.

The technology sector will be following the FTC's proposed changes to rules implemented pursuant to the Children's Online Privacy Protection Act (COPPA). The current COPPA regulations require that website operators obtain a parent's consent before collecting personal information, like e-mail addresses, from children under age 13. In August, the FTC published a revised version of a rule, initially published in September 2011, that has drawn widespread criticism from many in the technology sector who have said that if these rules go into effect, they will act as a disincentive to develop products and offer services for children. The proposed rules would include expanding the definition of personal information to include persistent identifiers such as internet protocol numbers if they are used for behavioral advertising and require parental consent before collecting video or photographs from children under age 13. Companies have argued that the cost of compliance and the reduction in revenue from online advertising would result in significant decrease of online products developed for the use of children. The FTC is expected to issue its final update to the regulations later this year.

Telecommunications Act Rewrite

Both parties agree that the Communications Act of 1934, as amended, is woefully out of date, but a comprehensive legislative rewrite remains unlikely. While it is possible to pass major telecommunications legislation out of the House, obtaining the 60 votes necessary to pass major telecommunications legislation out of the Senate would be very difficult, particularly given the serious policy disagreements between the Senate Commerce Committee Chairman Jay Rockefeller (D-WV) and likely incoming Ranking Member Jim DeMint (R-SC). The outcome of Verizon's net neutrality case similarly will have a polarizing effect on technology policy in the Congress. Specifically, if the US Court of Appeals for the District of Columbia strikes down the FCC's open internet order, the Democrats will push for legislative action to restore the order, in whole or in part. By contrast, if the court upholds the open internet order, the Republicans likely will intensify their efforts to overturn the order.

Satellite Television Extension and Localism Act

Key provisions of the Satellite Television Extension and Localism Act (STELA) that, among other things, free satellite providers from retransmission consent requirements for distant signals are set to expire on December 31, 2014. Expiration of these provisions would be devastating for the satellite industry because it would be nearly impossible for satellite operators to provide their subscribers with broadcast network programming that the subscribers are unable to receive from their local broadcasters. Must pass legislation to extend key provisions of STELA could become a legislative vehicle to address other telecommunications issues.

Outside the Beltway: Charting the State Landscape

Despite the large number of competitive races at the Federal level and a significant influx of campaign spending, 2012 saw relatively few close contests for statewide elected office. The staggering of elections for these positions across a number of years, combined with the political geography of the states that held elections for statewide office this year generally made this a less competitive cycle for candidates running for Governor, Attorney General, or the State legislature, at least in states that lean strongly red or blue.

GOVERNOR SNAPSHOT		
	CURRENT	2013
Democrat	20	17
Republican	29	30
Independent	1	1
Undecided		2

While Republicans will continue to hold an overall majority of governorships, the GOP saw limited results in efforts to expand this margin. Of the 11 Governorships that were contested in 2012, Democratic incumbents beat back Republican challengers in Delaware, Missouri, New Hampshire, Vermont, and West Virginia, while the GOP held onto the governor's mansion in Indiana, North Dakota, and Utah. For the first time in nearly two decades, Republicans won the governorship in North Carolina. Results remain pending in Montana and Washington State, where Democrats are defending their hold on the governorship. Depending upon the outcome of the elections in these states, Republicans will control the governorships in at least 30 states, and possibly 32. Democrats will hold at least 17 and as many as 19 States. An independent holds office in Rhode Island.

There were also gubernatorial elections this year in Puerto Rico, where, with 91% of the vote counted, the Popular Democratic Party (PPD) candidate for Governor, Senator Alejandro Garcia Padilla, is currently outpolling incumbent New Progressive Party (PNP) Governor Luis Fortuño by about 12,000 votes out of 1.65 million counted so far.

In an attempt to avoid being linked to gridlock in Washington, DC and to a Congress with very low levels of public approval, many governors and gubernatorial

candidates sought to keep a modest distance from the presidential race, particularly with respect to the national party platform issues. However, given the extraordinary fiscal and economic challenges faced by the States, interactions with Federal counterparts will be increasingly important in the months and years ahead — and several key components of the President's signature health care reform law either require or authorize States to take certain implementing measures. The continued Republican majority among the 50 State governors will add yet another level of complexity to this undertaking.

In North Carolina, Republican Patrick McCrory, the former Mayor of Charlotte, soundly defeated Democratic Lieutenant Governor Walter Dalton, marking the end of nearly two decades of Democratic leadership of the Tar Heel State. Earlier this year, Democratic Governor Bev Perdue announced that she would not seek another term. Perdue had defeated McCrory in 2008, when President Obama narrowly carried the State. With McCrory's 55% to 43% victory in this year's open-seat contest, the Republicans saw a wave of electoral success across North Carolina, returning this traditionally red state to the Republican camp.

In New Hampshire's open seat election, Democrat Maggie Hassan defeated Republican Ovide Lamontagne in a closely fought contest for the Governor's mansion. Hassan, a

Election Insight | 2012

former State Senate majority leader, will replace Democrat John Lynch, who announced he would not seek an unprecedented fifth two-year term as New Hampshire's Governor. The second woman ever elected to be Governor of the Granite State, Hassan received approximately 55% of the vote, to Lamontagne's 43%. A Libertarian candidate received approximately 3%. During the campaign, Hassan promised that, if elected, her administration would focus on education and the economy. In a nod to New Hampshire's pronounced independent streak, Hassan has pledged not to support the establishment of a state income tax or sales tax. This is the third statewide defeat for Lamontagne, who has become something of a conservative stalwart now, having run unsuccessfully for Governor in 1996 and for the nomination for the US Senate in 2010.

As of publication, a winner has yet to be declared in Montana's hotly contested gubernatorial race. Democratic Attorney General Steve Bullock and Republican former Congressman Rick Hill look to succeed Democratic Governor Brian Schweitzer, who is term-limited from seeking reelection. This close race intensified in the weeks leading up to the election, as Bullock sued Hill in an attempt to force Hill to return a \$500,000 contribution from the Montana Republican Party. A Federal Judge issued a temporary

order prohibiting Hill from spending those funds, which resulted in Hill's campaign pulling advertising off the air and largely suspending operations for several days. Bullock has argued that he would build upon the strong economic foundation established by departing Governor Schweitzer, and has called Hill a "Chicken Little" for his claims about Montana's economic competitiveness and regulatory environment. Hill contends that overly burdensome regulations are stifling Montana's growth, and has proposed financing public education in the state through oil and gas revenue.

Similarly, a winner has also yet to be declared in the Washington gubernatorial race between former Democratic Congressman Jay Inslee and Republican Attorney General Rob McKenna. One of the key issues in this race is a state ballot initiative to legalize same-sex marriage, which Inslee supports and McKenna opposes. The results of this ballot initiative also remain pending. While Washington is a reliably blue state in Presidential elections and Democrats have held the governor's mansion in the Evergreen State since 1980, the race between Inslee and McKenna has been exceptionally close for some time.

GOVERNOR SCORE CARD

STATE	PARTY	WINNER	STATE	PARTY	WINNER
DE	D	Jack Markell	UT	R	Gary Herbert
IN	R	Mike Pence	VT	D	Peter Shumlin
NH	D	Maggie Hassan	WA		Jay Inslee (D) Rob McKenna (R)
NC	R	Pat McCrory	WV	D	Earl Ray Tomblin
ND	R	Jack Dalrymple			
MO	D	Jay Nixon			
MT		Steve Bullock (D) Rick Hill (R)			

KEY

- * = Open Seat
- = Incumbent Loss
- ★ = Democratic Pick Up
- ★ = Republican Pick Up
- ★ = Independent Pick Up
- D = Democratic-Retained Seat
- R = Republican-Retained Seat
- I = Independent-Retained Seat

State Attorneys General

2012 saw the continuation of the trend of Attorneys General playing an increasingly significant role in the national policy and political dialogue. Some of the highlights included the U.S. Supreme Court's legal opinion on the AGs' multi-state legal challenge to the ACA, as well as the AGs' negotiation of a \$25 billion mortgage foreclosure settlement with the five largest mortgage servicers.

Attorneys General, the second highest independently elected position in their respective states, recognize that their high profile legal positions often afford them a platform to seek higher office. An increasing number of governors, senators, and cabinet secretaries are drawn from the ranks of former AGs. With the AGs involvement in the implementation of the ACA and Dodd-Frank, AGs are expected to become ever more closely involved with the federal legislative and regulatory process, giving these races national importance.

As with the governors, 2012 was a relatively quiet year around the country. Of the state attorneys general elections, only a handful were truly competitive. Overall, there were 11 races in 2012 — five open seat elections (MT, PA, UT, OR, and WA), five incumbents seeking reelection (MO, NC, IN, VT, and WV), and one AG elected by the state legislature (ME).






Washington: Republican Reagan Dunn and Democrat Bob Ferguson battled to replace outgoing Washington AG Rob McKenna, who ran for Governor. Both candidates have similar backgrounds, and currently serve together on the King County Council. Ferguson's early lead in the polls was threatened by third-party TV ads attacking Ferguson's lack of criminal prosecutorial experience.

West Virginia: Republican Patrick Morrisey defeated five-term Democrat Darrell McGraw. McGraw won reelection in 2004 and 2008 by less than one percentage point each election. This time, TV ads from independent partisan organizations topped \$5 million, which may have proved to be a difference maker for Morrisey, who won by a slim margin.

STATE ATTORNEYS GENERAL SNAPSHOT		
	CURRENT	2013
Democrat	24	25
Republican	26	25

*ME and WA are currently undecided.

ATTORNEYS GENERAL STATE SCORE CARD

STATE	PARTY	WINNER	STATE	PARTY	WINNER
IN	R	Greg Zoeller	PA*		Kathleen Kane
ME		Undetermined	UT*	R	John Swallow
MO	D	Chris Koster	VT	D	William Sorrell
MT*		Tim Fox	WA*		Bob Ferguson
NC	D	Roy Cooper	WV		Patrick Morrissey
OR	D	Ellen Rosenblum			

KEY

- * = Open Seat
-  = Incumbent Loss
-  = Democratic Pick Up
-  = Republican Pick Up
-  = Independent Pick Up
- D = Democratic-Retained Seat
- R = Republican-Retained Seat
- I = Independent-Retained Seat

State Legislatures

Heading in to the 2012 election, the Republican Party held a commanding advantage in the total number of state legislative chambers in which it holds control. Before yesterday's election, Republicans controlled 50 chambers, while Democrats controlled 32. Democrats cut into Republican gains from 2010, when Republicans wrested control of 15 chambers away from Democrats (by regaining control of six chambers while only losing control of three).

Many of the Republican gains from 2010 were erased on Tuesday, as Republicans appear to have lost control of all seven chambers that were vulnerable to a party switch. Those include the Colorado House, the Maine House and Senate, the Minnesota House and Senate, the New Hampshire Senate, and the New York Senate.

- New York Republicans are poised to lose their last major foothold in Albany, as Democrats will likely win a majority in the Senate after the votes are counted. Control of the chamber, though, is still undetermined, as four Senate Democrats who defected last year to form their own independent caucus have not said whether they would support the likely Democratic or Republican majority leader.
- Democrats took control of Colorado's House of Representatives, paving the way for the election of Colorado's first openly gay Speaker of the House.
- Democrats regained control of the Minnesota House and Senate, ending two short years of a Republican majority.
- Republican control of the Maine House and Senate is still unsettled, though both appear to be trending toward the Democrats.
- Republican hopes to retain control of the New Hampshire Senate appear to be fading, with a 12-12 split likely when final results are tabulated.

Republicans took control of the Wisconsin Senate as well as the Arkansas House and Senate, but failed to capitalize on Democrats' vulnerabilities in the New Mexico House, the Iowa Senate, and the Nevada Senate.

- Wisconsin Republicans regained control of the Senate, once again giving them full control of the state government. Democratic control of that chamber was short-lived, as they had only recently wrested control from the Republicans in June, following the successful recall of a Republican member.
- Arkansas had been the last of the 13 Confederate states in which the Democrats controlled any legislative chamber.
- Democratic control of the New Mexico House remains uncertain, but will likely be retained.
- Whether Democrats will retain control of the Iowa Senate is too close to call. They control 24 of the 26 seats they need for a majority, but three races remain unsettled and a fourth will be the subject of a special election in December.
- Nevada Democrats retained control of the state Senate. The most interesting aspect of the night was the loss of the House's Democrat Speaker-in-waiting to a political newcomer. Despite that, the Democrats retained a healthy majority in the House.

Republicans and Democrats had even splits in the Alaska Senate and the Oregon House coming in to the November 6th election. Democrats regained control of the Oregon House, in part because four freshmen Republican members lost their bids for re-election. Alaska Republicans completed a takeover of the Senate after four years of a 10-10 bipartisan split.

Super Majorities

Missouri Republicans pushed their majority in the House of Representatives to a historic level. They entered the election controlling 106 of the 163 seats — 3 votes short of the super majority necessary to override Gov. Jay Nixon's vetoes. They ended the night with 110 seats. The Republican-retained super-majority in the Senate will significantly alter their bargaining position with Governor Nixon on controversial items such as tort reform, workers compensation reform, and labor issues, such as right-to-work and prevailing wage reform.

California Democrats are now within striking distance of super majorities in both the Senate and Assembly, moving the party closer to unilateral power to raise taxes. Republicans in Sacramento have been able to stop Democrats from raising taxes because tax increases require a two-third majority vote in both chambers. If Democrats manage to get a super majority after all the ballots are counted, party leaders say they will be able to raise revenues as part of an approach to dealing with the state's chronic budget deficits.

Ballot Initiatives

This year's elections included approximately 176 ballot questions across 38 states. With more than a dozen questions for the voters, California had the greatest number of ballot initiatives in this cycle, followed by Alabama and Florida — each with 12, and Oregon and Louisiana — each with nine.

Many of the 2012 ballot initiatives focused on specific tax issues, or on social issues, such as same-sex marriage, abortion services, legalized marijuana, and gambling. This year's ballot initiatives also covered some new issue areas, such as measures to restrict the imposition of the Affordable Care Act (Alabama, Florida, Montana, Wyoming), and measures to seek the reversal of the Supreme Court's *Citizens United* decision (Colorado). Consistent with prior years, the 2012 ballot initiatives also covered a very wide range of other topics, including establishment of a right to collective bargaining (Michigan) and labeling for genetically modified food (California).

While ballot initiatives are typically seen as tools to encourage an increase in the turnout of a particular profile of voter, it is often difficult to discern the actual impact of such initiatives on the electorate. Accordingly, it is exceedingly difficult to gauge the impact these ballot initiative-driven voters have on the races for elected office.

Arizona Voters in the Grand Canyon state refused to renew a 2010 voter-approved one-cent sales tax to provide funding for state education programs. It was estimated that this tax would have raised \$1 billion.

California Proposition 30 raises the sales tax to 7.5% from 7.25%, and places a higher income tax rate on the top 3% of California taxpayers for seven years. This tax is expected to bring in an additional \$9 billion dollars.

Colorado Coloradans overwhelmingly approved a ballot measure that instructs the Colorado congressional delegation to support a constitutional amendment to establish certain campaign contribution limits, and to effectively overrule the US Supreme Court's decision in the *Citizens United* case.

Florida Sunshine State voters rejected a ballot initiative that would have prohibited Florida from passing laws that require any person or employer to purchase, obtain, or otherwise provide for health care coverage. The proposed measure fell far short of the 60% voter approval required for its adoption.

Maryland Maryland voted to allow same-sex couples to obtain a civil marriage license in the state, beginning on January 1, 2013. In an effort to win broader support for this measure, it also includes protections to ensure that clergy are not required to perform any particular marriage ceremony in violation of their religious beliefs.

Missouri In a state with one of the lowest rates of tobacco tax in the country, Missouri voters rejected a measure that would have imposed an additional tax on each package of twenty cigarettes. If it had passed, it was estimated that this measure would have raised an additional \$283 million to \$423 million in revenue.

Ohio Ohio voters rejected a ballot measure that would have created a new 12-person citizen commission to redraw legislative and congressional districts every 10 years. As a result, this task will remain the province of the Ohio Legislature.

Oklahoma Sooner State voters approved a measure banning special treatment based on race or sex in public employment, education and contracting. The measure permits affirmative action in three instances: (1) when gender is a bona fide qualification; (2) pursuant to existing court orders and consent decrees; and (3) when needed to keep or obtain federal funds.

Other Ballot Initiatives

- **Banning Taxes.** New Hampshire voters approved a measure prohibiting a state income tax — which currently does not exist.
- **Gambling.** Following an expensive and intense contest, Maryland voters narrowly approved expanded gambling in the State, including the addition of a new casino near Washington, DC.
- **Legalizing Marijuana.** Colorado and Washington State each legalized certain uses of marijuana, while Oregon voters rejected a measure to do so.
- **Restricting the ACA.** While Florida voters rejected an ACA-measure, Alabama, Montana, and Wyoming voters all approved initiatives to restrict the implementation of the ACA in their respective states.

POTENTIAL COMMITTEE LEADERSHIP — SENATE

COMMITTEE	POTENTIAL CHAIR	POTENTIAL RANKING MEMBER
Agriculture	Debbie Stabenow (MI)	Pat Roberts (KS)
Appropriations	Tom Harkin (IA)	Richard Shelby (AL)
Armed Services	Carl Levin (MI)	Jim Inhofe (OK)
Banking, Housing and Urban Affairs	Tim Johnson (SD)	Mike Crapo (ID)
Budget	Patty Murray (WA)	Jeff Sessions (AL)
Commerce Science and Transportation	Jay Rockefeller (WV)	Jim DeMint (SC) John Thune (SD)
Energy and Natural Resources	Ron Wyden (OR)	Lisa Murkowski (AK)
Environment and Public Works	Barbara Boxer (CA)	David Vitter (LA)
Finance	Max Baucus (MT)	Orrin Hatch (UT)
Foreign Relations	John Kerry (MA)	Bob Corker (TN)
Health Education Labor and Pensions	Tom Harkin (IA)	Lamar Alexander (TN)
Homeland Security & Government Affairs	Thomas Carper (DE)	Tom Coburn (OK)
Judiciary	Patrick Leahy (VT)	Chuck Grassley (IA)
Rules and Administration	Charles Schumer (NY)	Roy Blunt (MO)
Small Business and Entrepreneurship	Mary Landrieu (LA)	Mike Enzi (WY) James Risch (ID)
Veterans Affairs	Sherrod Brown (OH)	Johnny Isakson (GA)
Select Committee on Aging	Bill Nelson (FL)	Susan Collins (ME)
Select Committee on Indian Affairs	Maria Cantwell (WA)	John Barrasso (WY)
Select Committee on Intelligence	Dianne Feinstein (CA)	Saxby Chambliss (GA)

POTENTIAL COMMITTEE LEADERSHIP — HOUSE

COMMITTEE	POTENTIAL CHAIR	POTENTIAL RANKING MEMBER
Agriculture	Frank Lucas (OK)	Collin Peterson (MN)
Appropriations	Hal Rogers (KY)	Marcy Kaptur (OH) Nita Lowey (NY) Rosa DeLauro (CT)
Armed Services	Buck McKeon (CA)	Adam Smith (WA)
Budget	Scott Garrett (NJ)	Chris Van Hollen (MD)
Education and Labor	John Kline (MN)	George Miller (CA)
Energy and Commerce	Fred Upton (MI)	Henry Waxman (CA)
Financial Services	Jeb Hensarling (TX)	Maxine Waters (CA)
Foreign Affairs	Chris Smith (NJ) Ed Royce (CA)	Eliot Engel (NY) Brad Sherman (CA)
Homeland Security	Candice Miller (MI) Michael McCaul (MI) Mike Rogers (AL)	Bernie Thompson (MS)
House Administration	Dan Lungren (CA) Gregg Harper (MS)	Robert Brady (PA)
Judiciary	Bob Goodlatte (VA)	John Conyers (MI)
Natural Resources	Doc Hastings (WA)	Ed Markey (MA)
Oversight and Government Reform	Darrell Issa (CA)	Elijah Cummings (MD)
Rules	Pete Sessions (TX)	Louise Slaughter (NY)
Science and Technology	Jim Sensenbrenner (WI) Dana Rohrabacher (CA) Lamar Smith (TX)	Eddie Bernice Johnson (TX)
Small Business	Sam Graves (MO)	Nydia Velazquez (NY)
Standards of Official Conduct (Ethics)		
Transportation and Infrastructure	Bill Shuster (PA)	Nick Rahall (WV)
Veterans' Affairs	Jeff Miller (FL)	Corrine Brown (FL) Michael Michaud (ME)
Ways and Means	Dave Camp (MI)	Sandy Levin (MI)
Select Intelligence	Mike Rogers (MI)	C.A. Ruppberger (MD)

Senate Democratic Leadership

Senate Democratic leadership in the 113th Congress almost be identical to the 112th Congress. The only expected change is the Chair of the Democratic Senatorial Campaign Committee (DSCC). Of the six official Senate Democratic leaders, only Senator Debbie Stabenow (MI), Vice Chair of the Democratic Policy and Communications Center, stood for reelection in 2012, winning handily. Majority Leader Reid will pick the new Chair of the DSCC, possibly as soon as the week of November 12. Potential candidates for this position include Kirsten Gillibrand (NY), Amy Klobuchar (MN), Chuck Schumer (NY) and Debbie Stabenow (MI).

DEMOCRATIC SENATE LEADERSHIP	
POSITION	DEMOCRAT
Leader	Harry Reid (NV)
Whip	Dick Durbin (IL)
Policy Committee Chair	Chuck Schumer (NY)
Policy Committee Vice-Chair	Debbie Stabenow (MI)
Conference Chair	Patty Murray (WA)
Steering and Outreach Chair	Mark Begich (AK)
Democratic Senatorial Campaign Committee	Michael Bennet (CO), Kirsten Gillibrand (NY), Amy Klobuchar (MN)

Senate Republican Leadership

While Minority Leader Mitch McConnell (KY) is expected to remain at the top of the Senate Republican leadership, the retirement of the current Minority Whip Jon Kyl (AZ) will cause a shake up in the rest of the Republican leadership. Current National Republican Senatorial Committee Chair John Cornyn (TX) has been actively soliciting support for the Whip position, though it is possible that the current number three and Conference Chairman John Thune (SD) will challenge Cornyn for this spot. If Thune makes a move for the number two spot, it is likely that current Republican Conference Vice Chair Roy Blunt (MO) or Republican Policy Chair John Barrasso (WY) would be in line for Conference Chairman. Cornyn's move for the Whip spot also leaves an opening at the National Republican Senatorial Committee (NRSC). While no one has publicly declared interest in the position, both Senators Jerry Moran (KS) and Marco Rubio (FL) are in the running for this key leadership position. Should Thune opt not to run for Whip, he may consider a run to Chair the NRSC.

REPUBLICAN SENATE LEADERSHIP	
POSITION	REPUBLICAN
Leader	Mitch McConnell (KY)
Whip	John Cornyn (TX), John Thune (SD)
Conference Chair	John Barrasso (WY), John Thune (SD)
Conference Vice-Chair	Roy Blunt (MO)
Policy Committee Chair	John Barrasso (WY)
National Republican Senatorial Committee Chair	Jerry Moran (KS), Marco Rubio (FL), John Thune (SD)

House Republican Leadership

Having retained the Majority in the House, it is anticipated that the senior leadership of the House will remain largely the same in 2013, with Congressman John Boehner (OH) retaining his Speakership and Congressmen Eric Cantor (VA) and Kevin McCarthy (CA) remaining as Majority Leader and Whip. However, National Republican Congressional Committee Chair Pete Sessions (TX) is stepping aside and will be replaced by his current Vice-Chair Greg Walden (OR). Current Conference Chairman Jeb Hensarling's (TX) likely ascension to the Chairmanship of the House Financial Services Committee also will set in motion races for both his leadership position and the Vice Chairmanship.

REPUBLICAN HOUSE LEADERSHIP	
POSITION	REPUBLICAN
Speaker	John Boehner (OH)
Majority Leader	Eric Cantor (VA)
Majority Whip	Kevin McCarthy (CA)
Conference Chair	Cathy McMorris Rodgers (WA) or Tom Price (GA)
Conference Vice-Chair	Lynn Jenkins (AL) or Martha Roby (AL)
Conference Secretary	Jeff Denham (CA-outcome pending), Virginia Foxx (NC), or Gregg Harper (MS)
Policy Committee Chair	Jim Lankford (OK)
National Republican Congressional Committee Chair	Greg Walden (OR)

House Democratic Leadership

Discussions of House Democratic Leadership have been colored with repeated speculation that Minority Leader Nancy Pelosi (CA) might step down from her leadership position after the elections, though the Minority Leader, her staff and her colleagues have remained tight-lipped regarding her intentions. Some reports even suggest that if Democrats picked up ten seats or fewer, Pelosi might feel pressure to step down from her position.

House Democratic Leadership elections have been scheduled for November 29, and the timing has sparked rumors that Pelosi might be seeking more time to organize support for a hand-picked replacement. The general sentiment, however, is that even a Pelosi-groomed and backed candidate could not overcome the support the House Democrats have shown for current Minority Whip Steny Hoyer (MD), who is widely believed to be assured the top Minority seat should Pelosi resign the position. Should Hoyer move into the Minority Leader's seat, current Chief Deputy Minority Whip Diana DeGette from Colorado has voiced her intent to run for Whip, provided that Congressman Clyburn (SC) is not looking to fill the Whip post.

Possible candidates that Pelosi could choose to advance in the Leadership elections if she were to step down include former DCCC Chairman Chris Van Hollen (MD), who is not currently holding a leadership position; Steve Israel (NY), the current DCCC Chairman, and John Larson (CT), the current Caucus Chairman.

Sources close to Leadership have said there is a strong possibility that if Pelosi leaves her Leadership post, that Clyburn, currently serving as the Assistant Minority Leader, could also depart Leadership. If he were to leave Leadership, it remains unclear if the Assistant Minority Leader position, formed and funded by the discretion of the Minority Leader, would be retained.

Larson has reached his term limit as Caucus Chair. It is widely anticipated that Xavier Becerra (CA) will fill the post, leaving Barbara Lee (CA), Joe Crowley (NY) and Jared Polis (CO) to compete over the Caucus Vice Chair position. Crowley is believed to have an advantage in a Vice Chair race.

DEMOCRATIC HOUSE LEADERSHIP CANDIDATES	
POSITION	DEMOCRAT
Minority Leader	Nancy Pelosi (CA), Steny Hoyer (MD), John Larson (CT), Chris Van Hollen (MD), Xavier Becerra (CA), Steve Israel (NY)
Minority Whip	Steny Hoyer (MD), John Larson (CT), Jim Clyburn (SC)
Assistant Minority Leader	Jim Clyburn (SC), Debbie Wasserman Schultz (FL)
Caucus Chair	Xavier Becerra (CA)
Caucus Vice Chair	Barbara Lee (CA), Joe Crowley (NY), Jared Polis (CO)
Democratic Congressional Campaign Committee	Steve Israel (NY)

US Election Insight 2012

Panel discussions are scheduled in the days and weeks following the election. We invite you to join us in person or on the web for any of our events in locations across the country. Led by SNR Denton's experienced political analysts, journalists and public servants, we will discuss the impact of US election results at the federal, state and local level.

Schedule of Panel Discussions

Thursday, November 8, 2012

Los Angeles

Panel Discussion and Luncheon — The Road Ahead for California and Washington after the 2012 Elections: Analyzing the Presidential, Congressional, and State Post-Election Landscape
12:00 – 1:30 p.m. PST
601 South Figueroa Street, 26th Floor
Los Angeles, CA 90017

Panelists include:

Rod Pacheco

SNR Denton Partner
Former Assemblyman and Republican Leader in the State Assembly

John Russell

SNR Denton Senior Managing Director
Former Deputy to the Chief of Staff for House Speaker J. Dennis Hastert; former Chief of Staff for Representative J. Randy Forbes

Darry Sragow

SNR Denton Partner
Renowned Campaign Strategist; former Deputy California Insurance Commissioner; Former Chief of Staff to the Chairman of the California Board of Equalization

Jim Wunderman

President and CEO of the Bay Area Council

Friday, November 9, 2012

San Francisco

Panel Discussion and Luncheon — The Road Ahead for California and Washington after the 2012 Elections: Analyzing the Presidential, Congressional, and State Post-Election Landscape
12:00 – 1:30 p.m. PST
525 Market Street, 26th Floor
San Francisco, CA 94105-2708

Panelists include:

Rod Pacheco

SNR Denton Partner
Former Assemblyman and Republican Leader in the State Assembly

John Russell

SNR Denton Senior Managing Director
Former Deputy to the Chief of Staff for House Speaker J. Dennis Hastert; former Chief of Staff for Representative J. Randy Forbes

Darry Sragow

SNR Denton Partner
Renowned Campaign Strategist; former Deputy California Insurance Commissioner; Former Chief of Staff to the Chairman of the California Board of Equalization

Tuesday, November 13, 2012

Webinar

The Capital Markets in 2013: Post-Election Roundup and Analysis, Including the Future of the Secondary Market and CFPB
3:00 – 4:00 p.m. EST

Panelists include:

Bob Bostom

SNR Denton Partner
Former executive vice president, general counsel and corporate secretary of Freddie Mac

Gary Goldberg

SNR Denton Partner
Former Legislative Director and Counsel to U.S. Rep. Brad Sherman (D-CA) and to U.S. Rep. Maxine Waters (D-CA)

Steve Kudenholdt

SNR Denton Partner
Chair of SNR Denton Capital Markets practice

Mike Zolandz

SNR Denton Partner
Political Advisor and Strategist

Friday, November 16, 2012

Washington, DC

Breakfast Program — Tests for Government and Business from the Shifting World Economy
8:00 – 11:45 a.m. EST
Atlantic Council, 1101 15th Street NW, 11th Floor
Washington, DC 20005

Panelists include:

Joseph Andrew

SNR Denton Global Chairman
Former Chairman of the Democratic National Committee

Bob Bostom

SNR Denton Partner
Former executive vice president, general counsel and corporate secretary of Freddie Mac

Matt Rutherford

Assistant secretary for financial markets, US Department of the Treasury

Heidi Crebo-Rediker

Chief economist, US Department of State

Antonio de Lecea

Principal advisor for economic and financial affairs, Delegation of the European Union to the United States

Marco Annunziata

Executive director, Global Market Strategies, chief economist, GE

Douglas Rediker

Senior fellow, Economic Growth Program, New America Foundation

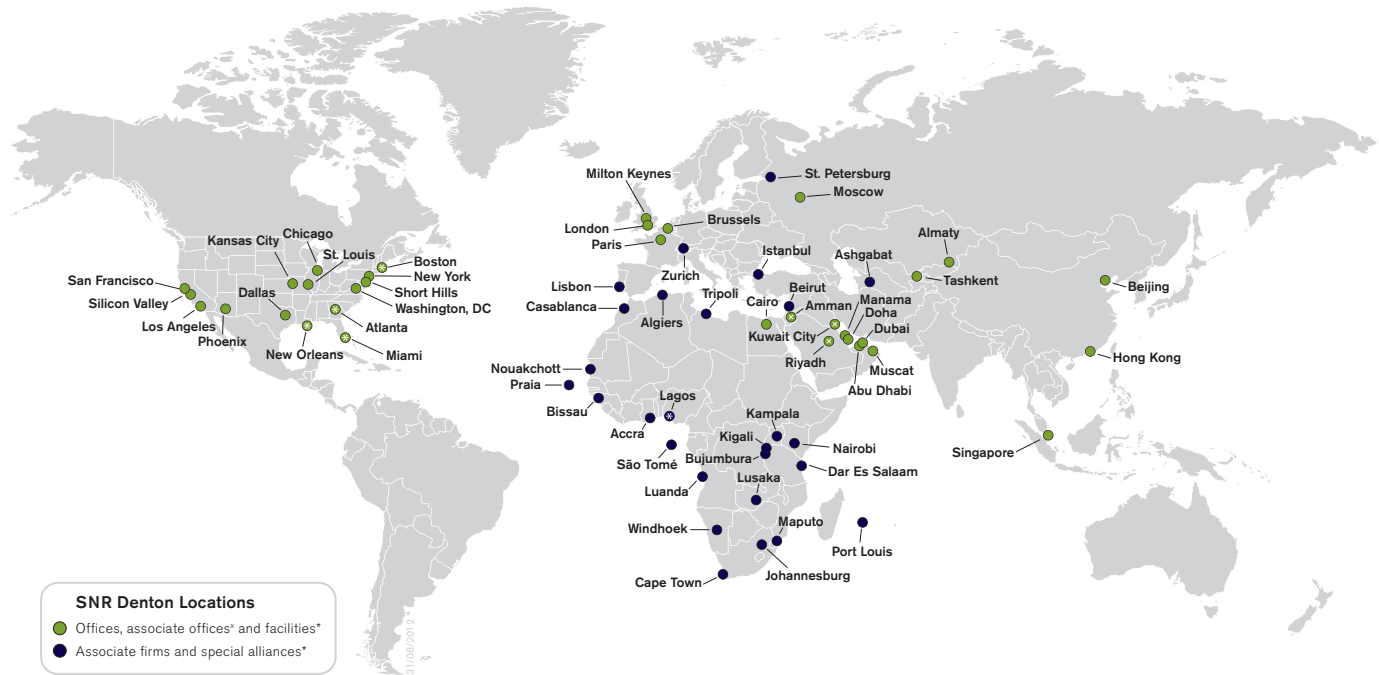
Please **RSVP** to Somer McBride at +1 202 408 7786 or somer.mcbride@snr-denton.com

View more information on SNR Denton's Election Insight Team at election-insight.com

About SNR Denton

SNR Denton is a client-focused international legal practice delivering quality and value. We serve clients in key business and financial centers from more than 60 locations worldwide, through offices, associate firms and special alliances across the US, the UK, Europe, the Middle East, Russia and the CIS, Asia Pacific and Africa, making us a top 25 legal services provider by lawyers and professionals. Joining the complementary top tier practices of its founding firms — Sonnenschein Nath & Rosenthal LLP and Denton Wilde Sapté LLP — SNR Denton offers business, government and institutional clients premier service and a disciplined focus to meet evolving needs in eight key industry sectors: Energy, Transport and Infrastructure; Financial Institutions and Funds; Government; Health and Life Sciences; Insurance; Manufacturing; Real Estate, Retail and Hotels; and Technology, Media and Telecommunications. For more information, visit snrdenton.com.

Locations



Contact

Please contact any member of our [Election Insight Team](#) or your regular SNR Denton lawyer or professional.



snrdenton.com

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