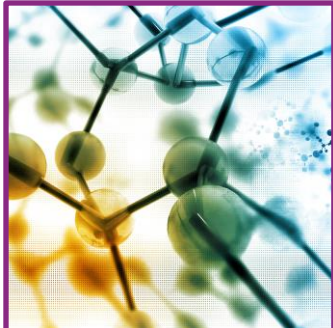


# Elections 2018: Implications for Research and Higher Education

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## Introduction

As anticipated by a majority of polls, Democrats took back the majority in the House of Representatives and the Republicans made gains in the Senate in the mid-term elections on November 6<sup>th</sup>. With almost 20 races still too close to call at the time of this analysis, Democrats have already picked up 26 seats in the House and are leading in an additional seven races, while Senate Republicans will grow their majority by at least one and as many as three seats. With the House and Senate moving in opposite directions, the elections defied a simple takeaway message. Americans appeared more polarized along party lines than any time in modern history. With many moderate Republicans losing in the House and several moderate Democrats losing in the Senate, finding areas of common ground may be even more difficult in the next Congress as the House and Senate set up dueling agendas in the months ahead.

## Forecast for the 116<sup>th</sup> Congress Overview

With a divided Congress beginning next year, the House is widely expected to use subpoenas, oversight hearings, and investigations to examine issues in the White House and among the federal agencies. In addition, with its expanded Republican majority, the Senate is expected to focus on confirming federal judges, newly nominated political appointees, and replacement Cabinet officials, such as a new Attorney General. An additional complicating factor is that as many as nine Senate Democratic Members have shown an interest in running for president. However, beyond these individual pursuits, there will also be a focus on what areas of bipartisanship exist.

A Democratic majority will be new territory for both sides in the House. All but four of the previous chairs the last time the Democrats were in the majority are no longer in Congress. Similarly, two-thirds of the remaining Republican House Members have never been in the minority. Some initial topics in the House and Senate, which both the Democrats and Republicans have cited interest include healthcare, specifically reining in prescription drug prices, and infrastructure, although each party has a different notion of how much new public funding would be necessary for this. In addition, new energy projects, cybersecurity, and threats posed by international competitors, such as China, are also expected to be areas of bipartisan concern. Each of these legislative interests affect industries and economic sectors which are much broader than the research and education communities but will have direct impacts nonetheless, as detailed in the subsequent committee analysis of this document.

With respect to science, one of the chief concerns for the research community will be to rebuild some of the key champions who will vacate committee posts, who lost in swing districts, or who participated in bipartisan caucuses around top issues (e.g. almost half of the House climate caucus Republicans lost). Science champions such as Commerce, Justice, Science Appropriations Subcommittee Chairman John Culberson (R-TX) and House Science Research and Technology Subcommittee Chairwoman Barbara Comstock (R-VA) lost their races along with champions such as Rep. Randy Hultgren (R-IL), Rep. Kevin Yoder (R-KS), and potentially Senator Bill Nelson (D-FL), whose race is headed to an automatic recount as of the time of this writing. New champions often emerge in situations such as these, which could create new opportunities for bipartisan compromise.

With respect to education, the midterm elections results present an opportunity to finally see a Higher Education Act reauthorization in the next Congress. Many newly elected state governors campaigned based on an agenda which impacts higher education in their state. Meanwhile, Chairman Alexander (R-TN) and Rep. Bobby Scott (D-VA), the incoming Chairman in the House, have mentioned this bill as a

priority for their committees. Beyond the focus on education broadly, there will be expanded attention on issues of accessibility and college costs, diversity, campus-based climate, and some of the rules adopted over the last two years under Secretary DeVos.

## **Top Congressional Issues to be Addressed in Lame-Duck 2018 Session**

One of the biggest impacts of the midterm elections outcome will be felt almost immediately when Congress returns to session on Tuesday, November 13<sup>th</sup>. With one month until the current fiscal year spending resolution expires, congressional leaders have not signaled how much they intend to accomplish before adjourning for the year and ending the lame-duck session. The highest priority issue is resolution of the final seven appropriations bills, which include support for some federal science agencies, among others.

With President Trump determined to receive increased funding for a border wall, it remains to be seen if the still all-Republican Congress can secure support for the wall from the Democrats in exchange for votes to finish FY 2019 funding before the new year. Another possibility could be a lame-duck deal on Deferred Action for Childhood Arrivals (DACA) in exchange for border wall funding. If no deals are made the possibility of a partial government shutdown may be heightened based on the elections results and a determination by both sides to be tough negotiators.

Ultimately, how productive the lame-duck session will be is still largely unknown and will be complicated by considerations for leadership in the House, with Nancy Pelosi and Kevin McCarthy from California both seen as the likely picks to be elected Speaker and Minority Leader respectively for the 116<sup>th</sup> Congress.

This document further outlines the elections results and what they may mean for the research and higher education communities specifically. The Appendix describes changes in and agendas for individual congressional committees.

## Appendix: Changes to Congressional Committees

### Appropriations Committees

The 116<sup>th</sup> Congress will bring significant change to the leadership and membership of the House Appropriations Committee while the Senate Appropriations Committee will be more stable and will maintain similar leadership positions to those at the end of the 115<sup>th</sup> Congress.

In the House, with a new Democratic majority, Rep. Nita Lowey (D-NY), currently the ranking member, will take the helm as chairwoman. The upcoming retirement of the current chairman, Rep. Rodney Frelinghuysen (R-NJ), opens the door for a new top Republican on the panel starting in January. Six Appropriations Members have announced their interest: Representatives Kay Granger (R-TX), Tom Cole (R-OK), Mike Simpson (R-ID), John Carter (R-TX), Robert Aderholt (R-AL) and Tom Graves (R-GA). Rep. Granger is most likely to become the next ranking member and it would be the first time the House Appropriations Committee has women in both top leadership positions.

In the Senate, Senator Richard Shelby (R-AL) is expected to remain chairman and Senator Patrick Leahy (D-VT) is expected to remain ranking member.

The Appropriations Committees will be busy during the lame-duck session. Although five major appropriations bills covering 87 percent of all discretionary spending were passed and signed into law before the start of the new fiscal year (FY) on October 1, another seven bills are in limbo, covering funding for nine Cabinet departments and dozens of smaller agencies, including the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA). A continuing resolution (CR) that funds these remaining agencies at FY 2018 funding levels runs out on December 7, 2018. A compromise four-bill, \$154 billion spending package for Agriculture, Interior-Environment, Financial Services and Transportation-Housing and Urban Development, has the greatest chance of success of passing before the December deadline. Appropriators had nearly reached agreement on this spending package after weeks of negotiations but ran out of time before leaving Washington to campaign for the midterms. Resolution of the remaining spending bills depends on a deal to address immigration issues and border wall funding associated with the Department of Homeland Security and Department of Justice appropriations. Earlier this year Democrats were hopeful to address immigration in the lame-duck session, but it is unclear whether a deal can be reached. A partial government shutdown is also possible if a deal is not reached, as President Trump has threatened a shutdown if he does not receive border wall funding.

The appropriations committees will face an even more challenging funding environment next year when the sequester, or automatic spending reductions, set in the *Budget Control Act of 2011*, are back in force. The *Bipartisan Budget Act of 2018* provided sequester relief only for FY 2018 and FY 2019. Under current law, discretionary funding in FY 2020 would be \$126 billion below FY 2019 enacted funding levels. Without a new budget agreement or repeal of the 2011 Budget Control Act, congressional appropriators will be responsible for making necessary funding cuts to federal programs. Rep. Nita Lowey and the next House Budget Committee Chairman, Rep. John Yarmuth (D-KY), have already called on the White House Office of Management and Budget (OMB) Director Mick Mulvaney to negotiate a new, two-year budget agreement that lifts both defense and non-defense discretionary funding caps and avoids major cuts to federal programs. Delays in negotiating a new budget agreement will delay the Appropriations Committees ability to pass spending bills and increases the chances of a CR in FY 2020.



### **House Appropriations Subcommittees**

The Democratic ranking members of each of the subcommittees are likely to become the chairs of the subcommittees. Democratic leadership includes Rep. Sanford Bishop (D-GA) on Agriculture; Rep. Jose Serrano (D-NY) on Commerce, Justice, and Science; Rep. Debbie Wasserman Schultz (D-FL) on Military Construction and Veterans Affairs; Rep. Pete Visclosky (D-IN) on Defense; Rep. Mike Quigley (D-IL) on Financial Services; Rep. Lucille Roybal-Allard (D-CA) on Homeland Security; Rep. David Price (D-NC) on Transportation, Housing and Urban Development; Rep. Marcy Kaptur (D-OH) on Energy and Water Development; Rep. Rosa DeLauro on Labor, Health and Human Services, and Education; Rep. Betty McCollum (D-MN) on Interior and Environment; and Rep. Tim Ryan (D-OH) on Legislative Branch. The only major change will be to leadership of the State and Foreign Operations Subcommittee on which Rep. Nita Lowey is currently ranking member. As the new chairwoman of the full committee, she will likely cede her role on the subcommittee to a new Democratic Member. The leading candidate to take the subcommittee chairmanship is Rep. Barbara Lee (D-CA).

Republican leadership will go through a major transition. Four current Republican Members were not re-elected—Reps. John Culberson (R-TX), Scott Taylor (R-VA), Kevin Yoder (R-KS), and David Young (R-IA). Two of them—Reps. Culberson and Yoder—were Chairmen of the Commerce, Justice, Science and Homeland Security Subcommittees, respectively, which opens up these future ranking member positions for other Republicans.

With Rep. Kay Granger likely to leave her lead role on the Defense Subcommittee to become ranking member of the full committee, Rep. Hal Rogers (R-KY) is the leading candidate to take the subcommittee ranking member position. The leading candidate for Ranking Member of the Commerce, Justice, and Science Subcommittee is Rep. Robert Aderholt (R-AL). The two leading candidates for the State and Foreign Operations Subcommittee, if Rep. Rogers takes the ranking member position on Defense, are Rep. Jeff Fortenberry (R-NE) and Rep. Tom Rooney (R-FL). The leading candidate for the Homeland Security Subcommittee is Rep. Chuck Fleischmann (R-TN). The two leading candidates for Ranking Member of the Agriculture Subcommittee, with Rep. Aderholt reaching his term limits for this subcommittee and likely taking a leadership role on Commerce, Justice, and Science, are Rep. Tom Rooney (R-FL) and Rep. David Valadao (R-CA).

Other current chairmen are likely to become ranking members on their current subcommittees, including Rep. Tom Cole (R-OK) on Labor, Health and Human Services, and Education; Rep. John Carter (R-TX) on Military Construction and Veterans Affairs; Rep. Mario Diaz-Balart (R-FL) on Transportation, Housing and Urban Development, Rep. Mike Simpson (R-ID) on Energy and Water; Rep. Ken Calvert (R-CA) on Interior and Environment; and Rep. Tom Graves (R-GA) on Financial Services.

Beyond subcommittee leadership changes, it is also important to note that committee membership will shift as well. Democrats will gain approximately six new Members on the committee while Republicans will lose a concomitant number of seats.

### **Senate Appropriations Subcommittees**

The Senate will not see significant change in leadership. Senator Richard Shelby (R-AL) is expected to remain chairman and Senator Patrick Leahy (D-VT) ranking member.

In the new Congress, Republican Senators and Democrats are likely to continue as chairmen and ranking members in their current subcommittees, which include:

- Senators John Hoeven (R-ND) and Jeff Merkley (D-OR) on Agriculture;
- Senators Jerry Moran (R-KS) and Jeanne Shaheen (D-NH) on Commerce, Justice, and Science;
- Senators Richard Shelby (R-AL) and Richard Durbin (D-IL) on Defense;
- Senators Lamar Alexander (R-TN) and Dianne Feinstein (D-CA) on Energy and Water;
- Senators James Lankford (R-OK) and Christopher Coons (D-DE) on Financial Services;
- Senators Shelley Moore Capito (R-WV) and Jon Tester (D-MT) on Homeland Security;
- Senators Lisa Murkowski (R-AL) and Tom Udall (D-NM) on Interior and Environment;
- Senators Roy Blunt (R-MO) and Patty Murray (D-WA) on Labor, Health and Human Services and Education;
- Senators John Boozman (R-AR) and Brian Schatz (D-HI) on Military Construction and Veterans Affairs;
- Senators Lindsey Graham (R-SC) and Patrick Leahy (D-VT) on State and Foreign Operations; and
- Senators Susan Collins (R-MN) and Jack Reed (D-RI) on Transportation and Housing and Urban Development.

## Budget Committees

The Budget Committees have as their primary responsibility the preparation of an annual budget resolution to outline a fiscal blueprint for the nation in terms of spending, revenues, and entitlement and mandatory programs. The committee has no subcommittees and meets as a full committee to discuss overall federal priorities. Annual budget resolutions are typically political documents that reflect the fiscal priorities of the majority party. However, budget resolutions usually determine top line discretionary spending, known as a 302(a), that is then used by the Appropriations Committees to make annual spending decisions. In addition, the committee can initiate the reconciliation process, which requires only a majority vote rather than a filibuster-proof majority (60 votes) in the Senate, to consider and pass major spending, revenue, and entitlement legislation, such as new tax legislation passed by the Republican-controlled Congress in 2017.

One of the most important tasks for the Budget Committee will be negotiating a new two-year budget agreement to prevent major cuts to both defense and non-defense discretionary programs set in law in the *Budget Control Act of 2011*. The prior two-year agreement only covered appropriations for FY 2019 and FY 2020. Without a new agreement in place, discretionary spending would be cut by \$126 billion compared to FY 2019, with \$71 billion in cuts for defense spending and \$55 billion for non-defense spending. Democrats are eager to prevent major cuts to non-defense spending and want to provide funding increases to accommodate, for example, the costs of the 2020 Census and ever-growing expenses of the Veterans Choice Program that gives veterans access to private health care. The Republicans' top priority is to continue building up the military to deter and address growing national security threats.

Negotiations with the Administration will be much more difficult. The OMB Director, Mick Mulvaney, has repeatedly criticized the additional non-defense discretionary spending in the last two-year deal and there is growing anxiety over large deficits, which are expected to top \$1 trillion in FY 2020. While a large share of this increase was driven by the new tax cuts, the White House wants to control deficits by cutting nondefense discretionary spending. In the end, there will likely be a new, two-year budget agreement with some increases in both defense and non-defense spending, but much more modest and constrained than in prior years. Further complicating discussions on a two-year budget deal is another

agreement on raising the debt limit. The debt limit is suspended until March 1, 2019 but requires another agreement to further raise it to prevent a government default.

The new Democratic majority in the House will also want to pass an FY 2020 budget resolution to draw a stark contrast with Administration and prior Republican congressional fiscal priorities. House Democrats are likely to propose overturning some of the tax cuts for the highest income earners and corporations enacted in the recent tax bill in exchange for growing investments in health care, clean energy technologies, and environmental programs, and protecting and possibly expanding entitlement programs such as Medicare, Medicaid, and Social Security. House Democrats are also expected to propose a \$1 trillion infrastructure initiative to repair and improve highways, transit systems, bridges, rail, aviation, harbors, seaports, inland waterway systems, broadband, water, energy, telecommunications, and science infrastructure. However, with a Republican-controlled Senate, Congress will likely not be able to pass a budget resolution given broad partisan disagreements over these issues. Senate Republicans do not plan to introduce an FY 2020 budget resolution and will focus their efforts on a new two-year budget agreement.

The Budget Committee will also be considering changes to the budget and appropriations process recommended by the Joint Select Committee on Budget and Appropriations Process Reform. This 16-member, bipartisan, bicameral committee, which is made up of an equal number of House and Senate Members, was established under the prior two-year budget agreement to reform the budget and appropriations process to avoid government shutdowns and fund federal programs in a more predictable manner. Recommendations are due on November 30, 2018.

According to the law, majorities within both the Democratic and Republican members on the panel must vote affirmatively to support the recommendations, which would then be fashioned into a bill that would receive expedited consideration in the Senate. However, it would still take 60 votes to bring the measure up for debate and 60 votes to end debate on the bill, should it emerge from the joint select committee with bipartisan majorities. There is also no requirement in the law for the House to act on the bill. There seems to be agreement to move the annual process of trying to adopt a budget resolution to a biennial one. This is consistent with the approach taken with the last three, two-year budget agreements. Other proposals such as moving the start date of the fiscal year to give appropriators more time to complete full-year spending bills to January 1 or changing the process for lifting or suspending the statutory borrowing cap, do not have consensus.

### **House Budget Committee**

In a role reversal, Rep. John Yarmuth (D-KY), the current ranking member, will become the new Chairman of the Budget Committee while Rep. Steve Womack, the current Chairman of the Budget committee, will become the ranking member. As the new majority party, Democrats will be selecting approximately eight new Members to join the committee, while the Republicans will lose those positions.

### **Senate Budget Committee**

Senator Mike Enzi (R-WY) will remain Chairman of the Senate Budget Committee and Senator Bernie Sanders (I-VT) will remain Ranking Member of the Senate Budget Committee. The Republicans will be choosing a new Member to join the Committee with the retirement of Senator Bob Corker (R-TN).



## Senate Health, Education, Labor, and Pensions Committee

The Senate Committee on Health, Education, Labor, and Pensions (HELP) maintains principal responsibility for legislative oversight relating to the U.S. Department of Education (ED); the Department of Health and Human Services (including the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), and the Substance Abuse and Mental Health Services Administration (SAMHSA); and the Department of Labor. The current Senate HELP Committee Chairman Lamar Alexander (R-TN) is anticipated to retain the chairmanship in the 116<sup>th</sup> Congress, and Ranking Member Patty Murray (D-WA) is expected to remain in her role. The membership of the committee is not expected to change much in the new year, but the one Senator who will not be back in the 116<sup>th</sup> Congress due to his retirement is Senator Orrin Hatch (R-UT). The other senators on the committee were either re-elected or not up for re-election this term.

Entering his last two years as chairman of the HELP Committee due to term limits, Chairman Alexander likely will reengage the committee in the reauthorization of the *Higher Education Act* (HEA). HEA authorization is several years overdue and its passage could serve as a legacy bill for Chairman Alexander, who has served as a university president and U.S. Secretary of Education. To successfully advance an HEA reauthorization, he will have to navigate considerable partisan challenges as the traditionally bipartisan process broke down in the 115<sup>th</sup> Congress due to disagreements stemming from ED's implementation of federal K-12 legislation. Top HEA priorities for Chairman Alexander include a vastly simplified Free Application for Federal Student Aid (FAFSA) form, a simplification and consolidation of student aid programs, and a greater stake for institutions for student loan defaults. While the Trump Administration's ED has an aggressive regulatory revision agenda, Chairman Alexander is unlikely to engage the HELP Committee in much departmental oversight.

Beyond the HEA reauthorization, the *Education Sciences Reform Act*, which authorizes the activities of ED's Institute of Education Sciences, and the *Family Educational Rights and Privacy Act* (FERPA), which sets student data privacy rules, are overdue for reauthorization. There are no indications that the HELP Committee will move forward with those issues. Chairman Alexander introduced a school safety bill in March 2018 and is likely to push for committee action on this issue in the 116<sup>th</sup> Congress.

In the healthcare realm, it is likely that Chairman Alexander and Ranking Member Murray will seek to revive their efforts to enact fixes to the Affordable Care Act (ACA). During Republican efforts to repeal the ACA in the 115<sup>th</sup> Congress, the Senate HELP leaders made progress on a bipartisan plan to stabilize the health insurance markets to avoid predicted sharp increases in premiums, particularly for those buying insurance on the individual market. However, these talks fell apart in Spring 2018, reportedly around the issue of abortion coverage. Despite this setback, Senators Alexander and Murray expressed their interest in resuming bipartisan talks in the 116<sup>th</sup> Congress, and the Democratic takeover of the House portends easier negotiations with the other chamber if the HELP Committee can come to agreement on a bill.

The Democratic-led House is likely to lead efforts to curb prescription drug prices. Senate HELP Committee efforts would be led by Senator Murray, which could include allowing Medicare to negotiate lower prices. Senator Alexander has generally supported the Trump Administration's drug pricing plan and held committee hearings on the topic. However, he will probably look to the House to push bipartisan efforts that can pass the Senate. Also, the HELP Committee led Senate efforts to enact

comprehensive opioids legislation and may hold oversight hearings in the 116<sup>th</sup> Congress to ensure proper implementation and address any emerging gaps.

There will continue to be strong bipartisan support for biomedical research and the National Institutes of Health (NIH) in the HELP Committee. However, in recent comments and communications, Ranking Member Murray (D-WA), who also is ranking member on the Senate Labor-HHS-Education Appropriations Subcommittee that determines funding for NIH, has indicated that she may be more critical of NIH policies and activities in the coming year. In August, she and Rep. Rosa DeLauro (D-CT), who is likely to chair the House Labor-HHS-Education Appropriations Subcommittee, sent a letter to NIH expressing concern with sexual harassment in academic settings and how the agency is working to address it. The letter stated that it is critical that NIH take proactive steps to hold grantees accountable, but observers felt the updated policy NIH released in September did not go far enough. This issue is likely to be scrutinized by Democrats in both the House and Senate across all scientific disciplines.

## **House Education and the Workforce Committee**

The House Committee on Education and the Workforce has jurisdiction over issues including higher education, K-12 education, apprenticeship programs, and workforce development initiatives, among others. It is the authorizing committee for several laws including the *Elementary and Secondary Education Act* (ESEA), the *Higher Education Act* (HEA), and the *Workforce Innovation and Opportunity Act* (WIOA).

With Democrats assuming control of the House, Ranking Member Bobby Scott (D-VA) is expected to become chair of the committee, which may be renamed to its former title: the Committee on Education and Labor. Current Chairwoman Virginia Foxx (R-NC) is expected to become the ranking member. Leadership roles for the Subcommittee on Higher Education and Workforce Development also are likely to flip, with Rep. Susan Davis (D-CA) expected to become chairwoman and Rep. Brett Guthrie (R-KY) expected to become ranking member. Even prior to the midterm elections, the Committee anticipated significant changes to its membership, as six of its members will not be returning for the 116<sup>th</sup> Congress for various reasons. Other departing members, who were defeated in the midterm elections, include Rep. Dave Brat (R-VA) and Rep. Jason Lewis (R-MN). Rep. Karen Handel (R-GA) may also exit the committee as she is trailing in her race, which is still too close to call at this time.

In the 116<sup>th</sup> Congress, the committee will likely focus on oversight of the Department of Education (ED) in several areas including civil rights, implementation of ESEA, and higher education and labor regulations. With control of the committee, Democrats will gain subpoena power, which could be used to obtain ED records and compel ED officials, including Secretary of Education Betsy DeVos, to testify before the committee. Legislative priorities for the committee potentially could include HEA reauthorization, K-12 school infrastructure, oversight of for-profit higher education institutions, and school safety.

Rep. Scott was very vocal during Republican-led HEA reauthorization efforts in the 115<sup>th</sup> Congress, particularly in response to proposed cuts to student aid. His HEA reauthorization bill, the *Aim Higher Act*, will likely serve as a foundation for HEA efforts in the 116<sup>th</sup> Congress. The bill contains several proposals of interest, including increasing the maximum Pell Grant award, permitting the use of Pell for graduate education, increasing funding for Title VI international education, and the creating a federal-state partnership to encourage states to provide tuition-free community college. Rep. Scott has indicated he would like to see a more bipartisan HEA process and move through regular order of

committee hearings and Member discussions. With Republicans maintaining control of the Senate, any legislation approved by the committee will need to have bipartisan support to make it to the President's desk.

## Senate Energy and Natural Resources Committee

In the 116<sup>th</sup> Congress, the policy focus of the Senate Committee on Energy and Natural Resources (ENR) will depend on the composition of its leadership. While Senator Lisa Murkowski (R-AK) is likely to retain her position as committee chair, it is possible that the current ranking member, Senator Maria Cantwell (D-WA), will opt for the same position on the Senate Committee on Commerce, Science, and Transportation (CST) instead. This outcome is ultimately contingent upon Senator Bill Nelson (D-FL), the current CST ranking member, losing his re-election bid.<sup>1</sup> Possible replacements include Senators Martin Heinrich (D-NM) and Tammy Duckworth (D-IL), both of whom have National Laboratories in their states and would likely be strong champions for research activities at the Department of Energy (DOE). Given his seniority on the Committee, another possibility is Senator Joe Manchin (D-WV). However, he is not a leading candidate because of his strong support for the coal industry, a position that is largely out-of-step with the national party's focus on clean and renewable energy.

ENR has long maintained a high level of bipartisanship that has allowed the Committee to draft widely supported legislation, much of which has been beneficial to the research community. Most recently, this cooperation has led to the passage of measures like the *Department of Energy Research and Innovation Act* (P.L. 115-246) and the *Nuclear Energy Capabilities Innovation Act* (P.L. 115-248). The former authorizes new policy for National Laboratory modernization, technology transfer, agency-wide research coordination, and programs and priorities within the DOE Office of Science. The latter, among other provisions, promotes research aimed at advancing nuclear energy.

In the 116<sup>th</sup> Congress, ENR may consider companion legislation for the *Department of Energy Science and Innovation Act* (H.R. 5905), which passed the House in June 2018 and would update the Office of Science-related provisions included in P.L. 115-246. The updated bill would include additional support for fundamental research across all six Office of Science program areas and would authorize funding for large-scale scientific facilities and experiments. Similarly, ENR may also begin work on an authorization bill for DOE's applied energy programs including fossil, nuclear, energy efficiency, and renewable energy.

Quantum information science (QIS) is likely to be an area of continued focus for ENR in the 116<sup>th</sup> Congress. In September 2018, the House passed the *National Quantum Initiative Act* (H.R. 6227), which would authorize the Office of Science and Technology Policy to coordinate and oversee a government-wide QIS initiative implemented through research activities at the National Science Foundation, the National Institute of Standards and Technology, and DOE. ENR is drafting a DOE title which will be combined with a QIS measure focused on the other three agencies that was recently approved by CST. In contrast to its House counterpart, which only authorizes large-scale QIS research centers, ENR's DOE title would also seek to promote smaller-scale research centers and single-investigator grants across a wide variety of QIS-related areas to ensure a more holistic approach to QIS research and development. Final passage of the Senate's *National Quantum Initiative Act* is conceivable during the lame-duck session of the 115<sup>th</sup> Congress, but the differences between the two versions will need to be reconciled in conference, likely postponing passage until the 116<sup>th</sup> Congress.

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<sup>1</sup> As of this writing, the U.S. Senate election in Florida between incumbent Senator Bill Nelson (D) and challenger Governor Rick Scott (R) is undergoing a recount.

Outside of more narrowly focused research legislation, ENR is likely to reintroduce a comprehensive energy policy bill during the 116<sup>th</sup> Congress. ENR's last attempt at such a measure, the *Energy and Natural Resources Act* (S. 1460), failed to gain traction after it was introduced and was ultimately never marked up. It is likely that ENR leadership will try again, with Chairwoman Murkowski prioritizing energy storage, microgrids, and energy infrastructure. If she remains on ENR, Ranking Member Cantwell will maintain her focus on grid modernization and cybersecurity. Prospects for final passage of such a bill will also depend on the dynamics in the lower chamber, where a companion bill was never introduced. If such a bill is ultimately compiled, the new Democratic majority in the House will likely place more importance on environmental regulation and combating climate change. An additional point of contention will likely be the future of nuclear waste sites such as the Yucca Mountain Nuclear Waste Repository, which itself has been at the center of a longstanding debate over methods for storing, disposing, and/or reusing spent nuclear fuel.

## House Energy and Commerce Committee

The House Committee on Energy and Commerce (E&C) maintains principal responsibility for legislative oversight relating to biomedical research, telecommunications, consumer protection, food and drug safety, public health, air quality and environmental health, the supply and delivery of energy, and interstate and foreign commerce in general. This jurisdiction extends over five Cabinet-level departments and seven independent agencies including the Department of Energy, Department of Health and Human Services, Department of Transportation, Federal Trade Commission, Food and Drug Administration, and the Federal Communications Commission.

In the 115<sup>th</sup> Congress, the committee worked together to develop and approve major legislation including comprehensive opioids legislation and the *America's Water Infrastructure Act*, which have been signed into law, as well as the *Pandemic and All-Hazards Preparedness and Advancing Innovation Act*, which is still pending in the Senate. However, in the months leading up to the midterm elections, the committee has projected a more partisan tone, with issues such as child separation becoming more present during members' remarks at hearings. This issue is expected to be a focus of the House Democrats.

Rep. Frank Pallone (D-NJ), who currently serves as ranking member, is expected to assume leadership of the House E&C Committee. Rep. Greg Walden (R-OR), who currently serves as chairman, is expected to serve as ranking member. With Democrats in control of the House, the E&C Committee will have a robust agenda, taking on issues including prescription drug costs, data privacy, climate change, clean energy, and environmental policy. The committee also is likely to tackle the Administration's healthcare policies, especially changes to Medicaid and the *Patient Protection and Affordable Care Act* (ACA).

As chairman of E&C, Rep. Pallone is expected to focus on the ACA, trying to call positive attention to the law. This would follow two years of the Administration and Republicans chipping away at some of the key provisions of the bill, including eliminating the individual mandate. It is expected that the committee will look at market stabilization as part of this conversation, possibly considering the bill Rep. Pallone introduced earlier this year on health market stabilization. Part of any ACA discussions on the Democratic side will include protecting individuals with pre-existing conditions, an issue which will become an increasing focus and messaging point for Democrats going into the 2020 election.

The committee is also expected to examine prescription drug prices. As discussed in further detail below, Rep. Anna Eshoo (D-CA) may chair the E&C Subcommittee on Health. An interesting dynamic of Reps. Eshoo and Pallone overseeing the committee's efforts on drug pricing is that both are top recipients of contributions from large pharmaceutical companies. Thus, drug pricing legislation that is likely to move through the committee may focus on issues such as the supply chain and the role of pharmacy benefit managers (PBMs), increasing transparency, and giving the Department of Health and Human Services more tools to tackle generics and biologics. Proposals in these areas are more likely to pass the Republican-led Senate, as opposed to legislation focused on price negotiations, which is strongly opposed by drug companies.

Rep. Pallone is expected to take on the Trump Administration's handling of the Environmental Protection Agency and environmental policies, as the Administration has rescinded some Obama-era environmental regulations. Rep. Pallone also is expected to examine investments in scientific infrastructure at national labs and universities, as part of efforts to keep the U.S. competitive in R&D.

Rep. Pallone also is expected to focus on clean energy and climate change. However, given that the Senate and White House are still under Republican control, major environmental legislation is unlikely to be enacted, but Members of the committee have indicated that it may be possible to advance more limited environmental legislative changes with bipartisan support. Other issues that could be on Rep. Pallone's agenda include restoring net-neutrality and other data privacy issues.

As mentioned above, the E&C Subcommittee on Health will have a new chair since Ranking Member Gene Green (D-TX) is retiring. Rep. Michael Burgess (R-TX), the current chairman is expected to serve as ranking member of the subcommittee. One of the top possibilities to take leadership of the subcommittee is Rep. Eshoo. Rep. Diana DeGette could also be a possibility to lead the subcommittee but has been open about her desire to serve as House Majority Whip.

The Health Subcommittee will have a busy agenda in the 116<sup>th</sup> Congress tackling a range of topics impacting academic medical centers including issues relating to the ACA, prescription drug costs, Medicaid policy, and other healthcare issues that have been at the top of the Democratic agenda. This subcommittee could also continue discussions on 340B drug pricing reforms, but from a much friendlier position on the role of teaching hospitals in the program. In general, Democrats have been supportive of protecting the program and the vital nature of the 340B program for safety-net hospitals. It is possible that the committee could hold hearings to examine 340B drug policy coming out of the Administration.

In addition, next year the subcommittee will have to examine whether to extend the delay of cuts to Medicaid Disproportionate Share Hospital (DSH) payments, which expire at the end of FY 2019. The subcommittee may also continue to look at health professions programs, especially because reauthorization of Title VII Health Professions programs and Title VIII Nursing Workforce Development programs, which provide funding to health professions schools for education and training, was not finalized in the 115th Congress.

Rep. Bobby Rush (D-IL) is likely to take over the Energy Subcommittee, with Rep. Fred Upton (R-MI) serving as ranking member. Given Rep. Rush's comments in hearings, he may use his role as chairman to criticize the Administration's budget proposals to cut funding for energy research and development by as much as 70 percent despite energy independence and the creation of U.S. jobs being top Administration priorities.

Rep. Mike Doyle (D-PA) is expected to serve as chairman of the Communications and Technology Subcommittee, but the ranking member position is open as Rep. Marsha Blackburn (R-TN) was elected to the Senate. Both the chair and ranking member positions on the Oversight and Investigations Subcommittee could be open if Ranking Member DeGette secures a leadership position as House Whip, and Chairman Greg Harper (R-MS) is retiring.

## **Senate Commerce, Science, and Transportation Committee**

The Senate Commerce, Science, and Transportation (CST) Committee is likely to see a major change in leadership in the 116<sup>th</sup> Congress. With current Chairman John Thune (R-SD) expected to become Majority Whip, Senator Roger Wicker (R-MS) is expected to take on the chairman role. With a focus on telecommunications issues, Senator Wicker would emphasize measures to increase consumer data privacy, rural connectivity, and regulations affecting the media industry. In addition, Ranking Member Bill Nelson (D-FL) is likely to lose his re-election to Florida Governor Rick Scott (R) (as of the time of writing this race has not been called and is headed to an automatic recount). Membership may also shift on the committee as Senator Dean Heller (R-NV) lost his re-election.

If Senator Nelson ultimately loses his seat, the ensuing shuffle among Democrats could impact other committees. Senator Maria Cantwell (D-WA) is the next most senior Democrat on CST, although she would be required to give up her position as Ranking Member of the Energy and National Resources Committee (ENR). It is unclear whether she would take that step due to ENR's oversight over the Department of Energy (DOE) combined with the location of DOE's Pacific Northwest National Laboratory (PNNL) and Hanford Site in her state. Next in line and a strong candidate for ranking member is Senator Amy Klobuchar (D-MN). If Cantwell takes over the CST Ranking Member spot, she will likely bring a strong focus on coastal and ocean issues. Senator Klobuchar's priorities are less clear, although she has emphasized rural broadband expansion and net neutrality, the former of which is also of concern to Senator Wicker.

Efforts are currently underway by the Subcommittee on Space, Science, and Competitiveness on crafting separate bills related to commercial space activities and a comprehensive, multi-year authorization of programs at and funding for the National Aeronautics and Space Administration (NASA). Progress on both have stalled, and any chance of passage for the latter in the lame-duck is under jeopardy due to timing and policy differences with the House. The subcommittee will likely continue to be led by Chairman Ted Cruz (R-TX) and Ranking Member Ed Markey (D-MA) in the 116<sup>th</sup> Congress. Likely topics for the next Congress are reauthorization of programs and policy at the National Science Foundation (NSF) and the National Institute of Standards and Technology (NIST). Current authorization through the *American Innovation and Competitiveness Act (AICA)* was passed at the end of 2016. Resonating with the desire of the House Science, Space, and Technology Committee, any future authorization of NSF will likely address ongoing concerns over sexual harassment and NSF's policies towards handling incidents of awardee misconduct.

CST has jurisdiction over infrastructure research and innovation issues and therefore will play a strong role in any push for infrastructure legislation. Additionally, with the authorization of the Department of Transportation (DOT) surface transportation programs set to expire at the end of FY 2020, the committee will be central in shaping priorities related to surface transportation research programs, such as the University Transportation Centers. The Committee also has primary jurisdiction over legislation related to automated vehicles (AVs), an issue that will remain a bipartisan priority in the 116<sup>th</sup> Congress.



Lastly, the committee has jurisdiction over programs at the National Oceanic and Atmospheric Administration (NOAA). CST's Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard may take up efforts to reauthorize programs related to NOAA, specifically legislation related to marine fisheries conservation programs.

## **House Science, Space, and Technology Committee**

The House Science, Space, and Technology Committee (House Science) is set to enter a new era in the 116<sup>th</sup> Congress, with current Chairman Lamar Smith (R-TX) retiring and the House flipping control to Democrats. Current Ranking Member Eddie Bernice Johnson (D-TX) is expected to become chairwoman while Rep. Frank Lucas (R-OK) is likely to become ranking member. Membership on the committee is set to dramatically change with several key Republican Members losing or likely losing their seats, including Research and Technology Subcommittee Chairwoman Barbara Comstock (R-VA) and senior Members Dana Rohrabacher (R-CA), race not officially called at the time of writing), Randy Hultgren (R-IL), and Steve Knight (CA-25, race not officially called at the time of writing). Active Democratic Members Elizabeth Esty (CT-5) and Jacky Rosen (NV-3) did not seek re-election and will also leave the committee. In addition to these changes, the committee traditionally experiences substantial turnover as senior Members seek spots on more powerful committees and new freshmen Members take over those spots.

The Democrats plan to focus on climate change, clean energy technology, and forefront areas of science for U.S. global leadership, such as forensics, artificial intelligence, and synthetic biology. Rep. Johnson also cares deeply about Science, Technology, Education, and Mathematics (STEM) education, especially ensuring inclusion of underrepresented groups, and will likely bring greater focus on this area. The committee is expected to bring far greater oversight on the Administration's actions related to the Environmental Protection Agency (EPA) as well as continued focus on National Science Foundation (NSF) handling of sexual harassment issues.

After being out of the majority for eight years, Democrats are preparing an ambitious agenda related to authorizing key programs at the National Science Foundation (NSF), Department of Energy (DOE), National Aeronautics and Space Administration (NASA), and National Oceanic and Atmospheric Administration (NOAA). These include the potential for a new COMPETES/Advancing Innovation and Competitiveness Act (AICA) bill to authorize NSF and STEM education programs, legislation to address coastal resilience and ocean environmental protection, support for DOE Office of Science research infrastructure and authorization of individual applied energy offices, and continuing NASA authorization efforts should Congress fail to complete action on the current committee-approved bill in the lame-duck session. The committee will likely also push for inclusion of support for scientific research infrastructure and workforce investments in any congressional infrastructure package. In addition, the committee will likely reintroduce any unfinished business from the current Congress, such as promoting quantum research and STEM mentoring and internship experiences, as well as continue focus on key issues such as national security policies related to research.

Democrats and Republicans are hopeful that the committee will be less partisan under Chairwoman Johnson and Ranking Member Lucas's leadership than it has been over the last several Congresses. The committee is likely to continue its history of bipartisan cooperation on issues such as computing and computational science, STEM education, and advanced manufacturing. In addition, Rep. Lucas has a reputation for working across the aisle and has noted his priority to promote NSF, NASA, and NOAA, and the important benefits they provide to the nation. He also has a strong personal interest in weather

forecasting technology, which should mesh well with Rep. Johnson's goal of increasing resilience to extreme events. He is expected to bring to his role as ranking member strong relationships with NASA Administrator Jim Bridenstine and nominated White House Office of Science and Technology Policy Director Kelvin Droegemeier, who are both also from Oklahoma.

The House Science Committee has jurisdiction over non-defense federal scientific research and development at NASA, NSF, DOE, National Institute of Standards and Technology (NIST), EPA, Department of Transportation (DOT), and NOAA, among others.

## **Armed Services Committees**

The House and Senate Armed Services Committees (HASC/SASC) will continue to be at the forefront of key policy debates during the 116<sup>th</sup> Congress and shepherd the annual passage of the *National Defense Authorization Act* (NDAA), which authorizes organizational changes and spending levels across all programs in the Department of Defense (DOD) and related national security agencies. Over the past two years, adequately funding the DOD remained a bipartisan priority; both HASC and SASC supported the readiness and modernization priorities seen in Secretary James Mattis' National Defense Strategy and the Administration's annual budget requests. Both committees authorized significant increases in DOD spending in FY 2018 and FY 2019, but the shift to a Democratic majority in the House is likely to increase ideological pressures to balance defense spending with domestic priorities and the rising deficit.

As we enter the last two years of the *Budget Control Act of 2011* (BCA) without a budget deal (current one expires in 2019), the threat of sequestration could complicate authorizing DOD's annual spending and priority setting. Additionally, the DOD is currently undergoing internal budget discussions to find cost-savings due to the Trump Administration's recent request for budget cuts across all federal agencies. The authorization of the Trump Administration's proposed Department of the U.S. Space Force will be addressed by both committees in the next Congress. Leadership from both parties on the armed services committees have expressed concerns regarding the creation of an independent military services for space.

### **House Armed Services Committee (HASC)**

With Democrats taking control of the House, chairmanship of the HASC will likely pass from current Chairman Mac Thornberry (R-TX) to the committee's current ranking member, Representative Adam Smith (D-WA). Chairman Thornberry will likely become the ranking member. The seven subcommittees will likely be chaired by current Democratic ranking members except for the Subcommittees on Readiness and Tactical Air and Land Forces. Delegate Madeline Bordallo (D-GU), the current Ranking Member of the Subcommittee on Readiness, lost her primary election to State Senator Michael San Nicolas (D-GU) and will not return to Congress. Rep. Niki Tsongas (D-MA), ranking member of the Subcommittee on Tactical Air and Land Forces, announced her retirement in August. Ranking Member Smith will likely announce subcommittee chairs in December.

House Democrats will push Secretary Mattis and the Services to look at many legacy weapon system programs to determine if they should continue or be ended in favor of longer-term system developments. For example, the Army has stated that one of its top priorities is the Next Generation Combat Vehicle (NGCV). Some lawmakers have concluded that it would be better to accelerate the NGCV at the expense of older fighting vehicles. Ranking Member Smith is not a huge fan of big funding increases at the expense of other domestic priorities and has previously stated that one area that he

would like to see reduced spending would be for nuclear weapons. Expect HASC under Smith's leadership to pursue a more robust oversight agenda to better inform lawmakers and the public of military readiness issues, budget needs, deployments around the world and other general information previously provided to the public.

### **Senate Armed Services Committee (SASC)**

No major changes are expected to the SASC as Republicans retained the majority, though a few ranking members on subcommittees will not return. Senator Bill Nelson (D-FL), Ranking Member of the Subcommittee on Cybersecurity, is behind in his race against Governor Rick Scott (R-FL), though an automatic recount has been triggered in his race at the time of this writing. Senator Joe Donnelly (D-IN), Ranking Member of the Subcommittee on Strategic Forces, lost his race to challenger Mike Braun (R-IN).

The biggest change to SASC in the new Congress will be due to new leadership under Chairman Jim Inhofe (R-OK) who assumed the position following the passing of Senator John McCain (R-AZ). Chairman McCain strove to make the Pentagon more accountable for its funding while providing policy to ensure U.S. military superiority. Under Chairman McCain's leadership, NDAA's have reorganized the defense acquisition and management enterprises, made significant changes to the roles and content of major defense strategy documents, and consistently advocated for delivering large defense budgets. Chairman Inhofe is expected to sustain the SASC's commitment to large and timely defense budgets. Chairman Inhofe also has a strong personal interest in sustained military operations in Africa, where he has traveled many times over the years, and he was instrumental in the creation of U.S. Africa Command. China's military buildup will also remain a priority for the committee. In addition, with emerging Administration policy addressing espionage and technology protection, SASC is likely to update their previous guidance. Current SASC Ranking Member, Senator Jack Reed (D-RI), is anticipated to continue in his role. Senator Reed is a long-time committee member who worked in a bipartisan manner with Chairman McCain and is likely to continue to provide support to the National Defense Strategy and other initiatives while balancing Democratic pressures for increased domestic spending.

### **Senate Homeland Security and Governmental Affairs Committee**

The Senate Homeland Security and Governmental Affairs Committee is the Senate's chief oversight committee with jurisdiction over government information, the Census Bureau, and efficiency of government agencies. The committee has a particular focus on the Department of Homeland Security (DHS) and therefore oversees a large portion of the federal government's immigration and border security portfolios, including the Trump Administration's contentious proposal to build a wall along the southern border. As Republicans maintained their majority in the Senate, Senator Ron Johnson (R-WI) is anticipated to maintain his position as chairman of the committee. This will be his third and final term as chairman due to the Republican conference's self-imposed term limits. Chairman Johnson will likely continue to focus on border security, cybersecurity, critical infrastructure protection, and countering terrorism, including DHS's research and development priorities related to each field.

Ranking Member Claire McCaskill (D-MO) lost her bid for re-election and Senator Gary Peters (D-MI) is anticipated to become the next ranking member. Senator Peters' expected rise to leadership comes after Senator Thomas Carper (D-DE), who previously served as ranking member, elected to serve as Ranking Member of the Committee on Environment and Public Works in 2017 and Senator Heidi Heitkamp's (D-ND) re-election loss, both of whom had more seniority on the committee than Senator Peters. Senator Peters has spent the majority of his time on the committee addressing federal overspending and issues related to the security of the northern border.

While Chairman Johnson is anticipated to continue his existing priorities, additional items of concern for the committee in the new Congress will include election security and the upcoming census. Following foreign interference in the 2016 presidential election, pressure will continue for DHS to provide guidance and protections for election equipment. This guidance will likely include cybersecurity and securing voting hardware. The committee will also be responsible for ensuring the Census Bureau implements new technologies to lower the operating cost of the 2020 census and collects the information needed to inform decisions related to redistricting and deployment of federal resources to states and localities. The controversial inclusion of a citizenship question in the 2020 census has yet to be addressed by the committee. There are multiple ongoing lawsuits regarding the inclusion of the question and it is currently unknown if the Republican-controlled committee will choose to hold hearings examining the issue.

Pending legislation that could be reintroduced in the next Congress includes the *Fixing America's Marred Immigration Laws to Improve and Ensure Security (FAMILIES) Act* (S. 3478), which would ask DHS to develop a strategy to address custody of immigrant families and children at the border and monitoring high-traffic border-crossing areas, and a DHS reauthorization bill, the agency's first since it was created 15 years ago.

## **House Homeland Security Committee**

The House Homeland Security Committee, which oversees activities of the Department of Homeland Security (DHS), was prepared for a change in leadership regardless of the results of the midterm elections. Due to the Republican Conference's self-imposed three term limit for chairmanships, this was Rep. Mike McCaul's (R-TX) last term as chairman; and with the Democrats taking control of the House, Ranking Member Bennie Thompson (D-MS) is poised to become chairman. Ranking Member Thompson previously served as Chairman of the House Homeland Security Committee from 2007 to 2011 and has been a member of the committee since its creation 16 years ago. At the time of this writing, Rep. Mike Rogers (R-AL) is expected to assume the ranking member position in the next Congress.

Most committee members will remain, with several subcommittee chairs and ranking members winning re-election by narrow margins. Of note, Rep. Martha McSally (R-AZ), Chairwoman of the Border and Maritime Security Subcommittee, is running for Senate and will not return to the committee. Ranking Member Filemon Vela (D-TX), re-elected on Tuesday, is likely to take over leadership of the subcommittee. Rep. Dan Donovan (R-NY), Chairman of the Emergency Preparedness, Response and Communications Subcommittee, was defeated and due to Rep. McSally's running for Senate and the retirement of Rep. Tom Garrett (R-VA), Rep. Peter King (R-NY) is next in line to become ranking member. Current Ranking Member of the Subcommittee on Emergency Preparedness, Response and Communications Donald Payne Jr. (D-NJ) easily won his re-election and is likely to become chairman.

Ranking Member Thompson has spoken strongly against the Trump Administration's immigration and cybersecurity policies, and he has focused past activities on disaster response as well as increased election security. Democrats on the committee are expected to prioritize oversight of immigration policies, cybersecurity, disaster response, and election security and interference. Ranking Member Thompson is co-chair of a Democratic task force on election security with the Ranking Member of the House Administration Committee Rep. Robert Brady (D-PA). Border security will also remain at the forefront of the committee's issues in the next Congress.

Despite addressing some contentious topics, the committee tends to work in a mostly bipartisan fashion and in September approved four bipartisan bills that were ultimately passed by the House. The bills were aimed at protecting U.S. critical infrastructure against drones, reporting security vulnerabilities of DHS information systems, establishing a Border Tunnel Task Force, and providing Customs and Border Protection (CBP) with better communications equipment. In the new Congress, expect the committee to continue its focus on increased coordination among agencies regarding cybersecurity and unmanned systems, and cyber bug bounty programs aimed at addressing vulnerabilities across U.S. government systems. Oversight of the reorganization of the DHS Science and Technology (S&T) Directorate is also expected to remain a priority in the next Congress.

## **House Oversight and Government Reform Committee**

The House Oversight and Government Reform Committee (HOCR) has general oversight over the federal government, as well as specific oversight over the District of Columbia, federal regulatory processes, and procurement and spending systems. With Democrats taking control of the House, Rep. Elijah Cummings (D-MD), who has served as Ranking Member of the committee since 2011, is expected to assume the chairmanship in the 116<sup>th</sup> Congress. The current Republican leader of the committee, Chairman Trey Gowdy (R-SC), will need to be replaced as he is retiring at the end of this term. Potential successors include Government Operations Subcommittee Chairman Mark Meadows (R-NC) and Health Care, Benefits and Administrative Rules Subcommittee Chairman Jim Jordan (R-OH), both of whom have expressed interest in the position. Rep. Jordan is also expected to pursue the House Minority Leader position, which would take him out of the running for committee chairman, but he is not considered to be a front-runner and will likely keep his spot on HOCR.

Under Democratic control, the committee may operate similarly to how the Republican-led panel acted during the Obama Administration; then-Chairman Darrell Issa (R-CA) conducted lengthy and highly-politicized investigations into then-Secretary of State Hillary Clinton and other Obama Administration officials. Rep. Cummings has already announced his interest in investigating Secretary of the Interior Ryan Zinke and other corruption issues across the Trump Administration. In addition, the committee will likely hold hearings or investigations into the 2020 census and the Trump Administration's efforts to roll back the Patient Protection and Affordable Care Act (ACA).

Despite the vigorous approach to oversight and investigations expected from committee Democrats, there will also be areas where committee members hope to take a more bipartisan approach. Both parties remain concerned with the increased aggression from hostile foreign powers such as Russia and China. HOCR will continue to examine issues such as artificial intelligence and election security, led by projected National Security Subcommittee Chairman Stephen Lynch (D-MA) and Information Technology Subcommittee Chairwoman Robyn Kelly (D-IL). Rep. Gerry Connolly (D-VA), a senior member who will likely take the chairmanship of the Government Operations Subcommittee, has interest in examining changes to the telework policies of the federal government. While the rising cost of prescription drugs is an issue that both parties wish to address, finding a bipartisan agreement on how to achieve that goal is a more difficult task.

The committee will experience several membership and leadership changes heading into the 116<sup>th</sup> Congress. Current National Security Subcommittee Chairman Steve Russell (R-OK) lost his seat in a surprising upset. As of this writing, Information Technology Subcommittee Chairman Will Hurd (R-TX) and Interior, Energy, & Environment Subcommittee Chairman Greg Gianforte (R-MT) held leads in races that are still too close to call. Other departing members of the committee include Reps. Rod Blum (R-IA)

and Mark Sanford (R-SC), who lost re-election bids, as well as Reps. Issa and Dennis Ross (R-FL), who are retiring.

## **Senate Environment and Public Works Committee**

The Senate Committee on Environment and Public Works (EPW) has jurisdiction over issues pertaining to environmental policy, research, and development, as well as highways and transportation infrastructure, nonmilitary environmental regulation, and control of nuclear energy, among other topics. The committee has executive branch jurisdiction over five cabinet level departments and seven independent agencies, including the Environmental Protection Agency (EPA), the Department of the Interior's Fish and Wildlife Service (FWS), the Department of Transportation's Federal Highway Administration (FHWA), the Department of Commerce's Economic Development Administration (EDA), the National Oceanic and Atmospheric Administration (NOAA), and the Department of Agriculture's Natural Resources Conservation Service.

With Republicans maintaining control of the Senate, and no departures at present from the committee roster, it is expected that Senator John Barrasso (R-WY) will retain the chairmanship and Senator Tom Carper (D-DE) will remain as the ranking member. The committee leadership frequently works in a moderately bipartisan manner, as seen with the passage of the recent water bill, *America's Water Infrastructure Act of 2018*, which passed in the Senate by a vote of 99-1 and was signed by President Trump on October 23. While an overall infrastructure package that Congress approves and the president signs remains unlikely, the House and Senate will need to work towards a comprehensive reauthorization of the *Fixing America's Surface Transportation Act (FAST Act)*. Passed in 2015, the *FAST Act* provided funding and authorized federal surface transportation activities, including research programs like the University Transportation Centers program. Funding for these activities expires at the end of FY 2020. Hearings are expected in the first half of the 116<sup>th</sup> Congress that will set the stage for future reauthorization legislation.

Regarding environmental issues, with the Democrats leading the majority in the House, it is expected that there will be more bills around issues related to climate change, coastal resilience, and mitigating the causes and impacts of increasingly frequent extreme weather events. Hearings earlier this year focused on marine debris, and this remains an area of bipartisan concern, though overlapping jurisdiction with other committees complicates efforts to address this issue. Chairman Barrasso is expected to continue with his efforts to overhaul the *Endangered Species Act*. However, draft language in the 115<sup>th</sup> Congress failed to gain traction when Republicans had control of the House as well as the Senate, so it is unlikely that Congressional actions will result in significant changes to the law.

## **House Transportation and Infrastructure Committee**

With Democrats taking control of the House there will be leadership changes throughout the House Committee on Transportation and Infrastructure (T&I). Rep. Peter DeFazio (D-OR) will assume the chairmanship of the full committee at a time when increased federal investments in infrastructure could become a major messaging point for Democrats. On the Republican side, with Chairman Bill Schuster (R-PA) retiring at the end of the 115<sup>th</sup> Congress, it is expected that Reps. Jeff Denham (R-CA) and Sam Graves (R-MO) will vie for the ranking member spot. Given the large number of Members on the committee, it is expected that significant shuffling will take place for the various subcommittee chairmanships and ranking member positions.



Notable departures on both sides of the aisle include Rep. Barbara Comstock (R-VA) who lost her re-election bid; former Aviation Subcommittee Chair Rep. Frank LoBiondo (R-NJ) who did not seek re-election; former Economic Development, Public Buildings, and Emergency Management Subcommittee Chair Rep. Lou Barletta (R-PA) who left the House to run for Senate; and former Railroads, Pipelines, and Hazardous Materials Subcommittee Ranking Member Rep. Michael Capuano (D-MA) who was defeated in the primary by challenger Ayanna Pressley (D-MA).

Democrats have expressed broad interest in prioritizing infrastructure investment in the 116<sup>th</sup> Congress in part as contrast to the Administration's failed effort to execute on a key 2016 campaign promise. With Rep. DeFazio at the helm, it is likely that the committee will hold hearings in the 116<sup>th</sup> Congress on solutions to solving long-term funding challenges of federal infrastructure. Dovetailing on that discussion will be the committee's central role in reauthorizing the *Fixing America's Surface Transportation Act (FAST Act)*. The *FAST Act* authorized surface transportation programs and funding through FY 2020 and provided funding for research programs, including the University Transportation Center (UTC) program. House T&I will also take up issues related to autonomous vehicle (AV) testing and deployment.

## House Natural Resources Committee

The House Natural Resources Committee has authorization and oversight jurisdiction over the Department of the Interior (DOI), U.S. Geological Survey (USGS), National Oceanic and Atmospheric Administration (NOAA), and the U.S. Fish and Wildlife Service (FWS), as well as oceanography, mining, and water issues generally.

With Democrats taking control of the House in the 116<sup>th</sup> Congress, Rep. Raúl Grijalva (D-AZ) is expected to take the gavel as chairman of the committee. He has served as ranking member since 2014. Rep. Grijalva indicated that as chairman he would focus on oversight of DOI, noting that important issues like climate change and endangered species are overshadowed by ethical complaints against Secretary of the Interior Ryan Zinke. The committee is expected to initiate additional investigations of Secretary Zinke, who is currently under inquiry by both the DOI Office of the Inspector General and the Department of Justice. President Trump has made several statements about the investigations of his Interior secretary, who may resign from his role in the coming months as a result of the increasing scrutiny.

In addition to investigating the Secretary's ethical complaints, Democrats will likely utilize oversight power to examine the proposed DOI reorganization, review of national monuments like Bears Ears, and alleged conflicts of interest among agency political appointees. As ranking member, Rep. Grijalva and other committee Democrats have sent numerous letters to DOI on a variety of issues and will continue to advance these inquiries in the 116<sup>th</sup> Congress with the option to issue subpoenas now at their disposal. Besides oversight and investigative actions, Rep. Grijalva will make climate change a crosscutting theme of committee efforts.

Rep. Donald McEachin (D-VA) is expected to become chairman of the Subcommittee on Oversight and Investigations and would also lead efforts to get answers from DOI and other agencies of jurisdiction. The House Oversight and Government Reform Committee is additionally expected to target DOI and Secretary Zinke for oversight.

Rep. Jared Huffman (D-CA) is expected to lead the Subcommittee on Water, Power, and Oceans and would focus on clean water infrastructure and resilience to wildfires on public lands. In the 115<sup>th</sup> Congress he introduced reauthorization legislation for the NOAA National Sea Grant College Program and could use his leadership role to focus on research programs at the agency.

Alan Lowenthal (D-CA) is expected to chair the Subcommittee on Energy and Mineral Resources and would focus on oversight of Administration policies that he views as putting at risk the protection of public lands.

Chairman Rob Bishop (R-UT) is expected to become the ranking member of the full committee. He has pledged that this would be his final term in office. In the 115<sup>th</sup> Congress, Chairman Bishop's priorities included reducing regulatory burdens to industry and property owners that stem from regulations like the Endangered Species Act, increasing state control over public lands, and modernizing the process for offshore energy leasing.

## **Agriculture Committees**

A top priority for both the House and Senate Agriculture Committees during the lame-duck session is to finalize a 2018 farm bill, which authorizes numerous programs related to food and agriculture. Despite negotiations throughout the summer, Congress was not able to reconcile the House version of the farm bill, the *Agriculture Improvement Act of 2018* (H.R. 2) and the Senate version, the *Agriculture Improvement Act of 2018* (S. 3042).

The process came to a halt over controversial priorities advanced by the House Republicans: increasing work requirements for the Supplemental Nutrition Assistance Program (SNAP), changes to conservation programs, and payment limits for farm programs. House Ranking Member Colin Peterson (D-MN), who is expected to return as chairman, has voiced his support for the Senate version of the farm bill, rather than starting from scratch in the new Congress. Republicans losing the majority in the House may drive House Agriculture Committee Chairman Mike Conaway (R-TX) to negotiate on SNAP and other priorities during the lame-duck rather than risk an entirely new Democrat-driven bill in the 116<sup>th</sup> Congress. The U.S. Department of Agriculture (USDA) research enterprise, which includes the National Institute of Food and Agriculture's (NIFA) Agriculture and Food Research Initiative (AFRI), as well as the Agricultural Research Service (ARS), enjoyed broad bipartisan support from both the House and Senate Agriculture Committees in the 115<sup>th</sup> Congress. Despite this broad support, the House farm bill research title did not create as many new programs at the companion bill in the Senate.

The House bill reauthorized core programs like AFRI at the current \$700 million level and did not provide additional mandatory funding for the Foundation for Food and Agriculture Research (FFAR). The House version made significant changes to nutrition education programs like SNAP-ED, which would be administered by land-grants and consolidated with a mandatory funding stream for the combined programs.

In addition to reauthorizing core programs like AFRI, the Senate farm bill created many new programs, including a new advanced research and development "AgARDA" program to address high-risk, high-reward research, as well as an urban agriculture pilot program. The Senate provided an additional \$200 million in mandatory funding for FFAR.

Looking ahead into the 116<sup>th</sup> Congress, the House Agriculture Committee, under Democratic majority, will focus on USDA oversight, likely taking a closer look at the proposed relocation of NIFA and the Economic Research Service (ERS), and trade policy. The Senate Agriculture Committee will retain leadership and continue to work in a bipartisan manner on matters related to research, with the majority focusing on advancing agency nominations and trade issues.

### **Senate Agriculture, Nutrition, and Forestry Committee**

Barring any shuffling of committee assignments, the current membership of the Senate Agriculture Committee is expected to remain mostly intact. Senator Pat Roberts (R-KS) is expected to return as chairman with Senator Debbie Stabenow (D-MI), who was re-elected to another term, returning as ranking member. Two Democratic committee members, Senators Joe Donnelly (D-IN) and Heidi Heitkamp (D-ND), both lost their seats.

### **House Agriculture Committee**

For the House Agriculture Committee, Ranking Member Collin Peterson (D-MN) is likely to return as chairman, resuming his leadership from 2007-2011. Serving almost thirty years in Congress, Rep. Peterson is considered one of the most conservative members of the Democratic party. Rep. Mike Conaway (R-TX) is expected to remain in the top Republican role as ranking member.

There will be several vacancies on the committee for the 116<sup>th</sup> Congress, with Reps. Michelle Lujan Grisham (D-NM) and Tim Walz (D-MN), winning respective bids for governor; Rick Nolan (D-MN) retiring; and John Faso (D-NY) losing his seat. At the time of writing committee member Jeff Denham (R-CA) held a narrow lead in his race.

### **Senate Finance Committee**

Chairmanship of the Senate Finance Committee will change in the 116<sup>th</sup> Congress, as current Chairman Orrin Hatch (R-UT), is retiring. In terms of seniority, Senator Chuck Grassley (R-IA), is next in line to take over the gavel upon Chairman Hatch's retirement, but it remains to be seen if he will vacate his Senate Judiciary Committee chairmanship in favor of the Finance Committee chairman role. Under Senate rules, Senator Grassley would be able to serve two years as chairman of the Finance Committee, since he has previously served as chair in the early 2000s. His decision on whether to switch committees will have reverberations across the Senate, and he has not stated publicly what he intends to do. Should Senator Grassley opt to remain as chairman of the Judiciary Committee, the next senior Republican is Senator Mike Crapo (R-ID), who would have to vacate his current chairmanship of the Senate Banking, Housing, and Urban Affairs Committee in order to take the Finance gavel. If this occurs, Senator Patrick Toomey (R-PA) would likely become chairman of the Senate Banking, Housing, and Urban Affairs Committee in Senator Crapo's stead.

On the Democratic side, it's expected that Ranking Member Ron Wyden (D-OR) will remain in his post as the top Democrat on the committee. Senator Wyden may have a bit more leverage than he did in the 115<sup>th</sup> Congress now that the House will be controlled by Democrats, and it's likely he will try to help shepherd House-passed bills through the Finance Committee. The make-up of the committee will also change, as one Democrat and one Republican lost their re-election races this cycle. At the time of this writing, Senator Bill Nelson (D-FL) was still locked in a dead heat with challenger Rick Scott (R-FL); no winner has been declared and neither candidate has conceded. Should Senator Nelson lose, Democrats will also have to find a replacement on the committee to fill his vacancy. Senator Dean Heller (R-NV), the most vulnerable Republican on the committee lost to his challenger, current U.S. House

Representative Jacky Rosen (D-NV). Senator Heller currently chairs the Subcommittee on Energy, Natural Resources, and Infrastructure, so a new subcommittee chairman will need to be appointed. On the Democratic side, Senator Claire McCaskill (D-MO), was defeated by challenger Josh Hawley (R-MO), the current Missouri Attorney General. Her seat on the committee will also need to be filled.

Last year, the Finance Committee helped steer the biggest overhaul of the American tax code in over thirty years, and it is expected that the committee will be heavily involved in shoring up last year's work and closing loopholes in the massive law. Additionally, some Republicans have expressed interest in pursuing another, albeit smaller, tax reform bill. However, a divided Congress will make passage of any new tax law challenging.

Lowering the cost of prescription drugs is again expected to be a significant issue in the 116<sup>th</sup> Congress. In the 115<sup>th</sup> Congress, Chairman Hatch, a supporter of the pharmaceutical industry, was slow to pursue legislation that would have negatively impacted the industry. However, if Senator Grassley opts to become chairman of the Finance Committee in the 116<sup>th</sup> Congress, he will most likely look to bring drug pricing to the center of the stage. Senator Grassley is known as an oversight hawk, and during his time in Congress he has repeatedly supported legislation aimed at curbing drug prices. In addition, he has voiced support for drug importation as a way to keep healthcare costs down.

Notably, Senator Grassley has been openly critical of the 340B Drug Pricing Program. Last year, Senator Grassley introduced a bill aimed at increasing oversight and transparency of the program. The legislation would have required 340B entities to report the acquisition costs of drugs it purchases, as well as report the revenues it receives from third party payers. Senator Grassley sees the program as something that hospitals and other health entities may exploit to use for financial gain, rather than for its intended purpose of helping hospitals that treat large underserved populations. As such, it is likely that Senator Grassley will continue his scrutiny of the program should he become chairman. In addition, Senator Grassley has, in the past, increased scrutiny of non-profit hospitals; more specifically, he requested in March 2018 that the Internal Revenue Service (IRS) provide information on how it monitors non-profit hospitals and its enforcement practices relating to them. Senator Grassley has also called for looking into how much community benefit these non-profit hospitals bring to their communities.

Even if Senator Grassley does not chair the committee and the position goes to Senator Crapo, it is likely that Senator Crapo will also focus much of his efforts on drug pricing. In October, Senator Crapo wrote an editorial praising "commonsense changes that ensure pricing transparency."<sup>2</sup> Regardless of who becomes chairman, and given President Trump's interest in this issue, drug pricing may be an area in which bipartisan legislation can be developed and approved by the committee. Ranking Member Wyden is a staunch supporter of lowering drug costs, as well.

In addition, Senate Majority Leader Mitch McConnell (R-KY) has openly discussed the possibility of revisiting entitlement reform and tweaking Medicare and Medicaid, as well as programs like Social Security, all of which fall under the Finance Committee's jurisdiction. It is expected that the Finance Committee, which has jurisdiction over the entitlement programs, will lead the way should entitlement reform, a topic on which Republicans and Democrats vehemently disagree, take center stage on Capitol Hill.

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<sup>2</sup> [https://www.crapo.senate.gov/media/editorials/weekly-column\\_us-senate-takes-steps-to-address-high-prescription-costs](https://www.crapo.senate.gov/media/editorials/weekly-column_us-senate-takes-steps-to-address-high-prescription-costs)

Also of note, President Trump has made trade one of his signature issues. Should Senator Grassley assume the chairmanship, he may be more inclined to focus the committee's efforts on tariffs and international trade, both of which fall under Finance Committee jurisdiction. Due to the President's everchanging stances on trade and tariff issues, and since much of Senator Grassley's home state of Iowa is rural and agrarian, he may be particularly concerned with how tariffs and new trade deals could affect the agricultural industry.

## House Ways and Means Committee

The Ways and Means Committee is the chief tax-writing committee in the U.S. House of Representatives. The committee has jurisdiction over all taxation, tariffs, and other revenue-related issues including Social Security, Medicare, and other social services programs.

With the Democrats taking control of the House, Ways and Means Committee leadership roles will change in the 116<sup>th</sup> Congress. Ranking Member Richard Neal (D-MA) will likely serve as the next chairman of the committee and Chairman Kevin Brady (R-TX) is expected to maintain a leadership position as the ranking member. Representative Neal's priorities for the committee will likely include issues he has previously championed, such as strengthening retirement security policies, protecting Social Security, and rolling out a major infrastructure plan. As chairman of the committee, Rep. Neal is also expected to revisit the 2017 tax reform law, referred to as the "Tax Cuts and Jobs Act." The committee will likely conduct a series of hearings to better analyze the tax law, given criticism around the compressed timeline in which the package was considered. Democrats, who were shut out of development of the reform measure, are also likely to seek tweaks and technical fixes to the tax package. Rep. Neal is on record supporting a repeal of the private university endowment tax included in the tax law. However, with Republicans retaining Senate control it is unclear if any tax reform modifications will make it into law in the 116<sup>th</sup> Congress. Some Democrats on the committee have also expressed interest in obtaining President Trump's long-awaited tax returns, an authority Rep. Neal will be able to exercise as chairman.

In addition, Rep. Neal is expected to look at ways to address the "Patient Protection and Affordable Care Act" (ACA) through this committee, looking at opportunities to protect and strengthen the law. Rep. Neal has said "he would look to help bring back parts of the ACA that the administration of President Donald Trump has gutted, like the individual mandate requiring people to have health insurance."<sup>3</sup> Under a Democratic-led Congress, another priority back on the table for the committee will likely be "Medicare for All" – a universal health insurance proposal backed by House Democratic Leader Nancy Pelosi (D-CA).

There are also several members of the committee who chose to vacate their seats for reasons ranging from retirement to running for other public offices, including six Republicans and two Democrats. These members include Representatives Sandy Levin (D-MI), Joseph Crowley (D-NY), Sam Johnson (R-TX), Dave Reichert (R-WA), Lynn Jenkins (R-KS), Dianne Black (R-TN), Jim Renacci (R-OH), and Kristi Noem (R-SD). Additionally, a handful of Republican members lost their seats in this race, including Representatives Peter Roskam (R-IL), Erik Paulsen (R-MN), Carlos Curbelo (R-FL), and Mike Bishop (R- MI). The Tax Subcommittee, will be noticeably impacted by these changes, having lost Reps. Roskam, Reichert, Renacci, and Noem from the committee.

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<sup>3</sup> <https://www.gazettenet.com/Richard-Neal-visits-Gazette-editorial-board-19668270>

The Subcommittee on Health will also experience major changes, with the subcommittee's Ranking Member Rep. Sandy Levin (D-MI) retiring. It is expected that Rep. Lloyd Doggett (D-TX) will serve as the next chairman of the Health Subcommittee. As mentioned above, the current chairman of the Health Subcommittee Rep. Roskam lost his seat resulting in uncertainty about the next ranking member on the subcommittee. While Rep. Vern Buchanan (R-FL) is next in line to fill this role, it is unlikely he will give up his position as ranking member on the Tax Subcommittee. Drug pricing legislation will likely be a top priority for the Health Subcommittee, given Rep. Doggett's personal interest and Democratic leadership's desire to lower drug prices. Rep. Doggett has been a strong critic against prescription drug pricing practices by pharmaceutical companies and is expected to reintroduce his bill on compulsory pharmaceutical licensing called "The Medicare Negotiation and Competitive Licensing Act" (H.R. 6505), as early as February. The bill could have potentially destabilizing effects on the intellectual property (IP) pipeline.

Additionally, House Democrats may decide to make infrastructure investment a part of their legislative strategy to contrast the unfulfillment of a signature campaign promise of the President. The House Transportation and Infrastructure Committee will have primary jurisdiction over an infrastructure bill and will surely involve raising federal revenue to pay for it. Any tax increases as part of House Democrats' proposal would require the Ways and Means Committee to weigh in.

## **Judiciary Committees**

The Senate and House Judiciary Committees oversee a variety of issues, including immigration, patent and intellectual property (IP) reform, and criminal justice policies. In addition, the Senate Judiciary Committee is responsible for holding confirmation hearings for the President's prospective judicial appointees and Department of Justice (DOJ) leadership.

Leadership shake-ups are expected in both chambers to begin the new Congress. Senate Judiciary Committee Chairman Chuck Grassley (R-IA) has expressed interest in taking over the Finance Committee to replace retiring Senator Orrin Hatch (R-UT). If he decides to make this move, Senator Lindsey Graham (R-SC) is expected to chair the Senate Judiciary Committee, while Senator Dianne Feinstein (D-CA) is expected to continue to serve as ranking member. In the House, Ranking Member Jerrold "Jerry" Nadler (D-NY) is expected to become Chairman of the Judiciary Committee. On the Republican side, Rep. Doug Collins (R-GA) and Rep. Steve Chabot (R-OH) have expressed interest in the ranking member position following the retirement of current Chairman Bob Goodlatte (R-VA), but Rep. Jim Jordan (R-OH) is also expected to compete for a leadership position on a key committee and some believe he could pursue the Judiciary Committee.

The primary focus of the Senate committee will likely continue to be the consideration of federal court and DOJ nominees, including a confirmation hearing for a new Attorney General after current Attorney General Jeff Sessions resigned following the midterm elections. Republicans will be able to confirm candidates with less obstruction after adding to their majority in the midterms. In the House, expected incoming Chairman Nadler is poised to leverage the Committee's oversight power to launch a series of high-profile investigations into the Administration on a number of fronts. However, it is uncertain what Rep. Nadler would focus on first as, while ranking member, he has been very critical of the Administration's strict immigration policies, gun control stance, support for aggressive policing tactics, and handling of sensitive federal investigations, among many other issues. The House Judiciary Committee would also be where articles of impeachment would have to originate. While some liberal



Democrats have voiced their desire to pursue impeachment, Rep. Nadler has said that he has not seen information that proves the President has committed impeachable offenses.

Immigration reform could also be a priority as both parties recognize a need for immigration modifications but have failed to reach an agreement over any significant reforms so far this Congress. There has been some speculation that a deal to address the Deferred Action for Childhood Arrivals (DACA) program could get wrapped into lame-duck spending negotiations along with border security measures. Securing a DACA fix this year may lessen the political will to consider more comprehensive immigration reform by the committees in the 116<sup>th</sup> Congress.

If an agreement on DACA is not reached in this Congress, both Senators Grassley and Graham believe there is room for bipartisan compromise on measures to address the program and the issue of family separations at the border next year. Senator Feinstein has begun working with colleagues to draft legislation to specifically address these concerns. Senator Graham had been a leading advocate for bipartisan compromise over immigration reform, but his stance has become more hardline in recent months, including siding with President Trump on measures such as restricting automatic citizenship for individuals born in the United States. Senator Graham has also expressed interest in bipartisan compromise on criminal justice reform.

Also, of interest to the university community, the Judiciary Committee holds jurisdiction over most IP issues. However, it is uncertain whether this will continue to be a major priority in the next Congress, particularly on the House side with the retirements of Chairman Goodlatte and Rep. Darrell Issa (R-CA), both of whom were strong advocates for patent reform.