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The 112th Congress:

What Should Nebraska Bankers Expect?



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The 112th Congress: What Should Nebraska Bankers Expect?

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On Jan. 3, 2011, members of the 112th Congress were sworn in as Senators and Representatives. This event was the culmination of the historic 2010 election. As is well known, the Republicans have taken back control of the House of Representatives.

DURING THE ELECTION ON NOV. 2, 2010, 63 seats changed hands from Democrat to Republican. The House of Representatives will now have 242 Republican seats and the Democrats will have 192 seats. The Senate, however, will continue to be under Democratic control, albeit at the smaller margin of 53 Democrats to 47 Republicans. The Republicans picked up six seats in the Senate.

What do these electoral changes mean for your financial institution in Nebraska? Whether your bank is located in Scottsbluff, Grant, Grand Island, Pender, Lincoln, or Omaha, the 112th Congress will impact your banking business. Staying apprised of these developments will enable your bank to be more proactive and forward thinking as potential statutory changes are considered by Congress.

New Committee Chairmen to Be Selected

The most obvious change in the 112th Congress is that a new chairman will be selected in both the Senate Banking, Housing, and Urban Affairs Committee and the House Financial Services Committee. With the retirement of Sen. Chris Dodd (D-CT), Sen. Tim Johnson (D-SD) is expected to become the chairman of the Senate Banking Committee. Sen. Johnson has the seniority advantage and is currently chairman of the Financial Institutions Subcommittee. He has a strong record of supporting community banks, in light of the large number of small, community banks in South Dakota. Both the chief of staff and legislative director for Sen. Johnson are native Nebraskans. Sen. Johnson was also an active participant in the consideration of the Gramm-Leach-Bliley Act in 1999 and the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010. It is also important to note that Sen. Mike Johanns (R-NE) will continue to serve on the Senate Banking Committee.

The next chairman of the House Financial Services Committee will be Rep. Spencer Bachus (R-AL). Rep. Bachus represents the Sixth District of Alabama, which is in the Birmingham area. Bachus had been the ranking member of the committee under Democratic Chairman Barney Frank (D-MA). Bachus, who will be starting his 10th term in Congress, has a strong record of supporting community banks as well as the large banks that are headquartered in Alabama.

Financial Agenda for the 112th Congress

The consequences from the election will influence the agenda of banking issues in both the House Financial Services and Senate Banking Committees. 2011 will be the year of oversight of the administration's implementation

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of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Neither committee is expected to pursue a significant rewrite of this legislation. Since President Obama would be presumably unwilling to sign any legislation into law that modifies this new law in a significant way, neither the House nor Senate is expected to expend the

energy to repeal or significantly alter this legislation. However, the committees may revisit certain parts of this new law.

Chairman Bachus is expected to be very aggressive in conducting regulatory oversight of the Dodd-Frank Act within the Obama administration. Oversight of implementing the new law will be extensive, considering the

list of different rulemakings, studies, and reports is more than 136 pages. In particular, the Bachus-led committee is expected to conduct vigorous oversight over the establishment of the Consumer Financial Protection Bureau, which is housed within the Federal Reserve. As you know, the bureau will have the authority to issue rules that apply to all banks. However, the enforcement ability of the bureau generally applies to banks that have greater than \$10 billion in assets.

With respect to a legislative agenda, Chairman Bachus will advocate for a significant overhaul of the activities of Fannie Mae and Freddie Mac. He unsuccessfully attempted to address government-sponsored enterprise (GSE) reform in the Dodd-Frank Act. With Bachus as chairman, he will likely advocate for, among other things, a reduction of Fannie and Freddie's mortgage portfolio by 25 percent over four years. Moreover, he likely will directly target the executive compensation packages of Fannie and Freddie executives. GSE reform is expected to be a top priority of Chairman Bachus.

Chairman Bachus also is expected to push an effort to end the Troubled Asset Relief Program (TARP). He has been very outspoken in his effort to end what he views as taxpayer bailouts for financial institutions. Furthermore, Chairman Bachus also may look at modifying the Community Reinvestment Act (CRA) as well as examine Federal Housing Administration (FHA) housing reform.

With respect to the agenda of the Senate Banking Committee, this committee is expected to have a less robust legislative agenda than its House committee counterpart. However, Chairman Johnson will presumably focus on issues of concern to small community banks. Moreover, the following topics also may be on his committee agenda: mortgage foreclosures and consumer protection; affordable housing; and GSE reform.

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The expected focus of the Senate Banking Committee will be the implementation of the Dodd-Frank Act. This committee will likely be much more favorable to the administration in its oversight of this law relative to its House counterpart. Oversight of the bureau is challenging in that no Senate-confirmed director is in charge of the agency at this point. Elizabeth Warren is currently the special adviser to the Treasury Secretary on the bureau. Because of this role (which is not subject to Senate confirmation), it is unclear who would testify at this point in front of the House or Senate on issues related to the bureau. However, it is clear that the bureau will have a more friendly audience in front of the Senate Banking Committee.

Congressional Agenda in the 112th Congress

With respect to the larger agenda of the 112th Congress that may be of interest to Nebraska banks, deficit reduction is likely to be the top issue for Republicans and is expected to be a recurring theme. Both parties will likely try to find some level of budget cuts over the coming two years. Furthermore, House Republicans are expected to make an effort to reform the Patient Protection and Affordable Care Act of 2009 and the American Recovery and Reinvestment Act (the stimulus measure). However, with Democrats retaining control of the Senate and President Obama maintaining the power of the Presidential veto, Republicans will have difficulty passing any legislation repealing key Democratic priorities, including the health care law.

With the Democrats' defeat in the House, the Republicans may work to stop many of President Obama's outstanding legislative initiatives. It may be unlikely that the President's proposals for an infrastructure stimulus bill, the creation of an infrastructure development bank, immigration reform, and energy legislation will achieve passage in the 112th Congress.

In conclusion, even though Washington, D.C., is more than 1,000 miles away from the great state of Nebraska, the impact of the November election on Congress will be evident for Nebraska bankers. The best way to follow the developments in Congress is www.congress.gov, which in turn leads to the websites of the House Financial Services Committee and the Senate Banking Committee. I encourage you to let your voice be heard. (NOTE: This article reflects the state of affairs as of Dec. 10, 2010.) ▶



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