



In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, talks about leadership for the next Congress and what could be coming in the lame-duck session of Congress. He also shares some highlights from the Novogradac Financing Renewable Energy Tax Credits Fall Conference, as well as gives some updates about affordable housing, community development and the Treasury Department.

**Summaries of each topic:**

1. General News (01:55-00:00) Pages 2 – 4
  - a. Congressional Update (01:55-07:08)
  - b. D.C. Energy Conference (07:09-10:26)
2. Other News (10:27-12:23) Pages 5
3. Related Resources Page 6

Editorial material in this transcript is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding tax credits or any other material covered in this transcript can only be obtained from your tax adviser.

© Novogradac & Company LLP, 2018. All rights reserved. Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law. For reprint information, please send an email to [cpas@novoco.com](mailto:cpas@novoco.com).



## GENERAL NEWS

### Congressional Update

- It's been a week now since the mid-term elections occurred, and we're about to start seeing the leadership for the next Congress take shape.
- Congress returned today to begin its lame-duck session after an election last week that saw Republicans retain control of the Senate, and maybe slightly expand, and the Democrats take control of the House starting in January.
- And here's an update on where we stand right now with respect to those election results.
- In the Senate, Republicans will hold at least 51 seats and Democrats and the Independents who caucus with them will hold at least 47 seats.
  - There will be a runoff election in Mississippi later this month, Republicans expected to win.
  - And in the one uncalled race in Florida, the Republican leads.
- Now Democrats, meanwhile, won at least 227 seats to take control of the House.
  - Republicans will hold at least 198 seats.
  - In the House, there are 10 seats still undecided, and Republicans lead in six of those 10 races.
- Now the Republicans, by the way, will hold their initial leadership vote tomorrow, Wednesday, for the next Congress.
- Now actually, it's going to be a leadership caucus election.
  - The results provide the preliminary pick before the next session of Congress begins in January and another vote is held.
- Now remember, Democrats will have control of the House starting in January, so the Republican House elections are all for minority positions.
- Now the current House Majority Leader Kevin McCarthy of California and House Freedom Caucus founder Jim Jordan of Ohio are the two top candidates to be minority leader in the next Congress.
  - That said, most people expect McCarthy to emerge as the minority leader, but things can always change.
- Turning to the Senate, Mitch McConnell of Kentucky will assuredly be the majority leader for the fifth consecutive Congress.
  - Republicans will however, have to choose a new whip.
    - That's because John Cornyn of Texas is term-limited.
  - Sen. John Thune of South Dakota is the favorite for that role, as he is currently the Chairman of the Senate Republican Conference, which is the next ranking member of Senate Republicans.
- Now, we don't know yet when Democrats are going to hold their first vote for leadership, although there are reports that House Democrats will hold the vote the week after Thanksgiving.
  - Now once again, this is the House Democratic leadership caucus election.
  - The winner of the vote still needs to receive a majority vote of the whole House when the next Congress opens in January in order to be Speaker of the House.
- Regardless of that, Nancy Pelosi is clearly the front-runner to be the next speaker.
- Rep. Pelosi was the House speaker from 2007 until 2011, when the Republicans took control.



- Now there's some thought that Pelosi may promise that this will be her final term, which would potentially open up Democratic leadership spots.
  - Now Reps. Steny Hoyer of Maryland and Jim Clyburn of South Carolina, will likely hold the No. 2 and No. 3 spots on the Democratic side.
    - I should note both are nearing age 80.
  - So observers are going to be watching to see who moves up in the leadership ladder.
  - Now whoever gets the House assistant majority leader chair, which is considered the No. 4 spot, will be among the early favorites to succeed Pelosi as the Democrats' leader in the House after she leaves.
    - So far, Rep. David Cicilline of Rhode Island and Ben Lujan of New Mexico are considered leading candidates, although others may join.
- Turning to the Senate, we expect Sen. Chuck Schumer of New York to remain minority leader and Dick Durbin of Illinois to be the minority whip.
- Now, what will happen during the lame-duck session that starts today?
- Well, that's anybody's guess.
- That said, there are opportunities to pass such provisions as a 4 percent floor for the low-income housing tax credit (LIHTC) or an extension for the new markets tax credit (NMTC), or removal of the basis adjustment for the historic tax credit (HTC).
- Now as we've said before, there are several ways that these provisions could pass.
- They include being attached to:
  - appropriations legislation,
  - to a tax corrections bill,
  - to a tax extenders bill, or
  - a version of tax reform 2.0 legislation.
  - Or some combination of those four.
- Now before any of that happens, Congress does have to avoid a partial government shutdown Dec. 7.
  - That's when the continuing resolution that was passed in September expires.
  - I say partial government shutdown because there are seven appropriations bills that must pass to keep parts of the federal government funded by those bills.
  - Now of course, one other option is for Congress to pass another continuing resolution, in which case, they'd be putting the decision of the full-year appropriations in the hands of the next Congress.
- Now we will continue following the lame-duck session and the leadership selections.
- And you can follow me on Twitter for more current updates.
- My handle is @Novogradac.

### **D.C. Energy Conference**

- Many of you were at our Novogradac 2018 Financing Renewable Energy Tax Credits Fall Conference last week in D.C.
- But for those of you that weren't, I did want to share some of the highlights.
- On Friday morning, Keith Martin of Norton Rose Fulbright provided insights on the current state of the renewables market.
  - He said that the mid-term election results were a mixed bag for renewables, but mostly negative.



- Keith said that if House Democrats voted as a block, that we can expect legislative gridlock over the next two years.
- Now turning to the Senate side, Keith expects the Senate will be more conservative in the new Congress.
- That's because Republicans likely slightly expanded their majority, which means moderate Senators Susan Collins and Lisa Murkowski will have less influence.
- If Sen. Chuck Grassley takes over the tax-writing Senate Finance Committee, then that's likely very good news for renewables, according to Keith.
  - Sen. Grassley is a strong supporter of renewable energy incentives.
- Now Keith also addressed the possibility of bipartisanship on an infrastructure package.
  - He noted that there's been talk about infrastructure having support from Republicans and Democrats, and how that could be common ground for agreement on tax incentive legislation.
  - Well, Keith says that a big infrastructure bill is unlikely.
    - He noted that there's no consensus on what an infrastructure bill would look like, let alone how you would pay for it.
  - I do want to thank Keith for sharing his insights with our conference attendees.
  - It's always a key part of our renewable energy tax credit conferences.
- Now I'd also like to highlight the Washington Report panel on Thursday morning.
- Novogradac's director of public policy and government relations, Peter Lawrence, led the panel.
  - He and his panelists discussed the mid-term election results, the aftermath of tax reform and other legislative and regulatory issues that could affect the future of the renewable energy marketplace.
  - We had representatives from the two major wind and solar trade groups share their thoughts on how various tariffs enacted this year affect the wind and solar industries and continues to affect them.
  - Aaron Severn from the American Wind Energy Association, or AWEA, said that a total of about 21,000 wind jobs were lost or not created this year because of the tariffs.
  - And then on the solar side, Brandon Audap from the Solar Energy Industries Association, or SEIA, said about 9,000 solar jobs were lost or not created.
- While these industry groups are continuing to gather data on how the tariffs are affecting the renewables energy markets, and they do plan to present their data during the government's scheduled two-year, mid-term review of the tariffs.
- Another conference panel that I also want to highlight briefly was a lively discussion on combining opportunity zones and renewable energy.
  - We were fortunate to have four experienced tax lawyers take our attendees through six different examples of transaction structures involving renewable energy tax credits (RETCs) and opportunity zones.
- I do want to thank all of our energy conference speakers for sharing their experience and insights.
- I also want to thank all of our attendees, co-hosts and sponsors.



## **OTHER NEWS**

- Turning to other news, the Federal Housing Finance Agency announced multifamily lending caps for 2019 for Fannie Mae and Freddie Mac.
  - Those caps are \$35 billion.
    - This is the same as this year.
  - The caps are based on FHFA's projections of the size of the multifamily originations market.
  - The agency reviews those estimates each quarter and will make upward adjustments if necessary.
  - FHFA excludes certain types of loans in the affordable and underserved markets, from those caps, by the way.
- Meanwhile, Treasury released its Priority Guidance Plan for 2018-2019.
- The release came last week and the plan includes some expected guidance on tax credit issues.
  - Now perhaps most importantly, Treasury does plan to issue regulations on the income-averaging test for LIHTC properties.
    - Income averaging is a new option for LIHTC properties, so such guidance will be helpful.
  - Treasury also expects to issue final regulations for the LIHTC utility allowance, as well as:
    - a revision of certain NMTC rules, and
    - a revenue procedure covering the use of the HTC in disaster relief.
  - Now the Priority Guidance Plan spans the period that began this past July 1 and runs through June 30, 2019.
- Now lastly, for these news briefs, the CDFI Fund has opened fiscal year 2019 application period for the CDFI Bond Guarantee Program.
  - This program provides long-term, low-cost capital for economic growth in low-income communities.
  - Now there's as much as \$500 million in bond guarantees available, pending Congressional authorization, of course.
  - And if you need assistance with your Bond Guarantee application, please reach out to Bob Ibanez in our Florida office.



## **RELATED RESOURCES**

### **Treasury Guidance Priority**

[2018-2019 Priority Guidance Plan](#)

### **CDFI Bond Guarantee Program**

[Novogradac webpage with information on, links to program](#)

### **Novogradac Opportunity Zones Regulations Webinar**

[Registration Page](#)