Association of State Floodplain Managers
Legislative Report, February 2011
Meredith Inderfurth, ASFPM Washington Liaison

Getting Organized and Gearing Up

After more delay than originally anticipated, the Congress is getting itself organized for legislative business.

Since the opening of the 112th Congress in early January, the House of Representatives was unexpectedly delayed by a full week when legislative business was cancelled following the shooting of Rep. Gabrielle Giffords and others in Tucson, Arizona. After returning for a week, which largely involved committee organizational meetings and settling committee and subcommittee memberships, the House recessed for a previously scheduled District Work Period. The House will be back in session on February 8. A new kind of schedule for the House advocated by new Speaker John Boehner will essentially involve three weeks of work in Washington followed by a week of work in the home districts.

The Senate, on the other hand, found itself at least temporarily stymied over adoption of the rules to govern Senate procedure and recessed for a period of weeks to attempt to develop a compromise. That now appears to have been resolved with restrictions on the practice of Senators placing secret “holds” on legislation and streamlined arrangements for moving some Presidential appointees into their jobs without going through the full, often lengthy and politically complicated, Senate confirmation process. The Senate returned on February 1 and has voted to repeal certain burdensome paperwork aspects of the health care legislation, but against repeal of the new program itself.

The House has largely settled questions of the ratio of Republicans to Democrats on committees and subcommittees and on chairmanships and ranking minority member positions. Speaker Boehner has directed a 5% cutback in expenses of the House, which affects not only individual Member offices, but committee staffs as well. As a result of the change in majority party and the reduction in committee sizes, there has been considerable staff dislocation as well as loss of staff – often knowledgeable staff with long-term perspective and awareness of the legislative history of given programs and issues.

Following are the Chairs and Ranking Minority Members of some of the committees and subcommittees that handle issues of interest to floodplain managers.

### House Committee Leadership

<table>
<thead>
<tr>
<th>Committee (Subcommittee)</th>
<th>Chair (Republican)</th>
<th>Ranking Minority Member (Democrat)</th>
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<tbody>
<tr>
<td>House Appropriations Committee</td>
<td>Harold Rogers (R-KY)</td>
<td>Norman Dicks (D-WA)</td>
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<tr>
<td>Subcommittee on Commerce, Justice, Science</td>
<td>Frank Wolf, (F-VA)</td>
<td>Chaka Fattah, (D-PA)</td>
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<tr>
<td>Subcommittee on Energy and Water</td>
<td>Rodney Frelinghuysen (R-NJ)</td>
<td>Pete Visclosky (D-IN)</td>
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<tr>
<td>Subcommittee on Homeland Security</td>
<td>Robert Aderholt (R-AL)</td>
<td>David Price (D-NC)</td>
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There is less change on Senate Committees because there was no change in the majority party. The Chairman, Chris Dodd, (D-CT) of the Senate Banking Committee, which has jurisdiction over the National Flood Insurance Program, did not run for re-election.

In general, the Senate committees have been much slower to settle on subcommittee chairs and ranking minority members than the House committees. Committees on the Senate side have not held organizational meetings, so their action plans are unclear.

**Senate Committee Leadership**

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<th>Ranking Minority Member (Republican)</th>
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<tr>
<td>Senate Appropriations Committee</td>
<td>Daniel Inouye (D-HI)</td>
<td>Thad Cochran (R-MS)</td>
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<tr>
<td>Senate Banking Committee</td>
<td>Tim Johnson (D-SD)</td>
<td>Richard Shelby (R-AL)</td>
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<tr>
<td>Senate Energy and Natural Resources Committee</td>
<td>Jeff Bingaman (D-NM)</td>
<td>Lisa Murkowski (R-AK)</td>
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<tr>
<td>Senate Environment and Public Works Committee</td>
<td>Barbara Boxer (D-CA)</td>
<td>James Inhofe (R-OK)</td>
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<tr>
<td>Senate Homeland Security and Governmental Affairs Committee</td>
<td>Joe Lieberman (I-CT)</td>
<td>Susan Collins (R-ME)</td>
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Budget and Appropriations

Because the Congress never passed any of the regular 12 appropriations bills for Fiscal Year 2011 in the last Congressional session, the entire federal government is functioning under a Continuing Resolution which has funded most programs at FY 2010 levels until March 4, but with some language preventing new grant programs, which seems to also be interfering with some of the existing programs like the CAP-SSSE program involving FEMA and the States. Republicans had planned to reduce FY 2011 expenditures by $100 billion, but because half of the fiscal year will have elapsed by March 4 and because the government has been functioning at FY 2010 levels which were lower than the President’s FY 2011 request, the projected cuts will now amount to approximately $32 billion. Because no Budget Resolution was adopted to guide FY 2011 appropriations, the new Chairman of the House Budget Committee, Paul Ryan (R-WI) was given unprecedented authority to set the budget ceiling for the current fiscal year.

On February 3 the House Appropriations Committee Chairman announced how those cuts will be apportioned among the subcommittee jurisdictions. As a result, it appears that most reductions will affect transportation, housing, agriculture, commerce, justice, science and financial services. Significantly lesser reductions will affect health and human services, education, state and foreign aid. Defense, homeland security and veterans will actually see slight increases, according to the plan. It is likely that a new Continuing Resolution would extend for the entire remainder of the fiscal year. The size of cuts expected to be passed in the House may encounter resistance in the Senate, so there is some concern about the possibility of a government shutdown if differences cannot be resolved by March 4.

The President’s Budget Request for FY 2012 will be released on February 14. Departments and agencies will begin to provide briefings on their proposed budgets. Normally, appropriations subcommittees would immediately begin to hold hearings on the budget requests, but this year, the Appropriations Committee will still be working on the Continuing Resolution for the rest of FY 2011, so the hearings on the FY 2010 budget may be delayed.

Other Legislative Prospects

Flood Insurance

Last December, the National Flood Insurance Program was reauthorized through September, 2011, so some action will be necessary this year to extend its authority. At this early stage, there are indications that both the House Financial Services Committee and the Senate Banking Committee will want to actively look at flood insurance reform this year. Whether or not substantive legislation is considered or simply another short-term reauthorization remains to be seen.

Meanwhile, FEMA is in the midst of its ambitious effort, “Re-Thinking the NFIP” and is hoping to have recommendations to share with Congressional committees by early summer. At this point, the project has moved along well and 4 “straw men” sets of policy options have been developed to generate public discussion and comment. ASFPM has submitted comments which are posted on the website. View ASFPM Comments

It may be challenging to mesh the timing of the Congressional need to act before September 30, the Administration’s readiness to present recommendations, and the time available for Congress to consider major program changes. As such, we expect Congress will either do a simple extension or pass some minor adjustments to the NFIP in the session this summer. Major changes may take a year or two. No doubt, issues involving levee accreditation and new flood maps will complicate action on flood insurance legislation.

United States Representative Candice Miller from Michigan is introducing a bill (HR 435) to terminate the NFIP by the end of FY 2013. You can read her logic for it in her press release View Press Release (You will likely observe that some facts are not quite right). While this bill in its current form will not likely move quickly, ASFPM is following this very closely. We anticipate there being several bills introduced over the next few months—bills that address specific concerns with the program, or those opposing new maps and flood insurance
mandatory purchase, etc. As ASFPM monitors these bills, status reports and updates will be provided in the Insider and News and Views and on the web site.

A quick read indicates the bill HR 435 does the following (We are working to clarify any ambiguities):
1. Preserves the authority for FEMA to identify flood hazard areas (who pays for maps not yet clear to us?)
2. Eliminates requirement to participate in the NFIP and therefore the quid pro quo for adoption and enforcement of local floodplain management regulations
3. Eliminates mandatory purchase requirement
4. Eliminates all provisions related to maintaining flood insurance as a condition for Fed financial assistance
5. Eliminates all hazard mitigation assistance programs and national flood mitigation fund
6. Eliminates national flood insurance fund

ASFPM members are encouraged to submit your comments and concerns on this issue to asfpm@floods.org.

Stafford Act Reform

During the last Congress the House Transportation and Infrastructure Committee reported out a bill making revisions to the Stafford Act, some of which ASFPM members would find helpful. That bill was never taken up on the House floor. Senator Mary Landrieu (D-LA) worked to develop a Stafford Act reform bill, but had not yet introduced it.

Early indications are that the House committee could move an abbreviated version of the Stafford revisions bill from the previous Congress (111th Congress; H.R. 3377). Senator Landrieu will no longer chair the Disaster Recovery Subcommittee of the Senate Homeland Security and Governmental Affairs Committee, but is likely to introduce the Stafford reform bill anyway.

Levee Program and Water Resources Development Act

Both the House Committee on Transportation and Infrastructure and the Senate Environment and Public Works Committee staffs indicate interest in taking some action to establish a national levee risk management program which would build in some way on the recommendations of the National Committee on Levee Safety (NCLS). ASFPM has been represented on the NCLS by Sam Riley Medlock, but also has developed recommendations to go beyond the NCLS recommendations to establish a levee program in the context of overall flood risk management.

The manner in which the committees would consider a levee program could take a variety of forms including stand-alone legislation or inclusion in a Water Resources Development Act (WRDA). Complexities present themselves for taking up (an overdue) WRDA this year. Traditionally, WRDAs have included long lists of Congressionally authorized projects and studies. Given pledges by leaders in both the House and Senate and by the President to not approve inclusion of “earmarks” in legislation this year, questions arise as to whether or not the named projects in a WRDA bill constitute earmarks.

Climate, Energy, Climate Adaptation

One of the first issues to gain attention and whip up conflicting views already in this Congress is that of climate change, clean energy and regulation of emissions. Chairman Fred Upton of the House Energy and Commerce Committee and Chairman James Inhofe of the Senate Environment and Public Works Committee are introducing identical bills to limit the authority of the Environmental Protection Agency (EPA) to regulate greenhouse gas emissions under the Clean Air Act. Variants on this measure have been introduced by Senator John Barrasso (R-WY)(S. 228) and by Senator Jay Rockefeller (D-WV)(S.231). The Ranking Member of the House Energy and Commerce Committee, Rep. Ed Markey (D-MA) and the committee’s former Chairman, Rep. Henry Waxman (D-CA) both strongly criticized the bills.
It is likely that the House Committee will act first on the matter. The Senate Energy and Natural Resources Committee lost a number of veteran members this Congress and has acquired 8 new members. This makes it difficult even for Chairman Jeff Bingaman (D-NM) to predict whether or not the committee’s previous ability to achieve some bipartisan consensus will remain viable.

Other bills introduced:

H.R. 433: Rep. Doris Matsui (D-CA) The Natomas Basin Flood Protection Improvement Act was introduced on January 25 and referred to the House Transportation and Infrastructure Committee.

S. 1: Senator Harry Reid (D-NV) The American Competitiveness Act was introduced on January 25 and referred to the Finance Committee. It is a Sense of the Senate Resolution which lists a number of recommended initiatives. An example item in the list is: “modernize and upgrade U.S. rail, levees, dams and ports”.

Coalitions:

Congressional Hazards Caucus Alliance
The Alliance met on February 3 to discuss briefings to develop and sponsor issue briefings for Congressional staff during the year.

Mitigation Alliance
The National Emergency Management Association (NEMA) is leading an effort to establish a Mitigation Alliance to collaborate and share information to enhance the ability of member groups to encourage hazard mitigation. Chad Berginnis, ASFPM Associate Director, Deborah Mills, ASFPM Mitigation Policy Committee Co-Chair and Merrie Inderfurth, ASFPM Washington Liaison participated in a meeting on January 13. The Alliance is being developed pursuant to a Mitigation White Paper produced under NEMA’s leadership last year in an agreement with FEMA.

SmarterSafer Coalition
This group has formed two subgroups – on flood insurance and on mitigation to develop legislative proposals to promote improvements in the flood insurance program and hazard mitigation. ASFPM is not a member of the group, but does participate in some of the discussions. Under active consideration is a proposal for a tax credit to encourage property owners to take steps to mitigate their risk of loss in a natural disaster. Another measure under development is one to address perceived mapping needs. A FEMA representative recently briefed the group on RiskMAP. The subgroups have met this year and the full coalition has bi-weekly call-in meetings.

Streamgage Coalition
The Coalition sent letters to appropriate Congressional Committee leaders signed by a large number of participating organizations. The letters reiterated the need to support the nation’s streamgages because of the importance of the data developed for water resources planning, flood warning and floodplain management, recreational safety and many other applications.

USGS Coalition
The Coalition met on January 25 to discuss budget and appropriations considerations for USGS programs in both fiscal years 2011 and 2012. There was also discussion of meetings with Interior Department and USGS officials as well as briefings to request from Congressional staff. Once the President’s budget request is available later this month, the Coalition will plan issue briefings for Congressional staff in response to their requests.

All referenced legislation can be reviewed by going to: http://thomas.loc.gov and typing in the bill number or title.