

LEGISLATIVE COMMITTEE CALL

NOV 10, 2026

ANTI-TRUST STATEMENT

This meeting is governed by antitrust laws and NHA's Antitrust Compliance Policy.

Participants should not discuss or exchange competitively sensitive information, including current or future prices, bids, costs, margins, capacity, contract terms, wages, or other company-specific commercial strategy. If a discussion begins to move into a competitively sensitive area, please stop the discussion immediately and, if necessary, consult NHA legal counsel before proceeding.



AGENDA

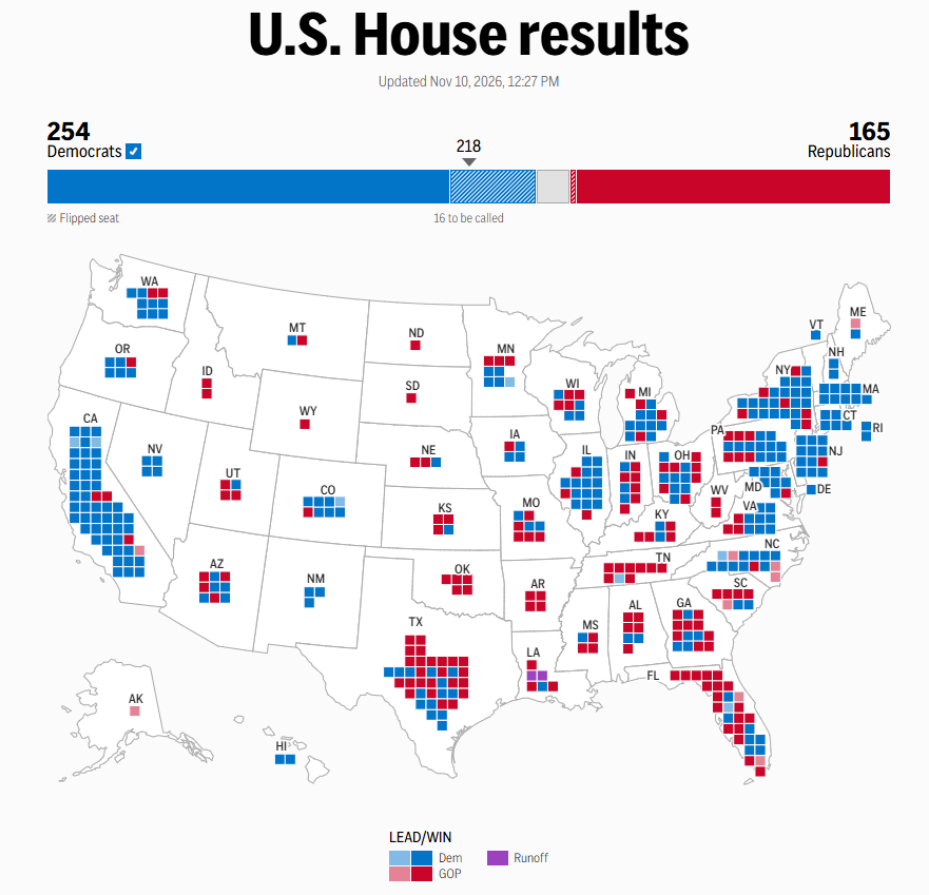
- Anti-Trust Statement
- Legislative Tracker
- Election Recap – House & Senate Results
- Hot Takes – BAAJA Post-Election Read
- Permitting Primer – BAAJA
- BAAJA Substance– CWA 401, ESA Section 7, NHPA, & Key Issues
- Reminders – Upcoming Meetings & Webinars

NHA LEGISLATIVE TRACKER

Legislation	Intro House	Intro Senate	Pass House Committee	Pass Senate Committee	Pass House	Pass Senate	Enacted
Hydropower Licensing Affordability Act (H.R. 9337, S. 5048)	●	●	–	–	–	–	–
Maintaining and Enhancing Hydro (H.R. 2160 / S. 1183)	●	●	–	–	–	–	–
Build More Hydro Act (H.R. 2072 / S. 1020)	●	●	●	●	●	●	●
Licensing Transparency Act (H.R. 3657 / S. 3500)	●	●	●	●	●	●	●
FLOWS Act (S. 3518, H.R. 9806)	●	●	–	●	–	–	–
Water Power R&D Reauth. (H.R. 7129 / S. 3684)	●	●	●	–	–	–	–
Bipartisan American Affordability and Jobs Act (S. 5653)	–	●	–	–	–	–	–
Other Legislation							
PERMIT Act (H.R. 3898)	●	–	●	–	●	–	–
SPEED Act (H.R. 4776)	●	–	●	–	●	–	–
ESA Amendments Act (H.R. 1897)	●	–	●	–	–	–	–
RAPID Act (Latta & DeGette)	–	–	–	–	–	–	–
Pumped Storage Licensing (Griffith & DeGette)	–	–	–	–	–	–	–
Rural Jobs & Hydropower Expansion Act (H.R. 7487)	●	–	●	–	–	–	–
WRDA Sec. 408 (H.R. 9705 / S. 4992)	●	●	–	–	–	–	–
American Energy & Mineral Infrastructure Act (S. 4944)	–	●	–	–	–	–	–
CURRENT Act (H.R. 9855)	●	–	–	–	–	–	–

● NEW | ● Milestone reached | – Not yet reached | Included in BAAJA

U.S. HOUSE RESULTS



Key Takeaways

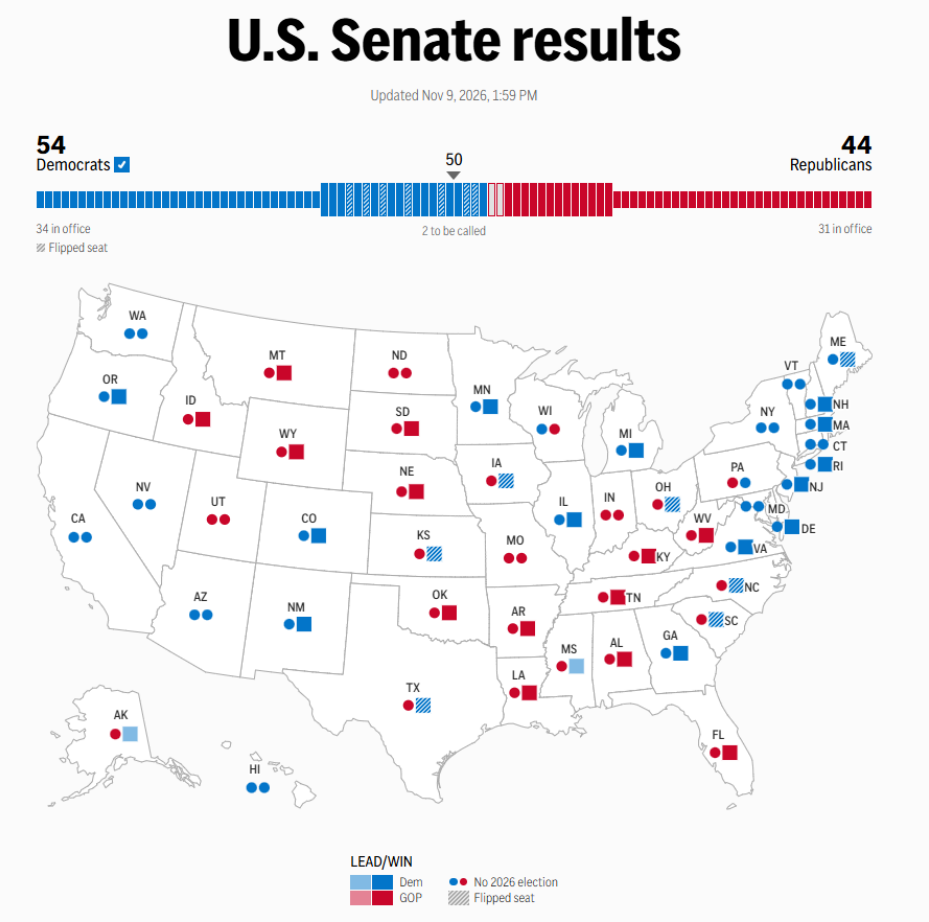
- Democrats had a stunning night — gains made even in districts considered Republican strongholds
- Largest Democratic majority since 1990 — projected 259–176, an 83-seat margin
- House passage of BAAJA still achievable; lame duck window is critical

Hydropower Allies Watch

Members whose incumbents lost: urge outgoing members to return to DC to vote for BAAJA before January.

Begin introductory outreach to incoming freshman members now.

U.S. SENATE RESULTS



Key Takeaways

- Democrats performed even stronger than anticipated — several key pickups and unexpected victories in Mississippi and South Carolina
- Alaska Senate race (ranked-choice) still undecided — results expected Nov. 10
- Some Dems emboldened by gains may push to delay BAAJA for stronger bill in January — strong pushback from within caucus

120th Congress Implications

Sen. Murkowski (R-AK) is set to become Appropriations vice chair in January as Collins exits — a centrist power broker.

Sen. Daines (R-MT), a key Thune leadership ally, retires in January — one less champion for hydropower.

POST-ELECTION OUTLOOK

How the election reshapes the House and Senate

House Outlook

Democrats are projected to hold about 259 seats, the largest majority since 1990. Leadership dynamics are in flux, and committees will look drastically different next Congress, though nearly every ranking Democrat is taking back a gavel.

Senate Dynamics

Democrats are projected to hold at least 54 seats after an historic night; Mississippi and Alaska (ranked-choice) remain undecided. Some incoming freshmen are calling for a leadership challenge to Sen. Schumer.

Impact on the Agenda

Bigger majorities and shifting leadership raise the stakes of the lame duck window, with limited time before January. Outgoing members' votes matter now. Permitting specifics follow on the next slide.

PERMITTING REFORM: SENATE FLOOR PRIMER

Support & Opposition

- Stakeholder Support: Utility groups EEI, APPA and NRECA, SEIA, ACP, API, Chamber, NAM, INGAA, AGA, most major unions and infrastructure trades.
- House Support: House Western Caucus, House Freedom Caucus, Blue Dog Democrats
- Opposition: Earthjustice, Sierra Club, NRDC and ACLU, citing weakened NEPA and NHPA protections.

Hydropower Title

- Mandatory FPA Sec. 4(e) license conditions must be reasonably related to a project's actual effects.
- Routine maintenance, repairs and emergency adjustments streamlined, without major-amendment review.
- New licensing pathway for marine energy technologies under 5MW.
- Hydropower market barriers study.
- Sen. Daines committed to vote NO if hydro title altered.

Where We Stand

- Senate voted 73–25 on Nov. 9 to proceed to BAAJA — a procedural step; final passage votes remain.
- Manager's package (new text) released Nov. 7.
- BAAJA may also become a vehicle for NDAA, WRDA, Farm Bill, and FY27 appropriations.
- Next: build on bipartisan momentum toward final passage.

Clean Water Act & Endangered Species Act

- CWA (Div. A, Title II): Sec. 401 state water-quality certification procedures and standards revised; NPDES permit terms extended from 5 to 10 years; Sec. 404 general permits and EPA veto authority changed.
- ESA (Div. A, Title III): amends the consultation process with FWS/NMFS (biological opinions).

What Changed in the Bill?

Introduced text (Sept. 30) vs. manager's substitute amendment (Nov. 7)

NEPA (Hydropower-Relevant Changes)

NEPA

- Tribal or state agencies conducting a review under federal authority can now serve as lead agency
- NEPA suits on Natural Gas Act and Federal Power Act (hydropower licensing) projects go to the D.C. Circuit; D.C. district court added as a venue

Clean Water Act

CWA

- Section 401: states may deny incomplete applications and decide which conditions are necessary
- Section 401: consistency-with-federal-permit requirement removed (stated aim: avoid conflict with section 401(d))
- Section 404: nationwide permit 27 (aquatic ecosystem restoration) added to the Army Corps list
- NOTE: on balance, the section took a small step backwards, but largely remains intact

Endangered Species Act

ESA

- Applicant may elect consultation with the Secretary even where a state has assumed consultation (NHA's language has been incorporated into the bill)
- Secretary must end a state's assumption of consultation if it is poorly executed
- Clarifies grant disbursement and transfer of any appropriated funds for the purposes of standing up a state program

National Historic Preservation Act

NHPA

- Strikes the definition of "property of traditional religious or cultural importance"
- THPO compliance: written notice to the tribe required on a non-compliance finding; Secretary no longer assumes THPO duties; corrective action process added
- Grant withholding delayed until two years of non-compliance after a corrective action plan; Interior must provide technical assistance and training
- THPO compliance activities do not relieve agencies of the duty to consult tribes under 302706(b) of the NHPA
- Adds exclusion of "routine" projects that do not diminish historic integrity; codifies exclusion of activities with no potential to cause adverse effects

Senate Floor Path & Timing

How BAAJA moves from the motion to proceed to final passage under Senate rules (estimated hours)

1	2	3	4	5	6
Cloture on motion to proceed	**Motion to proceed adopted**	**Substitute offered; cloture filed**	**Cloture on substitute (60 votes)**	**Cloture on the bill (60 votes)**	**Final passage**
Invoked 73–25 on Nov. 9; debate on the bill opens	Up to 30 hrs post-cloture; often yielded back by consent	Manager's amendment offered; cloture ripens after one intervening day	Up to 30 hrs post-cloture, then substitute is adopted	Up to 30 hrs post-cloture on the underlying bill	Simple-majority vote; bill then goes to the House
DONE	0–30 hrs	~24 hrs	0–30 hrs	0–30 hrs	VOTE

Full rules clock, no agreement

Up to ~114 hours (30 + ~24 + 30 + 30) of floor time, roughly five calendar days of continuous session

With a time-agreement (consent)

Leaders can compress or yield back post-cloture time; passage could come in 1–3 days, depending on amendment votes

Estimates based on Senate cloture rules (Rule XXII); actual timing depends on leadership scheduling and unanimous-consent agreements.

NHA

How NHA Members Can Help

Key asks while the Senate moves BAAJA toward final passage

1. **Call your Senators**
   Urge a YES vote on cloture and final passage; ask offices to protect the Hydropower, Clean Water Act and Endangered Species Act titles.

2. **Engage state delegations**
   Coordinate with House members in your service area now so the bill moves quickly after Senate passage.

3. **Share project stories**
   Give Hill staff concrete examples of licensing delays, costs and jobs at your facilities; send them to NHA.

4. **Use VoterVoice**
   Send a pre-written message to your Senators through NHA's VoterVoice action center; scan the code or visit hydro.org/votervoice.

LOOKING AHEAD

Tuesday, November 17 1:00-2:00PM ET

2026 Midterm Election Recap with Lot Sixteen and NHA

Wednesday, November 18 2:00-3:00PM ET

NHA Legislative Speaker Series

Thursday, November 19 11:00AM-12:00PM ET

Inaugural Water Power PAC Board Meeting

Thursday, November 19 12:00-1:30PM ET

Q4 Washington Reps Working Lunch – In Person at NHA

Not on your calendar?

Email Allyson Travis allyson@hydro.org