

Election Recap and Preview of the 116th Congress

Prepared for the American Seniors Housing Association



What happened, what it means,
and why.

November 7, 2018

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Part One: Election Recap



Democrats retake the House,
while Republicans retain control
of the Senate

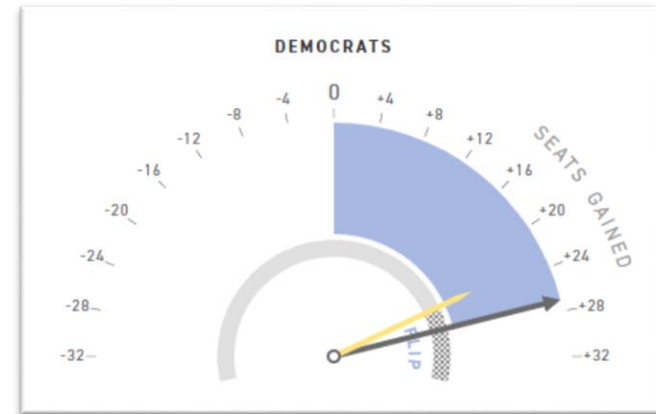
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GOVERNMENT RELATIONS

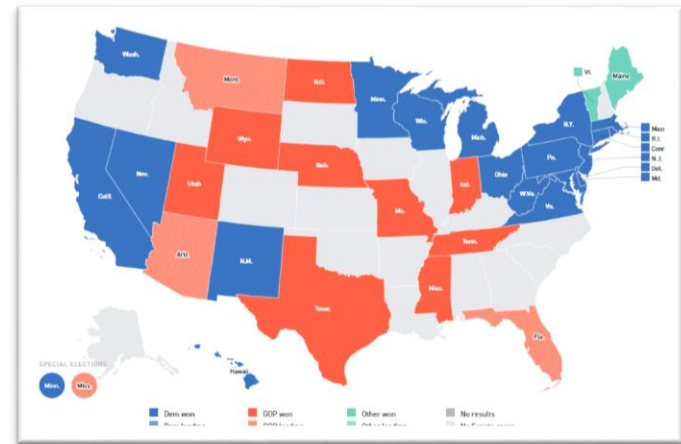
Democrats Flip the House

- As of Wednesday morning Democrats have managed to gain 27 seats.
 - Recent estimates suggest the Democrats could end up with a 30-35 seat gain when the dust settles.
 - The 2018 midterms marks the fourth straight midterm election (2006, 2010, 2014, 2018) with at least one chamber of Congress flipping.
- Democrats performed strongly in suburban areas from the Eastern Seaboard all the way to Nevada.
 - These include pickups in traditionally challenging terrains for Dems in Dallas, Houston, Oklahoma City and Richmond.
- Outstanding California races present an opportunity for Democrats to increase their margin of victory.



GOP Maintains Senate Majority

- Thanks to an advantageous map that saw Democrats defending 26 seats to the GOP's 8, Republicans have padded their Senate majority for the 116th Congress.
 - With as many as 54 seats in the 116th Congress, Republicans also increased the likelihood of holding the Senate in 2020, when the map will favor Democrats.
- Republicans flipped vulnerable Democratic seats in Missouri, North Dakota, Indiana.
 - In Florida, Sen. Bill Nelson (D-FL) is currently trailing challenger Gov. Rick Scott by a razor thin margin. The race is likely headed towards a recount.
- The race in Arizona remains too close to call.



Incumbent Losses

Republicans*

Rep. Mike Coffman (R-CO)	Rep. Carlos Curbelo (R-FL)	Rep. Randy Hultgren (R-IL)	Rep. Peter Roskam (R-IL)
Rep. Rod Blum (R-IA)	Rep. David Young (R-IA)	Rep. Kevin Yoder (R-KS)	Rep. Mike Bishop (R-MI)
Rep. Jason Lewis (R-MN)	Rep. Erik Paulsen (R-MN)	Sen. Dean Heller (R-NV)	Rep. Leonard Lance (R-NJ)
Rep. Dan Donovan (R-NY)	Rep. John Faso (R-NY)	Rep. Claudia Tenney (R-NY)	Rep. Steve Russell (R-OK)
Rep. Keith Rothfus (R-PA)	Rep. John Culberson (R-TX)	Rep. Pete Sessions (R-TX)	Rep. Dave Brat (R-VA)
Rep. Barbara Comstock (R-VA)	Rep. Scott Taylor (R-VA)		

Democrats*

Sen. Joe Donnelly (D-IN)	Sen. Claire McCaskill (D-MO)	Sen. Heidi Heitkamp (D-ND)	
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* Results reflect CNN's projections as of 9:30 a.m. Eastern Time on November 7, 2018. Several races are still pending.



Meet the New Senators

State	Winner	Notes
Tennessee	Marsha Blackburn (R)	Rep. Blackburn's staunch support for President Trump buoyed her in state where Trump won by 26 points.
Arizona	Kyrsten Sinema (D)/Martha McSally (R)	The race to replace fervent Trump critic Sen. Jeff Flake remains too close to call.
North Dakota	Kevin Cramer (R)	North Dakota's At-Large Member of Congress enjoyed a consistent lead over incumbent Sen. Heidi Heitkamp in a state Trump won by 36 points.
Missouri	Josh Hawley (R)	The Missouri Attorney General won despite an onslaught of attacks against his record on the Affordable Care Act.
Utah	Mitt Romney (R)	The former presidential candidate and Governor of Massachusetts was seen as the clear favorite after announcing his candidacy last year.
Nevada	Jacky Rosen (D)	Rep. Rosen outraised incumbent Sen. Dean Heller in this Clinton-won state that was targeted by Democrats prior to the 2018 campaign.
Indiana	Mike Braun (R)	The businessman and former state representative sold himself as a political outsider in the image of President Trump and a reliable Republican vote.

Historic Voter Turnout

- Democrats and Republicans saw historic levels of voter turnout.
- As of early Wednesday morning, roughly 114 million votes were cast in House races according to estimates by the New York Times.
- Roughly 34 million participated in early voting.
 - More than 20 states and the District of Columbia already surpassed their total early-vote tally from the last midterms.
- Both parties had reasons for high enthusiasm.
 - For Democrats, strong anti-Trump sentiment coupled with issues such as gun control and #MeToo boosted enthusiasm
 - For Republicans, Issues such as the Supreme Court and Immigration, coupled with President Trump's high popularity numbers within the party, boosted candidates in the final weeks of the campaign.



Year of the Woman

- A record number of women ran for and won seats in Congress.
 - According to an analysis by NBC, of the 276 women on the ballot Tuesday in House, Senate and governor's races, 77 percent were Democrats.
- As of early Wednesday morning, at least 95 women had won House seats, breaking the current session's record of 84 women.
- While the Senate will be losing Sens. Heitkamp (D-ND) and Claire McCaskill (D-MO), their departures will be offset by three new female Senators in Marsha Blackburn (R-TN), Jacky Rosen (D-NV), and either Martha McSally (R-AZ) or Kyrsten Sinema (D-AZ).



“It’s (Not) The Economy, Stupid!”

- While many Republican candidates wanted to keep their focus on the robust economy, President Trump instead focused much of his closing rhetoric on immigration.
- The economy didn't rank as the top issue for most voters in the early exit polls.
 - According to the CNN exit poll, more than 4 in 10 voters said that health care was the most important issue facing the country followed by immigration (23 percent), the economy (21 percent) and gun policy (11 percent)
- That emphasis on immigration was at odds with efforts to protect vulnerable House Republicans in moderate suburbs where many voters are averse to the president’s culture wars.



Trump 2020 Outlook Boosted (For Now)

- GOP Statewide victories in key swing states Florida and Ohio have President Trump's 2020 outlook trending upward
- A strong Senate GOP performance indicates that President Trump's campaign style helped pad the Majority's lead in the upper chamber.
- President Trump could look to boost his "deal-maker" credentials and work across the aisle with Democrats on issues such as infrastructure and drug pricing.
- Conversely, a potential stalemate in Congress could allow the president tout foreign policy accomplishments such as progress toward the denuclearization of North Korea and a potential trade deal with China.



Part Two: Leadership in Congress



While Senate leadership will stay the same, contentious elections are in store for the House

Senate Leadership

- While Sen. Mitch McConnell (R-KY) will remain Senate Majority Leader, Senate Majority Whip John Cornyn (R-TX) is term-limited. Sen. John Thune (R-SD), current Chair of the Senate Republican Conference and the number three Senate Republican, is expected to become Whip.
- Sens. John Barrasso (R-WY) and Roy Blunt (R-MO)—currently number four and five in leadership—will likely each move up one spot.
- On the Democratic side, Sens. Chuck Schumer (D-NY) and Dick Durbin (D-IL) are expected to remain Minority Leader and Minority Whip respectively.
- Although Sen. Patty Murray (D-WA) will likely remain the number three Senate Democrat, changes to the rest of Sen. Schumer's leadership team—which currently encompasses more than 20 percent of the caucus—are possible.



Likely Senate Committee Leaders

Committee	Chairman in 2019 (GOP)	Ranking Member in 2019 (Dems)
Aging	Susan Collins (ME)	Bob Casey (PA)
Agriculture	Pat Roberts (KS)	Debbie Stabenow (MI)
Appropriations	Richard Shelby (AL)	Patrick Leahy (VT)
Armed Services	James Inhofe (OK)	Jack Reed (RI)
Banking	Mike Crapo (ID) or Pat Toomey (PA)	Sherrod Brown (OH)
Budget	Mike Enzi (WY)	Bernie Sanders (VT) or Sheldon Whitehouse (RI)
Commerce	Roger Wicker (MS)	Maria Cantwell (WA) or Richard Blumenthal (CT)
Energy	Lisa Murkowski (AK)	Maria Cantwell (WA) or Bernie Sanders (VT)
EPW	John Barrasso (WY)	Tom Carper (DE) or Ben Cardin (MD)
Finance	Chuck Grassley (IA) or Mike Crapo (ID)	Ron Wyden (OR)
Foreign Relations	Jim Risch (ID)	Robert Menendez (NJ)
HELP	Lamar Alexander (TN)	Patty Murray (WA)
Homeland Security	Ron Johnson (WI)	Tom Carper (DE) or Gary Peters (MI)
Indian Affairs	John Hoeven (ND)	Tom Udall (NM)
Intelligence	Richard Burr (NC)	Mark Warner (VA)
Judiciary	Chuck Grassley (IA) or Lindsey Graham (SC)	Patrick Leahy (VT)
Rules	Roy Blunt (MO)	Amy Klobuchar (MN)
Small Business	Marco Rubio (FL)	Ben Cardin (MD) or Jeanne Shaheen (D-NH)
Veterans' Affairs	Johnny Isakson (GA)	Jon Tester (MT)

Democratic House Leadership

- In an effort to stave off opposition tired of her tenure, Nancy Pelosi (D-CA) has indicated that if elected, she would serve as a “transitional” Speaker, for an undesignated period of time, though assumed to be two years. How the yet-to-be-called races fall will likely shape her chances—a larger margin of victory will provide a cushion for her to secure 218 votes on the Floor, while a smaller majority may complicate her path to reclaim the Speakership.
- Although names—such as frequent Pelosi critic Rep. Tim Ryan (D-OH)—have been floated as potential opponents, it is still unclear who anti-Pelosi Democrats might rally behind and who might be a compromise candidate if not Pelosi.
- Despite speculation of a showdown for the number two spot, Minority Whip Steny Hoyer (D-MD) and Assistant Leader Jim Clyburn (D-SC) are running for Majority Leader and Whip respectively. Their fates are likely tied to Pelosi’s.
- Democratic leadership elections will be delayed until after Thanksgiving, a scheduling situation that provides an opening to an insurgent candidacy.
- A growing list of candidates are announcing for lower level leadership positions and those races (Assistant Democratic Leader, Caucus Chair, Caucus Vice-Chair, DCCC Chair) could provide insight into who is on the rise in party leadership.



Republican House Leadership

- House Republican leadership elections are expected to take place the week after the midterm elections, with the anticipated date to be November 14.
- House Majority Leader Kevin McCarthy (R-CA) has been laying the groundwork to succeed retiring Rep. Paul Ryan (R-WI), and has been endorsed by the outgoing leader.
- Majority Whip Steve Scalise (R-LA) has also been raising his national profile in case McCarthy stumbles. But he's expected to easily secure the votes to become Whip—for which he declared his candidacy yesterday.
- House Freedom Caucus founder Jim Jordan (R-OH) has also announced a bid for Minority Leader.
 - While his candidacy is seen as a longshot, it could complicate McCarthy and Scalise's bids for top leadership positions.



Likely House Committee Leaders

Committee	Chairman in 2019 (Dems)	Ranking Member in 2019 (GOP)
Agriculture	Collin Peterson (MN)	Michael Conaway (TX)
Appropriations	Nita Lowey (NY)	Kay Granger (TX) or Tom Cole (OK) or Tom Graves (GA)
Armed Services	Adam Smith (WA)	Mac Thornberry (TX)
Budget	John Yarmuth (KY)	Steve Womack (AR)
Education and Workforce	Bobby Scott (VA)	Virginia Foxx (NC)
Energy and Commerce	Frank Pallone (NJ)	Greg Walden (OR)
Financial Services	Maxine Waters (CA)	Blaine Luetkemeyer (MO) or Bill Huizenga (MI) or Patrick McHenry (NC)
Foreign Affairs	Eliot Engel (NY)	Mike McCaul (R-TX) or Steve Chabot (OH) or Joe Wilson (SC)
Homeland Security	Bennie Thompson (MS)	Mike Rogers (AL)
Judiciary	Jerry Nadler (NY)	Steve Chabot (OH) or Doug Collins (GA)
Natural Resources	Raul Grijalva (AZ)	Rob Bishop (UT)
Oversight	Elijah Cummings (MD)	Jim Jordan (OH) or Justin Amash (MI) or Mark Meadows (NC)
Rules	Jim McGovern (MA)	**SELECTED BY REPUBLICAN LEADER**
Science	Eddie Bernice Johnson (TX)	Frank Lucas (OK) or Jim Sensenbrenner (WI) or Randy Weber (TX)
Small Business	Nydia Velazquez (NY)	Steve King (IA) or Blaine Luetkemeyer (MO)
Transportation	Peter DeFazio (OR)	Sam Graves (MO) or Jeff Denham (CA)
Veterans' Affairs	Mark Takano (CA)	Phil Roe (TN)
Ways and Means	Richard Neal (MA)	Kevin Brady (TX)

Part Three: Political Dynamics

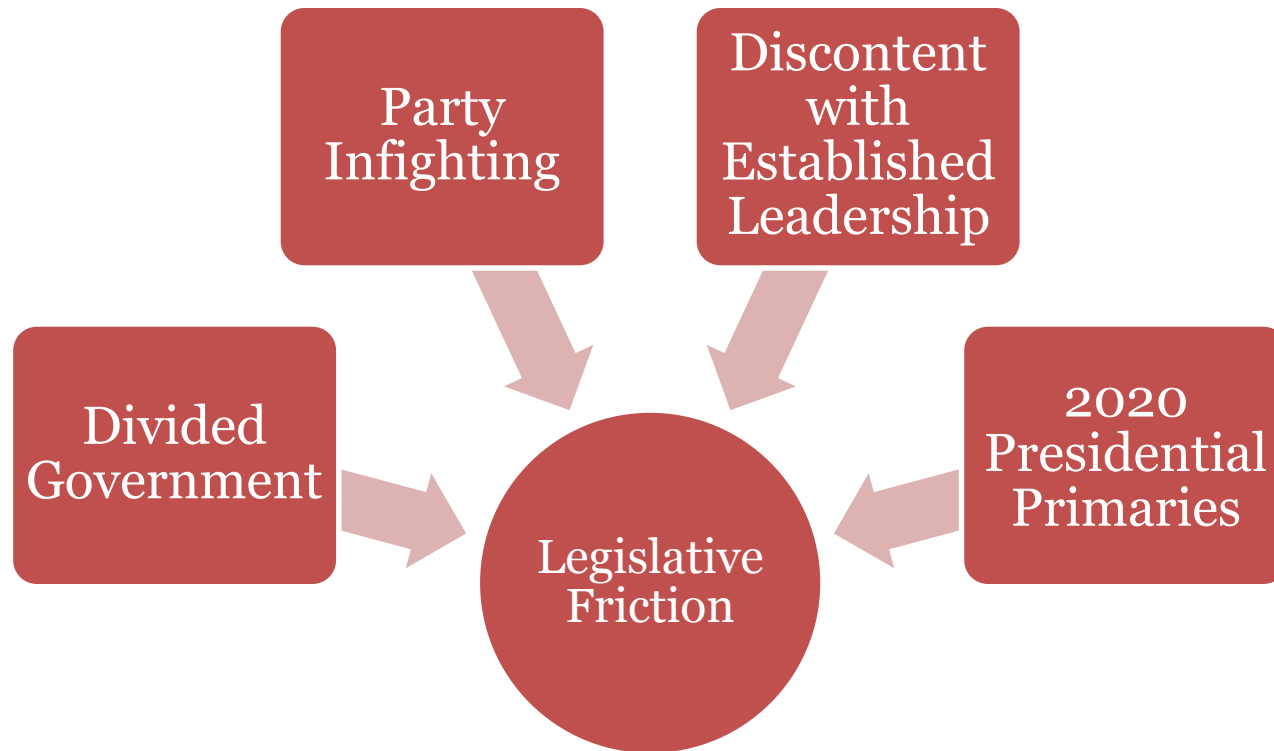


A divided Congress and party infighting will complicate the policymaking process

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Political Tensions



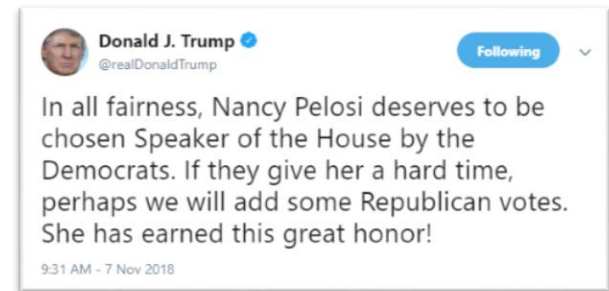
Divided Government

- With Democrats controlling the House and Republicans controlling the Senate and White House, legislation this Congress will likely move less smoothly than it otherwise would. Additionally, contentious showdowns over must-pass items—such as appropriations and the debt ceiling—should be expected.
- Given the limitations of divided government, taking advantage legislative opportunities when they arise will only be more important.
- The incentive to cooperate will only be lessened because of the impending 2020 Presidential elections. Both parties will be focused on mobilizing their bases and hesitant to give the other side perceived wins.
 - Expected-Speaker Nancy Pelosi’s relationship with President Trump and Senate Majority Leader Mitch McConnell is likely to be contentious.
 - Solutions to issues such as infrastructure and drug pricing—which would normally engender more bipartisan support—will be less forthcoming.



Trump vs. Pelosi

- President Trump has relished having a political foil — and he's likely to find one in Nancy Pelosi assuming she's elected for a second stint as House Speaker.
- An energized Democratic base would rather see their new majority act as a referendum on Trump than a willing partner.
 - While there will be some pressure from Democrats to pursue impeachment, Pelosi has said they won't pursue it unless Republicans are also supportive.
- Ongoing House-led investigations into the Trump administration will make it challenging for Pelosi and congressional Democrats to forge any major deals with the White House.



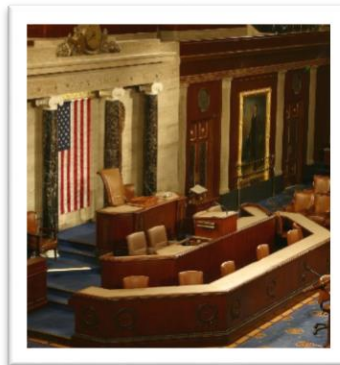
Influx of Young Members

- In January, the House will have dozens of new Members.
- During the midterm elections, more than 40 Democratic candidates said that they would not support Nancy Pelosi as Speaker. In general, a significant number of newcomers can be a headache for party leadership.
- With less turnover in the Senate, the anti-establishment backlash will continue to be less than in the House. However, nationally prominent freshmen, such as Senator-elect Mitt Romney (R-UT), may exercise influence early and often.



Caucus Dynamics: House

- Despite winning the majority, unity will be a challenge for an increasingly polarized Democratic caucus. On the one hand, the influx of Democrats from previously red districts **bolsters the party's moderate ranks**. On the other, a number of highly visible, progressive freshmen, combined with primary-season rhetoric, will provide **fuel to the left**.
- Divisions within the caucus will exacerbate a **potentially narrow majority** and limit the scope of legislative proposals. Defections from either the left or the center could derail any endeavor.



- With many of the members who lost reelection being moderates from competitive districts, the composition of the Republican caucus will be **more conservative** in the 116th Congress.
- Up to 15 freshman Republicans are expected to join the **House Freedom Caucus**, potentially increasing its size by as much as 50 percent. However, the leverage of the Freedom Caucus — which could previously sink votes when Republicans were in the majority— may be diminished in a Republican minority.

Caucus Dynamics: Senate

- With an increased majority, the **leverage** of Senators such as Susan Collins (R-ME), Lisa Murkowski (R-AK), or Rand Paul (R-KY) will likely be less than it was this Congress.
- Additionally, the departures of Sens. Bob Corker (R-TN) and Jeff Flake (R-AZ) and the passing of Sen. John McCain (R-AZ)—three notable **Trump critics**—means fewer potential defectors on major votes such as nominations.
- Compared to the previous election cycle, Senate Republicans will face a **tougher reelection** map with 21 Republican Senators up for reelection in 2020.



- Among Senate Democrats, 2019 will likely be defined by prominent Senate Democrats — including Sens. Cory Booker (D-NJ), Kamala Harris (D-CA), Elizabeth Warren (D-MA), and Bernie Sanders (I-VT) — gearing up for the **2020 presidential primaries**.
- Primary season will contribute to **tension in the caucus**. Additionally, it will likely increase polarization, as potential candidates release ambitious legislative proposals intended to establish themselves as progressive standard-bearers.

Part Four: The Lame Duck



What to expect during the remaining weeks of the 115th Congress

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Lame Duck Overview

- With both parties facing potentially contentious leadership elections, legislative bandwidth before the new Congress will be limited and the influence of outgoing party leaders will be diminished.
- The most pressing legislative hurdle will be preventing a government shutdown and checking off other must-pass agenda items such as the farm bill. In September, President Trump signed a continuing resolution keeping the government open through December 7. Failure to pass legislation on outstanding appropriations bills before then will trigger a government shutdown—a distinct possibility given the controversy surrounding funding for President Trump's border wall.
- Other legislative issues including criminal justice reform and immigration, as well as the pet projects of particular committee chairman, will compete for tight legislative space. However, with dozens of legislators finishing their Congressional careers, the appetite to conclude non-partisan legislation will be substantial.



Lame Duck Agenda



Legislation	Likelihood	Notes
Government Funding	Must Pass	<p>In September, President Trump signed into law two “minibus” spending packages containing a total of five FY19 appropriations bills—Defense, Labor-Education-HHS, Veterans Affairs, Energy and Water, and Legislative branch—as well as a continuing resolution funding the rest of the government through December 7. passage of the remaining seven spending bills will be Congress’s most pressing lame duck priority. One package—including the Interior-Environment, Financial Services-General Government, Agriculture, and Transportation-HUD bills—has been approved by both chambers but stalled in the conference committee in September. However, neither chamber has passed Commerce-Justice-Science, State, or Homeland Security appropriations bills. The Homeland Security bill in particular stands poised for controversy given President Trump’s threats to veto any appropriations compromise that excludes sufficient funding for a border wall.</p>
Farm Bill	Must Pass	<p>House and Senate lawmakers met for a conference committee on the farm bill in September but were unable to hammer out their differences on the wide ranging agriculture and nutrition package. Most notably, the Senate version excludes work requirements for Supplemental Nutrition Assistance Program (SNAP) recipients that were included in the House bill but would be unable to garner the Democratic support to clear the upper chamber. Both chambers will likely pass a compromise bill—most likely without work requirement language—during the lame duck.</p>
Flood Insurance	Must Pass	<p>In July, Congress passed a last-minute, short term extension of the National Flood Insurance Program (NFIP) through November 30. While NFIP legislation is highly likely prior to the program’s scheduled expiration on November 30, lawmakers are much more likely to pass another three or six month extension than a long-term reform and reauthorization bill.</p>
TANF	Must Pass	<p>Despite Republican reform efforts, the Temporary Assistance for Needy Families (TANF) program is likely to receive another extension through the end of FY19 before it expires on December 7.</p>

Lame Duck Agenda

Legislation	Likelihood	Notes
Tax Extenders	Possible	32 temporary tax incentives—so-called “tax extenders”—have expired for the 2018 tax year. They are likely to be renewed for another year before the end of this Congress.
Medicare ‘Donut Hole’	Possible	Since the Bipartisan Budget Act of 2018 shift billions of dollars in Medicare drug costs from insurance plans to drug manufacturers, the pharmaceutical industry’s top priority has been to reduce the size the discounts they must provide for seniors in the Part D ‘donut hole.’
Violence Against Women Act	Possible	After receiving a short term extension, the Violence Against Women Act (VAWA) is set to expire on December 7. In the House, Members from both parties have introduced reauthorization bills, but their proposals remain fair apart.
Immigration	Unlikely	With border wall funding in the Homeland Security appropriations bill poised to reignite the immigration debate, it is possible that President Trump cuts a deal with Democrats securing border wall funding in exchange for protection and/or a path to citizenship for Deferred Action for Childhood Arrivals (DACA) recipients.
Criminal Justice Reform	Unlikely	Senate Judiciary Committee Chairman Chuck Grassley and White House advisor Jared Kushner made progress this summer on a compromise to merge the House-passed First Step Act with sentencing reform provisions from Senate legislation—an arrangement that has received support from Senate Democratic Whip Dick Durbin (D-IL).
Infrastructure	Unlikely	Although Vice President Mike Pence indicated interest in a lame duck infrastructure package, reaching a deal on such a short timeframe would be a challenge and does not have the support of House Speaker Paul Ryan.
USMCA Approval	Off the Table	Although some Republicans have pushed for lame duck consideration of President Trump’s NAFTA replacement deal, various timing restrictions mean that it will most likely not be considered until Spring 2019.
Tax Reform 2.0	Off the Table	House Republicans’ follow-up package to the Tax Cuts and Jobs Act lacks Democratic support and a path forward in the Senate.

Part Five: 2019 Legislative Outlook



What will drive the 2019 legislative agenda

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2019 Leadership Priorities

Potential Speaker Pelosi has identified **several priorities** for a Democratic House:

- Campaign finance reform
- Legal status for Dreamers
- Gun background checks
- Healthcare costs
- Infrastructure
- Administrative reform including transparency and a return to PAYGO rules
- LGBTQ protections under Civil Rights Act

Majority Leader McConnell identified **entitlement reform** and **Affordable Care Act rollback** as ambitious legislative goals if Republicans pick up enough seats. With a slim majority and divided Congress, both are overwhelmingly unattainable. Instead, the Senate is likely to continue focusing on confirming **executive and judicial nominees**.



2019 Legislative Summary

While Congress will certainly address other legislative issues, the following topics will occupy significant bandwidth and define the legislative narrative.

Topic	Bottom Line
Debt Ceiling	The March 1 deadline to raise the debt ceiling will test a divided Congress's ability to work together.
Expiring Authorizations	Programs including the Export-Import Bank, the Older Americans Act, and public lands management are up for reauthorization—as well as legislation such as the Higher Education Act that was due to be reauthorized this year.
Appropriations	A split Congress means that appropriations will likely move less smoothly than they did this year.
Oversight	House Democrats will be eager to conduct their own oversight agenda for the first time in eight years.
Nominations	In addition to the outstanding queue of judicial nominees, the Senate will likely have to confirm replacements for several cabinet-level officials
Tax	Democrats will likely pass legislation to repeal certain provisions from Republican tax reform as political posturing, but such legislation is going nowhere in the Senate.
Immigration	Topics such as DACA and a border wall are among the most contentious political topics today and are almost certain to continue as such in 2019.
Infrastructure	An infrastructure package is widely seen as one of the most likely areas for bipartisan compromise, but significant differences on the appropriate level of federal funding—as well as a hostile political climate—decrease that likelihood.
Healthcare	Drug pricing and ACA markets are likely arenas for the healthcare debate in 2019.
USMCA	A spring debate over President Trump's NAFTA replacement deal will stir up fireworks around his overall trade agenda, but the deal will likely pass.

2019 Deadlines and Important Dates

Issue	Date	Notes
116 th Congress Begins	January 3	The new Congress begins on January 3 and could meet as early as noon that day. Since January 3 falls on a Thursday, it is possible that either chamber waits until the following week.
Debt Ceiling	March 1	The government hits its borrowing cap on March 1, when the debt ceiling will have to be raised. The issue will likely constitute the first serious showdown of the divided Congress.
Appropriations	September 30	As its most significant annual deadline, Congress must pass the 12 appropriations bills providing government funding for fiscal year 2020 (FY20) or a continuing resolution temporarily funding the government at current levels. While this year's appropriations cycle constituted one of the most on-time in memory, divided control of Congress will likely make next year's process less smooth. Additionally, it is possible that FY19 appropriations is further extended by a continuing resolution during the lame duck, in which case additional appropriations deadlines would pop up earlier in the year.
NDAA	September 30	Passed annually, the National Defense Authorization Act (NDAA) authorizes Defense Department programs. As a "must pass" bill, it is frequently a vehicle for other legislation.
Programs Authorizations Expiring at End of FY2019	September 30	Authorizations for a number of federal programs expire at the end of FY2019, including: <ul style="list-style-type: none"> • Export-Import Bank • Medicare 'Extenders' • Older Americans Act • Emergency Medical Services for Children Program • Veterans Affairs Expiring Authorities Act of 2017 • Certain provisions of 2009 Omnibus Public Land Management Act • Pipeline and Hazardous Materials Safety Administration (PHMSA) • Debbie Smith Act • Poison control center programs • Newborn screening grants • Traumatic brain injury (TBI) grant programs • Developmental disabilities surveillance and research program • Historically black college and university (HBCU) grants

Oversight

- Having retaken the House, Democrats will regain Committee subpoena power for the first time during the Trump administration. To this end, investigations and oversight will occupy a substantial portion of committee bandwidth and political narrative. Notable probable investigations include:
 - **Energy and Commerce Committee:** Prescription drug prices, opioids, interoperability
 - **House Financial Services Committee:** Consumer Financial Protection Bureau; Department of Housing and Urban Development; Wells Fargo scandals
 - **Homeland Security Committee:** Immigration enforcement and family separations
 - **Intelligence and Judiciary Committees:** Mueller probe; Election interference
 - **Natural Resources Committee:** EPA regulatory rollback; Ethics
 - **Ways and Means Committee:** Trump tax returns; Tax Cuts and Jobs Act implementation



Nominations

- Despite an October deal to approve 15 judicial nominees prior to breaking for the midterm elections, the Senate still faces 56 pending judicial nominees, as well as countless Senate confirmable Administration officials.
- Senate Democrats are likely to continue using the 30-hour rule to slow confirmation votes.
- The White House may face several Cabinet-level departures in the coming weeks, setting up high profile confirmation battles for the following officials' replacements:
 - Attorney General Jeff Sessions
 - Defense Secretary James Mattis
 - Interior Secretary Ryan Zinke
 - Commerce Secretary Wilbur Ross
 - Homeland Security Secretary Kristjen Nielson
 - United Nations Ambassador Nikki Haley (Departing in December)
 - Environmental Protection Agency Administrator Scott Pruitt (Resigned in July)



Tax

- **Background:** Passed in December 2017, the Tax Cuts and Jobs Act (TCJA) constituted the most significant reform of the U.S. tax code in 30 years and President Trump's largest legislative accomplishment. A follow-up "Tax Reform 2.0" package passed the House in September but is not expected to be considered in the Senate during the lame duck.
- **Policy outlook:** Passing legislation to roll back certain TCJA provisions is likely to be one of the first priorities of House Democrats. In particular, House Democrats are likely to look at raising the corporate rate above 21 percent, increasing the capital gains tax, repealing the special treatment of carried interest, and restoration of the corporate AMT. Other issues, including the treatment of small businesses and pass through entities, the cap on the state and local tax deduction (SALT), and the 2025 sunset of most individual tax cuts are likely to engender more significant interparty debate.
- **Where it's going:** While TCJA-rollback legislation is a likely early agenda item for House Democrats, it is highly unlikely to gain the Republican support necessary to pass the Senate.



Affordable Care Act

- **Background:** At the beginning of the 116th Congress, Republicans put forward multiple “repeal and replace” proposals, none of which made it into law. In the Senate, HELP Committee Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) introduced legislation to stabilize health insurance marketplaces created by the ACA, including by funding cost-sharing reduction (CSR) payments, funding reinsurance programs, permitting lower-coverage “copper” plans under the ACA, and expanding 1332 state innovation waiver authority. Their deal failed to reach the Senate floor in spite of bipartisan support.
- **Policy outlook:** With Democrats in control of the House, Republican legislative “repeal and replace” efforts are dead. However, there are certain provisions, such as the medical device tax and the Cadillac tax, that could be repealed on a bipartisan basis as part of a larger package. If Congress considers bigger-picture reforms in the 116th Congress, the Murray-Alexander legislation could be the starting point.
- **Where it’s going:** Without a true crisis, it is unlikely that major legislation on the ACA can move through both chambers in the 116th Congress, and any changes that happen will likely be minor, bipartisan, and part of a larger legislative package. With the Administration taking executive action to skirt many of the law’s insurance requirements, it may be more difficult for Democrats to bring the GOP to the table to find common ground.



Drug Pricing

- **Background:** Democrats have long expressed a desire to tackle drug pricing issues, and President Trump's Drug Pricing Blueprint shows that Congressional Democrats and the White House can find common ground on the issue. Republicans have been less than ambitious in adopting the White House's position on drug pricing, leaving it to the Administration to take executive action to carry out much of the President's blueprint.
- **Policy outlook:** While Democrats have been vocal about lowering drug prices and their agenda aligns in many ways with that of the Administration, House Democrats are likely to be more interested in staking out their position in high-profile hearings and introducing progressive policy solutions than working with Trump and the GOP to get legislation signed into law.
- **Where it's going:** Some Republicans may feel pressure to align with the Administration's more populist drug pricing positions as they prepare for re-election in 2020. Senator Chuck Grassley (R-IA), who is likely to be chairman of the Finance Committee, and Majority Leader Mitch McConnell are both among the 21 Republicans whose seats are up for re-election in 2020, and their movements on drug pricing may place the traditional GOP firewall on the issue at risk.



Infrastructure

- **Background:** In March, the White House released a legislative outline that would use \$200 billion in federal funding to generate \$1.5 trillion in total infrastructure investment. In contrast, both House and Senate Democrats have released proposals for \$1 trillion in federal infrastructure spending and have been highly critical of the comparatively low dollar amount included in the White House proposal.
- **Policy outlook:** The top-dollar federal spending included in the Democratic and White House infrastructure plans differs by orders magnitude, a discrepancy that will form the backbone of any infrastructure debate. A funding mechanism, be it through deficit spending or alternative such as raising the gas tax—an idea that has proponents and detractors on both sides of the aisle—will also be a key topic of discussion.
- **Where it's going:** Infrastructure is widely seen as one of the few potential areas for bipartisan compromise in the upcoming Congress. However, with significant policy space between the parties and the 2020 Presidential elections removing any incentive to give the other side a legislative win, a sweeping infrastructure package is still less than likely next Congress.



Deferred Action for Childhood Arrivals

- **Background:** In September 2017, the White House announced a six-month phaseout of the Deferred Action for Childhood Arrivals (DACA) program. While Congress has thus far failed to pass legislation protecting roughly 800,000 undocumented immigrants brought to the United States as children, several court injunctions have thus far kept the program in place. In January, the issue triggered a government shutdown when Senate Democrats refused to vote for a continuing resolution sans a dreamer vote. While the impasse broke when Republican leadership promised a vote in the future, that vote has yet happen.
- **Policy outlook:** Appetite exists on both sides of the aisle for a legislative solution that will protect dreamers. However, disagreements exist between liberals, moderates, and conservatives on the inclusion of a path to citizenship and the long-term certainty of protections. Furthermore, Congressional conservatives and the White House have pushed for tying DACA protections to border wall funding and/or anti-sanctuary city measures, which would be a non-starter for many Democrats.
- **Where it's going:** While immigration is one of today's most contentious political issues, the judicial uncertainty makes DACA's role in the legislative timeline unpredictable. Regardless, it is almost certain to come up this Congress—possibly in the context of homeland security appropriations.



US-Mexico-Canada Trade Agreement

- **Background:** In September, U.S. and Canadian negotiators reached a last minute deal for Canada to join the NAFTA replacement deal agreed to by the United States and Mexico. Renamed the U.S.-Mexico-Canada Agreement (USMCA), the new deal makes a number of changes including a new labor value content rule of origin for automobiles, 10-year exclusivity for biologic drugs, prohibition on data localization requirements, Canadian dairy market access, and weakened dispute settlement system.
- **Policy outlook:** The Trump Administration is hoping to sign USMCA prior to Mexico's Presidential transition on December 1, although Mexico and Canada are pushing the United States to lift steel and aluminum tariffs on the two countries first. Then, the agreement will go to Congress for an up or down vote—most likely in the spring. The vote will likely reignite grievances over other items on President Trump's trade agenda, including the steel and aluminum tariffs and tariffs on Chinese goods.
- **Where it's going:** Despite widespread Congressional consternation at the Administration's trade agenda, Members will be extremely apprehensive to vote no on USMCA with the White House already having announced its withdrawal from NAFTA. In all likelihood, the same coalition (Republicans and moderate Democrats) that has traditionally supported free trade agreements will vote in favor of USMCA—even if they are less enthusiastic to do so.

