



2016 Election Results: Impacts of the Presidential and Congressional Races

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OVERVIEW

The long, difficult and extraordinarily contentious 2016 national election ended early this morning, almost 600 days after the first candidate declared for the Presidency. President-elect Donald Trump and Congressional Republicans scored impressive victories despite widespread expectations that Democrats would win the White House and make major gains in the House and Senate. While the high-stakes Presidential contest dominated the headlines and airwaves, Republican House and Senate incumbents and candidates turned back Democratic advances in the vast majority of close election contests, successfully securing majority control of the White House, Senate and House of Representatives. Looking forward to the 115th Congress which will begin in January 2017, President-elect Trump and Republican majorities are poised to advance priorities in healthcare, infrastructure, regulatory reform, energy, tax and other issues previously stymied under a divided government.

The federal government now heads into a period of significant change with President-elect Trump moving quickly to prepare for inauguration 72 days from now, on January 20, 2017. The President-elect's transition team will be in the spotlight as it prepares for the inauguration, vetting Cabinet nominees and senior political appointees, and planning the first 100 days agenda for the new President. The transition team will grow quickly with senior campaign officials moving into transition roles, as well as other prominent Republicans being brought in to direct matters ranging from personnel decisions to setting policy priorities on key issues.

On Capitol Hill, Congress returns to Washington on November 14th for a "lame duck" session. Given the election results, Congressional Republicans may limit the agenda to "must pass" legislation such as passing appropriations for fiscal year 2017 and the National Defense Authorization Act. Certain issues such as consideration of a Supreme Court nominee will be pushed into 2017 when Republicans will control the Presidency and hold the majority in both houses of Congress. The pending energy bill could also find its way into the next Congress. Regardless of the legislative agenda, planning for the new Congress begins in earnest with leadership elections and changes within key Committees, including new Chairs and rosters.

PRESIDENT-ELECT DONALD J. TRUMP

Donald Trump won a sweeping Electoral College victory including states like Pennsylvania and Wisconsin, which had been Democratic Party strongholds for two decades or longer. President Obama and President-elect Trump are scheduled to meet on Thursday to discuss the peaceful transition of power. President Obama has vowed to support a smooth transition regardless of the election's outcome. There may be some difficult moments in the transition as President Obama may well take actions in his final days in office that protect his legacy and priority initiatives just as the incoming Republican President vows to overturn his predecessor's actions on healthcare, climate change, energy and the environment.

During the campaign, President-elect Trump regularly floated well-known individuals, including current and former Republican elected officials, former military leaders and prominent business leaders, for potential service in a Trump Administration. As a result, President-elect Trump is expected to begin naming his Cabinet nominees and senior political appointees in the short-term, probably earlier than in previous transitions. In naming his Cabinet nominees and senior political appointees earlier, Trump is signaling that his team will be ready for the first 100 days of his Presidency.

Now that Donald Trump is officially moving toward the Presidency, his supporters will expect him to deliver on his campaign promises. However, he also will need to contend with the difficult challenge of leading a divided country, which will test his abilities from day one in the Oval Office.

SENATE

There were 34 Senate seats on the ballot yesterday, 24 of which were being defended by Republicans. A major question going into the election was the down ticket effect of the Presidential election on Senate control. Republicans defied political forecasting and polls and won big last night, currently preserving their majority by a margin of 51 to 48. The New Hampshire Senate race could be subject to a recount.

One Senate race remains outstanding—Louisiana. Since Louisiana’s primary takes place on Election Day, with the top two vote-getters advancing to the general election regardless of party affiliation, the outcome of that race will not be decided until a December 10th run-off.

Regardless, the close margins will make the path to legislative initiatives remain difficult in the 115th Congress. Short of Republicans changing Senate filibuster rules to require only a simple majority vote to pass legislation, Republicans will not be able to advance their priorities without achieving enough bipartisan support from Democratic Senators to reach 60 votes. In 2018, Democrats will be defending 23 seats, with two Independents who caucus with Democrats also on the ballot, compared to 8 Republican seats. How vulnerable Democrats in swing states position themselves over the next two years will have a significant impact on the legislative process, including the potential of providing Republicans a pathway to advance more conservative initiatives.

Majority Leader Mitch McConnell (R-KY) will continue as Majority Leader of the Senate. The greatest shake up comes with the retirement of Sen. Harry Reid (D-NV), who has been the top Democrat in leadership since 2005. Sen. Chuck Schumer (D-NY) is slated to succeed Minority Leader Reid. Minority Whip Dick Durbin (D-IL) is interested in retaining his current number two spot, but there is speculation that he may be challenged by Sen. Patty Murray (D-WA). The timing for leadership and Committee races has not been released, but they are expected to begin when the Senate returns next week.

There will be shifts at the Committee level as well due to Republican imposed term limits on Republican Committee leadership, retirements and the impact of the narrowing of the majority on Committee membership ratios, staff and resources. [Click here](#) for a list of changes expected on key energy and natural resource related Committees.

HOUSE OF REPRESENTATIVES

Despite early speculation that the House of Representatives could change party leadership, Republicans maintained a majority in the chamber by a margin of 238 to 193, with 4 races still waiting to be called. House Republicans lost approximately six seats this cycle. One dynamic of this narrowing of the majority is that the percentage of seats within the Republican caucus represented by the House Freedom Caucus, a conservative group of Members that often bucks Republican leadership, will increase. The Freedom Caucus was at the center of instigating the resignation of former Speaker Boehner last October. An increase in Democratic seats could give Democrats slightly more ability to negotiate on key initiatives, such as funding the government, if the Republican caucus is unable to find consensus.

There are questions whether Speaker Paul Ryan (R-WI) will be re-elected as Speaker of the House after being at odds with President-elect Trump and the increase of the Freedom Caucus influence. The Freedom Caucus is demanding representation in leadership, something they have not had in the past. Internal leadership elections will take place on November 15th, when Congress reconvenes and new members are in town for orientation. A vote by the full House of Representatives electing the Speaker will happen when the 115th Congress convenes in January.

We do not anticipate major shake-ups in the Democratic Leadership. Democratic Leadership elections have not been scheduled but are expected in November.

Due to internal Republican rules governing term limits for Committee leadership, there are several key Committees that will see leadership changes in the 115th Congress. These positions are elected by the Republican Steering Committee – not the full caucus – and votes are expected to begin the week of November 28th. This process of selecting Committee chairs and Committee assignments for members

will continue into the new year. [Click here](#) for a list of changes expected on key energy and natural resource related Committees.

LAME DUCK

There is a robust set of issues that could be addressed during the lame duck session of Congress, but the appetite for legislative activity beyond “must pass” legislation may be small since Republicans will control the White House, Senate and House in the next Congress and may not feel the need to negotiate with a Democratic President. The lame duck sessions will commence in the House on November 14th and in the Senate on November 15th. The current stop-gap funding bill runs through December 9th, although Congress is generally expected to be in session beyond that date to finalize the spending bills.

Generally, the only bills considered “must pass” are the 13 annual appropriations bills funding the federal government and passage of the annual National Defense Authorization Act. However, these essential bills often become vehicles for passage of other priorities. Energy, natural resource, tax extenders and disaster relief legislation are issues ripe for possible inclusion in an omnibus appropriations bill or other large legislative package.

Given the outcome of the election, the Republican leadership in Congress may decide to hold some or all of these issues until the next Congress when they will control the Executive and Legislative Branches.

Once Congress returns next week, we will provide additional updates as information on the issues that may or may not be addressed during the lame duck session becomes available.

REGULATORY AGENDA

One of the most uncertain areas of policy making, looking forward, is the setting of an actual regulatory policy agenda to be implemented by the new Administration. Such an agenda will involve complex interplay between campaign commitments, congressional considerations, existing rules and proposed rules, Executive Orders and litigation strategy. Van Ness Feldman will issue a separate alert to clients covering these considerations.

For more information

The professionals who comprise Van Ness Feldman’s bipartisan [public policy](#) team have served as legal counsel and policy advisors to members of Congress and Congressional committees, White House staff, and as presidential appointees to federal agencies in both Democratic and Republican administrations that have developed many of our nation’s most important energy, environmental, and natural resources laws and policies. For more information, please call 202-298-1800 or visit www.vnf.com to reach any member of our team.

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