

MEMORANDUM

**To:** Clients and Friends  
**From:** Powers Legislative Practice Group  
**Date:** November 9, 2016  
**Re:** 2016 Election Synopsis

Note: All results current as of 3:00 PM EST, 11/9/2016.

**Executive Summary**

The Republican Party won the Presidency and maintained control of the United States Congress, with businessman Donald J. Trump (R) winning the Presidential election to become the 45<sup>th</sup> President of the United States. In the Congressional races, Senate Republicans maintained their control of the chamber with 51 members, with two races still undetermined (Louisiana and New Hampshire). While House Democrats made some gains, adding a net of six seats in the United States House of Representatives as of this writing, Republicans retained control of the chamber with at least 238 seats to their party. Republicans now control the Executive branch and the Legislative branch for the first time since 2005-2006 in the 109<sup>th</sup> Congress during the presidency of George W. Bush.

The incoming President and 115<sup>th</sup> Congress promise to bring a new policy agenda with respect to health care. This memorandum provides an overview of the election results, a brief glimpse at what to expect in the upcoming lame duck session of the 114<sup>th</sup> Congress, and a preview of the 115<sup>th</sup> Congress's agenda. Please see below for an overview of key details emerging from yesterday's election.

**ELECTION 2016: Overview of Election Results**

**President: Donald J. Trump (R)** won the 2016 Presidential election, defeating **Hillary Clinton (D)** in the Electoral College but not the popular vote. Overall, President-elect Trump won 279 electoral votes to Secretary Clinton's 228.<sup>1</sup> The popular vote totaled 59,623,049 votes for Secretary Clinton, while Mr. Trump received 59,418,103 votes (a difference of 204,946 votes). After a particularly divisive primary and general election campaign, President-elect Trump won the election to become the first President in United States history to be elected without previous political or military experience.

<sup>1</sup> As of this writing, several states are still reporting partial results and vote tallies have not been finalized.

Leading up to Election Day, several states, including Arizona, Colorado, Florida, Iowa, Michigan, Missouri, Nevada, New Hampshire, North Carolina, Ohio, Pennsylvania, Wisconsin, Utah, and even Texas, were at times all considered toss-ups or less solidly partisan than previous elections. However, President-elect Trump won a number of key battleground states, including Florida, Iowa, Missouri, North Carolina, Ohio, Pennsylvania, and Wisconsin, and managed to flip several states in the Midwest from traditional Democratic strongholds. Many analysts point toward President-elect Trump's strong support from white voters without a college degree, whose significant support in the industrial Midwest propelled him to victory in those states. His unprecedented victory, long unpredicted by most pollsters and mainstream political analysts, is largely being viewed as a referendum on establishment politics.

Libertarian candidate **Gary Johnson** claimed approximately three percent of the popular vote, taking over four million votes, while **Jill Stein** of the Green Party garnered approximately 1.2 million votes, about one percent of the popular vote. Neither candidate secured any Electoral College votes. Late-comer **Evan McMullin (I)** captured over 20 percent of the popular vote in Utah, but was unable to win the state as some had thought potentially possible in some polls.

Secretary Clinton raised \$1.3 billion and President-elect Trump raised \$795 million, respectively, for their presidential campaigns—equating to a whopping \$2.1 billion Presidential race.

## Congress

While Republicans maintained their majority control of Capitol Hill, Democrats gained seats across both chambers, picking up at least one seat in the Senate and increasing their presence in the House. The following sections break down the specifics of each chamber's election dynamics in more detail.

### Net Changes in the 115<sup>th</sup> Congress & Governors

	Senate	House	Governors
<b>Republicans</b>	<b>51 (-1)</b>	<b>238 (-6)</b>	<b>34 (+3)</b>
<b>Democrats</b>	<b>45 (+1)</b>	<b>193 (+6)</b>	<b>15 (-3)</b>
<b>Independents</b>	<b>2* (same)</b>	<b>0</b>	<b>1</b>

\* Sens. Angus King (I-ME) and Bernie Sanders (I-VT) currently caucus with the Democrats.

Senate: New Hampshire and Louisiana results still being determined, and are not included.

House: Results for California Districts 7, 25, and 49, and Louisiana Districts 3 and 4 are still being determined and are not included.

Governors: The result in North Carolina is still being determined and is not reflected by this table.

Republicans are in red text, Democrats are in blue text, Independents are in purple text.

Of note, the fundraising total for all races in the House was slightly under \$1 billion (\$518 million on behalf of Republicans and \$435 million on behalf of Democrats), while the total for Senate races was a little over \$500 million (\$276 million on behalf of Democrats and \$256 million on behalf of Republicans).

## U.S. Senate

Republicans retained control of the Senate, losing at least one seat but maintaining their slim majority of 51 seats, in one of the most expensive Senate campaigns in history. Thirty-four (34) Senate seats were contested in 2016, including four seats due to Members retiring. While Republicans held a 54-46 advantage in the Senate through the 114<sup>th</sup> Congress, they were defending more seats in 2016 than Democrats. In a near reversal of 2014,<sup>2</sup> Republicans had 24 seats up for election, while Democrats had just ten seats in play. To gain a clear majority of 51 Members (including two Independents), Democrats needed to gain at least five seats. Current returns show that Democrats lost no seats and gained one in Illinois, bringing them to 45 seats in the Senate (47 if both Independents align with the Democrats as they have in the past). Republicans lost Senator Mark Kirk’s seat in Illinois; however, as of this writing they hold on to at least 51 seats in the chamber.

Of the 34 Senate races, the following twelve races were, at most times during 2016, the most competitive:

### Most Competitive Senate Races

State	Elected	Defeated
Arizona	John McCain (R)*	Ann Kirkpatrick (D)
Colorado	Michael Bennet (D)*	Darryl Glenn (R)
Florida	Marco Rubio (R)*	Patrick Murphy (D)
Illinois	Tammy Duckworth (D)	Mark Kirk (R)*
Indiana	Todd Young (R)	Evan Bayh (D)
Louisiana	TBD	TBD
Missouri	Roy Blunt (R)*	Jason Kander (D)
New Hampshire	TBD	TBD
North Carolina	Richard Burr (R)*	Deborah Ross (D)
Nevada	Catherine Cortez Masto (D)	Joe Heck (R)
Ohio	Rob Portman (R)*	Ted Strickland (D)
Pennsylvania	Patrick Toomey (R)*	Katie McGinty (D)
Wisconsin	Ron Johnson (R)*	Russ Feingold (D)

*Results from Louisiana and New Hampshire are to be determined (TBD); Louisiana is scheduled to hold a runoff vote on December 10, 2016.*

*Republicans are in red text, Democrats are in blue text.*

*\* Incumbent.*

## Key Senate Races & Results

The Senate will retain most of its incumbents in the 115<sup>th</sup> Congress, as the chamber welcomes just five newcomers to its freshman class. Representatives **Tammy Duckworth (D-IL)**, **Chris Van Hollen (D-MD)**, and **Todd Young (R-IN)** move from the House to the Senate, and former Nevada Attorney General **Catherine Cortez Masto (D-NV)** and current California Attorney

<sup>2</sup> In 2014, going into the election, Democrats held 21 seats and Republicans held fifteen seats up for election.

General **Kamala Harris (D-CA)** will assume the seats vacated by Senators **Harry Reid (D-NV)** and **Barbara Boxer (D-CA)**, who are both retiring at the end of this Congress. Senator-elect Masto is the first Latina to serve in the U.S. Senate, and Senator-elect Harris is the second black woman elected to the U.S. Senate.

## **Other Notable Senate Races**

- **Sen. Marco Rubio (R-FL)** defeated challenger Rep. Patrick Murphy (D-FL) by nearly 8 points. Sen. Rubio was a late addition to the race, having initially focused his efforts on the Presidential campaign before ultimately choosing to run for reelection.
- **Sen. Michael Bennet (D-CO)** won by nearly five points in what was originally projected to be a competitive race in Colorado. He returns as the senior senator from that state.
- **Sen. Patrick Toomey (R-PA)** narrowly beat out challenger Katie McGinty (D-PA) in what was one of the tighter races of the election.
- **Sen. Rob Portman (R-OH)** won by a wide margin in Ohio, running what some analysts have termed the best Senate campaign of 2016.
- Incumbent **Sen. Ron Johnson (R-WI)** held off former Sen. Russ Feingold (D-WI), winning by nearly 100,000 votes.
- **Rep. Todd Young (R-IN)** beat former Sen. Evan Bayh (D-IN) in the race to replace current Sen. Dan Coats (R-IN).
- **Sen. Richard Burr (R-NC)** won in a tight contest with Deborah Ross (D), who made a strong push in the end that initially worried Republicans.
- The Louisiana Senate race goes to a runoff election scheduled for December 10, in which the two top vote-getters, State Treasurer **John Kennedy (R)** and Public Service Commissioner **Foster Campbell (D)**, in the Louisiana all-party primary on Tuesday will compete for the open Senate seat.

## **U.S. House of Representatives:**

As of this writing, the composition of the House stands at 238 Republicans to 193 Democrats. Democrats gained nine seats but lost three, netting them six additional seats. Five House races are still too close to call, with two leaning Republican, one leaning Democrat, and two in Louisiana heading for runoffs. **Rep. Darrell Issa (R-CA)** (chair of the House Oversight Committee) is currently leading in his race.

## **Gubernatorial Races**

Of the twelve gubernatorial races that took place, the most competitive occurred in North Carolina, Indiana, Missouri, Vermont, West Virginia, and New Hampshire. Four of the six elections in these states resulted in the Republican candidate being elected to the office of Governor (**Eric Greitens** in Missouri, **Eric Holcomb** in Indiana, **John Sununu** in New Hampshire, and **Phil Scott** in Vermont). West Virginia elected Democratic gubernatorial candidate **Jim Justice**. North Carolina is barely leaning toward Democratic candidate **Roy Cooper**, who is 0.1 percent ahead of Republican incumbent Governor **Pat McCrory** with 100 percent reporting. Overall, Democrats will definitively occupy 15 governorships (a loss of three

states) and Republicans will occupy 33 governorships (a gain of three states). North Carolina is still yet to be decided, but leaning Democratic as of now.

### **Election's Impact on Congressional Committee Seats**

The four committees of jurisdiction in health care in Congress will experience changes in membership due to the election. While internal committee leadership appointments and committee appointments have not yet occurred, several current committee members were impacted by the election, and are worth noting.

The Senate health care committees of jurisdiction – the Health, Education, Labor, and Pensions (HELP) Committee and the Finance Committee – experienced some changes to their current membership through the election.

**Senate Finance Committee:** Expected to remain largely the same except for the loss of one member.

- **Ranking Member Ron Wyden (D-OR)** easily won reelection to his post in the Senate, where he has been a leader of chronic care health care proposals.
- **Sen. Bennet (D-CO)** won his election, retaining his seat as the senior Senator from Colorado. He is also a member of the HELP committee, and has led legislation on medical innovation and research.
- **Sen. John Thune (R-SD)** won his reelection to a third term in the Senate.
- **Sen. Dan Coats (R-IN)** will be retiring at the end of the 114<sup>th</sup> Congress. **Rep. Todd Young (R-IN)** won Sen. Coats' Senate seat in the Indiana Senate election, but is unlikely to replace Coats on the committee.
- **Sen. Burr (R-NC)** of both the Finance and HELP committees was reelected to his third term in the Senate. He has been known as a leader on HELP Committee issues.
- **Sen. Toomey (R-PA)** retained his seat in the Senate, and for now remains a member of the Finance Committee.

**Senate HELP Committee:** Should remain largely the same, except for the loss of **Senator Mark Kirk (R-IL)**.

- **Ranking Member Patty Murray (D-WA)** won her reelection bid handily; speculation before the election indicated that she was considering other leadership or committee roles in the Senate.
- **Sen. Rand Paul (R-KY)** defeated his challenger Jim Gray (D) to win a second term.
- **Senator Kirk** lost his reelection bid to incoming Senator and current **Representative Tammy Duckworth (D)**.

The House health care committees – Ways & Means, and Energy & Commerce – experienced several changes related to retirements and close, competitive races. The makeup of both committees will remain unclear until the House holds leadership elections in the coming weeks.

### **House Committee on Energy & Commerce**

- **Chairman Joe Pits (R-PA 16)** is retiring. (Fellow Republican Lloyd Smucker retained his seat in the House).
- **Rep. Lois Capps (D-CA 24)** is retiring, and her slot on the committee is opening. (Fellow Democrat Salud Carbajal retained her seat in the House).
- **Rep. Renee Elmers (R-NC 2)** lost her primary and will not be returning to Congress.
- **Rep. Ed Whitfield (R-KY 1)** resigned from his seat in September 2016.

### **House Committee on Ways & Means**

- **Reps. Todd Young (R-IN 9)** and **Charles Boustany (R-LA 3)** ran for Senate. (Fellow Republican **Trey Hollingsworth** retained Rep. Young's seat in the House, and Rep. Boustany's seat in the House is pending a runoff election).
- **Rep. Charles Rangel (D-NY 13)** is retiring from Congress, as is **Rep. Jim McDermott (D-WA 7)**. (Fellow Democrat **Adriano Espaillat** retained Rep. Rangel's seat in the House, and fellow Democrat **Pramila Jayapal** retained Rep. McDermott's seat in the House).

### **Potential Impact of Elections on the Lame Duck Session**

The House and Senate reconvene the week of November 14 for a week of business, followed by a week off and then a two-week session leading up to the December 9 expiration of federal funding. Current **Senate Majority Leader Mitch McConnell (R-KY)** and current **Speaker of the House Paul Ryan (R-WI)** have stated that they would like to address the annual appropriations bills, and seek to pass the 21<sup>st</sup> Century Cures/Innovation for Healthier Americans legislative packages surrounding medical innovation. However, the legislative climate surrounding the health care innovation package remains uncertain, as the chambers work to resolve funding issues related to offsetting the costs of the package.

### **Preview of the 2017 Congressional Agenda**

We understand that several significant health care legislative issues may need to be addressed by the 115<sup>th</sup> Congress in 2017. Those issues include the reauthorization of the Children's Health Insurance Program (CHIP), the negotiation of the Prescription Drug User Fee Agreement (PDUFA), the reauthorization of the National Health Service Corps (NHSC), the need to address funding for Medicaid in Puerto Rico and other U.S. territories, the passage of a chronic care legislative package, and the final passage and agreement on a health care innovation package similar to the 21<sup>st</sup> Century Cures initiative. However, the unexpected results of the election, coupled with the anticipated new Administration and Congress's clear intentions to repeal the Affordable Care Act, may impact the health care policy agenda significantly. We will be monitoring the latest developments surrounding these issues as they break in the next Congress.