

Post-Election Analysis

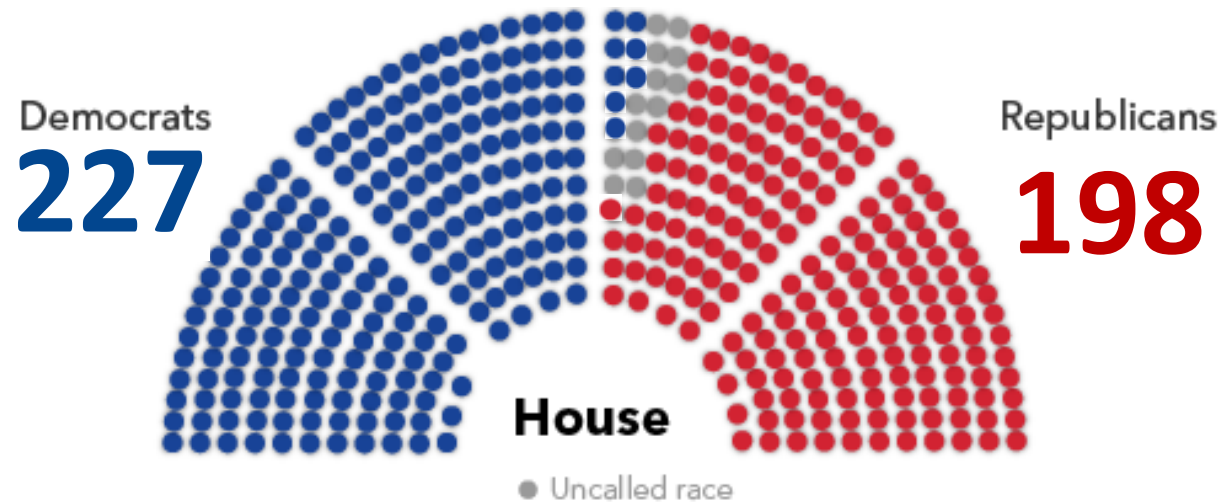
November 8, 2018

Holland & Knight

New House and Senate Composition

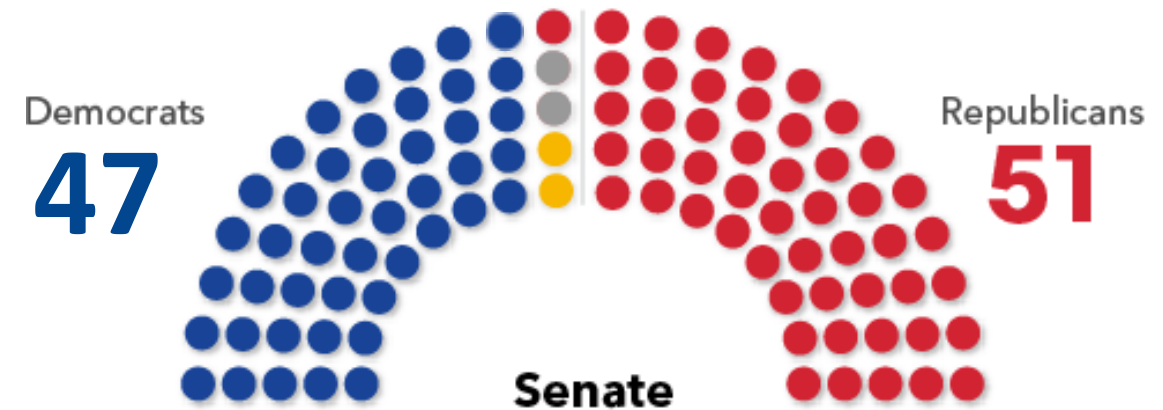
2018

U.S. House of Representatives



Democrats take the House
and will gain powerful
committee gavels

U.S. Senate



Arizona's open Senate seat went to the
Democrats nearly a week after Election Day.
Republicans lead in the final Senate races that
have yet to be called, Florida and Mississippi

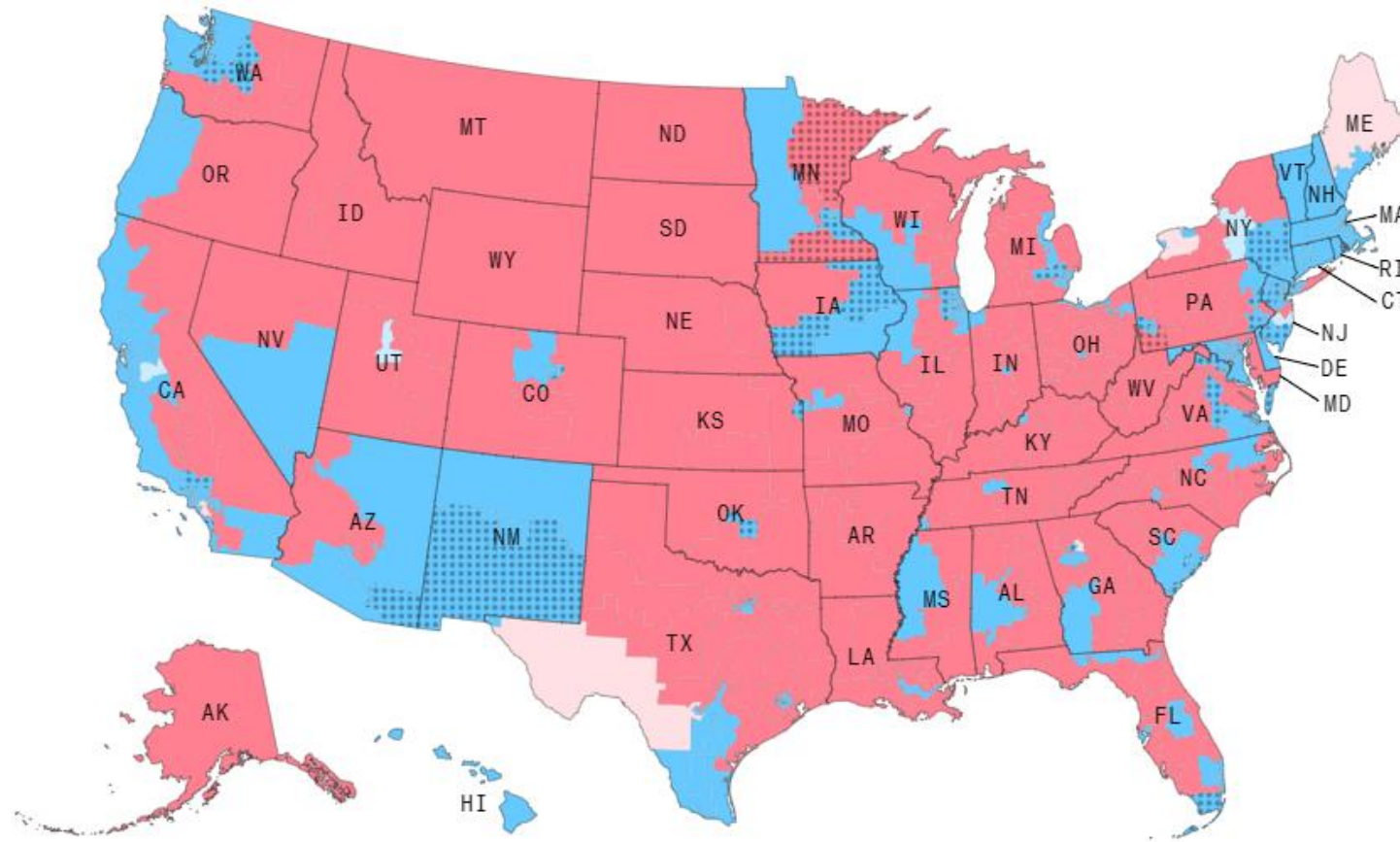
New House of Representatives

2018

227 Democrats ★

218 SEATS

198 Republicans



New Members of the House: 83

Democrats: 53

Republicans: 30

10 races uncalled

House Race Results

2018

➤ Arizona

- AZ-2 **Ann Kirkpatrick** (D) defeated Leah Marquez Petersen (R) 54-46% **R → D**

➤ California

- CA-10 Josh Harder (D) trails **Rep. Jeff Denham** (R) 51-49%, 100% reporting, 3363 vote difference
- CA-25 **Katie Hill** (D) defeated Rep. Steve Knight (R) 52-48% **R → D**
- CA-39 Gil Cisneros (D) trails **Young Kim** (R) 51-49%, 100% reporting, 2423 vote difference
- CA-45 Katie Porter (D) trails **Rep. Mimi Walters** (R) 51-50%, 100% reporting, 2009 vote difference
- CA-48 **Harley Rouda** (D) defeated Rep. Dana Rohrabacher (R) 52-48% **R → D**
- CA-49 **Mike Levin** (D) defeated Diane Harkey (R) 55-45% **R → D**
- CA-50 Ammar Campa-Najjar (D) lost to **Rep. Duncan Hunter** (R) 53-47%

➤ Colorado

- CO-6 **Jason Crow** (D) defeated Rep. Mike Coffman (R) 54-43% **R → D**

➤ Florida

- FL-26 **Debbie Mucarsel-Powell** (D) defeated Rep. Carlos Curbelo (R) 51-49% **R → D**
- FL-27 **Donna Shalala** (D) defeated Maria Elvira Salazar (R) 52-46% **R → D**

➤ Georgia

- GA-6 **Lucy McBath** (D) defeated Rep. Karen Handel (R) 51-50% **R → D**
- GA-7 Carolyn Bourdreau (D) trails **Rep. Rob Woodall** (R) 50-50%, 901 vote difference

➤ Illinois

- IL-6 **Sean Casten** (D) defeated Rep. Peter Roskam (R) 53-47% **R → D**
- IL-12 Brendan Kelly (D) lost to **Rep. Mike Bost** (R) 52-45%
- IL-13 Betsy Dirksen Londrigan (D) lost to **Rep. Rodney Davis** (R) 51-50%
- IL-14 **Lauren Underwood** (D) defeated Rep. Randy Hultgren (R) 52-48% **R → D**

➤ Iowa

- IA-1 **Abby Finkenauer** (D) defeated Rep. Rod Blum (R) 51-46% **R → D**
- IA-3 **Cindy Axne** (D) defeated Rep. David Young (R) 49-48% **R → D**

➤ Kansas

- KS-2 Paul Davis (D) lost to **Steve Watkins** (R) 48-46%
- KS-3 **Sharice Davids** (D) defeated Rep. Kevin Yoder (R) 53-44% **R → D**

➤ Kentucky

- KY-6 Amy McGrath (D) lost to **Rep. Andy Barr** (R) 51-48%

Winners in **BOLD**
Results from Bloomberg

House Race Results (Cont.)

2018

➤ Maine

- ME-2 Jared Golden (D) trails **Rep. Bruce Poliquin** (R) 46-46%
95% reporting, 1910 vote difference

➤ Michigan

- MI-8 **Elissa Slotkin** (D) defeated Rep. Mike Bishop (R) 51-47% **R → D**
- MI-11 **Hailey Stevens** (D) defeated Lena Epstein (R) 52-45% **R → D**

➤ Minnesota

- MN-1 Dan Feehan (D) lost to **Jim Hagedorn** (R) 50-50% **D → R**
- MN-2 **Angie Craig** (D) defeated Rep. Jason Lewis (R)
53-47% **R → D**
- MN-3 **Dean Phillips** (D) defeated Rep. Erik Paulsen (R)
56-44% **R → D**
- MN-8 Joe Radinovich (D) lost to **Pete Stauber** (R) 51-45% **D → R**

➤ Nebraska

- NE-2 Kara Eastman (D) lost to **Rep. Don Bacon** (R) 52-48%

➤ Nevada

- NV-3 **Susie Lee** (D) defeated Danny Tarkanian (R) 52-43%
- NV-4 **Steven Horsford** (D) defeated Crescent Hardy (R) 52-44%

➤ New Jersey

- NJ-3 **Andy Kim** (D) leads Rep. Tom MacArthur (R) 50-49%, 100%
reporting, 3424 vote difference
- NJ-7 **Tom Malinowski** (D) defeated Rep. Leonard Lance (R)
52-47% **R → D**
- NJ-11 **Mikie Sherrill** (D) defeated Jay Webber (R) 56-43% **R → D**

➤ New Mexico

- NM-2 **Xochitl Torres Small** (D) defeated Yvette Harrell (R) 51-49% **R → D**

➤ New York

- NY-1 Perry Gershon (D) lost to **Rep. Lee Zeldin** (R) 53-46%
- NY-11 **Max Rose** (D) defeated Rep. Dan Donovan (R) 53-47% **R → D**
- NY-19 **Antonio Delgado** (D) defeated Rep. John Faso (R) 50-47% **R → D**
- NY-22 **Anthony Brindisi** (D) leads Rep. Claudia Tenney (R) 50-50%,
100% reporting, 1293 vote difference
- NY-24 Dana Balter (D) lost to **Rep. John Katko** (R) 53-47%
- NY-27 Nate McMurray (D) trails **Rep. Chris Collins** (R) 50-49%, 100%
reporting, 2910 vote difference

➤ North Carolina

- NC-2 Linda Coleman (D) lost to **Rep. George Holding** (R) 51-46%
- NC-9 Dan McCready (D) lost to **Mark Harris** (R) 49-49%
- NC-13 Kathy Manning (D) lost to **Rep. Ted Budd** (R) 52-46%

Winners in **BOLD**
Results from Bloomberg

House Race Results (Cont.)

2018

➤ Ohio

- OH-1 Aftab Pureval (D) lost to **Rep. Steve Chabot** (R) 52-46%
- OH-12 Danny O'Connor (D) lost to **Rep. Troy Balderson** (R) 52-47%

➤ Pennsylvania

- PA-1 Scott Wallace (D) lost to **Rep. Brian Fitzpatrick** (R) 51-49% **D → R**
- PA-7 **Susan Wild** (D) defeated Marty Nothstein (R) 53-44% **R → D**
- PA-8 **Rep. Matt Cartwright** (D) defeated John Chrin (R) 55-45% **R → D**
- PA-10 George Scott (D) lost to **Rep. Scott Perry** (R) 51-49%
- PA-16 Ron DiNicola (D) lost to **Rep. Mike Kelly** (R) 52-47%
- PA-17 **Rep. Conor Lamb** (D) defeated Rep. Keith Rothfus (R) 56-44% **R → D**

➤ South Carolina

- SC-1 **Joe Cunningham** (D) defeated Katie Arrington (R) 51-49% **R → D**

➤ Texas

- TX-7 **Lizzie Fletcher** (D) defeated Rep. John Culberson (R) 53-48% **R → D**
- **TX-23 Gina Ortiz Jones** (D) trails **Rep. Will Hurd** (R) 49-49%, 100% reporting, 1150 vote difference
- TX-32 **Colin Allred** (D) defeated Rep. Pete Sessions (R) 52-46% **R → D**

➤ Utah

- **UT-4 Ben McAdams** (D) leads Rep. Mia Love (R) 51-49%, 79% reporting, 4914 vote difference

➤ Virginia

- VA-2 **Elaine Luria** (D) defeated Rep. Scott Taylor (R) 51-49% **R → D**
- VA-5 Leslie Cockburn (D) lost to **Denver Riggleman** (R) 53-47%
- VA-7 **Abigail Spanberger** (D) defeated Rep. Dave Brat (R) 50-49% **R → D**
- VA-10 **Jennifer Wexton** (D) defeated Rep. Barbara Comstock (R) 56-44% **R → D**

➤ Washington

- WA-3 Carolyn Long (D) lost to **Rep. Jamie Herrera-Beutler** (R) 53-47%, 96% reporting
- WA-5 Lisa Brown (D) lost to **Rep. Cathy McMorris-Rodgers** (R) 55-45%, 80% reporting
- WA-8 **Kim Schrier** (D) defeated Dino Rossi (R) 53-47% **R → D**

➤ West Virginia

- WV-3 Richard Ojeda (D) lost to **Carol Miller** (R) 56-44%

➤ Wisconsin

- WI-1 Randy Bryce (D) lost to **Bryan Steil** (R) 55-42%

Winners in **BOLD**
Results from Bloomberg

Key Senate Races

2018

- Arizona – Rep. Kyrsten Sinema (D) defeated Rep. Martha McSally (R) 50-48% **R → D**
- **Florida – Sen. Bill Nelson (D) vs. Governor Rick Scott (R) –Recount**
 - With 100% of precincts reporting, Nelson is trailing Scott by 12,536 votes out of a total 8.2 million ballots cast, a less than 1/2 percentage point difference. Florida state law requires a recount when candidates are within one half point.
- Indiana – Sen. Joe Donnelly (D) lost to **Mike Braun** (R) 51-45% **D → R**
- Missouri – Sen. Claire McCaskill (D) lost to **Josh Hawley** (R) 52-46% **D → R**
- Montana – **Sen. John Tester (D)** defeated Matt Rosendale (R) 50-47%
- Nevada – **Rep. Jacky Rosen** (D) defeated Sen. Dean Heller (R) 50-45% **R → D**
- North Dakota – Sen. Heidi Heitkamp (D) lost to Rep. **Kevin Cramer** (R) 55-45% **D → R**
- Ohio – **Sen. Sherrod Brown (D)** defeated Rep. Jim Renacci (R) 53-47%
- Pennsylvania – **Sen. Bob Casey (D)** defeated Rep. Lou Barletta (R) 56-43%
- Tennessee – Gov. Phil Bredesen (D) lost to **Rep. Marsha Blackburn** (R) 55-44%
- Texas – **Sen. Ted Cruz (R)** defeated Rep. Beto O'Rourke (D) 51-48%
- West Virginia – **Sen. Joe Manchin (D)** defeated Attorney General Patrick Morrisey (R) 50-46%
- Wisconsin – **Sen. Tammy Baldwin (D)** defeated State Sen. Leah Vukmir (R) 56-45%

Winners in **BOLD**
Results from Bloomberg

New U.S. Senate

2018

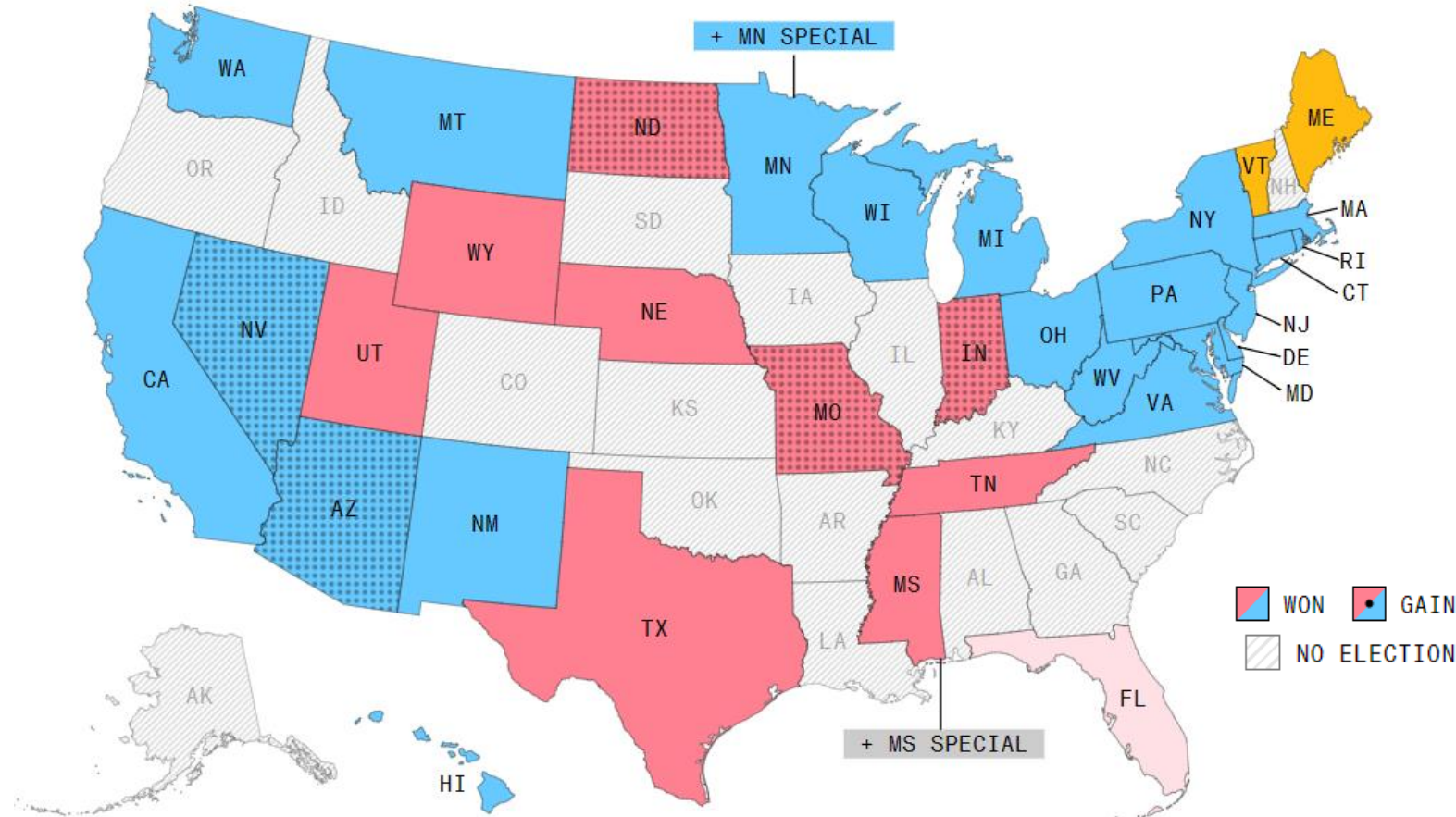
47 Democrats

50 SEATS

51 Republicans ★

23 Democrats not up for election

42 Republicans not up for election



New Senators: 7
Republicans: 5
Democrats: 2

Florida will recount
Mississippi headed to runoff

Source: Bloomberg Government; as of 9 a.m. on Nov. 13

Potential Areas of Oversight for the 116th Congress

2018

➤ Oversight into the Administration:

- House Oversight and Government Reform Committee
 - Oversight Democrats have submitted more than 50 subpoena requests, on topics including:
 - The DOJ's refusal to defend Obamacare in court
 - The administration's use of private flights
 - Trump's travel ban
 - The Census's citizenship question
 - Jared Kushner's security clearance
 - The use of private emails in the White House
 - Ranking Member Elijah Cummings (D-MD) has called for oversight into Justice Brett Kavanaugh.
- House Financial Services Committee
 - Ranking Member Maxine Waters (D-CA) has called for the use of oversight power over Trump's tax returns, Treasury Secretary Steve Mnuchin, and HUD Secretary Ben Carson.
- House Natural Resources Committee
 - Ranking Member Raúl Grijalva (D-AZ) has called for oversight into Interior Secretary Ryan Zinke.
- House Homeland Security Committee
 - Ranking Member Bennie Thompson (D-MS) has called for oversight into election security, the administration's response to Hurricane Maria, and TSA screening methods.

- House Transportation and Infrastructure Committee
 - Ranking Member Peter DeFazio (D-OR) has called for oversight into The Trump Organization's lease with the GSA for its D.C. hotel.
- House Energy and Commerce Committee
 - Democrats plan to save or expand protections under the Affordable Care Act, including stabilizing health insurance markets and insuring chronically ill people.
 - There is potential for bipartisanship if Democrats try to strike deals with the administration to reduce prescription drug prices.
 - Ranking Member Frank Pallone (D-NJ) announced his bid for the committee on Wednesday by calling for the preservation of net neutrality while also promising vigorous oversight of the Trump administration.

➤ Oversight into Industry:

- In lieu of the ability to pass legislation, Democrats will likely use oversight to investigate industries, including big banks, tech giants, and drug manufacturers.
- When Congress conducts oversight, it does not recognize attorney-client privilege, work product protections, implications on trade secrets, or privacy rights – a threat to industry.

The lame Duck Session

2018

➤ Unfinished Business

- Appropriations

Passed into law:

- Energy & Water
- Legislative Branch
- Military Construction-VA
- Labor-HHS-Education
- Defense

Awaiting completion under Continuing Resolution (Expires Dec. 7):

- Commerce, Justice, Science
- Homeland Security
- State-Foreign Operations
- Interior-Environment
- Financial Services
- Agriculture-FDA
- Transportation-HUD

- Farm Bill – expired September 30, 2018
- National Flood Insurance Program – expires November 30, 2018
- Deferred Action for Childhood Arrivals (DACA)/Immigration
- Violence Against Women Act (VAWA) – expires December 7
- Border Wall Funding
- 154 agency appointments and judicial nominees awaiting Senate confirmation
- Extenders/tax bill technical corrections

➤ Important Dates

- **Nov 13:** House and Senate return
- **Nov 19-26:** Thanksgiving
- **Dec. 7:** Current continuing resolution expires
- **December 13:** Target adjournment for the House
- **December 14:** Target adjournment for the Senate

2019 Legislative Priorities & Important Dates

2018



➤ Priorities

- Potential Infrastructure Package
- Immigration Reform
- Data Privacy
- USMCA – new NAFTA
- Ethics Reform
- Gun Control
- ACA Protections

➤ Important Dates

- **Jan. 2019:** 116th Congress convenes – calendars expected to be released around Thanksgiving
- **March 1, 2019:** Debt limit Suspension Ends
- **April 15, 2019:** Congress is supposed to adopt a budget resolution by April 15 that presents a unified view of priorities for both the House and the Senate; there's no punishment for missing the deadline, which is often unmet
- **Sept. 30, 2019:** Last day of the fiscal year; all 12 appropriations bills for FY2020 are supposed to be signed by then

Key Gubernatorial Race Results

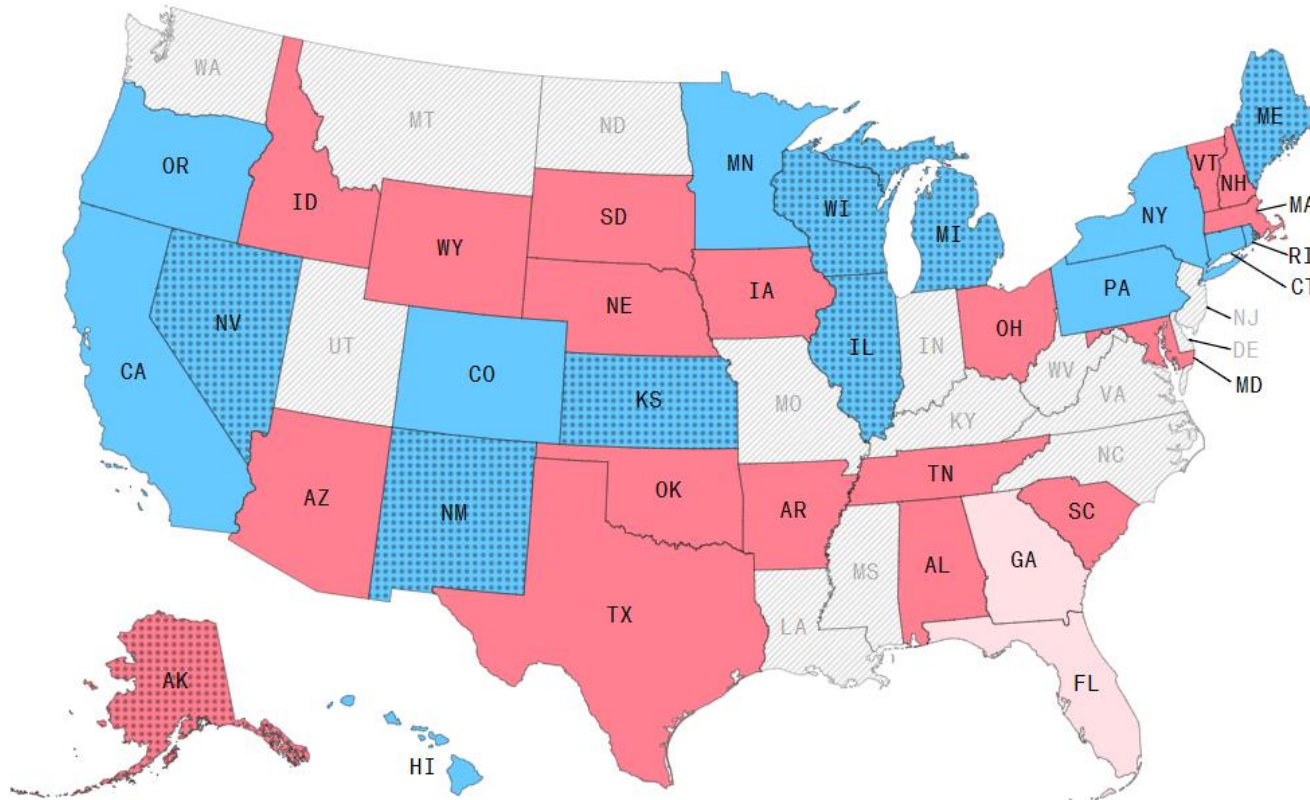
2018

23 Democrats

25 Republicans

7 Democrats not up for election

7 Republicans not up for election

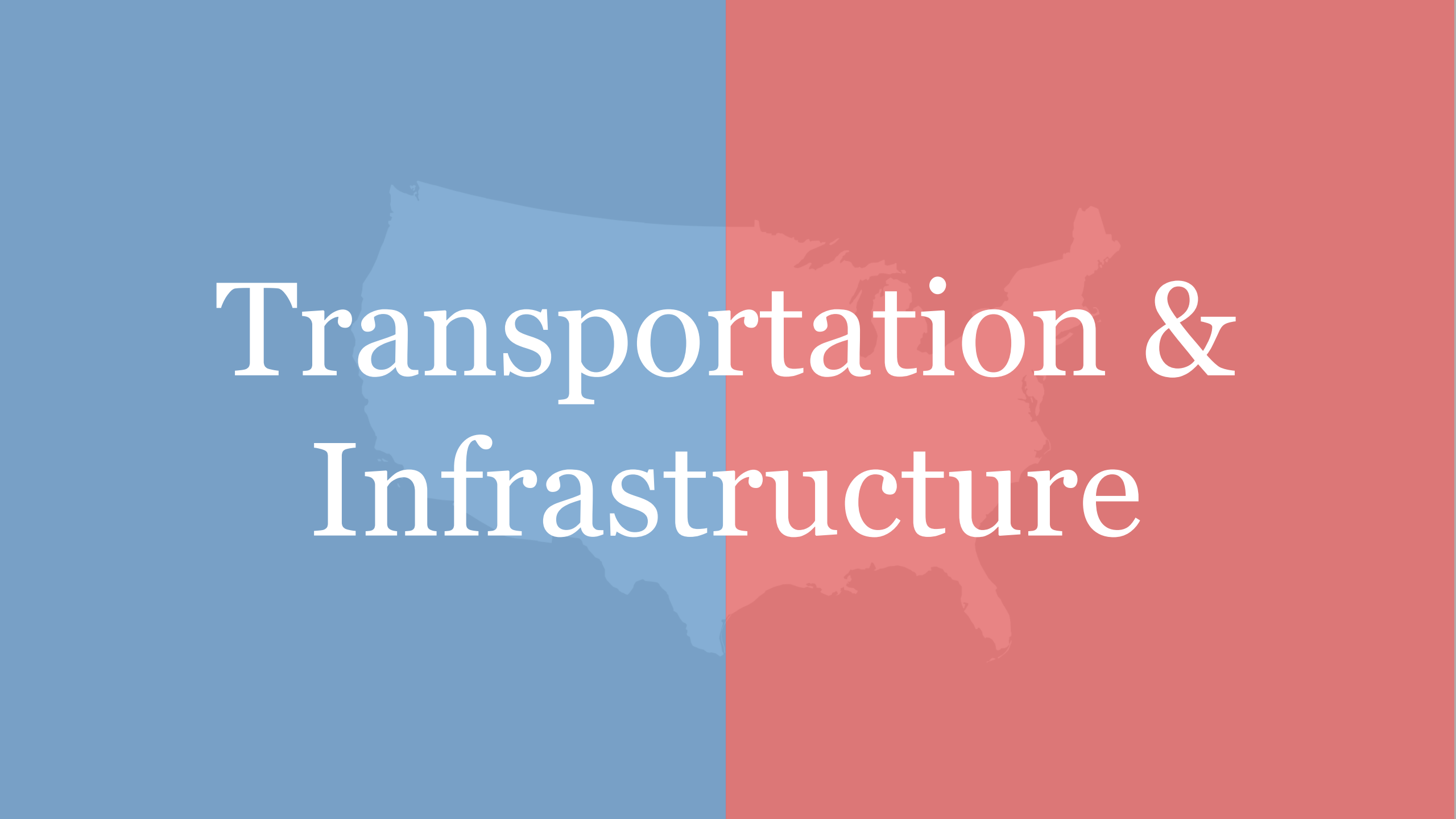


Governor Race Results

- Arizona: **Gov. Doug Ducey** (R) defeated Gary Garcia (D) 57-41%
- Florida: **Rep. Ron DeSantis** (R) leads Tallahassee Mayor Andrew Gillum (D) 50-49%
 - Race was called on Election Day but has now gone to recount after Gillum withdrew his concession. With 100% of precincts reporting, DeSantis leads by just 33,684 votes
- Georgia: Stacey Abrams (D) trails **Brian Kemp**
 - Race remains uncalled. With 100% of precincts reporting, Kemp leads Abrams 50-49%, a vote difference of 58,875
- Nevada: **Steve Sisolak** (D) defeated Adam Laxalt (R) 49-45% **R → D**
- Ohio: **Atty. Gen. Mike DeWine** (R) defeated Richard Cordray (D) 51-46%
- Wisconsin: **Tony Evers** (D) defeated Gov. Scott Walker (R) 50-48% **R → D**

Shifts in State Legislatures

- In **New Hampshire**, both the House and Senate flipped from Republican to Democratic control, ending the Republican state government trifecta.
- In **New York**, the Senate flipped from Republican to Democratic control, giving Democrats a state government trifecta.
- In **Colorado**, Democrats took control of the Senate, shifting the state from divided power to a Democratic trifecta.
- In **Connecticut**, Democrats won the majority in the Senate, which had previously been evenly split.
- In **Maine**, Democrats took the Senate, assuming trifecta control.
- Republicans took control of the **Alaska** House, assuming trifecta control.
- In **Minnesota**, Democrats took control of the House, but the Senate remained in Republican control, leaving the state government divided.



Transportation & Infrastructure

Transportation & Infrastructure

2018

Germane Committees New Leadership

US Senate

- Commerce, Science and Transportation Committee – Chairman Roger Wicker and Ranking Member Bill Nelson, if he is not re-elected, Maria Cantwell (if she leaves Senate Energy and Natural Resources) or Amy Klobuchar
- Environment and Public Works – Chairman John Barrasso and Ranking Member Tom Carper
- Banking Committee – Chairman Mike Crapo and Ranking Member Sherrod Brown
- Appropriations THUD – Chairman Susan Collins and Ranking Member Jack Reed
- Finance – Chairman Charles Grassley (new) and Ranking Member Ron Wyden



US House of Representatives

- Transportation and Infrastructure Committee – Chairman Peter DeFazio and Ranking Member Sam Graves or Jeff Denham
- Appropriations THUD - Chairman David Price and Ranking Member Mario Diaz Balart (possibly)
- House Ways and Means – Chairman Richard Neal and Ranking Member Kevin Brady


Transportation & Infrastructure

2018

116th Congress Priority Policy Issues

- Amtrak
- Safety Oversight
- Surface Transportation Reauthorization
- Highway Trust Fund
- Infrastructure Package
- Roads
- Highways
- Bridges
- Railroads
- Airports
- Broadband
- Energy
- Water
- Regional Funding Equity
- Air Traffic Control Operations
- Maritime Issues
- Autonomous Vehicle Legislation
- Positive Train Control
- Nominations
- Drone regulation
- TSA Oversight
- Buy America





Healthcare & Pharmaceuticals

Election Impact on Health Policy/Issues to Watch:


- Big committee changes regardless of election outcome due to retirements and committee members running for other political office
- Affordable Care Act (ACA) reform (continued issuance of regulations)
- "Medicare for All"
- Continued flexibility granted to states to reform Medicaid
- Continued focus on drug pricing
- Increased oversight, e.g., tax-exempt hospitals
- Attempts to advance another opioid package
- Spending reform with possible cuts to Medicare
- Programs that expire in 2019, e.g., DSH (serving as legislative vehicles)



Election Impact—Pharmaceuticals/Biotech

- Key Committee Leadership/Membership Changes in Congress
- Drug Pricing Issues a Priority
 - Medicare Part D and Part B proposals
 - Price transparency
 - “Price Gouging” agency
 - Promoting Value-Based reimbursement
 - Supporting generic drugs
- Expect HHS Proposals on Key Issues (IPI, AKS, etc.)
- FDA
 - Cosmetics Legislation
 - Lab-developed tests
 - Medical devices
- Cannabis





Energy & Environment

Key Players:


- New Democratic House Chairs – Likely Rep. Pallone (D-NJ) on Energy and Commerce; Rep. Neal (D-MA) on Ways and Means; Rep. Grijalva (D-NM) on Natural Resources; Rep. Johnson (D-TX) on Science and Technology
- Senate Finance – Chairman Hatch retiring; Does Grassley ascend?
- Administration – Will Secretary Zinke step down? Will Acting Administrator Wheeler be nominated and confirmed?



Priority Issues:

- New House Democratic Majority
 - Increased oversight
 - Playing it safe on climate?
 - Possible bipartisan cooperation? Energy Bill? Reform of Renewable Fuel Standard? Energy component of larger tax bill and/or infrastructure bill?
- Administration Focus
 - Finalizing new rules as quickly as possible including CAFE, WOTUS, ACE Rule
 - Continue themes of deregulation and energy dominance



A world map is visible in the background, rendered in a light blue color. The map is centered on the Atlantic Ocean, with North and South America on the left and Europe and Africa on the right. The background is split vertically into two solid colors: blue on the left and red on the right. The title 'Trade & Tariffs' is written in a white, serif font, centered across the middle of the image.

Trade & Tariffs

Key Issues:

- NAFTA 2.0 (aka, “USMCA”)
- Section 232 –Steel and Aluminum
- Section 301 –China IP Issues and Beyond
- Potential Auto-tariffs





Thank You

Holland & Knight