



Lobbyit Congressional Outlook

Election 2020: One Week Out

In less than a week, Americans will have stopped voting and will wake up to the results of the highly anticipated 2020 election. An historic number of Americans have already cast their votes in person or by mail, with 70+ million – or roughly half the *total turnout* in 2016 – locking in their choice. Until the polls close next week, we won't know if this early voting enthusiasm will translate into a historic total turnout or not, but we do know that unlike in 2016, late breaking news will likely have less of an impact on the result.

In this document, we will provide a brief outline of the current state of the race and some policy and legislative issues to keep an eye on as organizations look ahead to 2021 and determine policy priorities and advocacy strategies.



The Final Week

State of the race: Presidential

The race between President Donald Trump and former Vice President Joe Biden has remained relatively steady over the last several weeks – despite the headlines. National and state polls have the Vice President leading or tied in the key states, though news reporters are skittish to put this race to bed as they did in 2016 due to President Trump’s unexpected come-from-behind victory then.

Despite this hesitancy, even if most swing state polls are wrong by the same margin as in 2016, Mr. Biden’s path to victory remains quite clear. There are fewer undecided voters in 2020, and the pathway to reelection for President Trump appears smaller than even his narrow 2016 victory; he has lost support among key voting groups that helped give him the edge in 2016, including voters over 65, women, and voters under 35.

At this point in the race, the President’s chances hinge on a small handful of swing states, including Florida, Ohio, Pennsylvania, and North Carolina. If he can win a combination of those states, he can remain competitive. Mr. Trump will also need to successfully defend perennial Republican states like Texas, Georgia, and Iowa – all of which are currently tightly contested – to remain in the hunt. It should be noted that the historic turnout most states are experiencing may confound pollster models and lead to unexpected results in key battleground states – injecting additional uncertainty to the race and hope for the President and his supporters.

State of the race: Congressional

Unlike the national race, the race to control the House is essentially a done deal. Buoyed by the top of the ticket, House Democrats have, with very few exceptions, outtraised their Republican opponents by a wide margin and are in position to successfully defend most of the formerly-Republican districts that turned blue in 2018. In fact, the Democratic majority in the House will likely expand as major metro suburbs trend away from the current Republican party. Barring an unforeseen political catastrophe, the House will remain in Democratic control and Speaker Nancy Pelosi will hold the gavel once again.

A much more interesting scenario is playing out in the U.S. Senate. Mr. Biden’s popularity in unexpected parts of the country has made for competitive races in places where Democrats have not been competitive in decades. Currently, Republicans are unexpectedly fighting to hold on to one Senate seat each in Iowa, Montana, and South Carolina, and two seats in Georgia – all of which would have been a shock a few months ago. Those seats, combined with Democratic-leaning races in purple states like Colorado, Arizona, and Maine, have created the very real possibility that Democrats could gain total control of Washington for the first time in a decade.

These unexpectedly tight races make it more difficult to project who will control the Senate than who will win the House and the White House. In fact, the Senate may be the chamber that is undecided the longest because of almost-certain runoff scenarios in Georgia. If control of the chamber comes down to those two Senate races, we will not know who controls the majority until January.



Post-Election Policy Preview

Because of the uncertainty in the Senate, it is easier to look at post-election policy by comparing Mr. Trump and Mr. Biden's positions. Regardless of who wins, they will likely have to deal with a strong Democratic House Majority and a Senate that is either tied or with an extremely small majority for one party or the other.

State of the stimulus

There will not be a stimulus package signed into law prior to the election. Despite negotiations that have lasted for months, Democrats and Republicans have not been able to come to an agreement on how much assistance to send to their constituents or, more importantly, whether much assistance is even needed. Senate Republicans only have enough support to squeeze through a ~\$500B package while Democrats see the need as requiring ~\$2T in spending, a big chunk of that going to state and local governments.

Because control of the White House and the Senate are still up in the air, the House Democrats currently have the inside track in setting the starting point for stimulus negotiations post-election. Speaker Pelosi has indicated that she is negotiating language with the intention that regardless of the election outcome, the negotiated package will be what the House passes. If President Trump wins, that simply means a continuation of current negotiations between the Treasury Secretary and the Speaker. If Vice President Biden wins, the scenario might become more complicated, but we still do not anticipate a restart in the drafting process. Regardless of the election outcome, the expectation is that the advocacy that has gone into developing the current Democratic proposal will yield results in the next couple of months.

Tax policy

President Trump has promised to expand on his 2017 tax cuts. However, he nor his team have provided too many details to date, and recently Larry Kudlow, Director of the President's National Economic Council, stated that he does not believe any additional details will be forthcoming or are even necessary. What the President has stated is that he would like to lower the corporate rate to a more "even number" of 20 percent from 21 percent. He has also promised to lower the capital gains rate, further cut taxes on the middle class, and expand on the opportunity zones program that was created in the 2017 law – without elaborating on the details.

Vice President Biden has put forth a much more detailed plan, consisting of roughly 50 separate proposals. His plan would raise taxes on businesses and on individuals who earn over \$400,000 annually. He would raise the corporate rate to 28 percent and impose a new minimum tax on corporations. He would also raise rates on foreign earnings. He would also match the top capital gains tax to income taxes, the top of which he would also raise from 37 percent to 39.6 percent. Overall, his plan would raise over \$2 trillion based on various analyses.

COVID policy

The President's Coronavirus policy has emerged over the past month as being primarily focused on the development of treatments, coordinating distribution of an eventual vaccine, and leaving the day-to-day strategies and tactics to local jurisdictions, such as managing hospital capacity and determining the need



for mask mandates. This approach resonates with the President's base and is unlikely to change if he wins reelection.

Vice President Biden has indicated that an increased focus on the use of masks (including a potential national mask mandate) and returning to health professionals having a prominent national platform is part of his national strategy. His national strategy also includes the federal government resuming a leading role in developing and managing a national testing strategy that would use the powers of the federal government to dictate manufacturing of needed supplies to ensure access to testing and fast turnaround times.

Healthcare policy

The Supreme Court will consider a case on November 10th to determine whether the Affordable Care Act ("Obamacare") is unconstitutional in whole or simply in part because the individual mandate was struck down. If the Court chooses to strike down the law completely, tens of millions of presently insured individuals will be left without coverage. This will lead to a crisis on the Hill.

President Trump has promised that he has a healthcare plan that would provide for coverage of individuals with preexisting conditions – the most popular provision of Obamacare. He has yet to reveal his plan.

Vice President Biden is strongly in favor of Obamacare and regardless of the Court's decision wants to expand it to include a "public option" which would serve as a government-run insurance alternative that would compete with private insurers on the marketplace exchanges for individuals. He of course would seek to reinstate Obamacare (or in this case, Bidencare) with the public option attached if the Supreme Court strikes down Obamacare as currently instituted. Additionally, the Vice President wants to expand Medicare to cover individuals starting at the age of 60.

Congressional Timeline

The November 3rd elections are not the only ones that we will be monitoring. Congress also holds its own internal elections to determine which Members will hold key leadership positions that will determine the leader of each party on the Hill, his/her deputies, and the individuals who will select which Members will lead their respective party on every committee.

House Republicans have set their leadership elections for November 17th, and roughly within a week of that vote we will know who the Ranking Member for every committee will be and thus the most influential Republican on their respective committees and key issues.

House Democrats have set their leadership elections for November 18th and 19th and committee elections for the week of the 30th. The top three leaders of the party are running uncontested, but there will be contests for other positions throughout the leadership structure. The biggest committee race we are monitoring is for the Chair of the powerful Appropriations Committee. There is currently a three-way race to lead the committee that controls the purse strings. The other confirmed race at this point is for the Foreign Relations Committee after the current Chairman lost his primary race. Finally, we are also monitoring the potential races to chair the Agriculture Committee and Transportation Committee if its chairmen lose in their districts where they face strong headwinds.



We currently do not have an indication as to when each party in the Senate will pick their leadership and assign committee positions, but we anticipate a similar mid- to late-November timeline.

Once committee positions are selected, we will have a clearer indication as to what issues will be highlighted in each chamber over the next two years. Of course, the national climate and President will impact priorities, but in most cases committee chairs will have wide latitude to set their own priorities.

For advocacy planning purposes, it will be critical to move early with targeted outreach to these key offices and their staff to build on existing relationships or establish new ones. The groundwork will begin early in committees to draft legislation, though the public may not see the final product or hearings for months. Having a seat at the table during this critical time will determine whether you will have an impact on the outcome.