



November 7, 2018

**MEMORANDUM**

TO: HFA Executive Directors  
FR: NCSHA Policy and Government Affairs Team  
RE: 2018 Election Analysis

**Executive Summary**

In the elections yesterday, Democrats gained a majority in the House and Republicans grew their small Senate majority, setting up a divided congressional government for the remaining two years of President Trump's first term. Due to election outcomes that cannot be determined as of this writing, the exact sizes of the House Democratic and Senate Republican majorities are uncertain.

Divided congressional government could augur bipartisan dealmaking or continued and intensified gridlock, depending on whether party leaders and legislators take steps to bridge their partisan differences or accentuate them leading into the 2020 Presidential and congressional elections. Congressional staff and other stakeholders already are discussing how the elections will affect the possibility of enacting appropriations, tax changes, and infrastructure legislation during the post-election "lame duck" session and next year.

Several of our Housing Credit and Bond champions retired, ran for new offices, or lost their reelection bids. Many Affordable Housing Credit Improvement Act cosponsors will not return. Many of our current champions remain in office, and some are rising to new key roles in the next Congress. In the tax arena, we will need to identify new champions, educate new members of Congress, and build support for new legislation we hope will be introduced early next year. In other areas, such as appropriations and housing legislation, there are other changes to which we will need to adapt. This election puts in sharp relief the challenges and opportunities affordable housing faces in the new Congress.

Regarding governors, there will likely be 27 Republican and 23 Democratic governors next year, as of this writing, with the Georgia result still tentative. This would represent a net gain of seven Democrats, including new governors in states previously led by Republicans—Kansas, Illinois, Maine, Michigan, Nevada, New Mexico, and Wisconsin.

## **Democrats Capture Control of the House**

Democrats took back the majority in the House of Representatives with at least 223 seats, up from 193 before the election. Of the House races decided as of this writing, Democrats have gained 30 seats, seven more than the 23 they needed to win control of the House. Republicans will have at least 197 House seats, compared to the 235 they currently hold. Fifteen elections are still undecided, making a larger Democratic majority than current results indicate likely. It appears that the results of the remaining elections will be roughly balanced between the two parties.

There will be at least 46 new House members in the next Congress. At least 33 and possibly 36 of the 180 cosponsors of H.R. 1661 will not return.

### **House Leadership**

House Minority Leader Nancy Pelosi (D-CA) has announced her intention to run for Speaker of the House in House leadership elections likely to occur later this month. Minority Whip Steny Hoyer (D-MD) and Assistant Minority Leader James Clyburn (D-SC) have declared their intentions to run for Majority Leader and Majority Whip, respectively. Their elections to these positions are likely. Representatives Cheri Bustos (D-IL) and David Cicilline (D-RI) have announced bids for Assistant Majority Leader and Ben Ray Lujan (D-NM) is also considering pursuing that position.

Speaker of the House Paul Ryan (R-WI) is retiring from Congress and did not seek reelection. Majority Leader Kevin McCarthy (R-CA), Majority Whip Steve Scalise (R-LA), and Conference Chair Cathy McMorris Rodgers (R-WA) all won reelection and plan to seek equivalent minority leadership positions. Former House Freedom Caucus Chairman Jim Jordan (R-OH) has declared that he intends to run for Minority Leader. Liz Cheney (R-WY) is running for House Republican Conference Chair.

### **House Committee Changes**

House Committee on Ways and Means. With the Democratic takeover of the House, Representative Richard Neal (D-MA) will chair the House Ways and Means Committee, swapping positions with Representative Kevin Brady (R-TX), who will become Ranking Member.

Neal has long been a supporter of both the Housing Credit and Housing Bonds. He is currently the lead Democratic sponsor of the Affordable Housing Credit Improvement Act (H.R. 1661), which we expect he will reintroduce in the 116<sup>th</sup> Congress. However, there is a chance that as Committee Chairman he will decide not to serve as a lead sponsor of individual bills. Neal

also was one of the lead sponsors of the successful 2015 effort to enact the minimum 9 percent rate for Housing Credit properties.

There will be considerable change to the Committee's makeup in the 116<sup>th</sup> Congress, with numerous current members either retiring or losing their reelection bids. Committee members Sam Johnson (R-TX), Dave Reichert (R-WA), Lynn Jenkins (R-KS), and Sander Levin (D-MI) all are retiring from Congress. Representative Kristi Noem (R-SD) won her bid to become governor of South Dakota. Representative Diane Black (R-TN) left Congress to run for governor but lost earlier this year in her primary. H.R. 1661 lead Republican sponsor Carlos Curbelo (R-FL) and Committee cosponsors Peter Roskam (R-IL), Erik Paulsen (R-MN), and Mike Bishop (R-MI) lost their reelection campaigns. Committee members and H.R. 1661 cosponsors Mike Kelly (R-PA), Vern Buchanan (R-FL), Jackie Walorski (R-IN), and George Holding (R-NC) all kept their seats in this election. Two Democratic cosponsors on the Committee, Sander Levin (MI) and Joseph Crowley (NY), will not be returning in the next Congress.

House Appropriations Committee. Current Appropriations Committee Ranking Member Nita Lowey (D-NY) is poised to become the first woman to chair this Committee. There are currently five Republican Committee members vying to be the Ranking Member of the Committee after current Chairman Rodney Frelinghuysen (R-NJ) announced in January he would retire at the end of this year. In order of seniority, they are Robert B. Aderholt (R-AL), Kay Granger (R-TX), Mike Simpson (R-ID), Tom Cole (R-OK), and Tom Graves (R-GA). This race has intensified over the past several months, with Granger seen as a favorite but Graves making an aggressive dark-horse bid.

Transportation, Housing and Urban Development (THUD) Appropriations Subcommittee Chairman Mario Diaz-Balart and Ranking Member David Price (D-NC) both won reelection. Price is expected to become the Subcommittee Chairman and Diaz-Balart is likely to be the Ranking Member, though the Republican leadership on various subcommittees could change depending on who becomes Ranking Member of the full Committee. Subcommittee member John Culberson (R-TX) lost his reelection bid; all other members of the Subcommittee were re-elected. Price has strongly supported HUD housing program funding in the past and has expressed his belief that affordable housing should be part of any infrastructure deal that advances.

House Financial Services Committee. Maxine Waters (D-CA), the Ranking Member of the House Financial Services Committee, is expected to serve as Committee Chair. Waters has indicated that reforming the Government-Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac would be one of her top priorities as Chair. Specifically, Waters has said that she will pursue legislation to remove the GSEs from conservatorship and ensure future GSEs foster a secondary market that can support housing for working people. She has also cited addressing the shortage of affordable housing as another key priority. Waters is also expected to press the Bureau of Consumer Financial Protection (BCFP) to more strongly enforce its consumer protection rules

and may seek to reverse some of the changes to the Dodd-Frank Wall Street Reform Act that Congress has passed in recent years.

Jeb Hensarling (R-TX), the Committee's Chair for the last three terms, did not run for reelection this year. It is not yet clear who will take Hensarling's place as the Committee's top Republican. Committee member Patrick McHenry (R-NC), the Republican Deputy Whip, has expressed interest and appears to be the favorite, but has also expressed interest in moving up in the Republican party leadership, which would preclude serving as Ranking Member. Other potential candidates include Sean Duffy (R-WI), Chair of the Housing and Insurance Subcommittee; Bill Huizenga (R-MI); Frank Lucas (R-OK); and Blaine Luetkemeyer (R-MO).

Emanuel Cleaver (D-MO) is expected to take over as Chair of the Housing and Insurance Subcommittee. Cleaver has served as the Ranking Member of the Subcommittee, which oversees HUD and the GSEs, since 2015. Duffy, the Subcommittee's current Chair, will likely serve as Ranking Member if he does not become Committee Chair. Cleaver and Duffy worked together this Congress to develop bipartisan GSE reform legislation but never reached an agreement.

The Committee will experience substantial turnover next Congress. In addition to Hensarling, current Republican Committee members Luke Messer (IN), Stevan Pearce (NM), Robert Pittenger (NC), Dennis Ross (FL), Ed Royce (CA), and David Trott (MI) announced prior to the election they would not return next Congress. Randy Hultgren (IL), Keith Rothfus (PA), and Claudia Tenney (NY) lost their reelection races, while Mia Love (UT), Thomas MacArthur (NJ), and Bruce Poliquin (ME) are in races that today remain too close to call. Democratic Committee Members leaving the House include Michael Capuano (MA), John Delaney (MD), Keith Ellison (MN), Ruben Kihuen (NV), and Kyrsten Sinema (AZ).

Hultgren has been a strong supporter of municipal bonds, including Private Activity Housing Bonds. Hultgren played a leading role in the successful bipartisan effort to preserve the tax exemption for Private Activity Bonds in tax reform. He also co-founded and co-chaired, along with Rep. Dutch Ruppersberger (D-MD), the House Municipal Finance Caucus. It is unclear who, if anyone, will take Hultgren's place as Caucus Co-Chair.

### **Republicans Retain Control of the Senate; Likely to Expand Their Majority**

As things stand Wednesday, Republicans will hold at least 51 Senate seats in the next Congress, with Democrats (including Independents who caucus with them) controlling 46. Three seats remain undecided and appear likely to go Republican.

Three Democratic incumbents—Joe Donnelly (IN), Heidi Heitkamp (ND), and Claire McCaskill (MO)—lost their reelection races. Dean Heller (NV) is the only Republican incumbent who lost.

Races in Arizona, Florida, and Mississippi have yet to be decided. Republicans hold a slight lead in all three. In Arizona, Martha McSally, a current member of the House, is winning by a slim margin over Kyrsten Sinema, another current House member. Florida election officials announced Wednesday morning that Governor Rick Scott's (R) lead over incumbent Bill Nelson (D) is so close, with less than a half percent difference, it meets the threshold for a state-mandated recount. The deadline for the recount is set for noon on November 10. The Mississippi special election to fill the remaining portion of former Senator Jeff Session's (R) term will be decided by a November 27 runoff election between incumbent Cindy Hyde-Smith (R) and former House member Mike Espy (D). Neither won more than 50 percent of the vote yesterday, with Hyde-Smith holding a narrow lead.

There will be at least seven new Senators in the next Congress. At least three and possibly 4 of the 41 cosponsors of S. 548 will not return.

### **Senate Leadership** (*Updated 11/8/18*)

Neither Senate Majority Leader Mitch McConnell (R-KY) nor Senate Majority Whip John Cornyn (R-TX) faced reelection this year, with both securing their reelection in the 2014 mid-term elections. McConnell is expected to remain the number one Republican in the Senate. Cornyn is term-limited as Majority Whip, but McConnell has expressed his desire to keep Cornyn in a leadership position for the next Congress. It is unclear at this time in what role that would be. It is expected that either John Thune (R-SD) or John Barrasso (R-WY), the number three and four Senators in Republican leadership, respectively, will take Cornyn's place as Majority Whip.

Senate Minority Leader Chuck Schumer (D-NY) and Senate Minority Whip Dick Durbin (D-IL) were also not up for reelection this cycle. Schumer was reelected in 2016, while Durbin won his reelection campaign in 2014. Schumer and Durbin are expected to retain their respective leadership positions in the next Congress.

### **Senate Committee Changes**

Senate Committee on Finance. Senator Charles Grassley (R-IA) is next in line to assume the chairmanship of the Finance Committee, following the retirement of current Chairman Orrin Hatch (R-UT). However, Republican Senate rules require him to relinquish his chairmanship of the Senate Judiciary Committee if he takes over the Finance Committee, and he has not yet announced his intentions. Moreover, Grassley is only eligible to serve as Finance Committee chairman for two more years, as Senate Republicans also limit the time any Republican Senator can chair a given committee to a maximum of six years. Senator Grassley already chaired the Finance Committee for four years, from 2003 to 2006.

Grassley has been critical of the Internal Revenue Service's oversight of the Housing Credit program and has raised concerns about the program's complexity in the past. The Government Accountability Office (GAO) in September published the fourth and final report in a series of studies of the Housing Credit program, all of which GAO conducted at Grassley's request. While Grassley has not yet responded to the fourth report, which focused on Housing Credit development costs, he issued press releases in response to each of the three previous reports expressing his concerns about the program's oversight and complexity.

If Senator Grassley opts to remain as chairman of the Judiciary Committee rather than take over the Finance Committee, we expect Senator Michael Crapo (R-ID) to become Finance Committee chairman. Senator Crapo would need to step down as chairman of the Banking, Housing, and Urban Affairs Committee if he takes the helm of the Finance Committee.

Senator Ron Wyden (D-OR) will remain ranking member of the Finance Committee. Senator Wyden is a supporter of the Housing Credit and Housing Bonds and was an original cosponsor of the Affordable Housing Credit Improvement Act (S. 548). He is also the sponsor of legislation to establish a middle-income housing tax credit and a separate bill creating a homebuyer tax credit.

The makeup of the Finance Committee will also change in the 116<sup>th</sup> Congress, as Finance Committee members Claire McCaskill (D-MO), Bill Nelson (D-FL), and Dean Heller (R-NV) lost their bids for reelection, or appear to have, in Nelson's case.

Senate Appropriations Committee. Neither Senate Appropriations Committee Chair Richard Shelby (R-AL) nor Vice Chairman Patrick Leahy (R-VT) was up for re-election, and they appear likely to remain in their positions next year.

Neither Senate THUD Appropriations Subcommittee Chairman Susan Collins (R-ME) nor Ranking Member Jack Reed was up for re-election, and they appear likely to remain in their positions next year. Subcommittee members Diane Feinstein (D-CA), Chris Murphy (D-CT), and Joe Manchin (D-WV) all were re-elected.

Senate Banking Committee. If he chooses to do so, Senator Mike Crapo will remain as Chair of the Senate Banking Committee. However, Crapo may be interested in replacing outgoing Senator Orrin Hatch (R-UT) atop the Finance Committee. Crapo is currently the third-most senior Republican on the Finance Committee, and his decision will likely depend on whether Charles Grassley (R-IA), who is next-in-line behind Hatch, decides to pursue the Finance Committee gavel. It is unknown who would replace Crapo as Banking Committee Chair. Richard Shelby (R-AL) has already served three terms on top of the Committee, and Bob Corker (R-TN) is retiring, leaving Pat Toomey (R-PA) as the most senior Republican member of the Committee who is eligible to serve as Chair.

Sherrod Brown (D-OH), who was re-elected to a new term yesterday, is expected to remain the Committee's Ranking Member.

If he remains as Chair, Crapo next Congress could take a new look at addressing housing finance reform, which he has continuously identified as one of his top priorities. Crapo may also look at making further changes to federal financial regulations, though it may be more difficult to reach bipartisan consensus.

Tim Scott (R-SC) will likely continue as Chair of the Housing, Transportation, and Community Development (Housing) Subcommittee. Bob Menendez (D-NJ), who was re-elected yesterday, is expected to remain as Ranking Member.

Corker's retirement is particularly notable, as he was one of the leading voices on housing finance reform. During the 113th Congress, he and Mark Warner (D-VA) introduced bipartisan housing finance reform legislation that became the basis for a bill that later passed the Banking Committee. Corker and Warner worked on drafting a new housing finance reform bill this Congress but never released a final proposal.

In addition to Corker, Committee members Joe Donnelly (D-IN), Heidi Heitkamp (D-ND), and Dean Heller (R-NV) will not be returning to Congress next year.

### **Incumbents Fare Well, But Democrats Gain in Governor Elections**

Of the 36 gubernatorial general elections yesterday, 18 incumbents stood for reelection and 18 races had no incumbent on the ballot. Sixteen incumbents were reelected. In the open races, 13 of the 18 states remained in control of the same party as that of the incumbent, while party control changed in five states. The results are listed below.

#### States in Which the Incumbent Won:

Alabama:	Kay Ivey (R) defeated Walt Maddox (D)
Arizona:	Doug Ducey (R) defeated David Garcia (D)
Arkansas:	Asa Hutchinson (R) defeated Jared Henderson (D)
Hawaii:	David Ige (D) defeated Andria P. Tupola (R)
Iowa:	Kim Reynolds (R) defeated Fred Hubbell (D)
Maryland:	Larry Hogan (R) defeated Ben Jealous (D)
Massachusetts:	Charles D. Baker (R) defeated Jay Gonzalez (D)
Nebraska:	Pete Ricketts (R) defeated Bob Krist (D)
New Hampshire:	Chris Sununu (R) defeated Molly Kelly (D)
New York:	Andrew Cuomo (D) defeated Marcus Molinaro (R)
Oregon:	Kate Brown (D) defeated Knute Buehler (R)
Pennsylvania:	Tom Wolf (D) defeated Scott Wagner (R)

Rhode Island: Gina Raimondo (D) defeated Allan Fung (R)  
South Carolina: Henry McMaster (R) defeated James Smith, Jr. (D)  
Texas: Greg Abbott (R) defeated Lupe Valdez (D)  
Vermont: Phil Scott (R) defeated Christine Hallquist (D)

States in Which the Challenger Won:

Illinois: J.B. Pritzker (D) defeated Bruce Rauner (R)  
Wisconsin: Tony Evers (D) defeated Scott Walker (R)

Open Seats in Which the Incumbents' Party Kept Control:

Alaska: Mike Dunleavy (R) defeated Mark Begich (D)  
California: Gavin Newsom (D) defeated John Cox (R)  
Colorado: Jared Polis (D) defeated Walker Stapleton (R)  
Connecticut: Ned Lamont (D) defeated Bob Stefanowski (R)  
Florida: Ron DeSantis (R) leading Andrew Gillum (D)  
Georgia: Brian Kemp (R) leading Stacey Abrams (D)<sup>1</sup>  
Idaho: Brad Little (R) defeated Paulette Jordan (D)  
Minnesota: Tim Walz (D) defeated Jeff Johnson (R)  
Ohio: Mike DeWine (R) defeated Richard Cordray (D)  
Oklahoma: Kevin Stitt (R) defeated Drew Edmondson (D)  
South Dakota: Kristi Noem (R) defeated Billie Sutton (D)  
Tennessee: Bill Lee (R) defeated Karl Dean (D)  
Wyoming: Mark Gordon (R) defeated Mary Throne (D)

Open Seats in Which Party Control Changed:

Kansas: Laura Kelly (D) defeated Kris Kobach (R)  
Maine: Janet Mills (D) defeated Shawn Moody (R)  
Michigan: Gretchen Whitmer (D) defeated Bill Schuette (R)  
Nevada: Steve Sisolak (D) defeated Adam Laxalt (R)  
New Mexico: Michelle Lujan Grisham (D) defeated Steve Pearce (R)

**Lame Duck Action**

Congress in September passed five Fiscal Year (FY) 2019 spending bills but must still finalize seven bills, including those that fund HUD and USDA housing programs, by December 7, when the stopgap funding measure expires, or risk a partial government shutdown. In order to avoid a shutdown, leaders from both parties will need to negotiate several unresolved

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<sup>1</sup> Outcome is still uncertain at this time.



spending issues and defuse President Trump's threat to shut down the government should Congress not provide \$5 billion for a border wall.

The appropriations outlook in the lame duck session is uncertain, as House Republicans still in charge may push for policy riders that Democrats will oppose, and Democrats strategize whether to negotiate now or wait until they are in control in the next Congress. President Trump may be more willing to shut down the government this year, as Pentagon funding, finalized in September, would not be impacted. Finally, Congress may opt to punt FY 2019 appropriations work once again, this time into the 116<sup>th</sup> Congress.

It seems likely that congressional tax-writers will try to enact tax legislation before the end of the year. Housing Credit and Bond champions are working with NCSHA and other stakeholders to seize this opportunity to enact as much of the Affordable Housing Credit Improvement Act (H.R. 1661 and S. 548) as possible, as well as other Housing Credit priorities that have arisen recently.

### **Notable Ballot Measures**

Voters in eight states (Arizona, California, Colorado, Illinois, North Carolina, Oregon, Texas, and Washington) considered notable affordable housing-related ballot measures on Tuesday. Most of these measures were local but four were statewide initiatives, with three in California alone.

California voters approved Proposition 1, which authorizes \$4 billion in general obligation bonds to fund housing assistance programs for veterans, struggling families, people experiencing homelessness, and individuals with disabilities. Three billion dollars of the funds will go toward existing affordable housing programs and \$1 billion will go to veteran housing programs.

California voters also approved Proposition 2, which authorizes \$2 billion in previously appropriated funding to the construction of affordable housing for those that are experiencing chronic homelessness, people with disabilities, and people living with mental illness.

Voters defeated Proposition 10, which would expand local governments' authority to enact rent control on residential property.

In Oregon, voters approved Measure 102, which would remove the restriction that any affordable housing project built in Oregon and funded by municipal bonds must be government-owned, allowing more housing to be built using public-private partnerships.