

2016-2017 WASHINGTON OUTLOOK

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Cozen O'Connor Public Strategies Presenters



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- Counsels clients regarding a variety of regulatory and policy issues before the U.S. government and represents clients before U.S. Executive Branch agencies and Congress
- Served in high-level executive branch positions under Bush, Clinton and Obama administrations, including a pivotal role in the government's financial crisis response as Chief Operating Officer of the \$700 billion Troubled Asset Relief Program (TARP) program. He also served as general counsel, corporate secretary and chief ethics officer, at the U.S. Export-Import Bank



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- Advocates on behalf of clients with lawmakers, executive branch officials and regulatory personnel in local, state and federal government
- Recent public and professional affiliations include member of the 57th Electoral College, Democratic National Committee National Finance Committee (Pennsylvania chair), the Obama-Biden Presidential Transition Team, the Presidential Inaugural Committee, the Obama for America National Finance Committee, among others



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- Counsels clients on a host of regulatory matters at the state and federal level, while also assisting them in navigating and understanding the political process
- Currently serves as a volunteer special adviser to the Pennsylvania Office of Attorney General
- Member of Hillary for America Pennsylvania Finance Council
- Served as chief of staff to the attorneys general of Arkansas and Pennsylvania

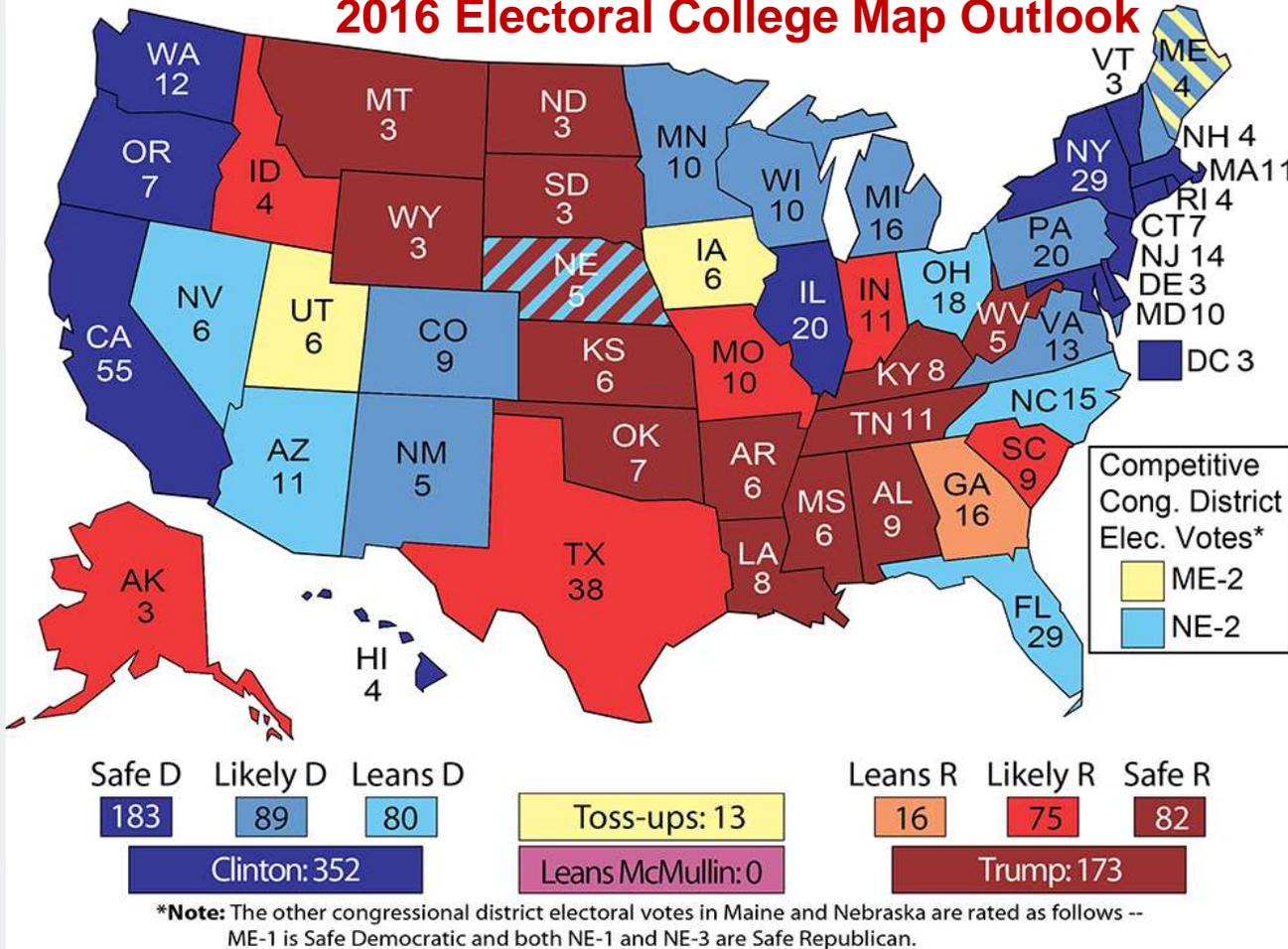
November 8th and On...

- Presidential Election
- U.S. Senate
- U.S. House of Representatives
- Select Congressional Committees
- Lame Duck Preview
- The Agenda: First 100 Days

Election Forecast: White House

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2016 Electoral College Map Outlook



- There's no feasible path to victory for Trump without FL, NC, OH and PA

Larry Sabato's
Crystal Ball as of
October 27

Election Forecast: Senate & House

- Senate:
 - R: 46 D: 47
 - Toss-ups: 7
 - Democrats need net gain of 4 seats with Vice President casting deciding vote
 - **Democrats' likely scenario:** Narrow one-to-two seat majority
 - Expectation of Clinton win, strength at top of the ticket, and predictive data analysis give advantage to the Democrats
 - Sen. Chuck Schumer (D-NY) to be selected majority leader
- House:
 - Democrats need net gain of 30 seats to take control
 - GOP loses 10-20 seats, maintaining majority – strength of Clinton has potential to push this to higher end towards 20 seats
 - Paul Ryan remains speaker, but contends with rising anti-establishment sentiment and Trump candidacy fallout, and challenges managing his caucus

Election Forecast: Senate Races to Watch

Pennsylvania

- Incumbent Sen. Toomey (R) v. Katie McGinty (D)
- RCP average is Toomey +1.3 (within MOE)
- Toomey on Trump: unclear
- Penn. is leaning heavily towards Clinton (RCP has Clinton +5)
- 2008: +10 Obama, 2012: +5 Obama

Nevada

- AG Cortez Masto (D) v. Rep. Heck (R); replacing Sen. Reid (D)
- RCP average has Heck up +1.4
- RCP has Clinton with a slight margin +2 (within MOE)
- Heck will not be voting for Trump and has actually called for him to drop out
- 2008: +13 Obama, 2012: +6 Obama

Election Forecast: Senate Races to Watch

New Hampshire

- Incumbent Sen. Ayotte (R) v. Gov. Hassan (D)
- RCP average is Ayotte +1.3, race has gone back and forth
- New Hamp. is leaning Clinton (RCP +6.5)
- Ayotte retracted support post-2005 tape
- 2008: +10 Obama, 2012: +5 Obama

North Carolina

- Incumbent Sen. Burr (R) v. former state Rep. Ross (D)
- Burr +3.2 in RCP; race has tightened quickly since the end of September
- Burr still supports Trump
- North Carolina is leaning slightly to Clinton +2.0 in RCP averages
- 2008: +0.4 Obama, 2012 +3 Romney

Election Forecast: Senate Races to Watch

Florida

- Incumbent Sen. Rubio (R) v. Rep. Murphy (D)
- Rubio +3.6 in RCP; had maintained a lead consistently, but now narrowing
- Rubio still supports Trump
- 2008: +0.25 Obama, 2012: +1 Obama

Indiana

- Former Sen. Bayh (D) v. Rep. Young (R); replacing retiring Sen. Coats (R)
- Bayh +3.7 in RCP but very lightly polled and polls trending down for Bayh
- Young on Trump: Unclear
- 2008: +1 Obama, 2012: +10 Romney

Missouri

- Incumbent Sen. Blunt (R) v. Secretary of State Kander (D)
- Blunt +1.0 in RCP (with MOE); a large lead for Blunt is now a dead heat
- Blunt still supports Trump
- 2008: +0.1 McCain, 2012: +10 Romney

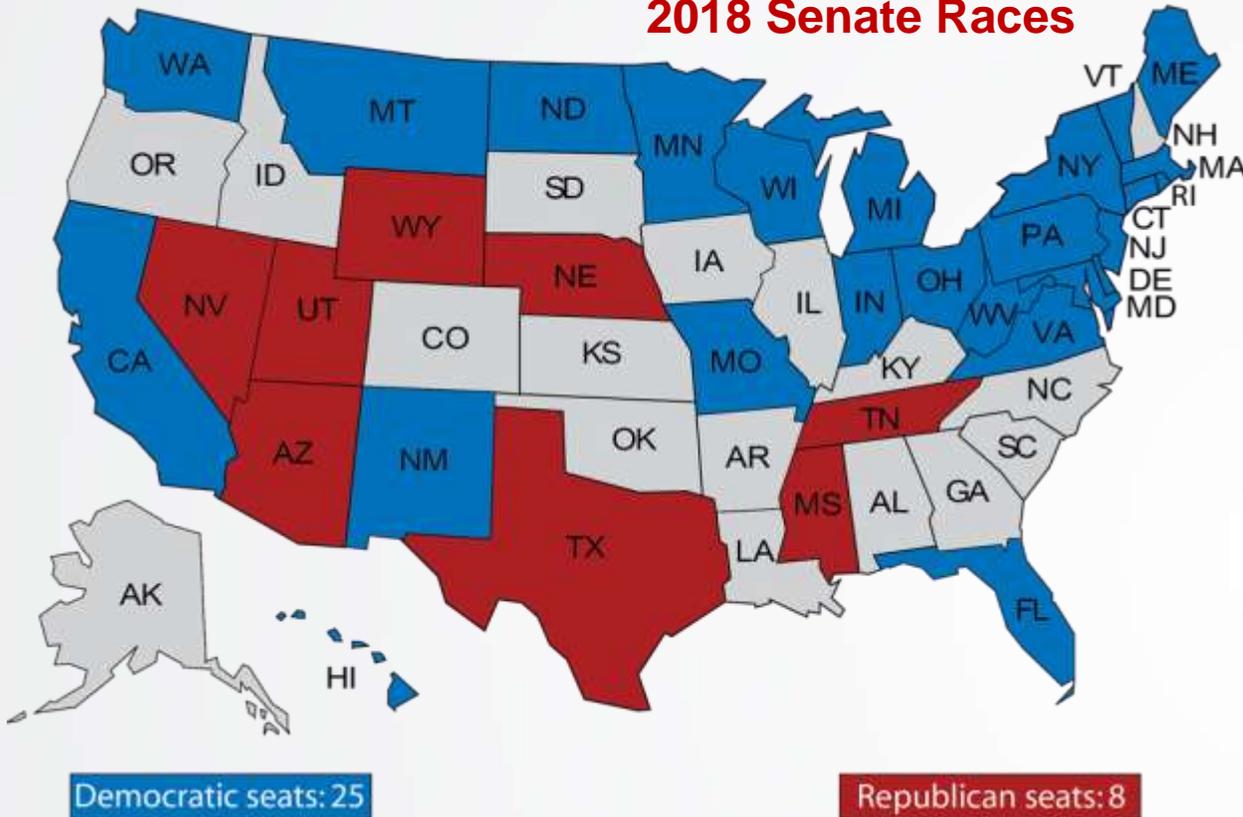
Election Macro Implications

- Given personalities and tendencies, **Clinton White House + Ryan-led House + Schumer-led Senate =** Real possibility of working across the aisle to advance policy (at least for first year)
- Clinton Shifts/Pulled Left
 - First term president's top objective = second term
 - Biggest threat (for now) is primary challenge, thus early focus will be to consolidate her base to fend off potential challenges
 - Clinton likely to face pressure from Warren/Sanders contingency on appointments and personnel decisions
- Speaker Ryan Is Key Variable to Bipartisan Potential
 - Contrary to recent predecessors, speakership not a capstone for Ryan
 - Will face several intraparty challenges in attempts at compromise
 - Willingness to work with Ds dependent on his timeline for future ambitions
- If Senate is split 50/50, then VP Tim Kaine will play significant role

Election Macro Implications (cont'd)

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2018 Senate Races



- Only Two-Year Expectation for Senate Control
 - Limited time for legislative action
 - Moderate Senate Democrats up for 2018 re-election (e.g., McCaskill) could be problematic for Clinton/Schumer
 - Democrats have 25 seats to defend, which will shape Clinton's agenda and Schumer's legislative strategy
 - No super-majority and no filibuster-proof majority for Democrats
 - Republicans will focus on re-establishing majority

Outlook for Congressional Committees

- Baseline assumption: Democrats gain Senate control and Republicans hold onto the House
- Changes in leadership of a Democrat-controlled Senate could impact chairmanships. Current speculation focuses on Sen. Murray's future role in leadership.
- Other considerations:
 - In the Senate, seniority is generally the rule for determining chairmen and ranking members
 - In the House, while seniority is considered, leadership plays large role in making final selection.

Select Committees Outlook *

KEY SENATE COMMITTEES

Committee	Chairman	Ranking Member
Appropriations	Sen. Patty Murray (WA)	Sen. Richard Shelby (AL)
Finance	Sen. Ron Wyden (OR)	Sen. Orrin Hatch (UT)
Commerce	Sen. Bill Nelson (FL)	Sen. John Thune (SD)
HELP	Sen. Bernie Sanders (VT)	Sen. Lamar Alexander (TN)

KEY HOUSE COMMITTEES

Committee	Chairman	Ranking Member
Appropriations	Rep. Rodney Frelinghuysen (NJ)	Rep. Nita Lowey (NY)
Energy and Commerce	Rep. Fred Upton (MI)	Rep. Greg Walden (OR)
Ways and Means	Rep. Kevin Brady (TX)	Rep. Sander Levin (MI)

*See Appendix for more detailed analysis and outcome predictions of select committees

Lame Duck Preview

- Congress's agenda limited to finishing FY17 funding
- What could be in play?
 - Biomedical research bill, 21st Century Cures Act
 - Tax extenders
 - National Defense Authorization Act (NDAA)
 - Water Resources Development Act
 - Ex-Im quorum requirement to advance >\$10M loan guarantees
- SCOTUS confirmation possible, but unlikely
- No vote on Transpacific Partnership (TPP)
- Tone and tenor of lame duck will be impacted by presidential and congressional race outcomes

First 100 Days

- Legislative agenda will be aimed at consolidating progressive support, with focus on: infrastructure spending, tax reform, immigration reform, and healthcare
- Executive agenda will be geared towards: student loan servicing/debt forgiveness, SCOTUS nomination, financial regulatory reform, and progressive employment policies
- Appointments and confirmations are a massive undertaking of critical importance
 - “Cabinet that looks like America,” but senior WH advisors play key role in policy positions (John Podesta, Huma Abedin, Cheryl Mills)

First 100 Days (and on) Policy Priorities

- Infrastructure – on a large scale with opportunities for a broad variety of industries
- Tax Reform – largely intertwined with infrastructure
- Immigration Reform – priority for Clinton and Schumer and may align with Republican agenda
- Healthcare – focus on Obamacare fix and drug pricing reform
- **All concerns and interests are ultimately framed around economic growth and recovery, a driver that crosses party lines**

First 100 Days: Clinton Infrastructure Plan Highlights

- Part I: \$250 billion allocated to direct federal investment
- Part II: Creation of National Infrastructure Bank: federal assistance (\$25 billion seed funding) aimed at bolstering private investment
- Proposal covers 5-year period and indicates funding to be paid through business tax reform
- Investments spread over following policy priorities:
 - green energy infrastructure
 - reducing congestion for travelers and freight
 - expanding public transportation options
 - updating aviation technology
 - expanding broadband access
 - safe and reliable water sources
 - connecting rural America



First 100 Days: Clinton Infrastructure Plan Considerations

- **Tied to tax reform**
- Will need to overcome past resistance and issues associated with previous Infrastructure Bank proposals:
 - Will require close look at Highway Trust Fund and associated taxes
 - Equitable distribution of funds to states (e.g., “donor” v. “donee”)
 - Channeling funds to home states is priority for elected officials
- Congressional cooperation and support from Speaker Ryan is key to success
 - Path to compromise not easy
 - Will Speaker Ryan want to spend precious political capital on this bipartisan effort?
 - Is he willing to disregard the resistance and protests from the far right of his party?
 - He is not interested in allocating more federal funding after last year’s multi-year transportation bill but this trade-off may be path for achieving his longstanding tax policy goals



First 100 Days: Clinton Tax Reform Highlights

- Individual Tax Reform
 - “Buffett Rule:” establish a 30 percent minimum tax on taxpayers with adjusted gross income (AGI) above \$1 million.
 - Establishes four percent “surcharge” on high-income taxpayers, those with AGI above \$5 million
 - Expansion of the Child Tax Credit: additional \$1,000 for children under 5 years old
 - A 20 percent credit for caregiver expenses, and up to \$5,000 in tax relief for excessive healthcare costs
- Business Tax Reform (firm plan has not been offered)
 - Institutes “financial risk” fee on large banks.
 - Various small business reforms, including quadrupling startup deduction to \$20,000; creating a small biz “standard deduction;” and expanding ACA credit
 - Eliminates fossil fuel tax expenditures.
 - Creates business tax credits for profit-sharing and apprenticeships
 - TBD business tax reform to fund new infrastructure spending
- Other Proposed Changes
 - Reduces the estate tax exemption and enacts progressive rates on estates
 - Taxes unrealized gains at death for high-income taxpayers
 - High-frequency trading tax



First 100 Days: Tax Reform Considerations

- Corporate tax reform has 18-month window at most before mid-term election season blocks potential action
- Key Ryan priorities:
 - Establishing a territorial corporate tax system
 - Lowering the top-line corporate tax rate,
 - Addressing the tax differential for pass-through entities (albeit likely with some form of revenue cap)
- Bipartisan outlook looks positive:
 - Sen. Schumer suggested he would work with Speaker Ryan on international tax reform
 - But Senate Maj. Leader McConnell (R-KY) has ruled that out, preferring one comprehensive package
 - Any tax reform will have to be revenue neutral to win support of Republicans
 - Regardless of Senate race outcome, Sens. Wyden and Hatch both articulated tax reform as priority and desire to work with their respective ranking member to move that forward
 - Distinct partisan policy differences on corporate tax reform are not irreconcilable and require the leadership from both parties to make concessions in order to reach an agreement
 - Bipartisan momentum already exists on issues such as ending the preferential treatment for carried interest and could form the foundation for lawmaker dialogue
- It is unlikely that business and individual tax reform will be passed as one sweeping package
 - More modest reforms, accompanying an infrastructure deal, are most feasible and probable



First 100 Days: Clinton Immigration Reform Highlights and Considerations

- Proposed plan highlights:
 - End the 3 and 10 year bars (prohibit green card applicants from returning to the US within 3 or 10 years if they were here illegally)
 - Defend Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) executive actions
 - End family detention and private immigration detention centers
 - Expand ACA health care access to families regardless of immigration status
 - Expand fee waivers for naturalization costs
 - Create Office of Immigrant Affairs
- Considerations for passage:
 - Immigration reform will remain highly politicized
 - Any initial attempt to engage Republicans will require Clinton to offer a comprehensive plan that demonstrates an upfront willingness to compromise



First 100 Days: Healthcare Highlights and Considerations

- HELP, Finance, and Judiciary Committees, along with the House Ways and Means, Energy and Commerce, and Judiciary Committees will steer the congressional healthcare agenda and work for (and against) a Clinton administration's policy agenda
- Near-term priorities: Obamacare/ensuring viability of exchanges, Senate version of Cures, and mental health reform
- Drug Pricing, a bipartisan concern, will be #1 priority with Mylan as just the tipping point
 - Mandatory reauthorizations of several drug user fee laws on horizon
 - Generic drug reform = floor for Democrats, ceiling for most Republicans
 - Branded drugs are biggest battle
 - California (Prop 61) and other states lead the way with price transparency
 - Room to compromise on policies that increase price transparency and competition. Co-sponsored bills include:
 - 1) Crack down on "pay-for-delay" patent settlement deals between brand & generics
 - 2) Stop brand drug makers from using FDA safety programs that prevent generic companies from accessing drug samples.



What does it all mean?

After this election, Washington, DC will be open for business!

If you have any questions about anything you heard today or would like to learn more about how political and policy developments may affect you and your business, please contact us.

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APPENDIX

Select Senate Committee Outlook

Republicans in Leadership

Democrats in Leadership

Select House Committee Outlook

Republicans in Leadership



Select Committees Outlook – Democratic-Led Senate

- **Appropriations:** Sen. Murray (WA) likely becomes Chairwoman
 - Sen. Shelby (AL) becomes Ranking Member
- **Health, Education, Labor and Pensions:** Sen. Sanders (VT) becomes Chairman
 - Sen. Alexander (TN) becomes Ranking Member
- **Commerce:** Sen. Nelson (FL) becomes Chairman
 - Sen. Thune (SD) becomes Ranking Member
- **Budget:** Sen. Whitehouse (RI) becomes Chairman
 - Sen. Enzi (WY) becomes Ranking Member. Sen. Jeff Sessions (AL) has seniority over Sen. Enzi but is not likely to get leadership support for Ranking Member based on positions taken during presidential race



Select Committees Outlook – Democratic-Led Senate

- **Environment and Public Works:** Sen. Carper (DE) becomes Chairman
 - Sen. Moore Capito (WV) takes over as Ranking Member and Sen. Barrasso is likely to choose Energy and Natural Resources based on ENR’s jurisdictional purview of issues important to his state
- **Finance:** Sen. Wyden (OR) becomes Chairman
 - Sen. Hatch (UT) remains Ranking Member
- **Armed Services:** Sen. Reed (RI) becomes Chairman
 - Sen. Inhofe (OK) becomes Ranking Member



Select Committees Outlook – Republican-Led Senate

- **Appropriations:** Sen. Shelby (AL) to become Chairman based on his seniority and term-limit as Chairman of Banking
 - Sen. Murray (WA) becomes Ranking Member with Sen. Mikulski retiring and Sen. Leahy likely to take over Chair of Judiciary based on his personal interests
- **Health, Education, Labor and Pensions:** Sen. Alexander (TN) remains Chairman
 - Sen. Sanders (VT) becomes Ranking Member
- **Commerce:** Sen. Thune (SD) remains Chairman
 - Sen. Nelson (FL) remains Ranking Member



Select Committees Outlook – Republican-Led Senate

- **Budget:** Sen. Enzi (WY) remains Chairman
 - Sen. Whitehouse (RI) is likely Ranking Member given Sen. Sanders (VT) public statements that he would like to focus on issues under the HELP Committee
- **Environment and Public Works:** Sen. Moore Capito (WV) becomes Chairwoman given that Sen. Inhofe (OK) term-limited as Chairman and Sen. Barrasso (WY) likely to choose ENR
 - Sen. Carper (DE) becomes Ranking Member
- **Finance:** Sen. Hatch (UT) remains Chairman
 - Sen. Wyden (OR) remains Ranking Member
- **Armed Services:** Sen. McCain (AZ) remains Chairman
 - Sen. Reed (RI) remains Ranking Member



Select Committees Outlook – Republican-Led House

- **Appropriations:** Rep. Frelinghuysen (NJ) is leading to replace term-limited Rep. Rogers (KY) as Chairman
 - Rep. Lowey (NY) remains Ranking Member
- **Energy and Commerce:** Rep. Walden (OR) is leading to replace term-limited Rep. Upton (MI) as Chairman with Rep. Shimkus (IL) as the closest challenger
 - Rep. Pallone, Jr. (NJ) remains Ranking Member
- **Ways and Means:** Rep. Brady (TX) remains Chairman (term ends 2020/2022, depending on how his partial term is counted)
 - Rep. Levin (MI) remains Ranking Member



Select Committees Outlook – Republican-Led House

- **Transportation and Infrastructure:** Rep. Shuster (PA) remains Chairman (term ends 2018)
 - Rep. DeFazio (OR) remains Ranking Member
- **Armed Services:** Rep. Thornberry (TX) remains Chairman (term ends 2020)
 - Rep. Smith (WA) remains Ranking Member
- **Financial Services:** Rep. Hensarling (TX) remains Chairman (term ends 2018)
 - Rep. Waters (CA) remains Ranking Member

