

## Election Recap



# Health Policy Briefing

November 14, 2016

Donald J. Trump was elected the nation's 45th president in a surprising upset over his opponent Hillary Clinton last week. While polls showed Clinton's lead over Trump narrowing in the days leading up to the election, there was a near-universally accepted narrative that Democrats would retain control of the White House. Instead, Trump defied expectations in winning the key battleground states of Florida, North Carolina, Ohio and Pennsylvania, earning him 290 electoral college votes to Clinton's 228. The GOP earned unexpected wins in the Senate as well. Senate Democrats came into the election defending only 10 seats, while Republicans were defending 24. Many thought that the four-seat Republican Senate majority would fall, but by the close of the election, Democrats only picked up two seats – creating a 51-seat majority for Senate Republicans in the 115th Congress. As widely predicted, Republicans easily held their majority in the House of Representatives as well. Orientation for new Members of the 115th Congress is scheduled for this week. The lame-duck session of Congress will begin today, with the House Republican caucus holding elections for leadership positions on November 15. Committee chairmen will be selected by party leaders closer to the end of November, and into the beginning of December. Congress will spend the lame-duck session of Congress negotiating a budget agreement to keep the government operational beyond the December 9 deadline set by the previous budget deal. Lawmakers are also expected to take up a revised version of the 21st Century Cures Act. The 114th Congress is scheduled to conclude on Friday, December 16, depending on the efficiency at which party leaders can agree on the above agenda items. With the electoral results for the 115th Congress, previous lame-duck priorities that seemed plausible before Election Day have suddenly become less necessary, as Republicans will be in a better position with a Republican in the White House come January 20.

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## ***2016 Ballot Initiatives***

**B**allot initiatives are state and local based decisions that are passed on from the legislative process for the electorate to decide directly. In 2016, 162 statewide ballot initiatives were certified in 35 different states, many dealing with health care. In Colorado, voters defeated a ballot measure that would have funded a statewide single-payer health care system by raising income taxes by 10 percent. Eighty percent of voters voted against the initiative. California's effort to limit drug prices also failed. It is estimated that more than 53 percent of voters were against the measure that would have tied what the state pays for prescription drugs to what the Department of Veterans Affairs pays. Voters in California, Nevada, and Massachusetts approved marijuana legalization, while medical marijuana measures were approved in Arkansas, Florida, North Dakota, and Montana. Hart Health Strategies Inc. has attached a post-election analysis with a comprehensive list of state health ballot initiatives.

### ***ACA Repeal or Reform Tops Trump Administration Agenda***

**P**resident-Elect Donald Trump named health care as one of his top three priorities last week, while his transition team outlined additional information related to the incoming administration's health care policy plans. Trump has picked Paula Stannard as his point person on health reform. Stannard is a lawyer at Alston & Bird and has worked as deputy general counsel and acting general counsel at the U.S. Department of Health and Human Services (HHS). Trump plans to replace the Affordable Care Act (ACA) with a plan that includes high-risk pools for people with expensive medical conditions, Health Savings Accounts (HSAs), and return of the regulation of health insurance to the states. The administration will also allow the sale of health insurance across state lines. Come January, a top priority for both President Trump and congressional Republicans will be confronting the ACA. While Trump campaigned on a promise to repeal and replace the ACA, in an interview with the Wall Street Journal last week he expressed willingness to review whether to keep parts of the 2010 health care reform law intact. Specifically, he suggested that he was open to keeping provisions that prevent insurers from refusing to cover preexisting conditions, and which allow children to stay on their parents' insurance plans until age 26. Congressional Republicans are split on whether the law should be quickly repealed, with or without a replacement plan, or whether it should be gradually phased out over time. While a formal plan is yet to be determined, it is likely that lawmakers will use the fast-track budget tool known as reconciliation, which would allow a health reform bill to pass the Senate with a simple majority rather than the 60-vote threshold normally required to overcome a filibuster. HealthCare.gov experienced its strongest day of signups in this year's open enrollment period last week, with more than 100,000 people choosing plans the day after Donald Trump's presidential election win.

### ***White House Drops Push for TPP***

**T**he Obama Administration will stop pursuing passage of the Trans-Pacific Partnership (TPP) trade deal, following the election of Donald Trump and announcements by congressional leadership that the deal will not be considered during the lame-duck session. While both presidential candidates campaigned in opposition to the agreement, some administrators and Republican elected officials had remained optimistic that a deal could be reached before President Obama left office. Senate Majority Leader Mitch McConnell (R-Ky.), however, announced that he plans on working with the president-elect on a trade agreement in the future. The TPP deal would have included patent protections for biologics.

## ***115th Congress Committee Changes and Priorities***

Congressional committees are already beginning to prepare for the next session of congress amidst changes to chairs and ranking members that will occur due to retirements and party term limits on chairmanships. In the Senate, the Health, Education, Labor and Pensions (HELP) Committee may see a change in its ranking member if Patty Murray (D-Wash.) decides to run for a leadership position. This decision would require giving up her position as ranking member. The HELP Committee will focus on the reauthorization of the user fee agreements between the Food and Drug Administration (FDA) and the pharmaceutical and device manufacturer industries. Current authority expires September 30, 2017. Chairman Lamar Alexander (R-Tenn.) has also pointed to the development of medical countermeasures for public health emergencies, the regulation of laboratory developed tests (LDTs), and improving the use of health information technology as priorities for the coming year. Mental health and substance abuse are expected to remain a focus of the committee as well. In the House, the Energy and Commerce Committee will see a new chairman during the 115th Congress. Rep. Fred Upton (R-Mich.) is party term limited, and committee members John Shimkus (R-Ill.), Greg Walden (R-Ore.), and Joe Barton (R-Texas) are interested in assuming the chairmanship. House Ways and Means Committee Chairman Kevin Brady (R-Texas) has already said that he intends to move legislation that will overhaul the U.S. tax code during President Trump's first 100 days in office. The plan will cut tax rates for both individuals and companies. This priority has also been echoed by Senate Majority Leader Mitch McConnell (R-Ky.). In addition to tax reform, Ways and Means will be involved in any efforts to repeal or revise the Affordable Care Act (ACA). The Committee will also continue its work on reforming Medicare hospital payment policies. The Senate Finance Committee also plans on prioritizing a revamp of the tax code for the beginning of the 115th Congress. The House Oversight and Government Reform Committee is expected to use the 115th Congress to explore the high cost of prescription drugs. Members are also interested in focusing on reducing improper payments and addressing premium increases and the failure of the CO-OPs under the ACA.

## ***HHS Expects to Clear Appeals Backlog by 2019***

The Medicare administrative appeals backlog could be reduced to zero by 2019, according to a filing by the U.S. Department of Health and Human Services (HHS) in federal district court last week. The American Hospital Association (AHA) has brought a case against the Department to require HHS to curb the multi-year appeals backlog they blame on the Recovery Audit Contractor (RAC) program. HHS asked the court not to intervene in the appeals process. HHS believes that a settlement program offering hospitals two-thirds of the contested reimbursement in exchange for dropping their appeal, along with other administrative and legislative policies, will adequately address the backlog by 2019.

## ***Trump Administration Staff Announcements***

President-Elect Donald Trump has named Republican National Committee (RNC) Chairman Reince Priebus as chief of staff and his campaign CEO Stephen Bannon as chief strategist and senior counselor. Priebus previously worked as chairman of the Republican Party of Wisconsin. He has a long history in Republican politics as a grassroots volunteer. He worked his way up through the ranks of the Republican Party of Wisconsin as 1st Congressional District Chairman, State Party Treasurer, First Vice Chair, and eventually State Party Chairman. In 2009, he served as General Counsel to the RNC, a role in which he volunteered his time. Bannon is the Executive Chairman of Breitbart News Network, LLC and the Chief Executive Officer of American Vantage Media Corporation and Affinity Media. Mr. Bannon is also a Partner of Societe Generale, a talent management company in the entertainment business. He has served as the Chief Executive Officer and President of Genius Products, Inc. since February 2005.

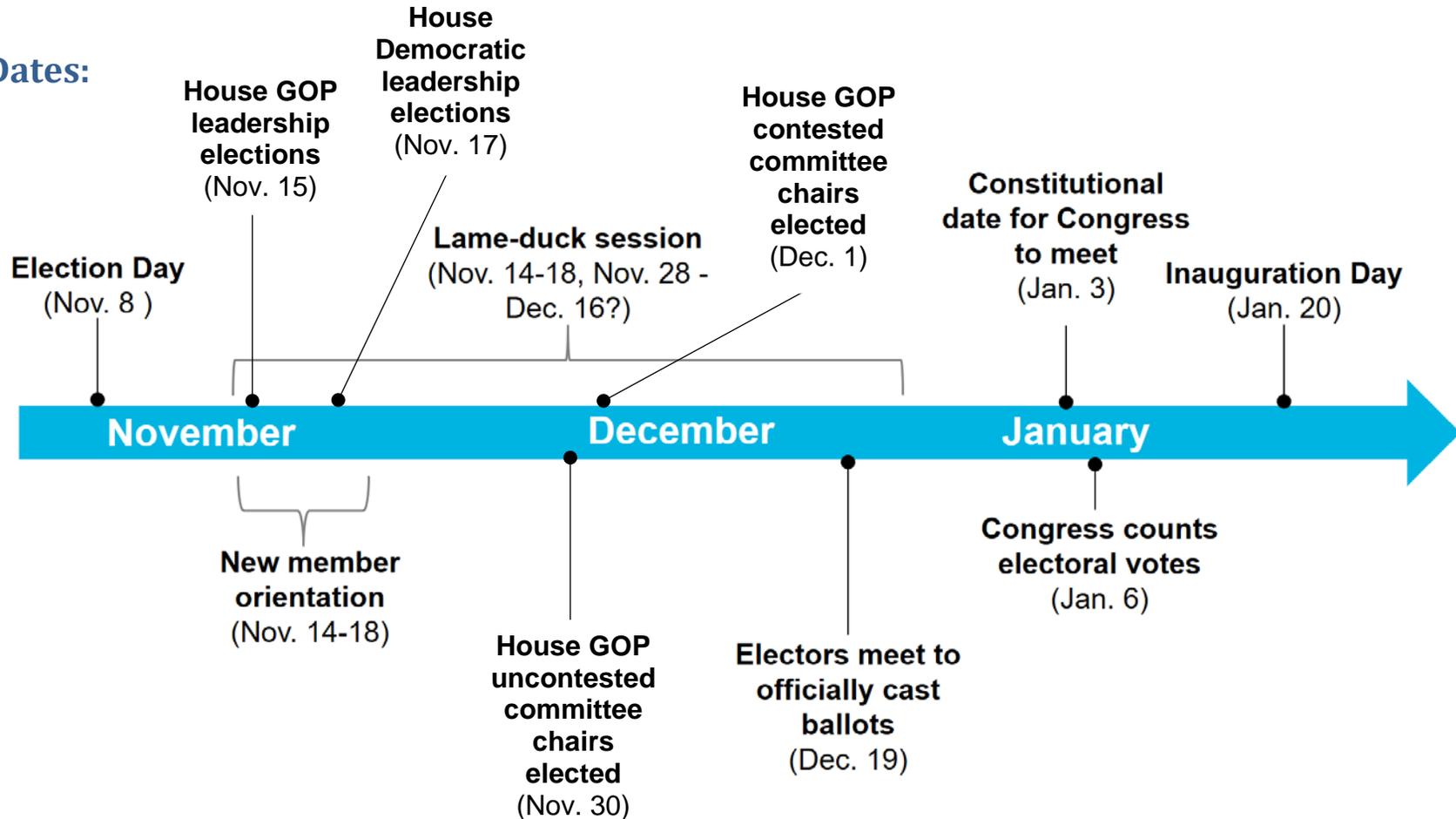
## ***Upcoming Congressional Meetings and Hearings***

***House Energy and Commerce Subcommittee on Commerce, Manufacturing and Trade hearing titled "Understanding the Role of Connected Devices in Recent Cyber Attacks;" 10:00 a.m., 2322 Rayburn Bldg.; November 16***

***Senate Judiciary Committee hearing to explore potential Mylan-Justice Department Settlement Over EpiPens; 10:00 a.m., November 30***

## 2016 POST ELECTION ANALYSIS

### Key Dates:



Source: Bloomberg Government

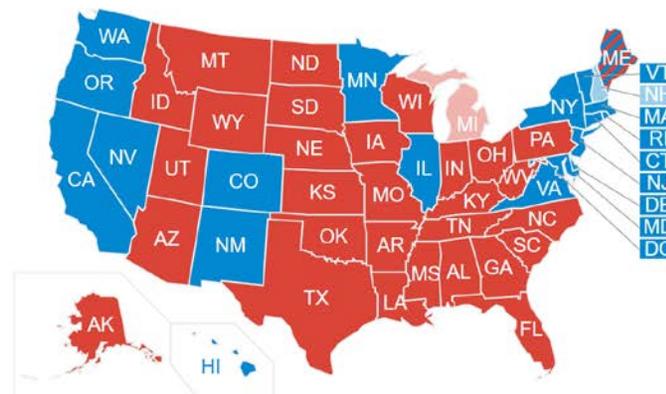
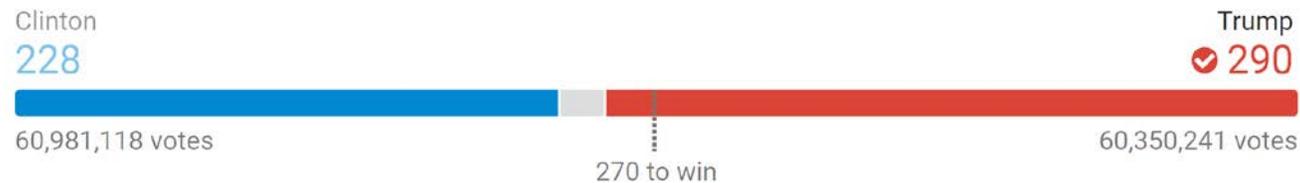
# POST ELECTION ANALYSIS

## Presidential Election:

On Wednesday, November 9 at approximately 2:30 a.m. EST, the Associated Press confirmed that the 45<sup>th</sup> President of the United States will be real estate mogul Donald J. Trump. As of 6:00 p.m. EST on November 13, Trump had secured 290 Electoral College votes, 20 above the minimum 270 needed to win the White House.

- **Winning the General Election:** The United States Electoral College chooses the President and Vice President every four years. Citizens voting in the election do not directly elect the President but rather choose electors that almost always pledge to vote for the candidate that is chosen by each state's voters. There are 538 electors in the Electoral College, equal to the membership of the United States House of Representatives and United States Senate plus three additional electors from the District of Columbia. The only states that do not choose electors on a winner-take-all basis are Maine and Nebraska, which are chosen by district. The candidate who receives an absolute majority of Electoral College votes, currently 270, is elected to office.

## Presidential Election Results



Source: Google

## U.S. Senate

### Number of U.S. Senate Seats up in 2016: 34

Seats up held by Democrats: 10

Seats up held by Republicans: 24

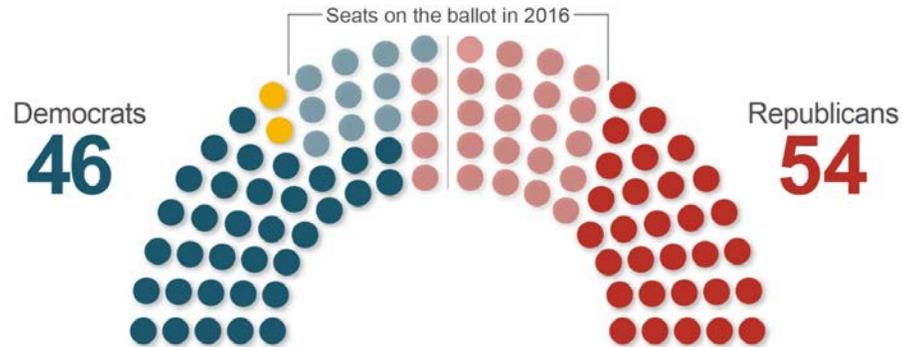
### Current Balance of Power in the U.S. Senate, 114<sup>th</sup> Congress:

54 Republicans

44 Democrats

2 Independents (both caucus with the Democrats and includes former Democratic presidential candidate Bernie Sanders)

## Senate Balance of Power: 114th Congress



Note: Independents, shown in yellow, caucus with the Democrats and are included in the Democratic tally.

Source: Bloomberg Government | Graphic: Catherine Traywick

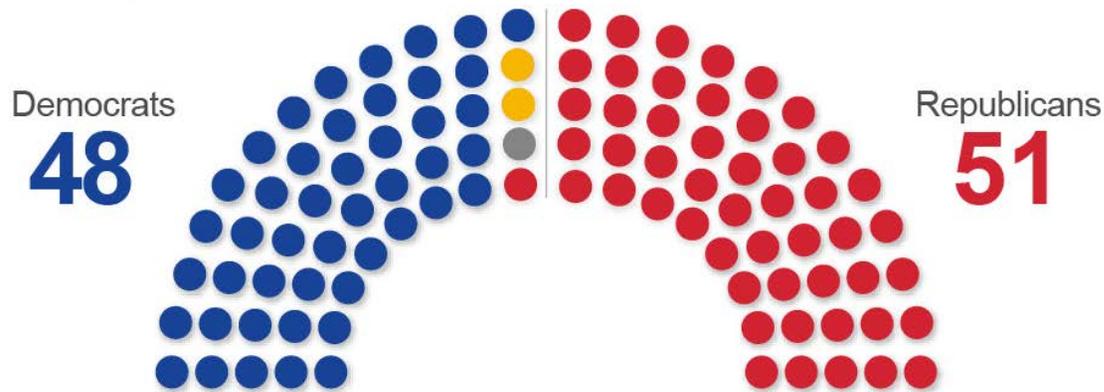
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## 2016 Senate Results

At the result of the 2016 General Election, the Republican party retained control of the Senate. In Louisiana, where a 50% majority is needed to win the open Senate seat, no candidate received the necessary majority. The two candidates receiving the most votes (Republican John Kennedy and Democrat Foster Campbell) move on to a head-to-head runoff on December 10. Outside of the one undecided Senate seat, Republicans control the chamber (51-48). Below is a list of Senate seats that were either open, switched party control, or were rated as “toss up” or “lean” seats.

State	Incumbent Senator/Open Seat	Outcome
AZ	John McCain (R-AZ)	John McCain (R)
CA	Barbara Boxer (D-CA); retired	Kamala Harris (D)
FL	Marco Rubio (R-FL)	Marco Rubio (R)
IN	Dan Coats (R-IN); retired	Todd Young (R)
IL	Mark Kirk (R-IL)	Tammy Duckworth (D) – Democrats pick up seat
MD	Barbara Mikulski (D-MD)	Chris Van Hollen (D)
MO	Roy Blunt (R-MO)	Roy Blunt (R)
NC	Richard Burr (R-NC)	Richard Burr (R)
NH	Kelly Ayotte (R-NH)	Maggie Hassan (D) – Democrats pick up seat
NV	Harry Reid (D-NV); retired	Catherine Cortez Masto (D)
OH	Rob Portman (R-OH)	Rob Portman (R)
PA	Pat Toomey (R-PA)	Pat Toomey (R)
WI	Ron Johnson (R-WI)	Ron Johnson (R)

## 115th Congress



Notes: Louisiana, shown in gray, will hold a runoff Dec. 10 between a Republican and a Democrat.  
Independents, shown in yellow, caucus with the Democrats and are included in the Democratic tally.  
Source: Bloomberg Government data

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## Senate Committees

Changes to Committee Chairs and Ranking Members will occur in the 115<sup>th</sup> Congress due to retirements and party term limits on chairmanships. These decisions are made during the Lame Duck session of Congress by party leaders. Below is a list of Senate committees expected to see changes in leadership. Please note that seniority plays a role, and as positions are assumed, shuffling is likely to occur. For example, if a senator becomes chair or ranking of a committee, it alters the opportunities in other committees that individual sits on.

**Senators' situations resulting in likely shuffling are indicated in bold**

\*Predictions according to Bloomberg Government

Committee	Chair	Ranking Democrat	Potential Chair Change*	Potential Ranking Member Change*
Appropriations	Thad Cochran (R-MS)	<b>Barbara Mikulski (D-MD);</b> <i>retiring</i>		Dick Durbin (D-IL) or Jack Reed (D-RI) or Jon Tester (D-MT)
Banking, Housing & Urban Affairs	<b>Richard Shelby (R-AL);</b> <i>Party term-limits chairman</i>	Sherrod Brown (D-OH)	Mike Crapo (R-ID)	
Budget	Mike Enzi (R-WY)	Bernie Sanders (I-VT)		Bernie Sanders (I-VT) or Sheldon Whitehouse (D-RI)
Environment & Public Works	<b>Jim Inhofe (R-OK);</b> <i>Party term-limits chairman</i>	<b>Barbara Boxer (D-CA);</b> <i>retiring</i>	John Barasso (R-WY)	Tom Carper (D-DE)
Ethics	Johnny Isakson (R-GA)	<b>Barbara Boxer (D-CA);</b> <i>retiring</i>		<b>Chris Coons (D-DE)</b>
Foreign Relations	Bob Corker (R-TN)	Ben Cardin (D-MD)		
Health, Education, Labor & Pensions	Lamar Alexander (R-TN)	<b>Patty Murray (D-WA);</b> <i>may run for leadership position which would require giving up committee leadership</i>		Patty Murray (D-WA) or Bernie Sanders (I-VT)
Indian Affairs	John Barrasso (R-WY)	Jon Tester (D-MT)		Jon Tester (D-MT) or Tom Udall (D-NM) or Al Franken (D-MN)
Rules & Administration	Roy Blunt (R-MO)	<b>Charles Schumer (D-NY);</b> <i>likely minority leader</i>		Dick Durbin (D-IL) or Tom Udall (D-NM)
Small Business & Entrepreneurship	David Vitter (R-LA); <i>retiring</i>	Jeanne Shaheen (D-NH)	Jim Risch (R-ID)	

## Senate Leadership

With Republican control being held in the U.S. Senate on election night, Republican Senate leadership will likely remain unchanged. For Democrats, former Senate Minority Leader Harry Reid (D-NV) is retiring at the end of the year, and will be replaced in the Minority Leader position by Sen. Chuck Schumer (D-NY). There may be a shake up in the Democratic Minority Whip position, where current Whip Dick Durbin (D-IL) sees a potential challenge from the current Ranking Member of the Health, Education, Labor, and Pensions (HELP) Committee Patty Murray (D-WA).

\*Predictions according to Bloomberg Government

Republican Leadership Position	Current Position Holder	Potential Changes*
Majority Leader	Mitch McConnell (R-KY)	No change expected
Majority Whip	John Cornyn (R-TX)	No change expected

\*Predictions according to Bloomberg Government

Democratic Leadership Position	Current Position Holder	Potential Changes*
Minority Leader	Harry Reid (D-NV); retiring	Chuck Schumer (D-NY)
Minority Whip	Dick Durbin (D-IL)	Dick Durbin (D-IL) or Patty Murray (WA)

## U.S. House of Representatives

### Number of U.S. House Seats up in 2016: All 435

Seats up held by Democrats: 186

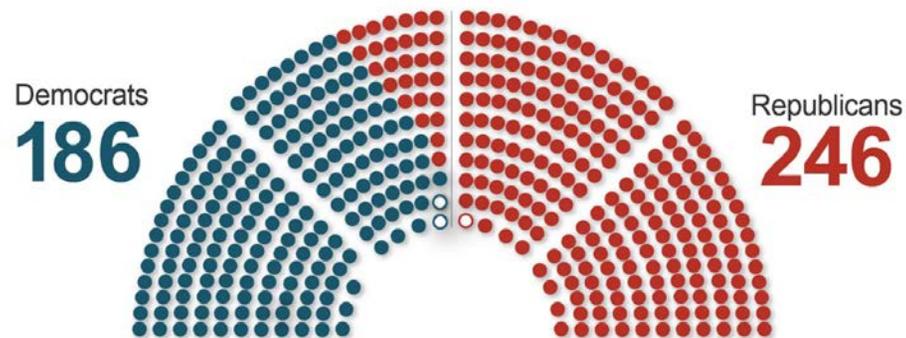
Seats up held by Republicans: 246

### Balance of Power:

The current balance of power in the U.S. House of Representatives for the 114<sup>th</sup> Congress is 246 Republicans to 186 Democrats. With 435 total members, it takes 218 to gain control of the chamber. With a differential of 60 seats, Democrats needed to pick up 30 seats to regain the Majority in 2016, which they were unable to do.

- Every seat in the U.S. Congress is up for re-election each cycle (two years). Of the 435 seats, 379 (87%) were considered “safe” this time around.
- According to political analyst Charlie Cook, as of Monday, November 7, 201 Republican seats and 178 Democratic seats were considered safe. That left 56 seats that he believed were truly competitive. Of those 56 competitive races, 25 Republican seats were regarded by Cook to be either “likely” or “lean” Republican, but only 2 of those likely or leaning Republican seats are held by a Democrat. Of those 56 races, 11 were viewed to be “likely” or “lean” Democratic, with 5 of those occupied by Republicans. Together, the likely/lean category reflected a possible pick-up of 3 seats, net, (5-2) for Democrats.
- According to Cook, of those 56 competitive races, 19 were viewed as a toss-up, where either party was just as likely to win. Of those 19 seats, 16 were held by Republicans and 3 by Democrats.

## House Balance of Power: 114th Congress



Note: Tally excludes delegates and the resident commissioner.  
There are three vacancies following the Sept. 6 resignation of Ed Whitfield (R-Ky.), the July 20 death of Mark Takai (D-Hawaii), and the June 23 resignation of Chaka Fattah (D-Pa.) .  
Source: Bloomberg Government | Graphic: Catherine Traywick

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## 2016 Outcome/Status of Competitive House Races – 56 of 435 Seats

The Republican party maintained control of the House of Representatives. As of Sunday, November 13, Democrats netted a gain of 6 seats in the chamber. There are still 4 undecided House races: 2 in Louisiana, and 2 in California. Below is a chart showing the outcome or status of House seats that were either competitive, open, unexpectedly switched party control, or were rated as “toss up” or “lean” seats. The two competitive races listed below that remain undecided are from California. The first is in the CA-07 race, where as of November 13 Democratic incumbent physician Ami Bera is ahead of Republican Scott Jones by approximately 2,500 votes. In the undecided CA-49 race, 8-term incumbent Darrel Issa leads Democrat Doug Applegate by approximately 2,200 votes.

**Bold** indicates a change in party for the seat

Seat	Incumbent	Outcome	Seat	Incumbent	Outcome	Seat	Incumbent	Outcome
AK-AL	Young (R)	Young (R)	IA-03	Young (R)	Young (R)	<b>NV-04</b>	<b>Hardy (R)</b>	<b>Kihuen (D)</b>
AZ-01	OPEN (D)	O’Halloran (D)	IL-10	Dold (R)	<b>Schneider (D)</b>	NY-01	Zeldin (R)	Zeldin (R)
AZ-02	McSally (R)	McSally (R)	IL-12	Bost (R)	Bost (R)	NY-03	OPEN (D)	Suoizzi (D)
CA-07	Bera (D)	<i>Not called yet</i>	IN-02	Walorski (R)	Walorski (R)	NY-19	OPEN (R)	Faso (R)
CA-10	Denham (R)	Denham (R)	IN-09	OPEN (R)	Hollingsworth (R)	NY-21	Stefanik (R)	Stefanik (R)
CA-21	Valadao (R)	Valadao (R)	KS-03	Yoder (R)	Yoder (R)	NY-22	OPEN (R)	Tenney (R)
CA-24	OPEN (D)	Carbajal (D)	MD-06	Delaney (D)	Delaney (D)	NY-23	Reed (R)	Reed (R)
CA-25	Knight (R)	Knight (R)	ME-02	Poliquin (R)	Poliquin (R)	NY-24	Katko (R)	Katko (R)
CA-49	Issa (R)	<i>Not called yet</i>	MI-01	OPEN (R)	Bergman (R)	NY-25	Slaughter (D)	Slaughter (D)
CO-03	Tipton (R)	Tipton (R)	MI-07	Walberg (R)	Walberg (R)	PA-06	Costello (R)	Costello (R)
CO-06	Coffman (R)	Coffman (R)	MI-08	Bishop (R)	Bishop (R)	PA-08	OPEN (R)	Fitzpatrick (R)
<b>FL-02</b>	<b>OPEN (D)</b>	<b>Dunn (R)</b>	MN-02	OPEN (R)	Lewis (R)	PA-16	OPEN (R)	Smucker (R)
<b>FL-07</b>	<b>Mica (R)</b>	<b>Murphy (D)</b>	MN-03	Paulsen (R)	Paulsen (R)	TX-23	Hurd (R)	Hurd (R)
<b>FL-10</b>	<b>OPEN (R)</b>	<b>Demings (D)</b>	MN-08	Nolan (D)	Nolan (D)	UT-04	Love (R)	Love (R)
<b>FL-13</b>	<b>Jolly (R)</b>	<b>Crist (D)</b>	MT-AL	Zinke (R)	Zinke (R)	<b>VA-04</b>	<b>OPEN (R)</b>	<b>McEachin (D)</b>
<b>FL-18</b>	<b>OPEN (D)</b>	<b>Mast (R)</b>	<b>NE-02</b>	<b>Ashford (D)</b>	<b>Bacon (R)</b>	VA-05	OPEN (R)	Garrett (R)
FL-26	Curbelo (R)	Curbelo (R)	<b>NH-01</b>	<b>Guinta (R)</b>	<b>Shea-Porter (D)</b>	VA-10	Comstock (R)	Comstock (R)
FL-27	Ros-Lehtinen (R)	Ros-Lehtinen (R)	<b>NJ-05</b>	<b>Garrett (R)</b>	<b>Gottheimer (D)</b>	WI-08	OPEN (R)	Gallagher (R)
IA-01	Blum (R)	Blum (R)	<b>NV-03</b>	<b>OPEN (R)</b>	<b>Rosen (D)</b>			

Democrats  
192

Republicans  
✓ 239



218 to win majority



■ Won ■ Leads ■ Runoff

Source: Google

## House Committees

Democrats made slight gains in the House of Representatives, picking up a net gain of 6 seats as of November 13, reducing the Republican majority from 246 to 239 seats. The Republicans, keeping control of the House, will see new chairs heading various committees due to the party's self-imposed 6-year term limit for chairmen that the conference instituted in 1994. The following committees will see a new chair or ranking member in the 115<sup>th</sup> Congress, with decisions being made by GOP/Democrat leaders in late November and early December.

\*Predictions according to Bloomberg Government

Committee	Current Republican Chair	Republican Candidate(s) for Chair
Energy and Commerce	Fred Upton (R-MI-06); <i>party term limited</i>	John Shimkus (R-IL-15), Greg Walden (R-OR-02), Joe Barton (R-TX-06)
Education and Workforce	John Kline (R-MN-02); <i>retiring</i>	Virginia Foxx (R-NC-05)
Appropriations	Harold Rogers (R-KY-05); <i>party term limited</i>	Rodney Frelinghuysen (R-NJ-11), Robert Aderholt (R-AL-04; undeclared)
Veterans' Affairs	Jeff Miller (R-FL-01); <i>retiring</i>	Phil Roe (R-TN-01), Doug Lamborn (R-CO-05), Gus Bilirakis (R-FL-12; undeclared), Mike Coffman (R-CO-06)
Administration	Candice Miller (R-MI-10); <i>retiring</i>	Gregg Harper (R-MS-03), Rodney Davis (R-IL-13; undeclared)
Rules*	Rep. Pete Sessions (R-TX-32)	*Position is appointed by the Speaker of the House. Pete Sessions, who has served since 2012, could be reappointed as Chairman.

\*Predictions according to Bloomberg Government

Committee	Current Democratic Ranking Member	Candidate(s) for Ranking Member
Veterans' Affairs	Corrine Brown (D-FL-05); <i>stepped out of role</i>	Mark Takano (D-CA-41; Acting Ranking Member), Tim Walz (D-MN-01)
Budget*	Chris Van Hollen (D-MD-08); <i>won the open MD Senate seat</i>	*Ranking Member of the Budget Committee is considered a Democratic Leadership Position, and is nominated by the Democratic leader. John Yarmuth (D-KY-03) has expressed interest in the position, and Xavier Becerra (D-CA-34) could potentially run.

## House Leadership

Republicans will replace at least one leadership position within their conference because a current leadership position holder is running for a committee chairmanship.

\*Predictions according to CQ Rollcall and Politico

Republican Leadership Position	Current Position Holder	Republican Candidate(s) for Position*
Speaker of the House	Paul Ryan (R-WI-01)	Paul Ryan has announced he will run again for the position of Speaker. There have been discussions about a challenger, but no one has officially announced their candidacy.
House Majority Leader	Kevin McCarthy (R-CA-23)	No change expected
House Majority Whip	Steve Scalise (R-LA-01)	No change expected
Republican Conference Chair	Cathy McMorris Rodgers (R-WA-05)	No change expected
Republican Conference Vice-Chair	Lynn Jenkins (R-KS-02)	Jenkins publicly stated she will not seek the position again. Bill Flores (R-TX-17) and Doug Collins (R-GA-09) have announced they will seek the position.
Republican Conference Secretary	Virginia Foxx (R-NC-05); <i>candidate for Chair of Education and Workforce Committee</i>	Jackie Walorski (R-IN-02); undeclared

\*Predictions according to CQ Rollcall

Democratic Leadership Position	Current Position Holder	Democratic Candidate(s) for Position*
Democratic Leader	Nancy Pelosi (D-CA-12)	No change expected
Minority Whip	Steny Hoyer (D-MD-05)	No change expected
Assistant Democratic Leader	James Clyburn (D-SC-06)	No change expected
Caucus Chair	Xavier Becerra (D-CA-34)	Joseph Crowley (D-NY-14)
Caucus Vice Chair	Joseph Crowley (D-NY-14)	Barbara Lee (D-CA-13), Linda Sanchez (D-CA-38)
Policy and Communications Committee Chair	Steve Israel (D-NY-03); <i>retiring</i>	None currently. Position is elected by the caucus upon a nomination by the House Democratic leader. Members can nominate someone if they submit a notice signed by five other members.

## House Caucuses

Caucuses, formally known as Congressional Member Organizations, only exist in the House. While some caucuses are bipartisan, specific partisan caucuses can have term limits for their chairmen, and some of those leaders will change in the 115<sup>th</sup> Congress.

\*Predictions according to Bloomberg Government

Republican Caucuses	Current Republican Chair	Republican Candidate(s) for Chair*
Study Committee	Bill Flores (R-TX-17)	Andy HARRIS (R-MD-01) or Mark Walker (R-NC-06)
Tuesday Group	Co-Chairs: Robert Dold (R-PA-10), Charles Dent (R-PA-15) and Adam Kinzinger (R-IL-16)	Possibly Dent and Kinzinger.
Freedom Caucus	Jim Jordan (R-OH-04)	If Jordan doesn't run again, Mark Meadows (R-NC-11) has signaled he will run.
Democratic Caucuses	Current Democratic Chair	Democratic Candidate(s) for Chair*
Progressive Caucus	Keith Ellison (D-MN-05) & Raul Grijalva (D-AZ-03)	Keith Ellison (D-MN-05). Grijalva hasn't yet indicated if he will run as co-chair.
Black Caucus	G.K. Butterfield (D-NC-01)	Caucus has not announced if Butterfield can/will run again.
Hispanic Caucus	Linda Sanchez (D-CA-38)	Michele Lujan Grisham (D-NM-01)
New Democrat Coalition	Ron Kind (D-WI-03)	Gerry Connolly (D-VA-11), Jim Himes (D-CT-04), Jared Polis (D-CO-02)
Blue Dog Coalition	Jim Cooper (D-TN-05), Jim Costa (D-CA-16), Kurt Schrader (D-OR-05)	Three co-chairs will be determined at a later time.

## New House Members for the Lame Duck Congress

While most the class of freshman lawmakers that were elected in 2016 will not begin their term until January 2017 when the 115<sup>th</sup> Congress is gavelled into session, three lawmakers from the election will begin immediately and take part in the Lame Duck session of the 114<sup>th</sup> Congress. Democrats Colleen Hanabusa (HI-01) and Dwight Evans (PA-02), along with Republican James Comer (R-KY), all won special elections to replace Members that either died or resigned from their seat in the 114<sup>th</sup> Congress. Each one of these Members also won their election to their seat in the 115<sup>th</sup> Congress.

## Gubernatorial Races

Gubernatorial races occurred in 12 states, with 5 incumbents on ballots across the country. Indiana Governor Mike Pence was barred by state law from seeking re-election after being tapped to run on the Republican ticket for Vice President. At the time of writing, the only undecided gubernatorial race is the state of North Carolina. As of November 10, Republican incumbent Pat McCrory was behind Democrat Roy Cooper by a few thousand votes.

**Bold** indicates a change in party

State	Incumbent	Democrat	Republican	Outcome
Delaware	Jack Markell (D); <i>term limited</i>	John Carney	Colin Bonini	John Carney (D)
Indiana	Mike Pence (R); <i>ran for GOP VP</i>	John R. Gregg	Eric Holcomb	Eric Holcomb (R)
Missouri	Jay Nixon (D); <i>term limited</i>	Chris Koster	Eric Greitens	<b>Eric Greitens (R)</b>
Montana	Steve Bullock (D)	Steve Bullock	Greg Gianforte	Steve Bullock (D)
New Hampshire	Maggie Hassan (D); <i>ran for Senate</i>	Colin Van Ostern	Chris Sununu	<b>Chris Sununu (R)</b>
North Carolina	Pat McCrory (R)	Roy Cooper	Pat McCrory	<i>Not yet decided</i>
North Dakota	Jack Dalrymple (R); <i>retiring</i>	Marvin Nelson	Doug Burgum	Doug Burgum (R)
Oregon	Kate Brown (D)	Kate Brown	Bud Pierce	Kate Brown (D)
Utah	Gary Herbert (R)	Mike Weinholtz	Gary Herbert	Gary Herbert (R)
Vermont	Pete Shumlin (D); <i>retiring</i>	Sue Minter	Phil Scott	<b>Phil Scott (R)</b>
Washington	Jay Inslee (D)	Jay Inslee	Bill Bryant	Jay Inslee (D)
West Virginia	Earl Ray Tomblin (D); <i>term limited</i>	Jim Justice	Bill Cole	Jim Justice (D)

## State Healthcare Ballot Initiatives

Ballot initiatives are state and local based decision that are passed on from the legislative process for the electorate to decide directly. In 2016, 162 statewide ballot initiatives were certified in 35 different states, many dealing with health care. Below is a list of state health care-related ballot initiatives and their outcomes from around the country that voters decided on in their respective states.

Ballot Measure	Topic	State	Outcome
<b>Issue 6-</b> legalize medical marijuana for 17 qualifying conditions, creates a Medical Marijuana Commission, & allocates revenue to technical institutes, vocational schools, workforce training, and the General Fund.	Medical marijuana	AR	Approved
<b>Proposition 52</b> - Requires voter approval to change the dedicated use of certain fees from hospitals used to draw matching federal money and fund Medi-Cal services.	Medicaid funding	CA	Approved
<b>Proposition 56-</b> Increases the cigarette tax by \$2.00 per pack, with equivalent increases on other tobacco products and electronic cigarettes.	Tobacco products tax	CA	Approved
<b>Proposition 60-</b> Requires use of condoms and other protective measures during the filming of pornographic films, as well as requiring pornography producers to pay for certain health requirements and checkups.	Disease prevention	CA	Rejected
<b>Proposition 61</b> - Regulates drug prices by requiring state agencies to pay no more than Veterans Affairs Dept.	Drug pricing	CA	Rejected
<b>Amendment 69</b> - Creates ColoradoCare, a healthcare payment system designed to finance universal healthcare for Colorado residents partly through an additional 10 percent payroll tax.	Universal health care	CO	Rejected
<b>Proposition 106-</b> Supports making assisted death legal among patients with a terminal illness who receive a prognosis of death within six months.	Physician Assisted Death (PAD)	CO	Approved
<b>Amendment 72-</b> Raise the tax on cigarettes by \$1.75 per pack of 20.	Cigarette tax	CO	Rejected
<b>Amendment 2-</b> Legalize medical marijuana for individuals with specific debilitating diseases or comparable debilitating conditions as determined by a licensed state physician.	Medical marijuana	FL	Approved
<b>Proposition A</b> - Increases taxes on cigarettes by 23 cents per pack by 2021 & adds 5% sales tax	Cigarette tax	MO	Rejected
<b>Constitutional Amendment 3-</b> Increases the taxes on cigarette packs from 17 cents to 77 cents by 2020 and impose an additional fee on tobacco wholesalers at an initial rate of 67 cents per pack.	Cigarette tax	MO	Rejected
<b>Initiative I-182-</b> Supports repealing the three-patient limit for medical marijuana providers.	Medical marijuana	MT	Approved
<b>Initiated Statutory Measure 4-</b> Increases tobacco tax and uses tax revenue to fund veteran & health services.	Cigarette tax	ND	Rejected
<b>Initiated Statutory Measure 5-</b> Legalizing the use of medical marijuana to treat defined debilitating medical conditions and developing procedures for regulating medical marijuana growing, dispensing, and usage.	Medical marijuana	ND	Approved
<b>Question 4</b> - Requires the Nevada Legislature to exempt from sales and use tax prescribed durable medical equipment, oxygen delivery equipment, and mobility enhancing equipment p.	DME tax exemption	NV	Approved
<b>Advisory Vote 14</b> - Supports House Bill 2768, which allows the state's health insurance exchange, known as Washington Healthplanfinder, to levy an assessment on stand-alone family dental plans.	Funding for state exchange	WA	Approved

## President-Elect Trump -- Transition Team

On Thursday, November 10, the transition team for President-Elect Donald Trump released the following information related to the incoming administration's healthcare priorities:

### Healthcare

It is clear to any objective observer that the Affordable Care Act (ACA), which has resulted in rapidly rising premiums and deductibles, narrow networks, and health insurance, has not been a success. A Trump Administration will work with Congress to repeal the ACA and replace it with a solution that includes Health Savings Accounts (HSAs), and returns the historic role in regulating health insurance to the States. The Administration's goal will be to create a patient-centered healthcare system that promotes choice, quality and affordability with health insurance and healthcare, and take any needed action to alleviate the burdens imposed on American families and businesses by the law.

To maximize choice and create a dynamic market for health insurance, the Administration will work with Congress to enable people to purchase insurance across state lines. The Administration also will work with both Congress and the States to re-establish high-risk pools – a proven approach to ensuring access to health insurance coverage for individuals who have significant medical expenses and who have not maintained continuous coverage.

The Administration recognizes that the problems with the U.S. health care system did not begin with – and will not end with the repeal of – the ACA. With the assistance of Congress and working with the States, as appropriate, the Administration will act to:

- Protect individual conscience in healthcare
- Protect innocent human life from conception to natural death, including the most defenseless and those Americans with disabilities
- Advance research and development in healthcare
- Reform the Food and Drug Administration, to put greater focus on the need of patients for new and innovative medical products
- Modernize Medicare, so that it will be ready for the challenges with the coming retirement of the Baby Boom generation – and beyond
- Maximize flexibility for States in administering Medicaid, to enable States to experiment with innovative methods to deliver healthcare to our low-income citizens

## Health Professionals Serving in the 115<sup>th</sup> Congress

Once again, there will be several healthcare professionals serving in the 115<sup>th</sup> Congress. Below is a list of Members of Congress and their area of health care.

\*Race results undetermined as of November 13

Member of Congress	Profession
<b>U.S. SENATE</b>	
Sen. Bill Cassidy, MD (R-LA)	Gastroenterologist/Heptalogist
Sen. John Barasso, MD (R-WY)	Orthopaedic Surgeon
Sen. Rand Paul, MD (R-KY)	Ophthalmologist
<b>HOUSE OF REPRESENTATIVES</b>	
Rep. Ralph Abraham, MD (R-LA-05)	General Surgeon/Veterinarian
Rep. Brian Babin, DDS (R-TX-36)	Dentist
Rep. Karen Bass, RN (D-CA-33)	Nurse
Rep. Ami Bera, MD (D-CA-07)*	General Practice Physician
Rep. Diane Black, RN (R-TN-06)	Nurse
Rep. Larry Bucshon, MD (R-IN-08)	Thoracic Surgeon
Rep. Michael Burgess, MD (R-TX-26)	OB/GYN
Rep. Scott DesJarlais, MD (R-TN-04)	Family Medicine Physician
Rep. Neal Dunn, MD (R-FL-02)	Urologist; New Member of Congress
Rep. Paul Gosar, DDS (R-AZ-04)	Dentist
Rep. Andy Harris, MD (D-MD-01)	Anesthesiologist
Rep. Eddie Bernice Johnson, RN (D-TX-30)	Nurse
Rep. Roger Marshall, MD (R-KS-01)	OB/GYN; New Member of Congress
Rep. Tim Murphy, PhD (R-PA-18)	Psychologist
Rep. Tom Price, MD (R-GA-06)	Orthopaedic Surgeon
Rep. Phil Roe, MD (R-TN-01)	OB/GYN
Rep. Raul Ruiz, MD (D-CA-36)	Emergency Medicine Physician
Rep. Mike Simpson, DDS (R-ID-02)	Dentist
Rep. Brad Wenstrup, DPM (R-OH-02)	Podiatrist

## Forecast for Health Issues in the 115<sup>th</sup> Congress

The outcome of the 2016 elections presents an opportunity for Congress to break through the gridlock and advance legislative initiatives, especially in health care. It will take Congress and the incoming Administration time to regroup and figure out their priorities, agendas and paths forward. Indeed, this opportunity allows all the option to take a fresh look at legislative prospects, reassess strategies, and broaden approaches to think outside the box.

The election results will impact the length and content of the Lame Duck session, scheduled to begin the week of November 14. Republicans are likely to address must pass legislation, such as passing a continuing resolution (CR) to ensure federal funding into 2017 knowing they can return to address the longer-term issues next year when a Republican administration is in place.

**Budget/Appropriations** – The 114<sup>th</sup> Congress must address the current spending deadline for fiscal year 2017 by December 9, 2016 when the current funding expires. Should a continuing resolution (CR) passed by the 114<sup>th</sup> Congress end prior to September 30, 2017 (the end of the current fiscal year), the 115<sup>th</sup> Congress will need to revisit FY'17 funding. Regardless, the 115<sup>th</sup> Congress will need to consider the 12 spending bills for fiscal year 2018 by October 1, 2017. President Trump's budget blueprint will be due to Congress early in 2017. Congress would then pursue the budgetary process, which could include consideration of a budget resolution. If Congress chooses to pursue budget reconciliation legislation, it could, due to special rules, serve as a vehicle to repeal parts of the Affordable Care Act (ACA). The Senate process normally requires 60 votes to proceed to consider legislation and stop a filibuster. However, the budget reconciliation process only requires 51 votes allowing a majority party to pass initiatives that impact the federal budget. Republicans used this process in the 114<sup>th</sup> Congress to pass legislation to repeal the individual insurance mandate penalty, Medicaid expansion, and certain subsidies for purchasing insurance through exchanges. Those initiatives were vetoed by President Obama.

**21st Century Cures/Senate Innovations** – If Congress is unable to successfully pass a revised 21<sup>st</sup> Century Cures bill during the Lame Duck session of the 114<sup>th</sup> Congress (beginning November 14, 2016), then many of the bipartisan provisions in that package are expected to be considered as part of the upcoming FDA reauthorization (discussed below). More recently, the issue of rising prescription drug costs has been linked to this effort with several groups and Members of Congress urging that the bill not be passed unless it address drug prices. The day after the election, Senate Majority Leader Mitch McConnell (R-KY) reiterated that passing 21<sup>st</sup> Century Cures in the Lame Duck session is a priority.

**Affordable Care Act (ACA)** – President-elect Trump has stated his desire to repeal and replace Obamacare, citing higher premiums, less competition and fewer choices. As a candidate, Donald Trump called for Congress to repeal Obamacare, eliminate the individual mandate, allow the sale of health insurance across state lines, allow individuals to fully deduct health insurance premium payment, allow individuals to use Health Savings Accounts (HSAs), require price transparency from all healthcare providers, block-grant Medicaid to the states, and remove barriers to entry into free markets for drug providers that offer safe, reliable and cheaper products. Aside from congressional activity, a Trump Administration would have discretion to impact the law through the regulatory process and Executive orders.

**Independent Payment Advisory Board (IPAB)** – IPAB was created in the ACA, but a republican congress has blocked funding for IPAB and no individuals have been appointed to serve on the Board. The IPAB has been criticized for having 15 expert members who would have broad authority to recommend changes to Medicare payment policy and little accountability. The ACA provides a process to deactivate the Board, requiring legislation be

introduced by February 1, 2017. The House of Representatives voted in 2015 to repeal the IPAB in its entirety. IPAB is expected to receive attention in 2017 due to the timeline to introduce repeal legislation as well as the expectation that Medicare spending will trigger the Board which is required to recommend changes to Medicare spending when it exceeds a target rate.

**Center for Medicare and Medicaid Innovation (CMMI)** – Another ACA creation, CMMI is tasked with identifying and testing Medicare and Medicaid payment and service delivery models. The ACA provides CMMI with very broad authority, including the ability to waive statutory or regulatory limitations as needed to carry out demonstration projects. CMMI has recently come under political fire for proposing a controversial and sweeping demonstration project involving Medicare payment for Part B drugs. This led Republicans to argue that some limitations on the agency’s authority were necessary. It will remain to be seen whether the election’s shift in the balance of power reduces Republicans’ appetite to put limitations on CMMI, now that the agency will be under the control of a Republican Administration.

**Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)** – MACRA was crafted in a bipartisan manner, through regular committee order, and passed with overwhelming support (392-37 in the House; 92-8 in the Senate). This effort is not expected to be repealed; however, there may be tweaks to improve the implementation of the law which transitions Medicare fee-for-service payment to value-driven and outcomes-based arrangements. A component of MACRA, rooted in the ACA, is the “meaningful use” of certified electronic health records (EHRs), which continues to increase. While there has been a bipartisan push to achieve interoperability of these health information technology (IT) systems, Republicans have been the most vocal about concerns with the current state of their usability and connectivity. With this new Congress and Administration, efforts to address these long-standing concerns, such as the development and adoption of standards to enable bidirectional exchange of health information across disparate health IT systems, including clinical data registries (CDRs), could move forward at a more rapid pace. The 21<sup>st</sup> Century Cures package, as passed by the House in 2015, includes interoperability provisions.

**Children’s Health Insurance Program (CHIP)** – CHIP funding was addressed as part of MACRA and current funding expires September 30, 2017. Republicans in the House of Representatives names a work group to review CHIP-related policies and the tension in addressing this ‘must-pass’ legislation will be related to whether it is a clean bill with no policy changes and only extends the funding or whether it will address policies within the program. If it’s a clean funding bill, it could extend funding for two years since the program’s full legislative authority expires in 2019. There are many calling for Congress to address CHIP funding earlier in 2017 recognizing that many state legislatures adjourn earlier than September 30<sup>th</sup> and will need time to set their budgets accordingly. Previous authorization efforts including debate on the funding levels and possible repeal of the provisions related to state eligibility requirements.

**FDA User Fee Act reauthorization (UFAs)** – The Prescription Drug User Fee Act (PDUFA) VI, which provides the Food and Drug Administration (FDA) with the authority to impose user fees to fund agency activities, must be reauthorized by September 30, 2017. Since user fees account for about half of the FDA’s total budget, Congress will work to finalize this legislation by summer 2017 to meet the deadline in plenty of time, especially knowing that Congress is usually not in session most of August. This legislation is expected to include reauthorization of the user fees for medical devices, biosimilars, generic drugs, and others. This ‘must-pass’ legislation will likely serve as a vehicle for other related initiatives, including provisions in the 21<sup>st</sup> Century Cures legislation if it is not addressed in the Lame Duck session of the 114<sup>th</sup> Congress, as well as efforts to address drug pricing or other FDA-related initiatives.