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2018 Midterm Elections

Policy Implications for the 116th Congress






2018 Midterm Election Results

Preliminary election results are in. Democrats flipped the House of Representatives, gaining 26 seats with a 219 to 193 majority and 23 seats remaining to be called. The Republicans retained the Senate with a 51 to 45 majority, while picking up 2 seats with 4 races to still be called. While Republicans are maintaining a slight majority in the gubernatorial races with a 25-22 majority, the Democrats did gain 7 races so far and 3 races are too close to call.*

** Results reported by the New York Times, November 7, 2018, at 8:30 a.m.*

Finance Policy

Senate Committee Leadership: Financial Services Industry

Committee	Republican Chair	Democratic Ranking
Senate Banking, Housing and Urban Affairs	 Mike Crapo (ID)	 Sherrod Brown (OH)
Subcommittee on Financial Institutions & Consumer Protection	 Pat Toomey (PA)	 Elizabeth Warren (MA)
Subcommittee on Securities, Insurance & Investment	TBD	 Mark Warner (VA)

House Committee Leadership: Financial Services Industry

Committee	Democratic Chair	Republican Ranking
House Financial Services	 Maxine Waters (CA)	 Peter King (NY)
Subcommittee on Capital Market, Securities & Investment	 Carolyn Maloney (NY)	 Bill Huizenga (MI)
Subcommittee on Financial Institutions and Consumer Credit	 William Lacy Clay (MO)	 Blaine Luetkemeyer (MO)

Potential Actions That Would Affect Financial Regulation

Likelihood of passing Congress



Potential action



JOBS Act 3.0 (S. 488)



Reforming Dodd-Frank through
regulatory tailoring for banks with over
\$100 billion in assets



Potential Actions Affecting Government Sponsored Enterprises

Likelihood of passing Congress



Potential action



Appointing a conservative Federal Housing Finance Agency director



Ending federal conservatorship over Fannie Mae and Freddie Mac



Fannie Mae and Freddie Mac privatized



Ginnie Mae takes over some of Fannie Mae and Freddie Mac's responsibilities



Potential Actions that Would Affect Congressional Oversight of the Financial Services Industry

Likelihood of passing Congress



Potential action



Subpoenas and criticism of CFPB leadership around decision-making



Hearings related to “big bank” enforcement actions







Fewer confirmations of strong conservatives to regulatory positions










Tax Policy

Senate Committee Leadership : Tax

Committee	Republican Chair	Democratic Ranking
Senate Finance	 – Chuck Grassley (IA) or Mike Crapo (ID) –	 Ron Wyden (OR)
Subcommittee on Taxation and IRS Oversight	 Rob Portman (OH)	 Mark Warner (VA)

House Committee Leadership : Tax

Committee	Democratic Chair	Republican Ranking
House Ways and Means	 Richard Neal (MA)	 Kevin Brady (TX)
Subcommittee on Tax Policy	 Lloyd Doggett (TX)	 Vern Buchanan (FL)
House Small Business	 Nydia Velázquez (NY)	 Steve Chabot (OH)
Subcommittee on Economic Growth, Tax, and Capital Access	 Dwight Evans (PA)	TBD

Potential Actions That Would Affect Tax Policy

Likelihood of passing Congress



Potential action



Extend temporary provisions from the 2017 tax act



Pass Tax Reform 2.0



Repeal the 2017 tax law



Extend 2017 individual tax cuts but phase out tax cuts for businesses



Potential Actions That Would Affect Tax Policy

Likelihood of passing Congress



Potential action



Pass legislation that would index capital gains to inflation



Pass technical corrections legislation that would fix errors, oversights and omissions in the 2017 tax law









Pass extenders, including the deduction of higher-education tuition and fees and tax-free treatment of forgiven home mortgage debt



Education

Senate Committee Leadership: Education

Committee	Republican Chair	Democratic Ranking
Senate Health, Education, Labor and Pensions	 Lamar Alexander (TN)	 Patty Murray (WA)
Subcommittee on Children and Families	 Rand Paul (KY)	 Bob Casey (PA)
Subcommittee on Employment and Workplace Safety	 Johnny Isakson (GA)	 Tammy Baldwin (WI)

House Committee Leadership: Education





Committee	Democratic Chair	Republican Ranking
House Education and Workforce	 Bobby Scott (VA)	 Virginia Foxx (NC)
Subcommittee on Higher Education and Workforce Development	 Susan Davis (CA)	 Brett Guthrie (KY)
Subcommittee on Early Childhood, Elementary, and Secondary Education	 Marcia Fudge (OH)	 David Roe (TN)

Potential Actions That Would Affect the Higher Education Act

Likelihood of passing Congress








Potential action










	Passage of the PROSPER Act that would repeal some loan forgiveness programs	●
	Expand access to alternative degree programs	● ● ●
	Require the publishing of more student outcome data	● ●
	Expand grants to make community college free to all students	●

Immigration

Senate Committee Leadership: Immigration

Committee	Republican Chair	Democratic Ranking
Senate Judiciary	 — Chuck Grassley (IA) or Lindsey Graham (SC) — 	 Dianne Feinstein (CA)
Subcommittee on Border Security and Immigration	 John Cornyn (TX)	 Dick Durbin (IL)

House Committee Leadership: Immigration

Committee	Democratic Chair	Republican Ranking
House Judiciary	 Jerry Nadler (NY)	 — Steve Chabot (OH) or  Doug Collins (GA) —
Subcommittee on Immigration and Border Security	 Zoe Lofgren (CA)	 Ken Buck (CO)
House Homeland Security	 Bennie Thompson (MS)	 Mike Rogers (AL)
Subcommittee on Border and Maritime Security	 Filemón Vela (TX)	 Will Hurd (TX) (TBD-Race not called)

Potential Actions that Would Affect Border Security

Likelihood of passing Congress



Potential action

	Allocation of funding to fulfill President Trump's campaign promise to build a large wall along the US-Mexico border	●
	Allocation of funding to build a border "barrier" or a fence, but not a wall	● ●
	No additional funding for border security (potentially causing a government shutdown)	● ●

Potential Actions That Would Affect H-1B Visas

Likelihood of passing Congress



Potential action



Number of visas cut, and requirements for eligibility tightened



Oversight hearings are held on the effects on employment



Program is modified to offset potential employment effects of hiring foreign workers



Potential Actions That Would Affect Detention Centers

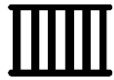
Likelihood of passing Congress



Potential action



Immigration detention centers remain open



The Flores Agreement is overruled by new legislation, which would allow the federal government to detain families for more than 20 days



Oversight hearings are held on conditions in detention centers



Detention centers closed or broadly limited



Potential Actions That Would Affect DACA/Dreamers

Likelihood of passing Congress



Potential action



DACA/Dreamer fix is coupled with the end of chain migration and increased border security funding



Pathway to citizenship passed for DACA recipients and Dreamers







Pathway to permanent residency passed for DACA recipients and Dreamers



Infrastructure

Senate Committee Leadership: Infrastructure

Committee	Republican Chair	Democratic Ranking
Senate Environment and Public Works	 John Barrasso (WY)	 Tom Carper (DE)
Subcommittee on Transportation & Infrastructure	 Jim Inhofe (OK)	 Ben Cardin (IL)

House Committee Leadership: Infrastructure






Committee	Democratic Chair	Republican Ranking
House Transportation and Infrastructure	 Peter DeFazio (OR)	 Sam Graves (MO)
Subcommittee on Highways & Transit	 Eleanor Holmes Norton (D.C.)	 Don Young (AK)

Potential Actions That Would Affect Infrastructure Spending

Likelihood of passing Congress



Potential action

	Substantial spending increases dedicated to the US transportation system	● ●
	Eliminate federal funding for mass transit, bike-share programs, sidewalks and rail-to-rail projects	●
	Fund infrastructure projects through partial repeals of recent tax cuts	●
	Fund infrastructure through an increased gas tax	● ● ●
	Repeal federal excise tax on gas and diesel and replace with a new approach to funding highways	● ● ●

Potential Actions That Would Affect Infrastructure Projects

Likelihood of passing Congress



Potential action



Increase in federally-funded grants for rural infrastructural needs



Increase federal loans for rural infrastructure projects



Allocate significant federal funding for projects of national importance



Technology

Senate Committee Leadership: Technology

Committee

Senate Commerce, Science, and
Transportation

Republican Chair












John Thune (SD)

Democratic Ranking



Bill Nelson (FL)
(TBD-Race not Called)

House Committee Leadership: Technology

Committee	Democratic Chair	Republican Ranking
House Energy and Commerce	 Frank Pallone, Jr. (NJ)	 Greg Walden (OR)
Subcommittee on Communications & Technology	 Michael Doyle (PA)	TBD
Subcommittee on Digital Commerce and Consumer Protection	 Jan Schakowsky (D-IL)	 Bob Latta (R-OH)
House Oversight and Government Reform	 Elijah Cummings (MD)	 Jim Jordan (OH)
Subcommittee on Information Technology	 Robin Kelly (IL)	 Will Hurd (TX) (TBD-Race Not Called)

Potential Actions That Would Affect Privacy

Likelihood of passing Congress



Potential action



Mandate federal consumer privacy standards to include opt-in consent, broader definition of personal data and greater transparency and control



Mandate federal consumer privacy standards to preempt state regulations and apply evenly across industries



Increase FTC authority to enforce privacy protections (e.g. APA rulemaking authority, civil penalty authority)







Potential Actions That Would Affect Internet Platforms

Likelihood of passing Congress



Potential action

	Repeal Section 230 of the Communications Decency Act	●
	Increase transparency in filtering algorithms in social media	●
	Reintroduce the 2015 Open Internet Order, which classifies ISPs as Title II subjects under the Telecommunications Act	● ●
	Mandate net neutrality rules	● ● ●

Potential Actions That Would Affect Federal Government IT

Likelihood of passing Congress











Potential action



Potential action	
 Adopt a national strategy for artificial intelligence in the federal government	● ● ●
 Accelerate federal IT modernization (e.g. workforce development, recruitment and appropriations)	● ● ● ● ●
 Increase STEM education funding and/or protections for workers affected by automation	● ● ●

Cybersecurity

Senate Committee Leadership: Cybersecurity

Committee	Republican Chair	Democratic Ranking
Senate Armed Services	 Jim Inhofe (OK)	 Jack Reed (RI)
Subcommittee on Cybersecurity	 Mike Rounds (SD)	 Bill Nelson (FL) (TBD-Race Not Called)
Senate Judiciary	 Chuck Grassley (IA)	 Dianne Feinstein (CA)
Subcommittee on Privacy, Technology and the Law	 Mike Lee (UT)	 Christopher Coons (DE)

House Committee Leadership: Cybersecurity






Committee	Democratic Chair	Republican Ranking
House Homeland Security	 Bennie Thompson (MS)	 Mike Rogers (AL)
Subcommittee on Cybersecurity & Infrastructure Protection	 Cedric Richmond (LA)	 John Ratcliffe (TX)

Potential Actions That Would Affect Cyber Policy

Likelihood of passing Congress



Potential action





	Increased funding for cybersecurity if separated from contentious issues like border security	●
	Increased funding for cybersecurity together with contentious issues like border security	● ● ● ●
	Regulatory oversight on social media platforms	● ● ●
	Increased funding for election security	● ● ●
	Increased funding for critical infrastructure cybersecurity	● ● ●

Potential Actions That Would Affect Cyber Strategy

Likelihood of passing Congress



Potential action

	Increased pressure on President Trump to produce a comprehensive strategy for cyber defense	● ● ●
	Oversight hearings to interrogate administration officials regarding cyber strategy	● ● ● ●
	Robust execution of a White House-produced cyber strategy	● ● ● ●
	Approval for White House's cyber strategy funding request	● ● ●

Healthcare

Senate Committee Leadership: Healthcare

Committee

Senate Health, Education,
Labor and Pensions

Republican Chair










Lamar Alexander (TN)

Democratic Ranking



Patty Murray (WA)

House Committee Leadership: Healthcare






Committee	Democratic Chair	Republican Ranking
House Energy and Commerce	 Frank Pallone (NJ)	 Greg Walden (OR)
Subcommittee on Health	 Janice Schakowsky (IL)	 Michael Burgess (TX)
House Ways and Means	 Richard Neal (MA)	 Kevin Brady (TX)
Subcommittee on Health	 Mike Thompson (CA)	TBD

Potential Actions That Would Affect the Affordable Care Act

Likelihood of passing Congress



Potential action

	Repeal and replace the ACA with a similar proposal to the AHCA or BCRA	●
	Replace ACA with a “Medicare for all” alternative	●
	Add a public option to the ACA	●
	Expand and re-instate portions of the ACA such as the tax fine for the individual mandate	●
	Reinstate the medical device tax	●

Potential Actions That Would Affect Medicare and Medicaid

Likelihood of passing Congress



Potential action

	Pass legislation similar to Graham-Cassidy that ends Medicaid expansion and allow states to cap program funding	●
	Allow Americans to buy into Medicare at a younger age	● ●
	Restrict states' ability to implement work requirements for Medicaid	● ●

Potential Actions That Would Affect the Opioid crisis

Likelihood of passing Congress



Potential action



Investigate pharmaceutical companies for marketing around opioids



Eliminate the ACA mandate that insurance policies must cover “mental health and substance use disorder services”



Establish a program for safe-injection sites and needle exchanges







Emphasis on law enforcement to reduce the flow of opioids and other illegal drugs



Trade

Senate Committee Chairs: Trade





Committee	Republican Chair	Democratic Ranking
Senate Finance	 - Chuck Grassley (IA) or Mike Crapo (ID) -	 Ron Wyden (OR)
International Trade, Customs, and Global Competitiveness Subcommittee	 John Cornyn (TX)	 Robert P. Casey, Jr. (PA)

Other committees that work on legislation relating to trade:

Senate Agriculture, Nutrition, and Forestry Committee (Commodities, Markets, Trade, and Risk Management Subcommittee)

Senate Commerce, Science, and Transportation (Tourism, Competitiveness, and Innovation Subcommittee)

House Committee Chairs: Trade

Committee	Democratic Chair	Republican Ranking
House Ways and Means	 Richard Neal (MA)	 Kevin Brady (TX)
Trade Subcommittee	 Bill Pascrell (NJ)	 Devin Nunes (CA)

Other committees that work on legislation relating to trade:

House Energy and Commerce (Commerce, Manufacturing, and Trade Subcommittee)

House Financial Services (Monetary Policy and Trade Subcommittee)

House Foreign Affairs (Terrorism, Nonproliferation, and Trade Subcommittee)

House Small Business (Agriculture, Energy, and Trade Subcommittee)

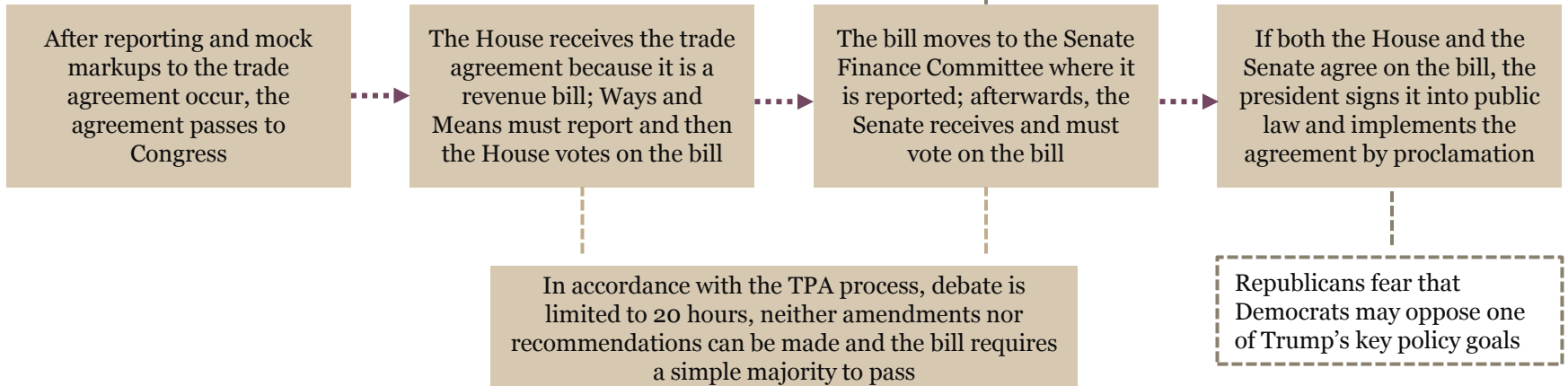
The Process of Passing USMCA

A variety of factors could affect USMCA's passage at any point in the legislative process. A Democratic House could impeded USMCA's passage depending on whether they perceive the labor provisions are sufficient for improving worker rights and wages.



The Trade Promotion Authority (TPA) allows Congress to permit the administration to negotiate trade agreements without interference. Once the administration submits a trade deal for approval, Congress must vote yes or no and cannot amend or filibuster it

- Sen. Ron Wyden (D), ranking member of the Finance committee, has stressed the importance of trade enforcement provisions on labor
- Sen. Rob Portman (R-OH) has expressed worries about USMCA's passage if the Trump administration does not drop Sect. 232 tariffs

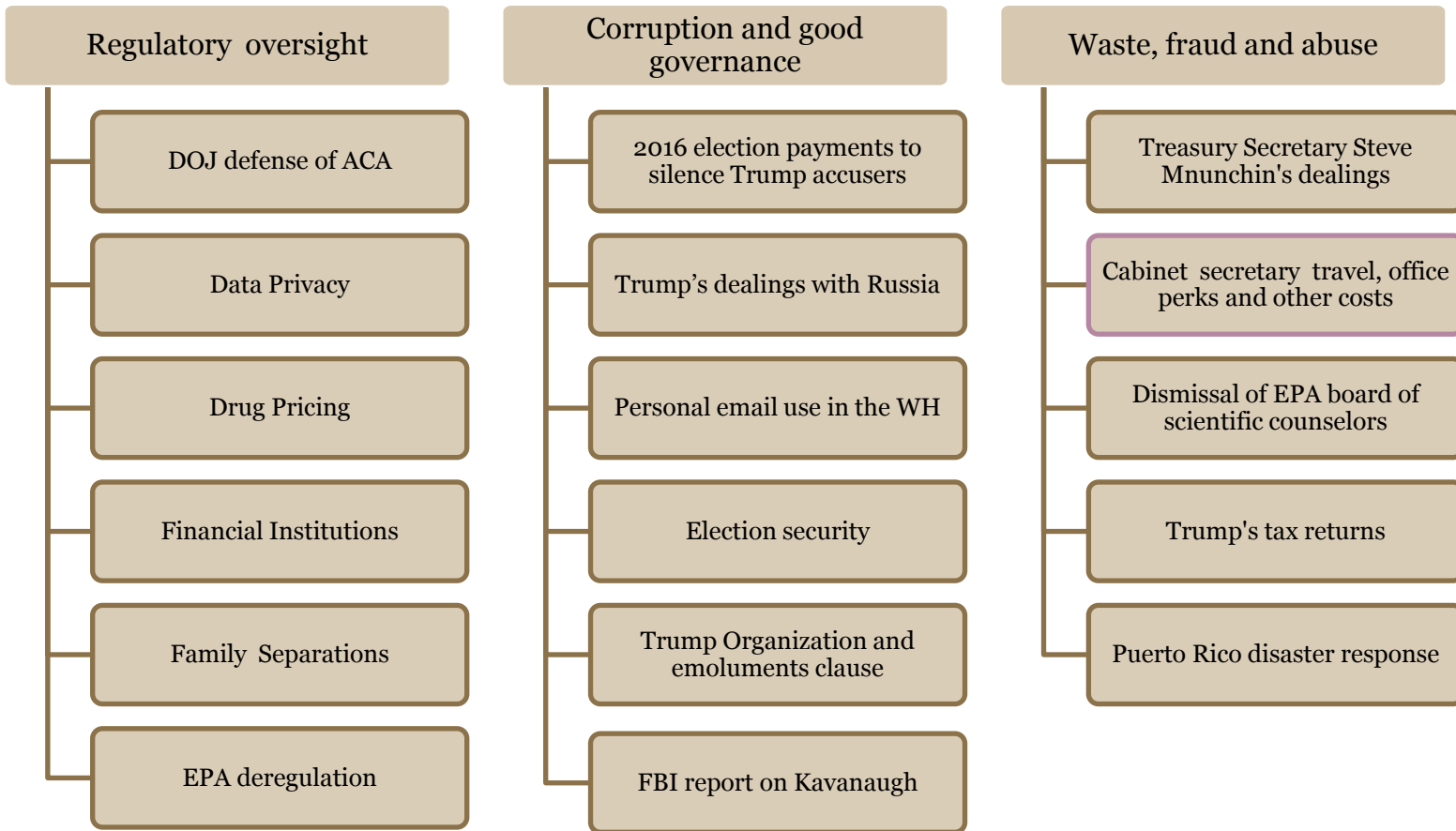


Oversight & Investigations








Potential Investigations in a Democratic-Controlled House

- More administration officials summoned to testify on many controversial decisions, especially regarding immigration enforcement and environmental deregulation
- Democrats in the House would likely subpoena more government documents including Trump's tax returns










Democrats will gain oversight and subpoena powers if they win the House








Senate Committee Leadership: Investigations

Committee	Republican Chair	Democratic Ranking
Senate Judiciary	 – Chuck Grassley (IA) or Lindsey Graham (SC) – 	 Dianne Feinstein (CA)
Senate Intelligence	 Richard Burr (NC)	 Mark Warner (VA)
Joint Committee on Taxation	 Chuck Grassley (IA)	 Ron Wyden (OR)

House Committee Leadership: Investigations

Committee	Democratic Chair	Republican Ranking
House Oversight & Government Reform	 Elijah Cummings (MD)	 Jim Jordan (OH)
House Judiciary	 Jerry Nadler (NY)	 – Steve Chabot (OH) or  Doug Collins (GA) –
House Ways & Means	 Richard Neal (MA)	 Kevin Brady (TX)
House Intelligence	 Adam Schiff (CA)	 Devin Nunes (CA)

Senate Committee Leadership: Regulatory Oversight

Committee	Republican Chair	Democratic Ranking
Senate Commerce, Science & Transportation	 John Thune (SD)	 Bill Nelson (FL)
Senate Homeland Security & Government Affairs	 Ron Johnson (WI)	TBD
Senate Environment & Public Works	 John Barrasso (WY)	 Tom Carper (DE)

Committee Leadership: Regulatory Oversight

Committee	Democratic Chair	Republican Ranking
House Oversight & Government Reform	 Elijah Cummings (MD)	 Jim Jordan (OH)
House Energy & Commerce	 Frank Pallone (NJ)	 Greg Walden (OR)
House Homeland Security	 Bennie Thompson (MS)	 Mike Rogers (AL)

Democrats Likely Investigate President Trump's Tax Returns

A 1924 provision in the IRS code gives Congress the right to obtain, inspect and disclose confidential tax information of any taxpayer without their consent



The chairperson of the House Ways & Means, Senate Finance or Joint Taxation Committees submits a request for an individual's tax returns to the IRS



The Treasury Secretary must give the documents to the committee. However, there is no stated timeframe for compliance, potentially leaving room for long delays or legal action



The committee reviews the tax returns. Following the precedent of the 1974 review of Nixon's taxes, the nonpartisan staff of the Joint Committee on Taxation could conduct a review of the tax returns



Committee may vote to release the tax returns to the full House or Senate (if for a legitimate legislative purpose), where it will be made part of the public record and published online







House Committees Have the Power to Subpoenas

115th House committees where subpoenas can be issued by ...

Chair	Chair, after consulting Ranking Member*	Chair, after House has adjourned for three days	Majority Committees-Subcommittee Vote
Agriculture	Agriculture	Natural Resources	Agriculture
Education & the Workforce	Education & the Workforce	Rules	Appropriations
Energy & Commerce	Energy & Commerce		Armed Services
Financial Services	Foreign Affairs		Budget
Foreign Affairs	Homeland Security		Ethics
Homeland Security	Judiciary		Foreign Affairs
Judiciary	Transportation & Infrastructure		House Administration
Natural Resources	Intelligence		Judiciary
Oversight & Government Reform			Natural Resources
Rules			Rules
Science, Space & Technology			Small Business
Transportation & Infrastructure			Transportation & Infrastructure
Ways & Means			Veterans' Affairs
Intelligence			Intelligence

Defense

Senate Committee Leadership: Defense

Committee	Republican Chair	Democratic Ranking
Senate Armed Services	 Jim Inhofe (OK)	 Jack Reed (RI)
Senate Appropriations	 Richard Shelby (AL)	 Patrick Leahy (VT)
Subcommittee on Defense	 Richard Shelby (AL)	 Dick Durbin (IL)

House Committee Leadership: Defense

Committee	Democratic Chair	Republican Ranking
House Armed Services	 Adam Smith (WA)	 Mac Thornberry (TX)
House Appropriations	 Nita Lowey (NY)	 Robert Aderholt (AL)
Subcommittee on Defense	 Peter Visclosky (IN)	 Kay Granger (TX)

Potential Actions That Would Affect Defense Appropriations

Likelihood of passing Congress



Potential action



Authorization of \$8 billion for the Space Force, as requested by Trump



Increase in defense spending *without* increases to nondefense



Increase in defense spending *with* increases to nondefense



Quick passage of the National Defense Authorization Act (NDAA)



Potential Actions That Would Affect Defense Policies

Likelihood of passing Congress



Potential action



Quick confirmations of defense department officials



Greater oversight on defense contracts and policies (e.g., banning transgender soldiers)



Potential Actions That Would Affect Authorizations for Use of Military Force (AUMFs)

Likelihood of passing Congress



Potential action



Repeal and replace 2002 AUMF Against Iraq



Pass new AUMF Against ISIS



Pass new AUMF Against the Taliban





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