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# 2016 Election Overview

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CORNERSTONE GOVERNMENT AFFAIRS

**I**n a stunning and unprecedented upset, Donald J. Trump will become the 45th President of the United States. In a year that defied all conventional wisdom and broke virtually every political norm that has governed elections since the onset of the party system, it is perhaps fitting that virtually every major political expert and polling agency failed to predict the end result.

Insiders from both parties spent months preparing for Hillary Clinton to win the White House and Democrats to take control of the Senate. In the end, the 2016 election concluded with Trump taking the presidency, and Republicans losing a few seats in both the Senate and House of Representatives but maintaining their control of both chambers of Congress. Intense frustration with the political status quo — clearly underestimated by both party establishments — culminated in the election of a total outsider to the nation's highest office, with a mandate for change and a unified GOP Congress behind him.

Controversies that plagued Trump throughout the campaign season seemed to have had no tangible effect on his performance at the polls. It is obvious that Americans overwhelmingly prioritized economic, security and lifestyle issues when casting their vote for president, despite how they felt about either candidate's personality. Exit polls show the No. 1 candidate quality for voters was the ability to “bring about change,” and Trump won with those voters by a staggering 83 percent. Sluggish economic growth and fears of unemployment led to the economy being the focal point of most

voting, and the electorate seems to have trusted Trump — a businessman and real estate mogul — on that issue far more than Clinton.

Trump promised to spend much of his first 100 days in office repealing and replacing many of President Barack Obama's achievements, singling out the Affordable Care Act, Paris Climate Agreement, and Dodd-Frank Wall Street reforms in particular. Additionally, the President-elect vowed to invest more than \$1 trillion dollars in infrastructure spending as well as promising to throw out the Trans-Pacific Partnership and rework a num-

**The best indication for how the Trump White House will govern may come from how he decides to work with Republican Congressional leaders.**

ber of prior free trade agreements in an effort to protect American industry from foreign competitors and prevent U.S. jobs from moving overseas. Apart from those campaign promises, it remains to be seen what exactly the Trump administration will choose as policy priorities.

The best indication for how the Trump White House will govern may come from how he decides to work with Republican Congressional leaders, namely Speaker of the House Paul Ryan (R-WI). During his campaign, Trump openly lamented the lukewarm support given to him by Ryan and others from the “establishment” wing of the Republican party, and he threatened retribution for those whom he believed did not support his message.

If Trump and Ryan are able to work out their differences, the Speaker may be able to take advantage of the opportunity to implement his lengthy policy platform, “A Better Way.” The President-elect has indicated he is willing to defer much of the policymaking to Congress, and Ryan may gain the ability to pass a number of his long-desired reforms, such as changes in the Medicaid and Medicare programs, simplifying the tax code and cutting down on business regulations.

On the Senate side, Majority Leader Mitch McConnell (R-KY) came out of the election stronger than ever. Despite losing a Republican Senate seat in Illinois and one in New Hampshire, he maintained control over the upper chamber of Congress. McConnell did a far better job of supporting a Trump candidacy than did Ryan, and, as a result, likely stands to have much more pull in making his policy goals priorities with the Trump White House. Of importance to McConnell, however, will be building a relationship with new Minority Leader Sen. Chuck Schumer (D-IL) and the 48 Democratic Senators who maintain the ability to block many Republican policy proposals with the threat of a filibuster.

With Trump in the White House, Speaker Ryan leading a fired-up and empowered group of House conservatives and Majority Leader McConnell atop a slight majority in the Senate, the next two years could be among the most pivotal legislative periods in recent memory. Trump, Ryan and McConnell may seek to undo many of President Obama’s domestic and international accomplishments, starting with the Affordable Care Act.

There is much we do not yet know about President-elect Trump and how a Trump administration will govern. In creating a legislative agenda, Trump is expected to lean heavily on the Vice President-elect, former Indiana Gov. Mike Pence. A six-term U.S. Congressman and former member of House leadership before he was elected governor of his home state, Pence is expected to play an outsized role. He could be the key liaison between Trump and House and Senate leaders and help drive the Trump agenda toward the usual conservative priorities — tax reform, regulatory reform, and increased defense spending.

## **Early reports indicate that one of the first items to be taken up will be a comprehensive effort to replace the Affordable Care Act.**

The uncertainty of what a Trump administration will look like has many speculating that the epicenter of policy will be the GOP Senate. Republican Leader McConnell is widely regarded as among the savviest political operators and tacticians the Senate has ever known. The tone he sets in the early days of the transition and administration will be critical to the success of President-elect Trump’s ability to govern.

### **SENATE AGENDA**

With Republicans in control of the White House and both sides of the Capitol, McConnell and Ryan will want (and need) to help Trump move a number of items during his administration’s “honeymoon.”

Early reports indicate that one of the first items to be taken up will be a comprehensive effort to replace the Affordable Care Act, otherwise known as Obamacare. In October 2016, millions of Americans learned of a dramatic rise in health premiums — increases that then became a consistent campaign theme for Trump and many Congressional Republicans. Look for early action on a legislative effort to replace Obamacare.

Interestingly, a number of prominent Senate Republicans already have begun indicating that they want to make the effort bipartisan, including Senate Democrats as much as possible. Whether

that actually happens remains to be seen. In a 52-48 Senate, Democrats will maintain leverage on policy matters because it takes 60 votes to limit debate on legislation and move it to the floor for a vote. The Democrats' use of the filibuster will be a closely watched item in the 115th Congress.

Speculation also abounds about the desire and political willingness of the GOP-led Senate to tackle entitlement (Medicare, Medicaid, Social Security) reform. The growth of entitlement spending is a persistent talking point in most Republican Senate speeches. But the "how" of actually reforming these widely popular programs represents a significant political challenge.

Procedurally, a good bit of the Senate's time in the early months of the Trump Administration will be spent deliberating on and confirming a host of nominations, from Cabinet Secretaries on down. One with the highest profile will be filling the vacancy on the U.S. Supreme Court. Insiders believe that Trump's transition team will have a dedicated group responsible for thoroughly vetting his nomination to replace the late Judge Antonin Scalia on the high court. Look for that nomination very early in 2017.

#### HOUSE AGENDA

The House will serve as the tip of the Republican spear in the 115th Congress. Speaker Ryan and his leadership team will have a somewhat fractious conference, but the dynamic will be substantially different than during the Obama administration. There are initial expectations of a more cohesive and focused Republican conference with Trump as the head of the party. The Speaker and his senior staff spent substantial time with the President-elect and his staff discussing policy and approach to governing, and the differences were minor at worst. Most of the policy discussions revolved around Ryan's policy platform, dubbed "A Better Way."

"A Better Way" — <http://abetterway.speaker.gov/> — will be the policy and political framework within which the House and the Trump Administration will largely operate. Expect Obamacare repeal and replacement to be the initial and immediate messaging front. In addition, tax reform and infrastructure enhancements will be top priorities. Combine these with the ever-present budget and appropriations process, throw in a healthy dose of regulatory reform and rollbacks of

Obama-era regulations, and 2017 could be a busy year.

The President-elect is expected to veer sharply from the policies of the last eight years. He has pledged to make the United States fully energy-independent by reducing U.S. dependence on foreign oil and rolling back environmental regulations that restrict oil and natural gas exploration. Trump has said that energy independence means exploring and developing every possible energy source, including wind, solar, nuclear and biofuels as part of an "all of the above" strategy. However,

## **One of the highest profile nominations to be taken up by the Senate will be filling the vacancy on the U.S. Supreme Court.**

his campaign has stressed the need to ensure that competition for these sources is market driven, free of the tax incentives currently in place. On climate change, Trump is highly skeptical of the existing scientific evidence and has stated that global warming is a Chinese creation designed to make U.S. manufacturing non-competitive.

Highly supportive of the oil and gas industry, the President-elect supports construction of new pipeline infrastructure to transfer crude oil to refineries and oil products to market, a key industry priority. Notably, he is also an investor in the Dakota Access pipeline, a high profile issue pitting some tribal governments and environmentalists against the oil and gas industry.

Trump repeatedly vowed during his campaign to save the U.S. coal industry after years of bankruptcies and worsening job prospects for coal miners. However, the coal market is competing directly with natural gas and renewable energy sources and even with federal regulations, market forces are largely responsible for recent industry struggles. While we may see a diversion of federal research funding away from renewable energy and toward coal carbon capture utilization and storage technologies, it would appear that saving the coal industry will be hard to achieve while natural gas continues to outcompete coal on a cost basis.

The Trump administration is likely to place a priority on unwinding all of President Obama's

executive regulatory actions, including the Climate Action Plan and the Waters of the U.S. rule, rescinding U.S. commitment to the Paris Agreement on climate change, slashing federal regulations and lifting moratoriums on energy production on federal lands. While the Paris agreement requires that signatory parties wait three years before requesting to withdraw their commitment, a Trump administration could easily disregard the commitments made by the Obama administration prior to a formal withdrawal.

### HEALTH CARE

“A Better Way,” the House Republicans’ plan to repeal and replace the Affordable Care Act, would protect many of the underlying insurance reforms, including protection for pre-existing conditions and coverage for children up to age 26 on a parent’s policy. The GOP also would adjust the existing age rating ratio requirement from 3-to-1 to 5-to-1 (meaning older individuals can be charged premiums five times the cost of 20-somethings’ premiums), expand consumer-driven health care options known as Health Savings Accounts, promote insurance portability from job to job, expand pooling opportunities among small businesses, promote greater competition in the insurance marketplace by eliminating the “essential benefits” coverage requirements and protect an employer’s right to self-insure, i.e., eliminating requirements on self-insured group health plans.

On the issue of exchanges, the GOP would support “private exchange” models in which employers could use health reimbursement arrangements (HRAs) or other defined-contribution models to help their employees purchase insurance through the individual market.

President-elect Trump did not offer many concrete policy plans for other government health plans other than saying generally that Medicare and Medicaid need to be preserved. Congressional Republicans have proposed to address the rapid cost growth in Medicare by offering future beneficiaries a choice between traditional Medicare and a premium support model that would allow a beneficiary to purchase a plan of his or her own choosing, using a defined benefit amount. Congressional Democrats strongly oppose these proposed changes.

Trump’s position on Medicaid also is unclear,

but he has said that he supports giving states maximum flexibility in administering the Medicaid program. The House Republicans’ “A Better Way” plan proposes more substantial reforms to Medicaid, providing states with two funding options: a per-capita payment — a set amount of money per Medicaid-eligible individual, regardless of medical expenditures, or a block grant payment — a set amount of money per state regardless of the number of Medicaid-eligible individuals, giving the state discretion to set eligibility levels.

In addition to the House GOP “Better Way” plan, President-elect Trump’s pick for Secretary of the Department of Health and Human Services, Rep. Tom Price (R-GA), has released a plan for repealing and replacing the ACA. It differs notably from the House GOP plan in that it does not retain any of the popular insurance reforms. In the Price plan, eligible individuals would be given age-adjusted tax credits to use for buying private health insurance. The plan would provide additional funding for state high-risk pools to help care

## **Increasing funding for the National Institutes of Health — a priority for both parties — could be an opportunity for common ground during the next Congress.**

for people with pre-existing conditions. The plan also would establish “independent health pools” to “reform and expand enrollment in health insurance coverage” in the individual and small group markets. The plan preserves the “Cadillac Tax,” a 40 percent excise tax on high-cost employer health benefit plans, but it sets the cap at \$20,000 for a family and \$8,000 for an individual. Additionally, the Price plan includes two longstanding Republican ideas — association health plans and insurance sales across state lines. Rep. Price was a practicing physician before coming to Congress, so it comes as no surprise that the plan also includes medical malpractice reform.

### OTHER HEALTH PRIORITIES

The emerging threat of the Zika virus in the U.S. will remain a public health concern in 2017. Congressional oversight of recently appropriated

## **If immigration reform is successful, the price tag remains uncertain: at minimum, additional funds will be required for hardening our border and citizenship and immigration services.**

supplemental funding will continue as federal agencies work on activities such as developing vaccines, tracking and controlling the spread of the disease, studying the links between Zika and birth defects, and educating the public.

### **IMMIGRATION**

Comprehensive immigration reform was a top campaign promise of President-elect Trump, including commitments to build a wall between the U.S. and Mexico; triple the number of immigration agents; end sanctuary cities; and suspend visa programs that don't include strict vetting of applicants.

Congress remains equally committed to immigration reform, and many of President-elect Trump's policies cannot be implemented without Congressional support. As such, differences in opinion must be ironed out: exactly what a wall looks like; who will pay for the wall; what, if anything, is the exact path to citizenship; interior enforcement; employment verification; guest worker programs; and vetting of refugees, to name but a few. Even with Republicans controlling the White House, the Senate and the House, consensus will not be easy. It also is complicated by security concerns associated with a massive influx of

refugees — Syrian and others. Congress will need to address any influx of refugees, including how to fund additional requirements to house refugees within detention facilities run by the Department of Health and Human Services.

If immigration reform is successful, the price tag remains uncertain: at minimum, additional funds will be required for hardening our border and for citizenship and immigration services. However, the expected massive cost of building the wall will bump into conflicting goals for deficit reduction.

### **ENVIRONMENT**

Many of the Obama administration's environmental inroads that reflect the spirit of the Paris Agreement will be under fire, such as limitations on greenhouse gas and ozone emissions; federal oversight of land use; increased auto and truck fuel mileage standards; stricter rules to prevent oil spills; and proposed safety requirements on oil trains and pipelines.

A number of energy and environmental policy issues are likely carry over to the new Congress. Trump has promised to overturn many of these regulatory proposals, especially the set of business tax breaks that include renewable tax credits and other provisions impacting energy policy. Federal permitting of pipelines and other energy infrastructure also is likely to be a big issue, with ongoing disputes on a number of interstate oil and gas pipelines and recent spills on the large fuel pipeline in Alabama.

### **CONCLUSION**

Inauguration day is Jan. 20, 2017. Shortly thereafter, President Trump will deliver his first State of the Union address. Assuming the confirmation of his cabinet and the beginning of organization within the departments of his administration, a more concrete understanding of the direction of public policy in a Trump presidency will emerge.

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# HEALTH PROGRESS®

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