

## **Special Report: The 2018 Election Results & Federal Transportation Investment/Policy**

### **Overview**

The Democratic Party's successful election night takeover of the U.S. House of Representatives will return Washington to an era of divided government in 2019. This marks the fourth mid-term election in a row that at least one chamber has flipped partisan control and brings to an end an eight-year leadership run for Republicans in the House.

As expected, a favorable map – where Republicans defended eight seats and Democrats had to protect 25 – in the Senate allowed for Republicans to pick up seats in the upper chamber. The majority is 52-49, but could an additional three seats after final races are called in Florida, Arizona and Mississippi.

While there will be no shortage of spin from both sides about what the 2018 elections mean for each party and its prospects in the 2020 elections, ARTBA is focused on what the makeup of the next Congress means for efforts to advance an infrastructure package that leaders in both parties have advocated since the 2016 election and a permanent Highway Trust Fund revenue solution.

House Democrats will theoretically be able to pass legislation without GOP votes due to the chamber's institutional rules that greatly advantage the majority party. However, the Senate is more complicated. Even with the GOP gains, it will not have the 60-vote super majority needed to bypass the chamber's rules that empower the minority to stop any legislation with 41 votes—a threshold Democrats will exceed by at least five votes. As such, bipartisan legislation and compromise between House and Senate leaders and President Trump will be necessary to get the simplest of bills enacted, let alone major pieces of legislation.

The end of one election cycle immediately transitions to the next. Not only will the presidential election be on the minds of leaders in Washington, but a similarly difficult Senate map to the one that confronted Democrats in 2018 essentially flips for the GOP in 2020, with 23 Republican seats up for grabs compared to 11 for the Democrats. A House of Representatives with only a likely 5-10 seat majority for Democrats will add increased volatility to a 2020 election where just about any scenario is possible.

While it would be naïve to suggest the 2020 election will not loom over nearly all legislative strategy decisions made by leaders of both parties for the next two years, it does not necessarily portend gridlock across the board. There will be efforts by both parties to showcase not only their ideas and direction for the country, but also their ability to lead and work across the aisle. Of all the major issues before Congress, few can rival the broad bipartisan support that transportation investment and policy reforms have routinely enjoyed as evidenced by the fact that the FAST Act and MAP-21 surface transportation bills were enacted under divided government.

Another key advantage for the federal transportation programs is the looming Highway Trust Fund revenue shortfall and expiration of the federal highway and transit programs in 2020 that will require congressional action of some form in the next two years. Despite the predictions of legislative partisan gridlock and bruised egos following Tuesday's elections, we are looking at another busy couple of years on the transportation front.

## **Senate**

As this goes to press, Republicans have delivered on expectations and will control at least 52 seats in the U.S. Senate during 2019. Republicans won seats in at least three states previously held by Democrats (Indiana, Missouri and North Dakota), while successfully defending all but one GOP seat up for grabs, Nevada. Three states are still pending election outcomes, with Arizona and Florida still counting votes and too close to call, and Mississippi headed to a Nov. 27 runoff. As such, Republicans have the potential of holding as many as 56 seats in the Senate, which would be a net gain of five over their current 51-49 majority.

Due to Senate rules, the magic number is 60. Any senator has the right to block legislation, and stopping this parliamentary tactic requires 60 votes. Over the last several decades, this arcane procedure has evolved from a lone Senator talking a bill to death, to a tool that both parties wield to stop legislation with which they disagree. As a result, major legislation frequently requires a supermajority. In 2019—just like 2018—the Republicans will be unable to achieve 60 votes without support from at least a handful of Democratic party members. This means Republicans will have the ability to schedule votes, but only bills with bipartisan support will actually pass the chamber.

## **House**

Democrats have won the majority in the House by at least five seats, giving Democrats a controlling voice in a legislative chamber for the first time since 2014. And with 17 races still counting votes, that majority is likely to grow. Republicans have controlled the House since 2011 and—unlike the Senate—House rules greatly empower the majority party regardless of the size of that majority. The chamber requires only a simple majority to approve legislation and bestows on the majority complete control of the legislative agenda. In short, Democrats have control in the House.

The question remains, how will House Democrats use their regained power? There is pressure from the base of the party to use their leverage to investigate President Trump and his administration on numerous fronts. At the same time, many rank-and-file Democrats in Congress are eager to begin legislating and recognize the need for bipartisanship.

## **State and Local**

With 36 gubernatorial races and 87 out of 99 state legislative chambers holding elections this year, control of governments at the state level was also put to voters. Seven of the 36 governor's mansions up for grabs flipped to the other party, with Georgia's race still too close to call. This brings the new total breakdown to at least 26 Republican governors and 23 Democratic governors. That compares to the current breakdown of 33 Republicans, 16 Democrats and one Independent.

Forty-six states held some sort of state legislature elections, with only Louisiana, Mississippi, New Jersey and Virginia not voting for state-level offices. Going into the Nov. 6 elections, Democrats controlled 18 state House and 14 state Senate bodies, while Republicans held majorities in 31 state

House and 36 state Senate chambers. Nebraska has only one, technically non-partisan, legislature, though the majority of its members are Republicans. After the newly-elected members are sworn in later this year and early next year, Democrats will now hold majorities in 20 state House and 18 state Senate chambers. Republicans, in turn, will control 31 House and 29 Senate chambers.

Prior to the election, Democrats held the governorship and state House and Senate in eight states, compared to 26 states where all three were led by Republicans. This is now the case in 14 states for Democrats and 21 states for Republicans.

<b>Balance of All 99 State Legislative Chambers</b>								
	<b>Pre-Election</b>				<b>Post-Election</b>			
<b>Chamber</b>	<b>Democrat</b>	<b>Republican</b>	<b>Split</b>	<b>Non-Partisan</b>	<b>Democrat</b>	<b>Republican</b>	<b>Split</b>	<b>Non-Partisan</b>
<i>State Senates</i>	14	36	0	1	18	31	0	1
<i>State House</i>	18	31	0	0	20	29	0	0
<i>Total:</i>	32	67	0	1	37	61	0	1

### **What's Next in Washington?**

While much of the recent national political focus has been on who will be serving in Congress beginning in 2019, members of Congress already on the job still have plenty of unfinished business before the end of this year. Issues that still need to be resolved include:

- The seven FY 2019 appropriations bills that are currently operating under a short-term continuing resolution (CR) set to expire Dec. 7. These annual appropriations bills set funding for a variety of federal programs—including most administered by the U.S. Department of Transportation. It remains to be seen, however, if Congress will approve funds for the remainder of FY 2019 or approve another short-term measure that would require further action next year. Regardless of the path taken, the final package is expected to fully fund the FAST Act's authorized investment commitment and provide over \$6 billion in supplemental transportation resources. ARTBA will continue to push Congress and the administration to finish their work by Dec. 7 and to deliver the maximum possible transportation infrastructure investment levels.
- House and Senate Democrats and Republicans will meet in the coming weeks to hold leadership elections for their respective parties over the next two years. Other administrative tasks will be completed in the coming weeks, such as adopting new operational rules for the House of Representatives.

Leaders of both parties have pointed to federal infrastructure investment as being at the top of their agenda for the 2019-2020 session. Reauthorization of the federal highway and public transportation programs faces a Sept. 30, 2020, deadline and action on such a measure will require Congress to address the Highway Trust Fund next revenue shortfall projected to occur in 2020.

ARTBA will continue working with congressional leadership, rank and file members and the Trump administration to encourage early action on an infrastructure package that includes a permanent, growing Highway Trust Fund user fee revenue solution.

The following pages provide a more detailed analysis of the 2018 elections.

### Summary of 2018 Election Results

	Democrats	Republicans	Independents	Vacancies	Undecided
<b>Senate (2018)</b>	<b>47</b>	<b>51</b>	<b>2</b>		
<b>Senate (2019)</b>	<b>42</b>	<b>53</b>	<b>2</b>		<b>3</b>
<b>House (2018)</b>	<b>193</b>	<b>235</b>		<b>7</b>	
<b>House (2019)</b>	<b>222</b>	<b>196</b>			<b>17</b>
<b>Governor (2018)</b>	<b>16</b>	<b>33</b>	<b>1</b>		
<b>Governor (2019)</b>	<b>23</b>	<b>26</b>			<b>1</b>

### Newly-Elected Members of Congress and Governors

As of Nov. 7, 94 new members of the U.S. Senate and House of Representatives were elected along with 20 new governors—these ranks include former members who are returning to Congress as well as several House members who will now serve in the Senate and as governors. ARTBA and its leadership will begin meeting with these newly-elected officials and their staff in January to inform them of the importance of federal transportation investment to their state or district. While some of the congressional races are still officially unresolved, we can report these new members of Congress and governors:

#### Representatives

Ann Kirkpatrick (D-Ariz.)	Andy Levin (D-Mich.)	Mary Gay Scanlon (D-Pa.)
Greg Stanton (D-Ariz.)	Jim Hagedorn (R-Minn.)	Chrissy Houlahan (D-Pa.)
Young Kim (R-Calif.)	Angie Craig (D-Minn.)	Susan Wild (D-Pa.)
Mike Levin (D-Calif.)	Dean Phillips (D-Minn.)	Madeleine Dean (D-Pa.)
Joe Neguse (D-Colo.)	Ilhan Omar (D-Minn.)	Dan Mueser (R-Pa.)
Jason Crow (D-Colo.)	Pete Stauber (R-Minn.)	Joe Cunningham (D-S.C.)
Jahana Hayes (D-Conn.)	Michael Guest (R-Miss.)	William Timmons (R-S.C.)
Ross Spano (R-Fla.)	Susie Lee (D-Nev.)	Dusty Johnson (R-S.D.)
Greg Steube (R-Fla.)	Steven Horsford (D-Nev.)	Tim Burchett (R-Tenn.)
Debbie Mucarsel-Powell (D-Fla.)	Chris Pappas (D-N.H.)	John Rose (R-Tenn.)
Donna Shalala (D-Fla.)	Mikie Sherrill (D-N.J.)	Mark Green (R-Tenn.)
Michael Waltz (R-Fla.)	Jeff Van Drew (D-N.J.)	Veronica Escobar (D-Texas)
Ed Case (D-Hawaii)	Tom Malinowski (D-N.J.)	Dan Crenshaw (R-Texas)

Russ Fulcher (R-Idaho)  
Lauren Underwood (D-Ill.)  
Jesus “Chuy” Garcia (D-Ill.)  
Sean Casten (D-Ill.)  
Jim Baird (R-Ind.)  
Greg Pence (R-Ind.)  
Abby Finkenauer (D-Iowa)  
Cindy Axne (D-Iowa)  
Steve Watkins (R-Kan.)  
Sharice Davids (D-Kan.)  
David Trone (D-Md.)  
Lori Trahan (D-Mass.)  
Ayanna Pressley (D-Mass.)  
Haley Stevens (D-Mich.)  
Rashida Tlaib (D-Mich.)  
Elissa Slotkin (D-Mich.)

Deb Haaland (D-N.M.)  
Max Rose (D-N.Y.)  
Alexandra Ocasio-Cortez (D-N.Y.)  
Antonio Delgado (D-N.Y.)  
Joseph Morelle (D-N.Y.)  
Kelly Armstrong (R-Ala.)  
Anthony Gonzalez (R-Ohio)  
Kendra Horn (D-Okla.)  
Kevin Hern (R-Okla.)  
Brian Fitzpatrick (R-Pa.)  
Lloyd Smucker (R-Pa.)  
John Joyce (R-Pa.)  
Conor Lamb (D-Pa.)  
Guy Reschenthaler (R-Pa.)  
Glenn Thompson (R-Pa.)

Chip Roy (R-Texas)  
Sylvia Garcia (D-Texas)  
Van Taylor (R-Texas)  
Colin Allread (D-Texas)  
Lance Gooden (R-Texas)  
Ron Wright (R-Texas)  
Lizzie Fletcher (D-Texas)  
John Curtis (R-Utah)  
Jennifer Wexton (D-Va.)  
Elaine Luria (D-Va.)  
Denver Riggleman (R-Va.)  
Ben Cline (R-Va.)  
Abigail Spanberger (D-Va.)  
Kim Schrier (D-Wash.)  
Carol Miller (R-W.Va.)  
Bryan Steil (R- Wis.)

### **Senators**

Rick Scott (R-Fla.)  
Mike Braun (R-Ind.)

Josh Hawley (R-Mo.)  
Jacky Rosen (D-Nev.)  
Kevin Cramer (R-N.D.)

Marsha Blackburn (R-Tenn.)  
Mitt Romney (R-Utah)

### **Governors**

Mike Dunleavy (R-Alaska)  
Gavin Newsom (D-Calif.)  
Jared Polis (D-Colo.)  
Ned Lamont (D-Conn.)  
Ron DeSantis (R-Fla.)  
Brad Little (R-Idaho)

J.B. Prizker (D-Ill.)  
Laura Kelly (D-Kan.)  
Janet Mills (D-Maine)  
Gretchen Whitmer (D-Mich.)  
Tim Walz (D-Minn.)  
Steve Sisolak (D-Nev.)  
Michelle Lujan Grisham (D-N.M.)

Mike DeWine (R-Ohio)  
Kevin Stitt (R-Okla.)  
Kristi Noem (R-S.D.)  
Bill Lee (R-Tenn.)  
Tony Evers (D-Wisc.)  
Mark Gordon (R-Wyo.)

## **Election Impact on Congressional Leadership and the Relevant House and Senate Committees**

While significant change will be coming to Washington with Democrats gaining control of the House in January, their current leadership is likely to remain intact in both chambers. Minority Leader Nancy Pelosi (D-Calif.), Minority Whip Steny Hoyer (D-Md.) and Democratic Caucus Assistant Leader James Clyburn (D-S.C.) are very likely to ascend to the top three positions for their party when they assume the majority in the House in 2019. Pelosi will likely be the next Speaker, assuming a role she had from 2007 through 2010. Hoyer is slated to become Majority Leader and Clyburn Majority Whip. On the GOP side, with current Speaker Paul Ryan (R-Wis.) retiring at the end of the Congress, Majority Leader Kevin McCarthy (R-Calif.) and Majority Whip Steve Scalise (R-La.) will likely assume the party’s leadership positions in the minority. However, McCarthy may receive a challenge from the far right of his party.

With the Republican majority in the Senate likely to increase by at least two seats, if not more, Majority Leader Mitch McConnell (R-Ky.) will continue his role in 2019. It gets a little interesting after that, as GOP Caucus Rules in the Senate term-limit current Majority Whip John Cornyn (R-Texas). The current number three for Republicans, GOP Caucus Chairman John Thune (R-S.D.), has expressed interest in taking over as the Majority Whip. It has been reported that McConnell will seek to retain Cornyn as part of the GOP leadership in some capacity. On the Democratic side, current Minority Leader Chuck Schumer (D-N.Y.) will stay on as the Minority Leader for the Democrats in the Senate, with Dick Durbin (D-Ill.) continuing as Minority Whip and Patty Murray (D-Wash.) maintaining her role as Assistant Minority Leader.

ARTBA will provide an update on House and Senate leadership decisions as they are made by each party in the coming weeks.

### **Transportation & Infrastructure (T&I) Committee**

At least one thing was certain heading into the 2018 election: there will be a new T&I Committee chairman in 2019. Rep. Bill Shuster (R-Pa.) is retiring after 18 years in Congress, including six as chairman of the committee that oversees nearly all transportation related policy issues. Shuster's chairmanship saw the enactment of the FAST Act surface transportation reauthorization law, three Water Resources Development Act reauthorizations and a five-year aviation authorization enacted Oct. 5.

Committee Ranking Member Peter DeFazio (D-Ore.) will take over as chairman of the T&I Committee in January. DeFazio has led Democrats on the panel since 2015. Eleanor Holmes Norton (D-D.C.) and Rick Larson (D-Wash.) are expected to assume the gavels at the Highways & Transit and Aviation Subcommittees, respectfully.

Who will lead Republicans now that Shuster is stepping aside is yet to be determined. Current Highways & Transit Subcommittee Chairman Sam Graves (R-Mo.) has signaled his desire to be the panel's top Republican but may face competition from other members of the committee. Graves previously served as Chairman of the Small Business Committee as well as various subcommittee chairmanships on T&I and has seniority over any other potential candidate. Railroads, Pipelines, and Hazardous Materials Subcommittee Chairman Jeff Denham (R-Calif.) has also signaled his desire to lead the committee's GOP members, though Denham's re-election race is undecided as of publication of this report.

Of the 60 current members of the T&I Committee, 11 will not be returning to the House of Representatives. Those members are:

Bill Shuster (R-Pa.)

John "Jimmy" Duncan (R-Tenn.)

Frank LoBiondo (R-N.J.)

Lou Barletta (R-Pa.)

Mark Sanford (R-S.C.)

Todd Rokita (R-Ind.)

Barbara Comstock (R-Va.)

John Faso (R-N.Y.)

Jason Lewis (R-Minn.)

Michael Capuano (D-Mass.)

Elizabeth Esty (D-Conn.)

### **House Ways & Means Committee**

The House Ways & Means Committee has jurisdiction over all tax policy, including all transportation related taxes and trust funds. Current Committee Ranking Member Richard Neal (D-Mass.) will become the chairman of the committee when the next congress is seated in January. Neal has a long history of supporting investment in infrastructure and has signaled support for not only addressing the looming Highway Trust Fund revenue shortfall but also making increased investments via a large infrastructure package in the coming Congress.

Current Chairman Kevin Brady (R-Texas) is expected to lead the committee for the GOP as the Ranking Member. It is worth noting that at least 10 of the 24 members of the committee on the GOP side will not be around next Congress. Only one member on the Democratic side of the committee will not be back, former Ways & Means Chairman Sander Levin (D-Mich.).

### **House Appropriations Committee**

The House Appropriations Committee will be chaired by current Ranking Member Nita Lowey (D-N.Y.). Lowey will become the first female to lead the powerful committee, which allocates funding for all federal discretionary programs. As next the chair, Lowey has signaled increasing investments in infrastructure as one of her top priorities. The top Republican on the panel remains to be determined, as a three-person race has materialized between Robert Aderholt (R-Ala.), Kay Granger (R-Texas) and Tom Graves (R-Ga.).

Changes at the Transportation, Housing and Urban Development (THUD) subcommittee are not expected to be significant, as both current Chairman Mario Diaz-Balart (R-Fla.) and Ranking Member David Price (D-N.C.) are expected to flip roles beginning in 2019.

### **Senate Environment & Public Works (EPW) Committee**

Sen. John Barrasso (R-Wyo.) will have the option to remain chairman of the Senate EPW Committee in 2019—the committee has jurisdiction over the federal highway program. Barrasso, however, may have the option to chair another committee, so uncertainty remains at this point. Current EPW Ranking Member Tom Carper (D-Del.) is expected to continue as the lead Democrat on the panel next year.

### **Senate Finance Committee**

Senate Finance Committee Chairman Orrin Hatch (R-Utah) will be retiring at the end of 2018, leaving a vacancy at the top of the Senate tax-writing panel. Current Judiciary Committee Chairman Charles Grassley (R-Iowa), who previously chaired the committee over a decade ago and helped craft the tax title to the 2005 SAFETEA-LU surface transportation law, still has one term left of eligibility to become chairman per Senate GOP rules. If he would rather remain at the helm of the committee that oversees federal court nominations and the Department of Justice, current Banking, Housing and Urban Affairs Committee Chairman Mike Crapo (R-Idaho) would be next in line. Current Finance Committee Ranking Member Ron Wyden (D-Ore.) will continue as the panel's top democrat. The Finance Committee will be charged with finding a revenue solution for stabilizing the Highway Trust Fund.

### **Senate Appropriations Committee**

Senator Richard Shelby (R-Ala.) and Ranking Member Patrick Leahy (D-Vt.) are expected to return as Chairman and Ranking Member of the Appropriations Committee in the upper chamber. Current Transportation, Housing & Urban Development Subcommittee Chair Susan Collins (R-Maine) will likely remain on as the panel's chairman with Ranking Member Jack Reed (D-R.I.) continuing as the

top Democrat on the subcommittee. Appropriators may play a larger-than-normal role in the next Congress if an infrastructure package gets moving, as the committee has jurisdiction over all discretionary spending.

### **Senate Banking Committee**

Leadership for the panel that oversees transit policy and a host of financial issues in the Senate is likely to be determined by a member of the Senate who is not even on the committee. If the aforementioned Grassley takes over on the Finance Committee, the leadership of the Banking Committee will remain unchanged in the 116<sup>th</sup> Congress, with Mike Crapo remaining as Chairman and Sherrod Brown (D-Ohio) continuing on as the lead Democrat. If Grassley stays on as chairman at Judiciary, Crapo will almost certainly take the gavel at the more desired Finance Committee, leaving the Banking Committee chairmanship vacant. Pat Toomey (R-Pa.) is next in line in seniority on the committee for the GOP.

### **Senate Commerce Committee**

Major changes will occur at the top of the committee charged with overseeing the federal aviation and transportation programs. Current Chairman John Thune is likely to become the next GOP Majority Whip (see leadership discussion above), a position that usually precludes a member from also leading a committee for their party. Sen. Roger Wicker (R-Miss.) is next in line for the Republicans to be chairman of the Commerce Committee. Current Ranking Democrat Bill Nelson (D-Fla.) lost his re-election bid and would cede his role to either senators Maria Cantwell (D-Wash.) or Amy Klobuchar (D-Minn.).

### **Election's Over, but Hard Work Just Beginning**

Federal investment constitutes on average more than half of all U.S. highway and bridge capital improvements. The individuals elected Nov. 6 will be making decisions that directly impact the transportation construction industry marketplace for years to come. The FAST Act expires in less than two years and along with that adequate revenue sources are needed for the Highway Trust Fund to support future transportation investments.

We cannot wait to begin educating members of Congress, particularly those that are newly elected, about the need to find a long-term Highway Trust Fund revenue solution to preserve and grow federal surface transportation investment. With the elections completed, now is a perfect time to reach out to your current Representatives and Senators to engage them about the value of transportation improvements in your community and the need for action to stabilize the Highway Trust Fund NOW!

Please contact ARTBA's Senior Vice President of Congressional Relations Dean Franks at [dfranks@artba.org](mailto:dfranks@artba.org) or (202) 834-6089, for assistance in reaching out to your members of Congress.