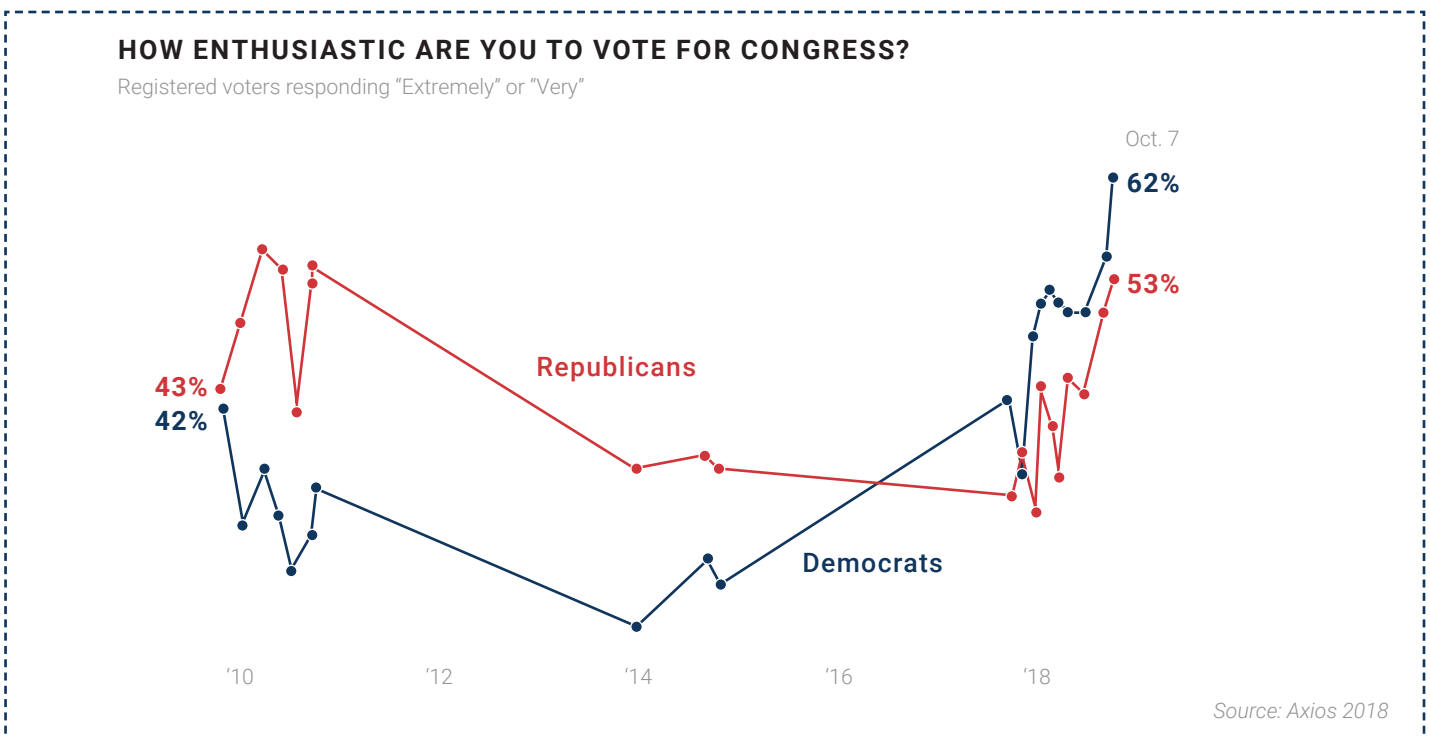


October 31, 2018

## 2018 MIDTERM ELECTION ANALYSIS

It's the calm before the storm here in Washington with Members of Congress and much of their staff on the campaign trail, leaving lobbyists like us taking bets on who prevails and where.

**OUR GOAL** here is to share with you intelligence you can't glean from *The New York Times* or CNN. But to get the obvious out of the way...we don't have to tell you that most of the anticipation isn't over *if* Democrats win back the House, but by how many seats. And then, what does the new House leadership look like, and what's the fate of Nancy Pelosi? We'll save our prognosticating on the party leadership races for our post-election analysis to avoid getting in any hot water...these predictions ultimately find their way around town. Confidence of a Democratic takeover is slightly fading, however, following the Brett Kavanaugh Supreme Court episode and a perceived "Brett Bounce" for the GOP across the country, shrinking the enthusiasm gap between Democratic and Republican voters.



### THE NUMBERS GAME

#### House

Democrats need 23 seats to win the House, and most predictions are that they will win anywhere between 20 and 35. If what we just said is true, Republicans still have a chance to hold the House, albeit a very slim one.

As you watch returns trickle in on election night, **a few key races that could indicate a blue wave are:**

Andy Barr (R-KY-06); Peter Roskam (R-IL-06); David Brat (R-VA-07); Scott Taylor (R-VA-02); Barbara Comstock (R-VA-10)



[Click here for an analysis of competitive House seats.](#)

## Senate

Control of the Senate has gone from toss-up to lean Republican, as Democrats defend 24 seats – 10 of them in Trump Country, and Republicans only defending 10 seats – one of them in Clinton territory. Republicans currently hold a slim 51-49 seat majority in the Senate, meaning Democrats would need to pick up two seats to win a majority.



[Click here for an analysis of competitive Senate seats.](#)

The competition for the House is playing out in suburbs across the country where Democratic candidates are threatening GOP incumbents. The Senate map, alternatively, is defined by rural red states where Democrats are on the defensive. Competitive House races are almost evenly divided among the Northeast, Midwest, South and West, while any Senate tipping point would likely be in the Midwest or South. Though the Northeast is relevant to the House map, it plays almost no role in wrestling control for the Senate

## INTERESTING STATISTICS FROM AXIOS

- 2018 will likely be the last year women make up only 20% of Congress. While the current class is the most racially diverse in history, 2019 is on pace to set a new record.
- For the first time since 1790, the **Census Bureau** showed “an absolute decline in the nation’s white population” of more than 40,000 whites between 2015 and 2017.
- We are now, for the first time, “on the cusp of seeing the first minority white generation, born in 2007 and later,” per the Brookings Institution. House Democratic Leader Nancy Pelosi likes to say “beauty is in the mix,” arguing that diverse viewpoints lead to a better debate and stronger policy outcomes. If Dems win back the House in November’s midterms, as expected, Pelosi will usher in the most diverse leadership team (in either chamber) in the history of Congress.
- Half of the 22 House committee chairs would be women or minorities – or both.
- House Dems are now 41% white male, which is sure to fall in the next Congress, with November’s record lineup of Democratic nominees.

## WHAT’S AT STAKE

The makeup of the next Congress will have a significant impact on our industry, no matter who wins control. Before turning the page to the 116<sup>th</sup> Congress, **consider what happened in the 115<sup>th</sup>:**

- We beat back nearly every attack—from both Democrats and Republicans—on employer-sponsored insurance, or alternatively, delayed enactment of the policy (implementation of the Cadillac Tax was delayed for two years from 2020 to 2022).
- This Congress missed the mark in its swift consideration of **comprehensive tax reform** late last year, leaving Council member firms organized as pass-through entities wondering whether or not they were eligible for the promised tax relief. Our efforts to clarify the issue through regulatory guidance with our partners at Steptoe & Johnson appear to have carried the day when Treasury issued its proposed rule clarifying that brokerage firms organized as pass-through entities could ultimately benefit from tax relief. It was a tremendous victory. We expect the final regulation to be issued before the end of the year.
- **The National Flood Insurance Program** narrowly avoided an authorization lapse in July when Congress passed a short-term reauthorization to December of this year. We’re continuing to work toward a long-term reauthorization that includes opening private competitive market to flood peril.

- Because of our efforts, this Congress mounted significant pressure on the Administration to exclude property/casualty premiums from **FATCA** regulations. The White House responded by including our FATCA concerns as a priority issue in its Priority Regulatory Guidance last fall, and we have indications that the regulatory clarity we seek could be issued by the IRS before the end of the year.

Some of these issues might see a resolution before the 116<sup>th</sup> Congress is sworn in, but most will not. The number one issue consistent with voters across the country is rising health costs – an issue we’ve been pointing Congress toward for years (it’s not the premiums, it’s the cost). A myriad of solutions to reigning in costs are being considered – some of which we will support, and others we will adamantly oppose.

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## MEDICARE FOR ALL

The most visible alternative to the status quo is the Medicare for All rallying cry emerging from progressive Democrats. Medicare for All is obviously a catastrophic issue for our industry and for the country. Parochially, it would, by definition, nearly eviscerate employer-sponsored insurance as we know it. More broadly, it would cost upwards of \$32 trillion, threaten 17% of the country’s GDP and would be wildly disruptive to the health coverage enjoyed by the 156 million Americans who get their insurance through their employer.

The Council aggressively weighed into the debate on the campaign trail this year by signing on as a founding partner of the **Partnership for America’s Healthcare Future**. PAHCF is a public affairs coalition that has been working to influence media coverage on Medicare for All and directly running digital, print and television advertisements with third party partnerships in districts where Medicare for All has surfaced as an issue. Notably, **there are currently six variations of Medicare expansion plans before Congress**. The most offensive is the Medicare for All initiative wiping out employer-sponsored insurance, and the least offensive is a Medicare buy-in option for essential health benefits made available on state exchanges.



[Click here to compare and contrast the different proposals.](#)



[Click here for an interesting survey PAHCF conducted on behalf of coalition members showing if healthcare will be a contributing factor on election day.](#)

The Medicare for All organizing effort largely emerged from the failed Presidential campaign of Bernie Sanders – and is being heralded from candidates primarily running in Democratic strongholds. It is important to recognize that the emergence of this issue is the result of grassroots organizing, not from establishment Democratic candidates. Contrary to the media hype, the majority of Democratic candidates running in competitive suburban districts refuse to support Medicare for All and are instead supporting efforts to guarantee universal coverage by bolstering the Affordable Care Act. Sixty percent of Democrats in competitive House races and 92% of Democrats in competitive Senate races have never expressed support for Medicare for All. Nearly 80 percent of Democrats’ campaign websites in competitive House races make no mention of “Medicare for All.” This is all to say that the media hype around the movement is not necessarily reflective of the true enthusiasm level.

## EMPLOYER-SPONSORED INSURANCE

Once you get past the extreme Medicare for All noise, you have a myriad of health policies to be considered that will impact employer-sponsored insurance. **The issues can largely be put into two camps: 1) solutions to stabilize the individual market, and 2) solutions to reign in drug costs.** Finding a bipartisan solution in both arenas that would be signed by President Trump is a herculean task, but not an insurmountable one. Finding those solutions is a Council priority.

 [Our position on stabilizing the individual marketplace.](#)

 [Our position on reigning in drug costs.](#)

In short, **we seek to stabilize the individual market and to bring more transparency to drug pricing.**

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## DRUG PRICING

For his part, President Trump is moving the needle toward more transparency for prescription drugs by requiring manufacturers to disclose the price in advertisements. He supports increased flexibility for 1332 waivers (a key element of a market stabilization plan pushed by Sens. Lamar Alexander and Patty Murray), and expanding the pool of individuals able to buy health insurance in the individual market with HRAs. To the surprise of nobody, Democrats are balking, claiming the proposed waiver flexibility is extreme and **erodes protections for preexisting conditions.** They say the HRA move will **undermine employer-sponsored plans by encouraging companies to dump high-risk individuals into the exchanges.** But the moves nevertheless demonstrate the Administration's shared recognition of the problems.

 [Click here for a copy of a recent memo on the proposed rule.](#)

Scrutiny over drug pricing is increasing on a bipartisan basis and almost guarantees legislative action in the next Congress. The Republican-led House Energy and Commerce is diving into the practice of **Pharmacy Benefit Managers**, and Progressives Democrats are **demanding answers** from drug companies on why price increases have been so dramatic. It's a debate in which The Council will engage in as part of efforts to control rising premiums while ensuring brokers have access to the data critical to crafting tailored, sophisticated benefit plans.

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## THE NEXT CONGRESS & P/C ISSUES

There are also several issues impacting the property/casualty business that will be on the front burner for the next Congress. This Congress was never able to fully reauthorize and reform the **NFIP**, and we'll see continued debate in the next Congress on how to reign in the \$25 billion debt-ridden program. 2017 saw more Nat Cat insurance losses than ever before in history, and it didn't go unnoticed that fewer than 17% of Americans living in a flood zone affected by a 2017 storm had flood insurance. Fewer than 3% in Hurricane Florence's path had the coverage. This next Congress will determine the economic resiliency of storm prone communities and whether private markets are able to offer flood peril alongside NFIP policies.

 [Click here for our policy on NFIP Reauthorization.](#)

The next Congress will also determine the fate of the **Terrorism Risk Insurance Program**. As you know, the program's federal backstop is the backbone to terrorism peril in the United States. Dysfunction in the 113<sup>th</sup> Congress led to a lapse in the program for weeks – and risked market chaos as carriers couldn't guarantee the coverage without the federal backstop, potentially freezing lending and seizing markets. The Federal Insurance Office recently issued its **annual report** highlighting data in the terrorism markets underscoring the program's success. The program will currently expire at the end of 2020 unless it is reauthorized. As with all things in Congress, the renewal effort will earnestly begin next year but won't likely make it to the finish line until the end of 2020. And we'll be leading the charge.

**So, what does our crystal ball hold for the next Congress and our issues? Briefly, it looks like this:**

***If there is Democratic control of both the House and Senate:***

- There will be tremendous pressure to be bold
- There will be an internal debate over the various Medicare expansion options and bolstering the ACA, including mandates, CSR payments and risk corridors
- There will be aggressive efforts to reverse Administrative actions weakening the ACA
- There should be broad support for reauthorizing TRIA
- There should be broad support reauthorizing NFIP There will be an inundation of investigations into the White House
- Democratic "pay as you go" rules could be a hurdle to fixing ACA tax issues

***If control of the House and Senate is divided:***

- Medicare expansion threats minimized
- Focus will be on strengthening the ACA
- Possible bipartisanship on drug pricing and ACA tax issues
- Possible long-term reauthorization of NFIP
- Likely TRIA reauthorization dependent on disruptors on the far-right
- Democratic "pay as you go" rules could be an ongoing hurdle
- Emboldened GOP tea-party faction could be an ongoing disruptor

***If there is a Republican Sweep:***

- Medicare for All threat shifts to the Presidential campaign trail
- Continued attempts to repeal and undermine the ACA
- Possible bipartisanship around drug pricing and ACA tax issues
- TRIA reauthorization could face hurdles from conservative spending hawks
- Long term NFIP reauthorization could face hurdles from conservative spending hawks
- "Pay as you go" will not be an issue

**POST-ELECTION WEBINAR:  
INDUSTRY LANDSCAPE & WHAT'S AT STAKE**

Please plan to join us for our post-election webinar on **Thursday, November 8 at 4:00 EDT**. We'll provide an inside look at the election results and what they mean for you and your clients.

 [Click here to register.](#)

Thank you, as always, for your support.



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