



Congressional Update Election Edition

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November 7, 2016

Senate Elections

In less than 24 hours, voters will elect 435 Members of the House of Representatives and 34 Senators. Up until last week it appeared that Democrats were poised to gain five to seven seats in the Senate, giving the Democratic Party control of the Senate. Now that some of the Senate races have tightened up it is more likely that Democrats may pick up only four to six seats, still enough to wrest control of the Senate from the Republicans. While Democrats are expected to pick up some seats in the House of Representatives, the Republican Party is expected to remain in control of the House.

Until last week, it also looked increasingly likely that Hillary Clinton would defeat Donald Trump for the presidency. Trump's outrageous, insulting comments about women, Hispanics, Muslims and the mentally and physically impaired have caused irreparable damage to the GOP in key states where many candidates have distanced themselves from Trump. Yet, Clinton's victory is not yet assured. The announcement last week by FBI Director Comey that he will reopen the investigation into Clinton's e-mails (even though these are not e-mails sent by Clinton) has narrowed her lead, and may affect the down-ballot Democrats. Similarly, it remains unclear just how significantly Trump's recent upswing in the polls will affect the down-ballot candidates. These races are hard to predict. The simple theory of "coattails", i.e., the further behind Trump goes, or the further ahead Clinton goes, the worse – or better – it is for candidates down the ballot. This theory may apply in an ordinary election, but this year has been anything but ordinary.

Who ends up controlling the Senate – Democrats or Republicans – is likely to be a "nail biter" right up until election day. Both parties are pouring money into the "toss up" races. Republicans, fearing the loss of the Senate, are pouring \$25 million into seven races in a desperate attempt to stop Trump from dragging the entire Republican Party down with him. The infusion of cash comes from the Senate Leadership Fund, a powerful super PAC with ties to the Republican leadership. Republicans realize they have a difficult road ahead to keep its Senate majority but Trump's recent surge has given Republicans hopes of keeping the Senate.

For their part, Democrats have shifted their resources from Hillary Clinton's seeming victory to down-ballot contests in the hope of giving her a Senate majority. Assuming Clinton wins the presidency, Democrats need a net gain of four seats for control of the Senate; five seats in the unlikely event she does not win. Democrats still believe they are on track to win a majority

in the Senate, and are continuing to tie down-ballot Republicans to Trump, in the hope he will pull down other Republican candidates with him.

Seven races remain in the “toss up” column: Indiana; Missouri, New Hampshire, North Carolina, Pennsylvania, Nevada and Wisconsin. Republican-held seats in Arizona, Florida and Ohio – once considered toss up races – are “leaning Republican”, meaning Democrats could win these states, but the trend is toward supporting the incumbents. A Democratic upset appears unlikely.

It also appears that Democrats are poised to pick up the Republican-held seat in Illinois which means they need to pick up four of the toss up races. Traditionally, races that are “toss ups” rarely split evenly; one party tends to win the majority of votes. According to the *Cook Political Report*, no party has won less than 67 percent of the seats in “toss up” races.

While the Senate map remains a toss-up, it is likely that Democrats will pick up the four to six seats, giving them a slim majority. There is always the possibility of a tied Senate, but at present that seems unlikely. In the event of a tied Senate, the Vice President would be responsible for breaking any tie vote in the Senate.

Toss-Ups

Indiana (Open Seat) -- Former Senator Evan Bayh (D) vs. Representative Todd Young (R)

Bayh, a former US Senator and former governor of Indiana is considered Indiana royalty. His entry into the Senate race was considered a sure thing with a lead of over 20 points. His father Birch Bayh served in the Senate and had an unsuccessful presidential run. Bayh has a very narrow 2-point lead over Young, which is diminishing according to the latest polls. Monmouth University poll shows the two candidates now tied at 45 percent among likely voters.

Missouri: Incumbent Senator Roy Blunt (R) vs. attorney Jason Kander (D)

Blunt is ahead of Kander by less than 1 percentage point making Missouri one of the tightest Senate races this election cycle. Democrats hope Kander can win despite Trump’s lead in this solid red state. In 2012 Mitt Romney beat President Obama by almost 20 percentage points. The virtual tie could work to Kander’s advantage. Missouri is a must win for the Republicans.

New Hampshire: Incumbent Senator Kelly Ayotte (R) vs. New Hampshire Governor Maggie Hassan (D)

Incumbent Ayotte has backed off from her earlier comment that she considered Trump a role model for her children and renounced her support for Trump. According to the WBZ/University of Massachusetts poll, Ayotte has a narrow 3-point lead over challenger Governor Hassan. However, according to *Real Clear Politics*, taken before the WBZ poll, Hassan has a 2-point lead over Ayotte. New Hampshire is a presidential battleground state and whether Ayotte or Hassan wins will depend on how Clinton and Trump fare in the Granite State.

North Carolina: Incumbent Senator Richard Burr (R) vs. attorney Deborah Ross (D)

North Carolina is one of the more interesting Senate races. Contests for the Senate, the governorship and the White House are highly competitive. The Republican Party is having a difficult time competing with the Democrats who are outspending Republicans, while the Trump campaign has only recently become engaged in the race. Republicans are painting Ross, a former Executive Director of the State chapter of the ACLU as too liberal. Burr, however, has less than a one point lead over Ross according to the most recent Quinnipiac poll. But, Burr has the advantage of incumbency and could eke out a victory. If Clinton wins North Carolina it could help Ross.

Pennsylvania: Incumbent Senator Patrick Toomey vs. former Chief of Staff to Pennsylvanian Governor Wolf Katie McGinty (D)

Incumbent Toomey faces a formidable challenge from McGinty. Polls have consistently shown McGinty ahead of Toomey in this battleground state where Clinton is leading. A November 1 CNN/Opinion Research Poll has McGinty up by 6 points; other polls have her lead between 2 and 6 points. The consensus is that McGinty has a good chance of winning the Keystone state. Toomey, who may be considered too conservative for Pennsylvania which has been trending “blue” has tried to distance himself from Trump by not endorsing him, but neither has he ruled out voting for him.

Nevada (Open Seat): Physician Joe Heck (R) vs. former Nevada Attorney General Catherine Cortez-Masto (D)

The Democratic-held seat in Nevada could flip to the Republicans as Nevada is the only state where Republicans have a good chance of winning. Senate Minority Harry Reid (D) has held this seat for 30 years and a Republican win would be an enormous embarrassment for Reid and the Democratic Party. Democratic candidate Cortez-

Masto was hand-picked by Reid and the state Democratic machine is solidly behind her. Heck has a very slight but consistent lead over Cortez-Masto. He has backed off from his early statement of support for Trump which has hurt Heck with the more conservative Republicans in the state who support Trump. Nevada is a must win state for the Democrats.

Wisconsin: Incumbent Senator Ron Johnson (R) vs. former Senator Russ Feingold (D)

Since Feingold's announcement a year ago that he would run to reclaim his Senate seat, he has been well ahead of Johnson and Democrats were certain of flipping this seat. A year later Feingold finds his lead significantly diminished, causing pollsters to move this race from Likely Democrat to Toss Up.

Last week Democratic Senate Majority PAC, a Super PAC, poured \$2 million into Feingold's race, indicating concern about Feingold's standing. Not to be outdone Republican Super Pac Senate Leadership Fund matched the Democrats' amount and mounted TV ads attacking Feingold. Feingold's lead has shrunk to one percent. A win by Johnson, considered unlikely a few months ago, now looks achievable. Democrats need this state for control of the Senate.

These races remain too close to call. However, if Clinton wins the presidency with more than 270 electoral votes, e.g., 300 plus, Democrats could win the four to six seats needed for control of the Senate. Keep in mind, incumbents tend to do well in elections, and defeating incumbent Republicans in Missouri, New Hampshire, Pennsylvania, and Wisconsin may prove difficult for Democrats. Still, polls have been all over the place and the winners in these toss up races are anyone's guess.

Florida Senate Race: There is one other race worth watching and that is the Florida Senate contest where incumbent Senator Marco Rubio (R) is fending off a challenge from Representative Patrick Murphy (D). Once considered a "toss up" race, Rubio appears to have the advantage. He is well known and -more significantly- has a base in Democrat-heavy Miami-Dade County. His endorsement of Trump has not hurt his standing.

Murphy has been beset by several damaging stories, giving Democrats little chance of winning Florida. The most recent allegation, reported in *The Hill* Newspaper was that his campaign is under an FBI investigation for an alleged illegal donation scheme involving a wealthy Saudi family. Given Murphy's dwindling prospects, the Democratic Party has pulled funding, indicating Democrats have accepted Rubio's likely victory.

House Elections

Not to be forgotten are the 435 House seats that will be decided next week. Republicans currently hold the largest majority in the House since 1928. The current House lineup is 246 Republicans to 186 Democrats with 3 vacancies. According to the *Cook Political Report*, 178 Democrats and 200 Republican seats are considered safe. Twenty-two Republican-held seats are considered Toss Up or Leaning Democrat/Likely Democrat versus only 4 Democrat-held seats considered as Toss Up or Leaning Republican/Likely Republican. Although Democrats are on track to pick up between 5 and 20 seats in the House, it is far short of the 35 seats needed to gain control of the House.

The following races are only a few of the current toss ups, but they present an interesting cross section of the state of the 2016 House elections.

California (49): Incumbent Darrell Issa (R) vs. Retired Marine Colonel Doug Applegate (D)

Issa, the wealthiest member of Congress, has consistently won re-election for over a decade, but his support for Donald Trump appears to have hurt him, Trump named Issa to his national security advisory council. A late September poll taken by Tulchin Research for the Democratic Congressional Campaign Committee (DCCC) showed Applegate ahead 46 percent to 42 percent. Issa's campaign released an October Public Opinion Strategies poll showing him up 48 percent to 39 percent, but any number below 50 percent is a poor showing for a long-time incumbent

Florida (07): Incumbent: John Mica (R) vs. former National Security Specialist Stephanie Murphy (D)

The Supreme Court's order for the redrawing of John Mica's district has put the twelve-term republican in a position to be one of the most vulnerable House Republicans in this election year. The Republican legislature's best efforts to maintain this as a safe district while appeasing the will of the Supreme Court has resulted in a district with high demographic cleavages between Democrats and Republicans. The DCCC has spent millions on negative television aid attempting to tie Mica to Trump.

Maine (02): Incumbent Bruce Poliquin (R) vs. Emily Cain (D)

Poliquin and Cain are both tied at 45 percent in a Democratic poll published in *Roll Call*. The poll shows similar results to a June poll that had the race tied. Maine has traditionally favored Republican candidates, but it appears Cain is presenting a real challenge. Both Clinton and Trump are unpopular in Maine's second district.

Poliquin has refused to answer whether he supports Trump, while Cain has endorsed Clinton.

Nebraska (02): Incumbent Brad Ashford (D) vs. Retired Brig. General Don Bacon (R)

Ashford is running for a second term in the Republican state. He is the first Democratic member of the House since 1994. Nebraska's second congressional district has favored Republicans in the past and Ashford is competing with Republican Bacon, whose party views the district as rightfully theirs. Bacon has publicly called for Trump to drop out, though he has said he will still vote for him indicating that Trump's approval in Nebraska may have a larger impact on Bacon's success or failure. A win for Ashford will be a good bellwether for how Democrats fare in the upcoming election.

New Jersey (05): Incumbent: Scott Garrett (R) vs. former White House Speechwriter James Gottheimer (D)

Democratic Challenger Gottheimer achieved a record fundraising total of \$4 million in his hard-fought campaign to unseat seven term incumbent Scott Garrett. Garret ran into some recent controversy during his race when he said that he would not give money to the Republican Congressional Committee because it backed LGBT candidates. The drop in popularity of New Jersey Republican governor Chris Christie may have also harmed Garret.

No doubt, this year's presidential election will impact the down-ballot congressional races. There is no shortage of disaffected voters. For example, many traditional Republicans are unhappy with the Republican Party's new brand and no longer recognize their party as the Party of Lincoln. At issue is how these disaffected Republicans will vote. Will they vote for Clinton and down-ballot Republicans or not vote at all? It remains to be seen if fear of – or support for – a Trump presidency is a major factor in increasing voter turnout and thus affecting congressional election. The nuances of voter behavior notwithstanding, the party that wins the presidential race almost always wins a net gain in the House and the consensus is that 2016 will be no exception.