

Post-Election Webinar Series

Environment | November 11, 2020

Douglas Green

Partner | +1 202.344.4483 | dhgreen@Venable.com

Michael Bloomquist

Partner | +1 202.344.4002 | mdbloomquist@Venable.com

Nicholas Choate

Senior Policy Advisor | +1 202.344.4394 | ndchoate@Venable.com

William Nordwind

Partner | +1 202.344.4436 | wrnordwind@Venable.com

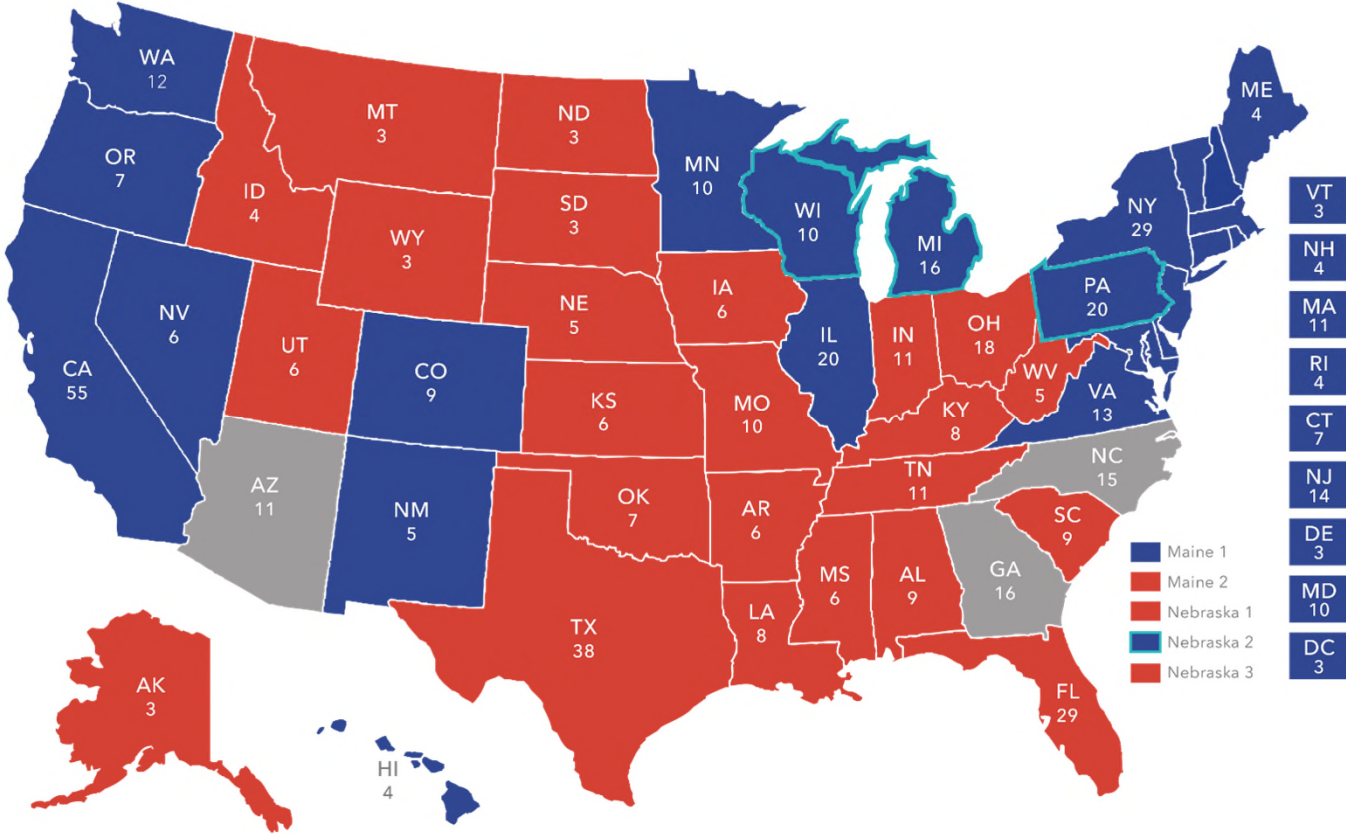
The Honorable Bart Stupak

Partner | +1 202.344.4226 | bstupak@Venable.com

VENABLE LLP

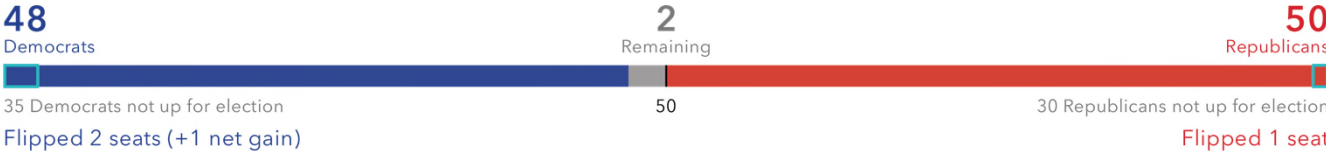
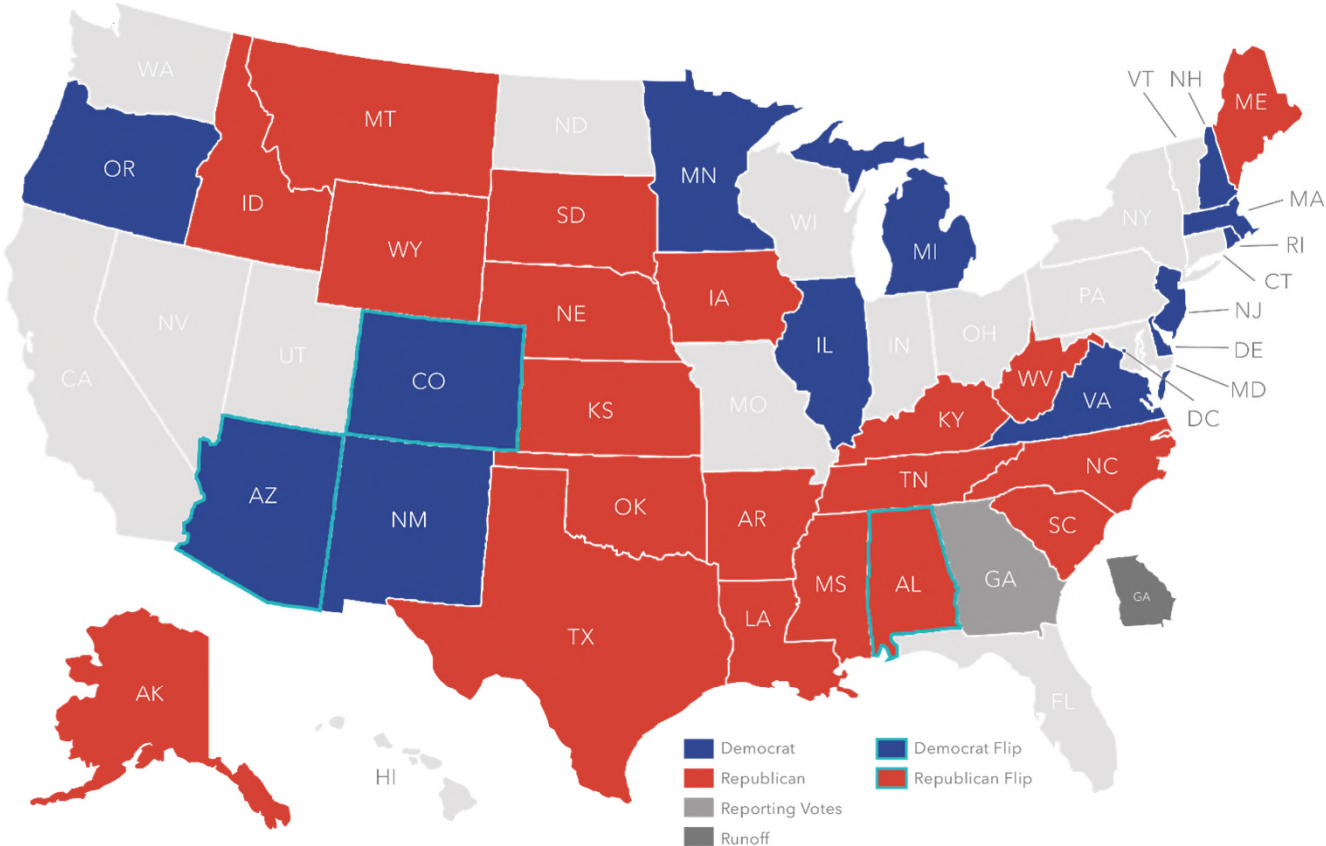
The 2020 Election – President-Elect Biden at 279

- Vice President Joe Biden is the projected winner with 279 votes. President Trump has 217 votes but has yet to concede.
- Georgia, North Carolina, and Arizona, remain undecided.
- Georgia is going to a recount. Pennsylvania is being litigated, and President Trump wants to prohibit PA from certifying the election.



The 2020 Election – The U.S. Senate: Undecided

- Control of the United States Senate has not been determined yet.
- Republicans were able to flip Alabama and hold Montana and Iowa.
- Democrats flipped Arizona and Colorado.
- There will be two runoffs in Georgia that will determine the majority in the U.S. Senate.



The 2020 Election – The Next 60 Days

The Election Fight, Continuing Resolution, and COVID-19 Stimulus Bill

- How long could it take to finalize the results of the presidency?
- Georgia January runoff elections
- The government runs out of funding on December 11
- Will Democrats and Republicans work to finish a COVID-19 bill and combine with a CR or wait until 2021?
- Will Trump sign any bill coming to him?



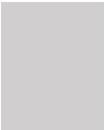
The 117th Congress

House of Representatives



Rep. Nancy Pelosi (D-CA)

House Committee Chairs



Unknown
House Appropriations



Rep. Richard Neal (D-MA)
House Ways and Means



Rep. Frank Pallone (D-NJ)
House Energy and Commerce



Rep. Maxine Waters (D-CA)
House Financial Services

U.S. Senate



Sen. Mitch McConnell (R-KY)

Senate Committee Chairs



Sen. Richard Shelby (R-AL)
Senate Appropriations



Sen. Mike Crapo (R-ID)
Senate Finance



Sen. Roger Wicker (R-MS)
Senate Commerce, Science, and Transportation



Sen. Patrick Toomey (R-PA)
Senate Banking

Environmental Regulation and Policy

Trump Administration

- Continued rulemakings
- Continued litigation strategy
- Block Democratic legislation

Biden Administration

- No Green New Deal, but aggressive
- Immediate freeze – pencils down
- Administratively unwind, withdraw, re-propose
- Tepid defense in courts (switch sides?)
- Team with a Democratic Congress on Congressional Review Act

VP Biden Plan

- Re-enter the Paris Climate Accord
- Use of executive order to roll back Trump administration rollback of environmental standards, CAFE standards, Clean Air Act
- End planet warming pollution from electricity by 2035
- 100% clean energy and net zero emissions by 2050
- To spend *\$2 trillion over four years* in a piece-by-piece legislative approach:
 - Coronavirus Stimulus Package (example). 2009 American Recovery and Reinvestment Act had \$90 billion in clean energy infrastructure
 - 500,000 electric charging stations for vehicles (trucks) and 1.5 million energy-efficient homes in House T&I Bill
 - Mandate to purchase hybrid and electric vehicles
 - Carbon capture and sequestration
 - Farm equipment used to capture and store methane gas from manure
 - Environmental and climate justice for pollutants in communities of color and tribal lands, with 40% of all clean energy and infrastructure benefits

Congressional Review Act Primer

- Congressional oversight tool
- Used 17 times (16 at the beginning of the Trump administration)
- Provides fast track consideration in Senate IF within 60 session day lookback period
- Invalidates the whole rule
- Prohibits agency from promulgating a rule in “substantially the same form”

Candidates for CRA treatment

- WOTUS
 - NEPA
 - Methane
 - Coal ash
 - Scientific transparency
 - Cost-benefit rule for CAA
-
- But remember, it's a blunt instrument and use can be double-edged

Hello Climate Change Policies

- 100% Clean Energy Economy
- EPA and other agencies (Interior, NOAA, Forest Service, DOE, Ag, DOD)
- Carbon pricing legislation
- Infrastructure legislation (stimulus package)
- International agreements
- Legislation to empower EPA to regulate

Don't forget the rest . . .

- Environmental justice – a priority
- Safe drinking water regulation and infrastructure
- HFC phaseout
- Asbestos ban
- Pipeline safety
- Superfund tax
- Emphasis on biodiversity protections
- Administrative policies adverse to fracking and fossil fuels generally

Questions?



© 2020 Venable LLP.

This document is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address.

VENABLE LLP