

# Post-Election Webinar Series

Nonprofit | November 30, 2020

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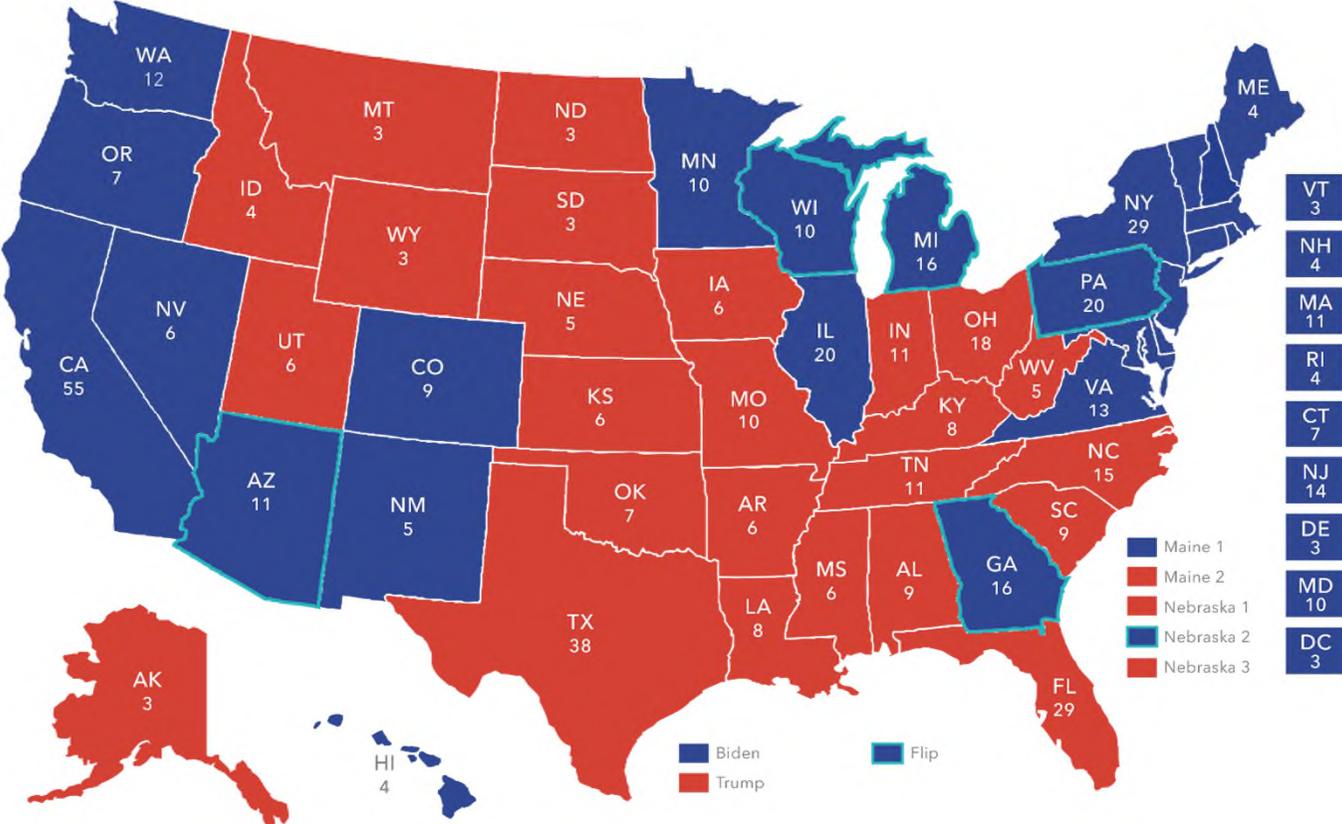
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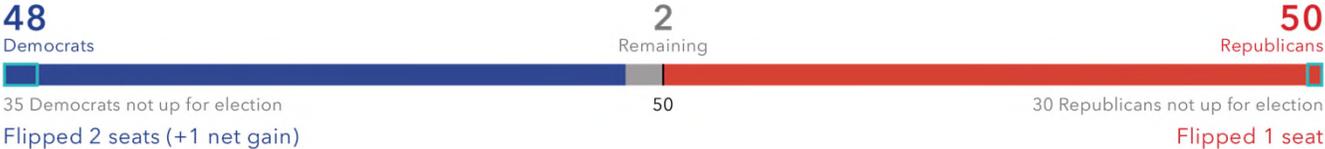
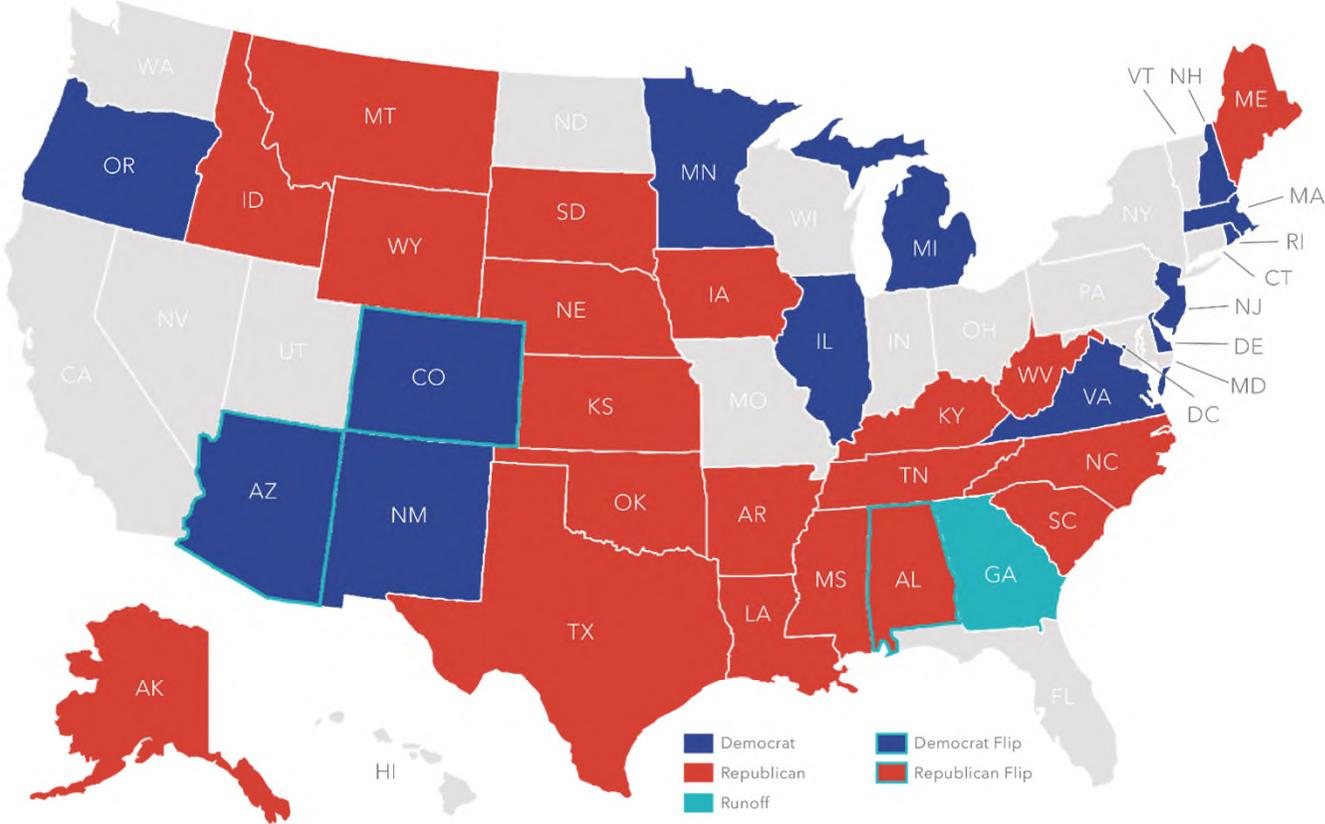
# The 2020 Election – President-Elect Biden at 306

- President-Elect Joe Biden is the projected winner with 306 votes. President Trump has 232 votes but has yet to concede.



# 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 presidential election?
- 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

# The First 100 Days

Potential priorities for the first 100 days of a Biden administration could include:

- A COVID-19 response/stimulus, possibly coupled with infrastructure
  - A COVID-19 package could happen regardless of which party controls the Senate, but scope will be different, depending on whether Republicans or Democrats are in the majority
  - There could be a tax component
- Immigration
  - Look for Biden to undo Trump policies and push for comprehensive immigration reform (as Biden reiterated in the last debate)
  - There is bipartisan support for something in the Senate, regardless of which party controls it
- Climate/Environment
  - Biden wants to re-enter the Paris Agreement
  - Probable rollback of Trump environmental deregulation and a legislative push if Democrats control the Senate
- Voting rights advancement/John R. Lewis Voting Rights Act

# Authorizing Bills

There are several issue areas that could undergo major policy overhauls, including:

- Higher Education Act (HEA) reauthorization (expired 2014)
- Healthcare bill
- Debt limit suspension (expiring July 2021)
- Surface transportation programs/Highway Trust Fund (HTF) (expiring September 2021)
- National Flood Insurance Program (NFIP) (expiring September 2021)

# Government Spending

- Spending priorities under a Biden administration will be significantly different from Trump's, likely for the benefit of many nonprofits
- Where could increased spending impact nonprofits?
  - Stimulus and/or COVID-19
  - Grant programs
  - New programs/spending
  - Appropriations
- Democrats generally favor public institutions rather than private (education, healthcare, etc.)
- Fiscal Year 2022 (FY22) will be the first in a decade where Congress isn't hamstrung by discretionary spending caps on defense and non-defense spending
- Budget Control Act in 2011 imposed these caps
- Renewed chatter about returning to some form of congressionally directed spending ("earmarks")
  - House Select Committee on the Modernization of Congress recommended this in September

# Regulations

- Generally speaking, more regulations under a Democratic administration
- Anticipate that Biden will get to work on “day one” undoing Trump regulatory changes (particularly ones that undid Obama regulations)
- Open question whether congressional Democrats will attempt to use the Congressional Review Act (CRA) to repeal some deregulatory actions of the Trump administration

# 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”
- Remember, it’s a blunt instrument and its use can be double-edged

# Taxes

- Biden is expected to push for changes to the tax code
- Look for him to unwind some of the Tax Cuts and Jobs Act (TCJA)
  - Corporate tax rates and certain individual rates to increase (limited to taxpayers with income in excess of \$400k)
    - Generally speaking, if tax rates go up, it makes deductions more attractive
    - Businesses and individuals may look to donations to nonprofits to reduce their tax burden
      - Deductions may not be as attractive if a rate increase is combined with a cap on itemized deductions
  - Nonprofit executive compensation tax and the investment income tax on colleges and universities could be unwound
  - Legislative or regulatory action to undo Treasury regulations that rolled back donor disclosure requirements for 501(c)(4), (5), and (6) organizations appears likely
  - Some Democratic legislators have discussed increasing the payout rate for private foundations and imposing a minimum payout rate for donor advised funds, as well as stricter rules for private operating foundations that maintain art museums

# What Else?

Broadly speaking, with a Democratic administration we could see policy changes in the following areas:

- Defense
- Energy/environment
- Healthcare
- Education
- Minimum wage

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**Questions?**

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