

Introduction: 2020 Election Policy Implications

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Government Law & Policy

Presidential Race

After historic delays required to tabulate millions of ballots that were not sufficiently counted until four days after the election, former Vice President **Joe Biden was declared the winner** in the U.S. Presidential election on Nov. 7 and will serve as the 46th President of the United States. In a victory speech Biden said “it’s time to put away the harsh rhetoric, lower the temperature, see each other again, listen to each other again.” He said his mandate involved fighting “the battle to control the virus, the battle to build prosperity ... the battle to restore decency, defend democracy, and give everybody in this country a fair shot. That’s all they’re asking for, a fair shot. Folks, our work begins with getting COVID under control.”

The final margin was significantly closer than polls had predicted. With some states still counting ballots, Biden was leading in the popular vote, 50.5% to 47.7%. He appears to have won between 279 and 306 electoral votes (Biden leads in Arizona and Georgia, which have not yet been “called”). President Trump appears to have won between 217 and 232 electoral votes (he leads in North Carolina, also not yet called). Biden had crucial victories in Michigan, Pennsylvania, and Wisconsin, all states that President Trump won in 2016. Several legal challenges are pending in states where the vote counting was not completed on Election Day. While election law experts do not give these challenges a high likelihood of success, it is possible that they could affect the final tabulation of ballots in certain states.

U.S. Senate

In the **United States Senate, Democrats picked up one seat, but Republicans still retain a 50 to 48 majority**. There was a special Senate election in Georgia in addition to its regularly scheduled Senate election. **Both Georgia races are heading to a runoff election on Jan. 5**, as required under state law when no candidate reaches the 50% threshold. Republican Senator David Perdue will face Democratic challenger Jon Ossoff. And Republican Senator Kelly Loeffler will face Democratic challenger Raphael Warnock. In the event that both challengers win, Senate control will switch to the Democrats, as Vice President-Elect Kamala Harris will be able to break tie votes in her capacity as President of the Senate. This uncertainty may delay normal organizational activities in the Senate, and the formal selection of new committee Chairman may not occur until after the Georgia special elections are held.

U.S. House of Representatives

In the **U.S. House of Representatives**, several races remain undecided. However, it appears that **Democrats will retain a smaller majority as Republicans appear to have had a net gain of five to thirteen seats**. Republicans were able to “flip” House districts in Florida (two), Iowa, Minnesota, New Mexico, Oklahoma, and South Carolina. Democrats picked up two new seats in North Carolina. Roughly 20 House races have not yet been “called,” and in eight of those races the Republican candidate leads in a district currently held by Democrats.

Lame Duck Agenda

The Senate begins its post-election “Lame Duck” session on Nov. 9 and the House returns on Nov. 16. Congress will attempt to (a) fund **fiscal year 2021 appropriations** through September 30, 2021, (b) reach an agreement on **COVID-19 relief legislation**, (c) pass the annual **National Defense Authorization Act** conference report, and (d) extend several health care, tax, and other **provisions of law that are scheduled to expire by the end of the year**.

Will Divided Government Continue?

In 30 of the last 40 years, U.S. elections have produced at least one House of Congress with a majority of members from a different party than the President. Unless both Georgia Senate runoff elections are won by Democrats, that trend will continue in the new 117th Congress next year. Unless Senate rules are changed, this means that every major legislative initiative will need some degree of bipartisan support. The pages that follow provide brief summaries of several issues that will be debated as the Biden Administration prepares to take office and begins to deal with the new Congress.

Read more on the [Lame-Duck Agenda and the Question of COVID-19 Relief](#).

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