

What the Election Results Mean for Your Business—Regulation, Taxation and Nominations

Rob Lehman
Jon Yarowsky

WILMERHALE® 

Attorney Advertising

Webinar Guidelines:

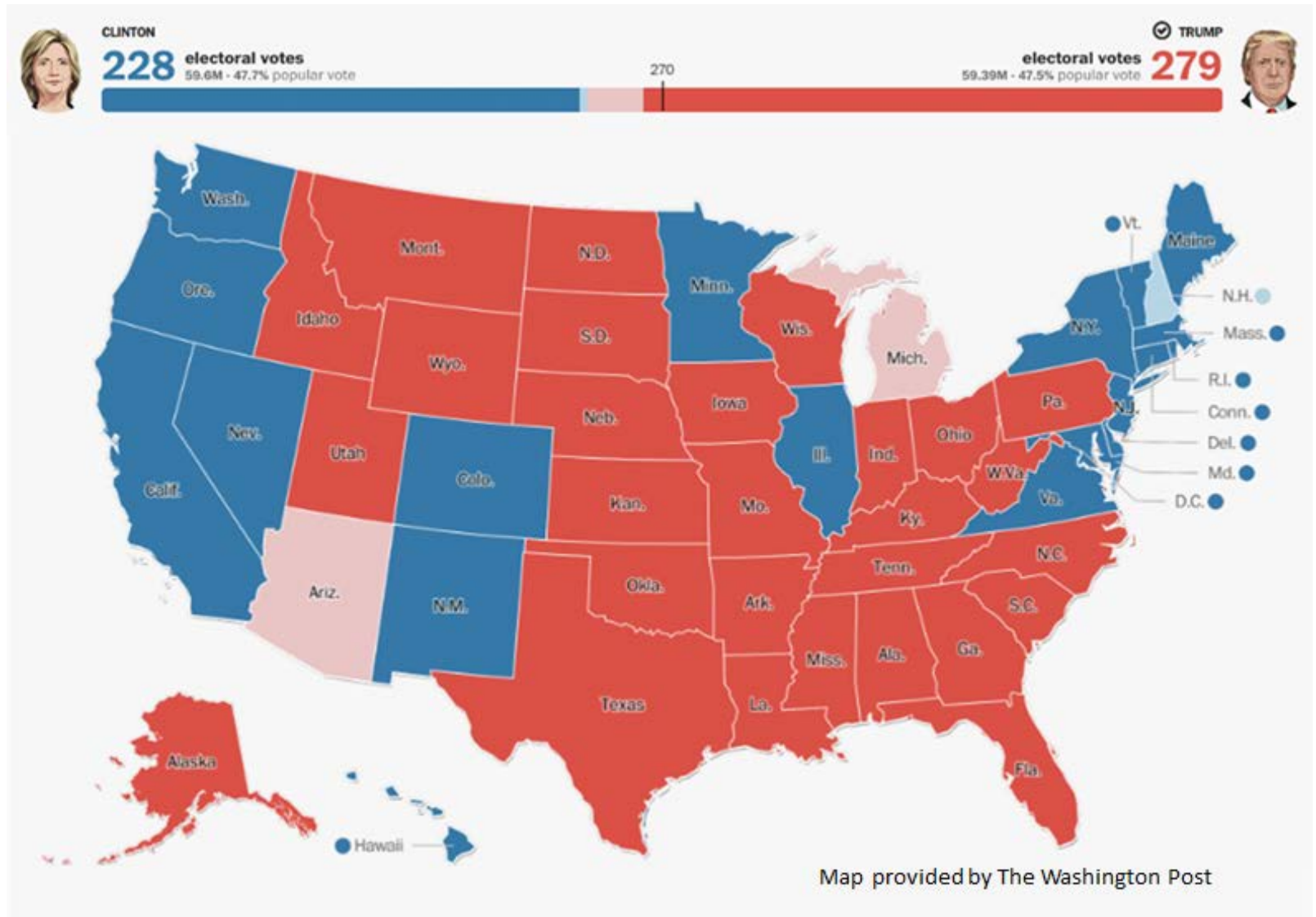
Participants are in listen-only mode

Submit questions via the Q&A box on the bottom right panel

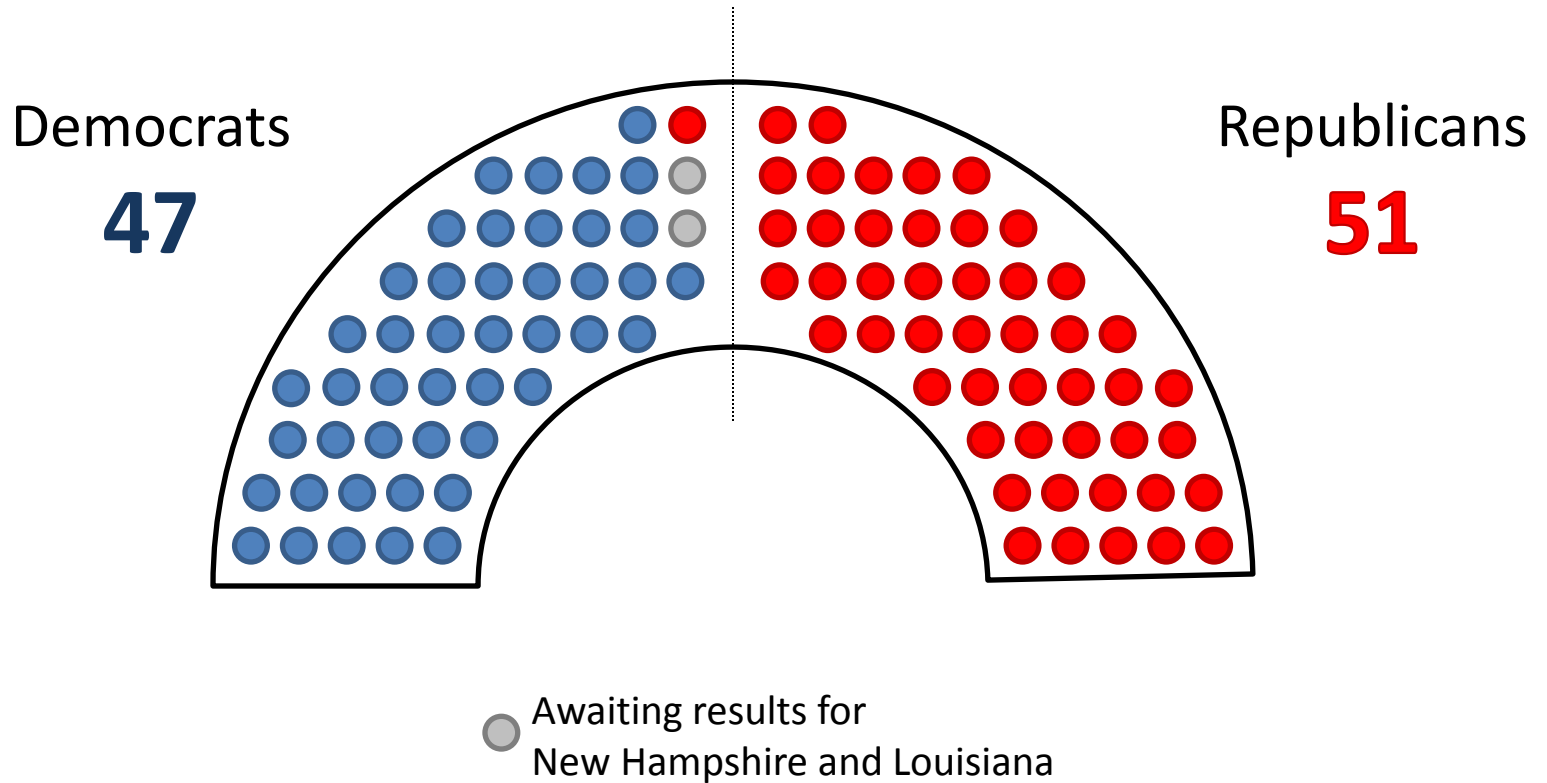
Questions will be answered as time permits, if we miss your question we will answer it after the webinar via email

WebEx customer support: +1 888 447 1119, press 2

Trump shocks the nation...



Senate Balance of Power: 115th Congress



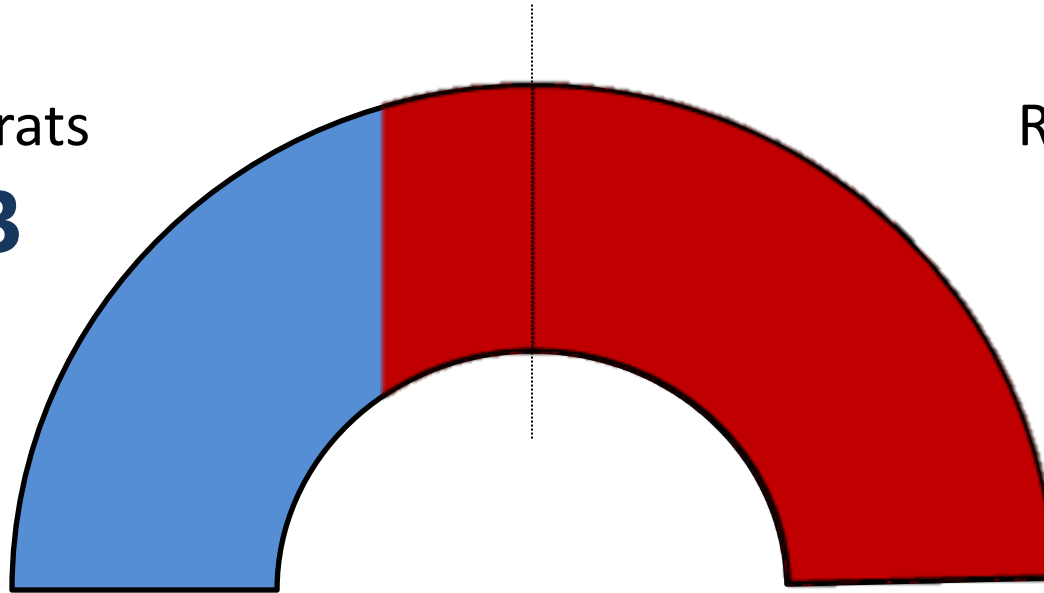
House Balance of Power: 115th Congress

Democrats

193

Republicans

238



Projected as of Nov. 9

Presidential Election

Lessons Learned – Republican Perspective

This was a change election – Republicans will control the three branches of government

- Repudiation of status quo
- Frustration with political correctness
- Trump win fueled by a collapse in trust in government institutions

Polls were wrong

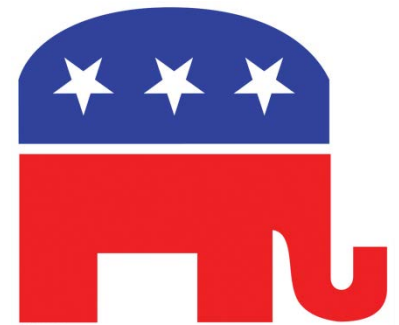
- Frustrated rural voters turned out for Trump – Reagan Democrats
- Clinton underperformed among Hispanics and African Americans

Anti-Trump wave never materialized

Money, organization and ground game did not matter as much in this election

- Trump's utilization of social media to connect with and turn out voters exceeded expectations and was key to success
- GOP Senate candidates had strong coat-tails that helped Trump

The country remains extremely polarized



Presidential Election

Lessons Learned – Democratic Perspective

Democrats forgot that the largest bloc of voters is white working class

- Clinton received fewer white non-college voters than Mondale got against Reagan

The loss cannot be blamed on the FBI Director - there was a bigger “wave” taking place

Clinton’s primary fight with Sen. Bernie Sanders showed fundamental differences within the Democratic party

- Discontent with the status quo was “in the air” across America

The election was not so much about party identification as economic class and income level

Economic issues “trumped” social values issues

Both parties are fractured

- How they are put back together will be the politics of the future



Next Congress Assumptions



Photo from ABC News

GOP retains control of House and Senate

Expect continued legislative gridlock (with occasional spasms of success)

- Senate requires 60 votes to move legislation and nominations
- Look for Sens. Schumer (D-NY) and Warren (D-MA) to aggressively lead opposition

House remains in Republican hands, but caucus faces growing divisions

- Rep. Paul Ryan (R-WI) is expected to be elected Speaker of the House but with smaller majority
- Rise in power and influence of the House Freedom Caucus
- Unexpected outcomes likely as liberal Democrats join Freedom Caucus members on localism issues, “big is bad,” etc.

Investigations to continue

- Senate will continue to focus on corporate wrong-doing and consumer-facing issues (technology and antitrust)
- House continues agency oversight and investigations (CFPB, IRS, Veterans Affairs)
- Any large reduction in domestic jobs will risk White House attention
- Trump promised to assign a special prosecutor to investigate Hillary Clinton

Greater focus on domestic and international mergers and acquisitions

- Progressive Democrats and Freedom Caucus Republicans agree “big is bad”

Post-Election “Lame Duck” Session

House and Senate reconvene the week of Nov. 14, for 4-week work period

- Republican leadership elections Nov. 15 and 16
- Real legislating begins Nov. 28

Lame duck sessions can be wild and unpredictable

Agenda influenced by outcome of the elections

Throughout the lame duck and until Jan. 20, 2017, the Obama administration will accelerate pending agency rules and review of pending transactions



Lame Duck Agenda

Must do

- FY2017 appropriations
- Defense authorization
- House and Senate leadership elections
- Water Resources Development Act reauthorization (includes aid for Flint, MI)

Possible

- Tax extenders
- Smaller tax items (beer tax)
- 21st Century Cures Act
- Energy policy conference
- Louisiana flood aid
- Funding for opioid addiction and prevention
- Iran Sanctions Act renewal
- Amendments to the recently enacted Saudi 9/11 victims bill

Unlikely

- Supreme Court nomination (Garland) / other judicial nominations
- Trans-Pacific Partnership trade agreement
- Criminal justice reform



Trump Administration

First 100 Days



- Freeze/review regulations and Executive Orders
- Move quickly on setting immigration/border control program
- Infrastructure and tax proposals
- Initial steps toward repeal of the Affordable Care Act
- Propose Dodd-Frank “repeal”
- Withdraw from TPP trade agreement and take initial steps to review renegotiating NAFTA
- Stepped up trade enforcement
- Pursue currency manipulation investigations
- Criminal justice reform
- Supreme Court nomination
- Propose constitutional amendment to impose term limits on all members of Congress
- Enact new ethics in government legislation



Presidential Election

What do the results mean for business?

Common-ground may be found early, but expect legislative gridlock to continue

Expect significant deregulatory effort

Roll-back of Obama administration Executive Orders and pending rulemakings

Bigness is Bad

Domestic > Foreign



Selected Affected Industries

Tax and Trade

Technology/Communications

Financial Services

Antitrust

Energy and Environment

Healthcare/Pharmaceuticals



Questions



Jonathan Yarowsky, Partner, WilmerHale

+1 202 663 6132

jonathan.yarowsky@wilmerhale.com

Rob Lehman, Senior Public Policy Advisor, WilmerHale

+1 202 663 6907

rob.lehman@wilmerhale.com

Wilmer Cutler Pickering Hale and Dorr LLP is a Delaware limited liability partnership. WilmerHale principal law offices: 60 State Street, Boston, Massachusetts 02109, +1 617 526 6000; 1875 Pennsylvania Avenue, NW, Washington, DC 20006, +1 202 663 6000. Our United Kingdom office is operated under a separate Delaware limited liability partnership of solicitors and registered foreign lawyers authorized and regulated by the Solicitors Regulation Authority (SRA No. 287488). Our professional rules can be found at www.sra.org.uk/solicitors/code-of-conduct.page. A list of partners and their professional qualifications is available for inspection at our UK office. In Beijing, we are registered to operate as a Foreign Law Firm Representative Office. This material is for general informational purposes only and does not represent our advice as to any particular set of facts; nor does it represent any undertaking to keep recipients advised of all legal developments. Prior results do not guarantee a similar outcome. © 2004-2016 Wilmer Cutler Pickering Hale and Dorr LLP