

The US Congress in 2019: What to expect

Following the mid-term elections of 6 November 2018, the new United States Congress will start work on 3 January 2019 with a Republican majority in the Senate and a Democratic majority in the House of Representatives. The shift of power in the House is likely to affect key issues including oversight and immigration.

Background

The 2018 mid-term election recorded the highest voter turnout in mid-term since 1912, with over 116 million voters casting ballots, and 49.4 % of eligible voters [participating](#). The election saw a [record number](#) of women elected to Congress, with the first Muslim women and Native American women among them. Immigration and [healthcare](#) were [key issues](#) for voters, but the election was also seen by many as a [referendum](#) on President Donald Trump.

As a result of the election, the Democrats took control of the House of Representatives, gaining 40 seats to hold [235 of the 435 seats](#) overall. (One seat remains contested due to a dispute over alleged fraud: the 9th district in North Carolina.) The Republicans retained control of the Senate, gaining two additional seats, which brings their total to 53 of 100 seats. This allows them to confirm (or to withhold consent from) candidates nominated by the President for Administration posts, and to ratify (or block) international treaties. Through gaining a few more seats, Senate Republicans can afford some Republican defections on particular votes but still have a majority. With a divided Congress, passing legislation will now depend on both parties working across the aisle. However, according to [opinion polls](#), few Americans expect bipartisan relations to improve.

The current Congress returned from recess on 13 November and continued to work until mid-December. The new Congress will start work on 3 January 2019.

Implications of the change in the House of Representatives

With the House of Representatives under Democrat control, that party will hold both the influential position of [Speaker of the House](#) and committee chairs, as well as wielding the '[power of the purse](#)'. As a result, the Democrats should be able to set the legislative agenda, modify the rules of debate, conduct oversight hearings and allocate funds.

Representative Nancy Pelosi (D-California) has been [nominated](#) by her Democrat peers to be the next Speaker of the House, after initially facing opposition from a [faction](#) within her party. When the new Congress convenes, Pelosi will need to receive 218 votes in the House to officially become the next Speaker. Steny Hoyer (D-Maryland) will [return](#) as House majority leader (the post he held when the Democrats were last in the majority in the House) after running unopposed for the position. With House Speaker Paul Ryan (R-Wisconsin) [retiring](#), the Republicans elected Kevin McCarthy (R-California) as minority leader in the House. Steve Scalise (R-Louisiana) will remain House Republican whip for this Congress.

The Democrats will now chair all of the [committees](#) in the House, owing to Congress's 'winner-takes-all' system of assigning chairs. As a result, they will now be able to advance legislation to full chamber consideration as well as arrange oversight and investigatory hearings. Control of the Foreign Affairs Committee will mean that Democrats will be able to question the Administration on its foreign policy decisions, and advance legislation to the full chamber. Additionally, they will now [influence](#) foreign aid and military expenditure.

Key issues

Tariffs and trade: Congress has Constitutional authority ([Article I, Section 8](#)) to regulate commerce with foreign nations, conduct oversight on trade policy and pass legislation on the matter. However, in [limited circumstances](#), the President may bypass Congress and impose tariffs by executive order. One of these is in the instance of 'national security threats'. This mechanism comes from [Section 232](#) of the [Trade Expansion](#)

[Act of 1962](#) and it is the basis for President Trump's tariffs on steel and aluminium. As a result, Congress can only stop the current tariffs by passing legislation that strips the executive of this authority, or overturns the executive action with a veto-proof majority. The level of support needed for the latter is [unlikely](#) to occur in this Congress.

The [Ways and Means](#) Committee has primary jurisdiction over trade in the House of Representatives and will face several [contentious issues](#) in the new Congress, given disagreements between the executive and legislature, but also within the Democratic Party itself. These include:

- ratifying the [United States-Mexico-Canada Agreement](#) (USMCA);
- future free trade deals with the EU, the UK and Japan;
- conducting oversight with regard to the President's unilateral use of tariffs and the escalation of tensions with China.

There is [legal uncertainty](#) as to whether or not the President can [unilaterally withdraw](#) the US from free-trade agreements without Congressional approval.

Immigration: Under unified Republican control, Congress was [unable to pass](#) immigration legislation. Under a divided Congress, passing a comprehensive immigration reform package is an even more [unlikely](#) prospect in the next session. House Democrats [intend](#) to pursue more narrow immigration reform in the House that will protect those brought to the US illegally as children ([DACA](#)), retain highly skilled graduates and reform visa programmes. A policy that pursues these more narrow issues combined with increased border security [may have a chance](#) of seeing movement in the upcoming session of Congress.

Infrastructure: One of the first legislative packages that Democrats intend to introduce is designed to promote [US\\$1 trillion in infrastructure investment](#). According to their proposal, this would create 16 million jobs and 'invest in American iron and steel and new American-made green infrastructure materials'. Rebuilding US infrastructure is something that President Trump [campaigns on](#). Following the mid-terms, he has signalled [openness](#) to working with House Democrats in this area.

Oversight: Thus far, throughout his presidency, President Trump has enjoyed a unified Republican Congress. Consequently, his Administration has not had to endure the [scrutiny](#) which is likely to come from a divided Congress. Democrats will now be able to conduct oversight hearings in House committees where the Administration can be obliged to provide witnesses and documentation under [subpoena](#). Democrats on the Oversight Committee have already [listed](#) areas they intend to investigate, ranging from national security issues to the President's alleged financial conflicts.

Nominations: The power to consent to Presidential nominations lies in the hands of the Senate ([Article II, Section 2](#)). The change in House leadership therefore has no impact on forthcoming appointments.

Key new committee chairs in the House of Representatives

[House Foreign Affairs Committee](#): Jurisdiction over investigations and legislation relating to foreign affairs.
Eliot Engel (D-New York) – Transatlantic Legislators' Dialogue (TLD) participant and member of the EU Caucus.

[House Subcommittee on Europe and Eurasia and emerging threats](#): Relations between the US and the region. Oversees matters related to the regional activities of the United Nations, its affiliated agencies, and other multilateral institutions.

Gregory Meeks (D-New York) – TLD participant and EU Caucus co-chair.

[House Armed Services Committee](#): Jurisdiction over defence policy, military operations, Department of Defence, Department of Energy.

Adam Smith (D-Washington) – TLD participant and member of the EU Caucus.

[House Ways and Means Committee](#): Jurisdiction over taxes, tariffs, social security, Medicare.

Richard Neal (D-Massachusetts).

[House Subcommittee on Trade](#): Jurisdiction over trade and related matters.

Bill Pascrell (D-New Jersey) – TLD participant.

Source: European Parliament Liaison Office (EPLO), Washington, DC.

