



Lower Your Already Low Expectations for Congress in 2019

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In the weeks since the Democrats swept the House in the midterm elections, observers have fixated on the wave of investigations that chamber might launch into Trump and his associates. But though those resulting hearings will attract headlines and cable news hits, Congress will also have to deal with the more prosaic business of legislating, a complicated matter since Republicans control the Senate. Legislators from both parties want to pass bills into law and get things done. But a divided Congress will make bipartisan cooperation on big issues next to impossible, experts suggest.

Calls for bipartisan action are common on both sides of the aisle. Almost four dozen incoming House Democrats recently wrote a letter about the need to tackle ostensibly bipartisan issues, including prescription drug pricing and infrastructure, while Senate Majority Leader Mitch McConnell wrote an op-ed decrying partisanship (which many people derided, given its source). House Speaker-to-be Nancy Pelosi is known as a pragmatist. And Donald Trump, argues legislative politics expert David Mayhew, “is something of a pirate” who may be willing to sacrifice party dogma in favor of any win he can get, including those that involve negotiating with Pelosi.

However, Congress probably won’t be able to dig into two of the most broadly hyped and popular issues both parties are concerned with: a big infrastructure repair and development package, and a solution for ballooning prescription drug prices. In theory, everyone likes the idea of infrastructure legislation. And Trump has been eager by Republican standards to push for drug price legislation. This, explains Michael Cannon of the libertarian-leaning Cato Institute, likely stems from the fact that he has surrounded himself with advisors interested in healthcare issues and “is willing to say, ‘Yeah, sure, fine, sounds great, let’s do it,’” without thinking about corporate interests or other common sources of opposition.

But Democrats and Republicans haven’t been able to find common ground on how to pay for a big infrastructure push, which is a killer for any initiative. And Cannon argues that fear of special interest blowback and other political pressures will likely lead the Republican Senate to kill any practical, bipartisan drug pricing legislation.

Other problems could be tackled, however. Criminal justice reform, especially sentencing reform, seems to have widespread legislative buy-in, notes Ross Baker, a scholar of bipartisan legislative efforts. “Paid family leave, increasing accountability in higher education, a mid-sized infrastructure package, a program to strengthen rural health care, and initial steps to control drug

pricing,” if not a full solution, could also gain traction, suggests Jason Grumet, president of the Bipartisan Policy Center.

But those bills would likely be fairly narrow, and thus less high-profile and sexy, limiting their popular impact. And even passing such relatively constrained legislation will be difficult. The Democratic caucus in the House **leans further left than ever before**, while **many moderate Republicans were defeated** in the midterms. That’s going to make compromise tricky, both between Democratic factions in the House and between the House and the Senate. Baker points out that bipartisan legislation also depends in part on Trump’s ability to reach out to both McConnell and Pelosi, triangulating on issues and bridging divides. **The president’s recent meeting** with Pelosi and Senate Minority Leader Chuck Schumer on a basic government funding package, an acrimonious fiasco, does not bode well for Trump’s ability to play that role. And on top of all that, Democrats may not want to give Trump any noteworthy policy wins in the lead up to the 2020 elections.

“The Democrats in Congress know that they can use the president to rile up their base and turn them out in 2020,” explained Cannon. “Then Democrats can control maybe both chambers of Congress and the presidency, or at least the House and the presidency.” That creates an incentive for Democrats to avoid working with Trump and the Republicans on any issue of importance, sacrificing some of their goals for compromise legislation in the short term. Instead, Democrats could focus on passing legislation in the House that has no chance of becoming law but will test, as Congressional decision making expert Sean Theriault explained, “what has broad support and what doesn’t” among moderate and progressive Democrats. This **would tee the party up well** for the 2020 elections, and potential single-party rule come 2021. As Cannon points out, this could also have the added bonus of forcing Republicans to block bills that may have widespread popular support, driving wedges between them and constituents.

This likely means that House Democrats will set out bold bills on healthcare, a key voter concern and 2018 midterm election topic, and one on which **voters seem to prefer Democratic solutions**. These could range from attempts to stabilize the Affordable Care Act after years of Republican assaults to initial legislation exploring a Medicare for all system. Theriault also expected Democrats to explore bills related to immigration (for sure) and (possibly) gun control.

Small groups of Democrats could push for other legislative priorities as well, **like environmental protection legislation, alterations to the 2017 Trump tax cuts, or even federal cannabis legalization**. But these would likely be more fringe pushes compared to the big issues on which Democratic issues know they have party consensus and widespread public support.

On the Senate side, Republicans will either be working on narrow bipartisan bills or not doing much at all. “The McConnell ‘long game’ will continue to unfold,” argued Baker, “with more confirmations of lifetime tenure federal judgeships.” He will only break from his judicial focus, adds Grumet, if he needs to confirm Trump administration appointees.

Ultimately, legislators will likely opt for a mix of, as Grumet put it, “bills designed to send a message and score political points, along with” bipartisan, pragmatic bills. That mix is the best of both worlds for politicians: It proves they can still legislate, while pandering to ideological voter bases for 2020.

The sheer amount of legislating the 116th Congress will be able to engage in does depend on a few major unknowns: How deep will investigations into Trump and his administration descend, in Congress or beyond? Will a major political or economic crisis break out, forcing reactions and sapping focus? Will Trump lob a series of rhetorical grenades into Congress? So it is hard to tell exactly what legislators will be able to focus on, much less get done.

Judging by the first bill Pelosi wants to launch in the House come January, though, it seems as if the Democrats will come out swinging hard for press and political points. **The proposed House Resolution 1** will be a combination of existing legislative proposals aimed at strengthening federal ethics laws, expanding voters' rights, and reforming campaign finance systems and campaigning protocols. The bill has some bipartisan elements to it, but it is largely a clear dig at Trump—the final bill may, for instance, require that presidential candidates release their tax returns, which he has resisted doing. **McConnell's Senate reportedly wants nothing to do with this proposal**, so it is already dead in the water. But it will likely look great to voters.

No one should hold their breath for any major legislation over the next two years. Narrow bills will pass, including necessary moves to keep the government functioning. But don't expect more than that from now until 2021.