

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Elections

Projected Corporate Winners & Losers in the 2018 Midterm Elections

THE TAKEAWAY

We put 70% odds that Democrats will win majority control of the House and only 15% odds they win control of the Senate in the 2018 midterm elections, meaning our most likely scenario is a Democratic-controlled House and Republican-controlled Senate. Our #2 scenario has Republicans maintaining majorities in both chambers, and our least likely scenario is a Democratic sweep in November. In this report, we delve into how the various election outcomes will create winners and losers across the following coverage areas: Trade; Energy & Utilities; Financial Services & Housing; Healthcare; Transportation & Infrastructure; Marijuana; Technology, Media, & Telecommunications; and Tobacco. Under our most likely election outcome, where Democrats control the House and Republicans control the Senate, we see Congress implementing policies or at least creating headlines that benefit a basket of winners across all coverage areas, including NRG Energy (NRG), Southern Co. (SO), Fannie Mae (FNMA), Centene (CNC), Vulcan Materials (VMC), Netflix (NFLX), and Altria (MO). Additionally, we think the marijuana industry stands to benefit most from this election outcome compared to the other two scenarios. Under this most likely outcome, we also see Congress implementing policies or creating headlines that harm a basket of election losers, including Bunge (BG), Energy Transfer Equity (ETE), JP Morgan Chase (JPM), Enova International (ENVA), Pfizer (PFE), Casey's General Stores (CASY), Facebook (FB), and JUUL Labs.

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



Table of Contents

Section 1: Overview.....	Pages 2 to 10
• Winners & Losers of Election Scenario 1: D House / R Senate.....	Pages 3 to 5
• Winners & Losers of Election Scenario 2: R House / R Senate.....	Pages 6 to 7
• Winners & Losers of Election Scenario 3: D House / D Senate.....	Pages 7 to 9
• Reading the Political Tea Leaves.....	Page 9
• Atmosphere in Congress Under Three Election Scenarios.....	Page 10
Section 2: How the Elections Will Impact Height Coverage Areas.....	Pages 10 to 33
• Trade.....	Pages 10 to 12
• Energy & Utilities.....	Pages 12 to 15
• Financial Services & Housing.....	Pages 15 to 19
• Healthcare.....	Pages 19 to 22
• Transportation & Infrastructure.....	Pages 22 to 24
• Marijuana.....	Pages 24 to 27
• Technology, Media, & Telecommunications.....	Pages 27 to 30
• Tobacco.....	Pages 31 to 33

Section 1: Overview

In this report, we delve into how the various election outcomes will impact the industries under the Height Research Team's coverage universe. When it comes to predicting the outcome of the 2018 midterm elections, the trend we have been witnessing for months continues to calcify ahead of November. It appears that Democrats are poised to gain anywhere from 28-38 seats in the House (they need 23 seats to win the majority), but they are unlikely to net enough seats in the Senate to gain majority control of the upper chamber.

We place 70% odds on Democrats winning majority control of the House of Representatives as a result of the November 6 midterm elections. We place only 15% odds that Democrats can win majority control of the Senate. In light of these projections, this means the most likely election scenario is for the House flipping to a Democratic majority and the Senate remaining under Republican control. The next-most likely scenario would see both chambers remain under Republican control. And the least-likely election outcome would see Democrats winning the majority in both the House and the Senate.

Based on these election scenarios and the resulting political environment we expect in Washington under each of them, we identify the winners and losers across the following Height coverage areas: Trade; Energy & Utilities; Financial Services & Housing; Healthcare; Transportation & Infrastructure; Marijuana; Technology, Media, & Telecommunications; and Tobacco.

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



Winners & losers under our most likely election scenario (Democratic House, Republican Senate)

Winners due to likely, beneficial policy change under our #1 most likely election scenario (D House, R Senate):

- **PJM merchant generators like Vistra Energy Corp. (VST), NRG Energy (NRG), and Talen creditors:** A Republican Senate would likely confirm pending Federal Energy Regulatory Commission (FERC) nominee Bernard McNamee, creating stability for power markets into 2019 and benefiting these companies.
- **Coal-heavy utilities like Southern Co. (SO) and Duke Energy Corp. (DUK):** Under any scenario, we expect Trump's Environmental Protection Agency will continue to unwind Obama-era pollution standards, a trend which is beneficial to these companies.
- **GSEs Fannie Mae (FNMA) and Freddie Mac (FMCC):** Fannie and Freddie will benefit from increased prospects for housing finance policy under a split Congress.
- **Managed care companies leveraged to the individual market and Medicaid like Centene Corp (CNC), Molina Healthcare, Inc. (MOH), and WellCare Health Plans, Inc. (WCG); and hospitals like HCA Healthcare Inc. (HCA), Tenet Healthcare Corp. (THC), Community Health Systems (CYH), Universal Health Services, Inc. (UHS), and Quorum Health Corp. (QHC):** Affordable Care Act repair (and lack of repeal), which we think is likely under any election scenario, would benefit these sectors.
- **Generic drug manufacturers like Baxter International Inc. (BAX), Hikma Pharmaceuticals Plc. (HIK:LN), and Mylan (MYL):** Under this election scenario, Congress will be positioned to pass the CREATES Act, a policy which is beneficial to these companies.
- **Infrastructure and construction companies Aecom (ACM), Caterpillar Inc. (CAT), Cemex (CX), Deere & Company (DE), Eagle Materials, Inc. (EXP), Fluor Corporation (FLR), Granite Construction Inc. (GVA), KBR, Inc. (KBR), Martin Marietta Materials, Inc. (MLM), Primoris Services Corp. (PRIM), US Concrete Inc. (USCR), and Vulcan Materials Co. (VMC):** This is the only election scenario in which we think Congress can pass a comprehensive transportation and infrastructure package in 2019 or possibly even the first quarter of 2020 (we put odds at 35%), which we expect will authorize \$350-450 billion in spending on infrastructure projects.
- **The marijuana industry:** A Democratic House and Republican Senate is the most favorable scenario for marijuana companies, albeit the policy outcomes under this scenario will only be incrementally beneficial for the industry. The two chambers would be reasonably positioned to approve legislation authorizing additional marijuana research, a necessary first step in our view before Congress can turn to more meaningful policy changes. We also think the Republican Senate will be able to approve with relative ease any Trump nominee to lead the Department of Justice in the likely event that current Attorney General (AG) Jeff Sessions departs shortly after the election. This would pave the way for an AG more sympathetic to the marijuana industry in 2019, who could promulgate new, beneficial enforcement guidance. Importantly, we do not envision any action under this scenario that would result in regulation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



Winners of beneficial headlines out of Washington under our #1 most likely election scenario (D House, R Senate):

- **Netflix (NFLX):** A Democratic House working to restore Obama-era net neutrality laws would create beneficial headlines for Netflix (we don't think this legislation would pass the Senate, though). Other companies that stand to benefit from a return to the prior net neutrality regime would be Amazon (**AMZN**) and Google (**GOOGL**); however, on balance we think this election scenario presents more harm than benefit to these companies because of the increased scrutiny by Democrats who will likely hold hearing after hearing on antitrust and privacy issues.
- **Altria (MO), British American Tobacco (BTI), Imperial Tobacco Group (IMBBY), Philip Morris International (PM), and Japan Tobacco Inc. (JAPAY):** E-cigarette flavor and tax regulation could pass the Democratically controlled House under this election scenario, creating modestly beneficial headlines for incumbent cigarette manufacturers with a current or expected U.S. presence. However, we don't think this policy can pass a Republican Senate.

Losers due to likely, harmful policy change or policy inaction under our #1 most likely election scenario (D House, R Senate):

- **Companies that would benefit from fully implemented DOE Bailout subsidies like Public Service Enterprise Group (PEG), Exelon (EXC), and First Energy Solutions creditors:** Investor expectations are likely wrong that Federal Energy Regulatory Commission nominee Bernard McNamee, who we expect a Republican Senate will confirm in early 2019, will help usher through regulations to complement efforts at the Dept. of Energy to require grid operators to purchase power from coal and nuclear plants (the so-called "DOE Bailout").
- **Major gas pipelines owned by Energy Transfer Equity (ETE), EQT Corp. (EQT), and Dominion Energy Inc. (D):** The Democratic House will put pressure on the Federal Energy Regulatory Commission to do something about the multiple pipeline spills of recent years. We believe the most obvious punching bag will be ETE, though other companies building major gas pipelines, like EQT and D, could be dragged into the fray as well.
- **Branded drug manufactures Novartis AG (NVS), Pfizer Inc. (PFE), Johnson & Johnson (JNJ), Amgen, Inc. (AMGN), Merck & Co., Inc. (MRK), GlaxoSmithKline (GSK), and Gilead Sciences, Inc. (GILD):** These companies will most likely have to pay a higher price to delay the so-called "TrOOP cliff," and will face headline risk from hearings on drug pricing.
- **Consumer services like Marriott International Inc. (MAR), Hilton Hotels Corp. (HLT), Darden Restaurants, Inc. (DRI), Starbucks (SBUX), and Expedia (EXPE); retailing like Nordstrom, Inc. (JWN) and Macy's Inc (M); and convenience stores like Casey's General Stores Inc. (CASY) and Murphy USA Inc. (MUSA):** In this election scenario, we put 35% odds that Congress will pass an infrastructure bill in 2019 or 1Q 2020, which we think comes with an increase to the federal motor vehicle tax, likely harmful for certain companies in the consumer discretionary sector and convenience stores.

Losers of headline risk out of Washington under our #1 most likely election scenario (D House, R Senate):

- **A number of companies dependent on North American trade, such as auto manufacturers Ford (F), Fiat Chrysler (FCAU), General Motors (GM), Honda Motor Co. (HMC), Toyota Motor Corp. (TM); companies exposed to the agricultural sector Archer Daniels Midland Co (ADM), Bunge Ltd. (BG),**

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



DowDuPont Inc. (DWDP), Mosaic Co. (MOS), and Nutrien Ltd (NTR); telecom companies Verizon (VZ), AT&T (T), Sprint (S), and T-Mobile (TMUS); companies with exposure to infrastructure Aecom (ACM), Caterpillar Inc. (CAT), Cemex (CX), Deere & Company (DE), Eagle Materials, Inc. (EXP), Fluor Corporation (FLR), Granite Construction Inc. (GVA), KBR, Inc. (KBR), Martin Marietta Materials, Inc. (MLM), Primoris Services Corp. (PRIM), US Concrete Inc. (USCR), and Vulcan Materials Co. (VMC); and trucking companies J B Hunt Transport Services Inc. (JBHT), Knight-Swift Transportation Holdings Inc. (KNX), Old Dominion Freight Line (ODFL), and Schneider National Inc (SNDR): We think headline risk is likely in early 2019 around possible NAFTA withdrawal that will be harmful to industries dependent on open trade across North America. This trend is likely to coincide with other policy trends impacting some of these same industries, including:

- Telecommunications companies are likely to fall under additional pressure if a Democratic House also begins holding hearings or even voting on policy to address the void created by the Federal Communication Commission's net neutrality regulations (despite that we do not foresee this policy passing the Republican-controlled Senate).
- Companies with exposure to infrastructure and construction could see a positive event later in 2019, when we think it is possible Congress under this election scenario could approve a \$350-450 billion transportation and infrastructure package.
- **Large financial institutions like JP Morgan Chase (JPM), Goldman Sachs (GS), Morgan Stanley (MS), Capital One Financial Corp. (COF), and U.S. Bancorp (USB); and payday lenders like Enova International Inc (ENVA):** We expect headline risk from hearings and even House-passed legislation that will be harmful to these companies, but we expect these policies will die in the Republican Senate.
- **So-called "Big Tech" companies Facebook (FB), Amazon (AMZN), Alphabet (GOOGL), and to an extent Twitter (TWTR):** These companies will fall under increased Congressional scrutiny with Democrats leading the House around both antitrust and data privacy issues. We do not foresee this scrutiny translating into actual policy, however.
- **Telecom companies Verizon (VZ), AT&T (T), Sprint (S), and T-Mobile (TMUS):** We expect headline risk for telecom companies resulting from House efforts to address the void created by the Federal Communication Commission's net neutrality regulations despite there being no real policy risk here due to likely Senate inaction. We note that these companies are likely also to suffer from headline risk created by Congressional and Administration negotiations around NAFTA and its replacement, the USMCA.
- **E-cigarette manufacturers such as JUUL Labs:** Under this election scenario, we think it is likely the Democratic House will approve legislation to regulate e-cigarette flavors and tax the product category. This would create significant headline risk for e-cigarette manufacturers despite the fact we don't think these policies can pass a Republican Senate.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Winners & losers under our #2 most likely election scenario (both chambers under Republican control)

Winners due to likely, beneficial policy change under our #2 most likely election scenario (House R, Senate R):

- **Coal-heavy utilities like Southern Co. (SO) and Duke Energy Corp. (DUK):** Under any election scenario, we expect Trump's Environmental Protection Agency will continue to unwind Obama-era pollution standards, a trend which is beneficial to these companies.
- **PJM merchant generators like Vistra Energy Corp. (VST), NRG Energy (NRG), and Talen creditors:** A Republican Senate would likely confirm pending Federal Energy Regulatory Commission nominee Bernard McNamee, creating stability for power markets into 2019 and benefiting these companies.
- **Managed care companies leveraged to the individual market and Medicaid like Centene Corp (CNC), Molina Healthcare, Inc. (MOH), and WellCare Health Plans, Inc. (WCG); and hospitals like HCA Healthcare Inc. (HCA), Tenet Healthcare Corp. (THC), Community Health Systems (CYH), Universal Health Services, Inc. (UHS), and Quorum Health Corp. (QHC):** Affordable Care Act (ACA) repair (and lack of repeal), which we think is likely under any election scenario, will be beneficial to these sectors. We think these companies will suffer from headline risk in the event Republicans maintain both chambers of Congress, however, as we believe investors will expect this means another shot at ACA repeal - an outcome we think is unlikely.
- **The marijuana industry.** Full Republican control of Congress is the second-most favorable election scenario for the marijuana industry as the Senate would be in a position to confirm a new Attorney General (AG) to replace Jeff Sessions - who we expect will leave the Dept. of Justice shortly after the midterms. This new AG may potentially be more sympathetic to the industry and could promulgate new, helpful enforcement guidance in 2019. We don't think an all-Republican Congress will be in a position to approve legislation authorizing additional marijuana research, a necessary first step in our view before Congress can turn to more meaningful policy. And we do not envision any action under this scenario that would result in regulation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.
- **Altria (MO), British American Tobacco (BTI), Imperial Tobacco Group (IMBBY), Philip Morris International (PM), and Japan Tobacco Inc. (JAPAY):** We do not expect a Republican Congress to legislate on tobacco policy in this election scenario. Instead, we expect the Food and Drug Administration will promulgate e-cigarette flavor regulations and approve a handful of pending reduced risk applications, more meaningfully beneficial to **MO, PM, and BTI**, and incrementally beneficial to **IMBBY and JAPAY**.

Winners of beneficial headlines out of Washington under our #2 most likely election scenario (House R, Senate R):

- **Coal miners like Peabody Energy Corp. (BTU) and Arch Coal Inc. (ARCH), and pipeline developers like EQT Midstream Partners (EQM) and Williams Companies Inc. (WMB):** An all-Republican Congress could attempt to repeal environmental regulations that would create a series of headlines viewed as beneficial for coal miners and pipeline developers, but we don't think a policy like this could achieve enough votes to pass the Senate.
- **Large financial institutions like JP Morgan Chase (JPM), Goldman Sachs (GS), Morgan Stanley (MS), Capital One Financial Corp. (COF), and U.S. Bancorp (USB):** Investor perception around Republicans

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



being more sympathetic to big financial institutions would likely create short-term winners out of the industry, but it is hard for us to envision a scenario where Congress would pass policies that would actually create benefits for these companies over the next couple of years.

Losers due to likely, harmful policy change or policy inaction under our #2 most likely election scenario (House R, Senate R):

- **Companies that would benefit from fully implemented DOE Bailout subsidies like Public Service Enterprise Group (PEG), Exelon (EXC), and First Energy Solutions creditors:** Investors expectation is likely wrong that Federal Energy Regulatory Commission nominee Bernard McNamee, who we expect a Republican Senate will confirm in early 2019, will help usher through regulations to complement efforts at the Dept. of Energy to require grid operators to purchase power from coal and nuclear plants (the so-called “DOE Bailout”).
- **E-cigarette manufacturers including JUUL Labs:** An absence of Congressional action under a Republican-controlled Congress will allow for continued action by the Food and Drug Administration that will likely be incrementally harmful to companies heavily exposed to e-cigarette sales.

Losers of headline risk out of Washington under our #2 most likely election scenario (House R, Senate R):

- **Pharmacy Benefit Managers like CVS Health Corp (CVS). and Universal Health Services, Inc. (UHS); and branded drug manufactures Novartis AG (NVS), Pfizer Inc. (PFE), Johnson & Johnson (JNJ), Amgen, Inc. (AMGN), Merck & Co., Inc. (MRK), GlaxoSmithKline (GSK), and Gilead Sciences, Inc. (GILD):** We expect these companies will face headline risk from drug pricing policy consideration, but we do not think disruptive changes will materialize for either sector.
- **Alphabet (GOOGL), Amazon (AMZN), and Facebook (FB):** Under this election scenario, House and Senate Judiciary Committees will not have much else to do, which we think increases the time they spend exploring big tech antitrust legislation. That will, likely create increased headline risk for these companies. However, we are skeptical Republicans will actually enact new policy in this scenario.

Winners & losers under our least-likely scenario (both chambers under Democratic control)

Winners due to likely, beneficial policy change under our least-likely scenario (D House, D Senate):

- **Coal-heavy utilities like Southern Co. (SO) and Duke Energy Corp. (DUK):** Under any scenario, we expect Trump’s Environmental Protection Agency will continue to unwind Obama-era pollution standards, a trend which is beneficial to these companies even if Democrats sweep in the midterms.
- **Companies that would benefit from DOE Bailout subsidies like Public Service Enterprise Group (PEG), Exelon (EXC), and First Energy Solutions creditors:** Democratic control of the House and Senate could create an environment of a prolonged 2-2 Commissioner split at the Federal Energy Regulatory Commission, which likely prevents the agency from doing anything to stand in the way of the so-called “DOE Bailout,” beneficial to companies that will receive these subsidies.
- **Managed care companies leveraged to the individual market and Medicaid like Centene Corp (CNC), Molina Healthcare, Inc. (MOH), and WellCare Health Plans, Inc. (WCG); and hospitals like HCA Healthcare Inc. (HCA), Tenet Healthcare Corp. (THC), Community Health Systems (CYH), Universal Health Services, Inc. (UHS), and Quorum Health Corp. (QHC):** Affordable Care Act repair (and lack of repeal), which we think is likely under any election scenario, will be beneficial to these sectors.

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



- **Altria (MO), British American Tobacco (BTI), Imperial Tobacco Group (IMBBY), Philip Morris International (PM), and Japan Tobacco Inc. (JAPAY):** We think Democrats in Congress and the Administration could work together to advance legislation to regulate e-cigarette flavors and taxation that would be perceived as meaningfully beneficial to incumbent tobacco companies with a current or expected U.S. presence.

Winners of beneficial headlines out of Washington under our least-likely scenario (D House, D Senate):

- **Netflix (NFLX):** A Democratic Congress working to restore Obama-era net neutrality laws would create beneficial headlines for Netflix. However, we don't think this legislation would become law since President Trump could veto anything that reaches his desk. Other companies that stand to benefit from a return to the prior net neutrality regime would be Amazon (**AMZN**) and Google (**GOOGL**). On balance, we think this election scenario presents more harm than benefit to these companies because of the increased scrutiny placed on these companies as Democrats hold hearing after hearing on antitrust and privacy issues.

Losers due to likely, harmful policy change or policy inaction under our least-likely scenario (D House, D Senate):

- **The U.S. economy:** We think the biggest loser under this election scenario will be the U.S. economy as we expect President Trump will threaten and potentially follow through on a NAFTA withdrawal in an attempt to compel an obstinate Democratic Congress to approve his NAFTA-substitute (USMCA). Other losers in this scenario would be industries dependent on open trade across North America such as autos (**F, FCAU, GM, HMC, TM**), agriculture (**ADM, BG, DWDP, MOS, NTR**), telecom (**VZ, T, S, TMUS**), infrastructure (**ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, VMC**), and trucking (**JBHT, KNX, ODFL, SNDR**).
- **PJM merchant generators like Vistra Energy Corp. (VST), NRG Energy (NRG), and Talen creditors:** Democratic control of the Senate could create a prolonged 2-2 split at the Federal Energy Regulatory Commission, which likely will create an environment where very little would be accomplished, including power market reforms that would be meaningful to these companies.
- **Branded drug manufactures Novartis AG (NVS), Pfizer Inc. (PFE), Johnson & Johnson (JNJ), Amgen, Inc. (AMGN), Merck & Co., Inc. (MRK), GlaxoSmithKline (GSK), and Gilead Sciences, Inc. (GILD):** We expect these companies would face real policy risk from actions on drug pricing policy under this election scenario.
- **The marijuana industry:** A Democratic Senate is unlikely to approve any Attorney General nominees Trump sends their way to replace Jeff Sessions - who we expect to leave the Dept. of Justice (DOJ) shortly after the midterms. In this scenario, additional, helpful DOJ guidance that we would expect under the other two election scenarios would not be likely. And we do not envision any action under this scenario that would result in legislation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future. Companies and organizations that stand to benefit from increased marijuana research would be the only winners under this scenario. We think a Democratic Congress could likely usher through research legislation that would ultimately be signed by President Trump, but that is the only federal policy we envision under this scenario, and we think it is too incremental in to benefit the industry meaningfully.
- **So-called "Big Tech" companies Facebook (FB), Amazon (AMZN), Alphabet (GOOGL), and to an extent Twitter (TWTR):** Under a Democratic sweep, we would expect that Big Tech companies would fall under major Congressional scrutiny around both antitrust and data privacy issues. We think the risk increases that

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Congress could take steps to issue a series of policies against big tech companies, especially in a news cycle in early 2019 that includes headlines about additional data breaches at any of the aforementioned companies. We think Democrats are more likely to want to take the lead on crafting policy to address issues related to data privacy and big tech antitrust issues. In the event Democrats control both chambers of Congress, we could see some moderate Senate Republicans joining with the Democratic majority to send something to President Trump, which we think he would sign.

- **E-cigarette manufacturers, including JUUL Labs:** We think a Democratic Congress and President Trump would work together to advance policy that removes virtually all e-cigarette flavors other than tobacco and create a federal tax regime for the industry, which would be materially harmful to companies highly exposed to their e-cigarette sales.

Losers of headline risk out of Washington under our least-likely scenario (D House, D Senate):

- **Large financial institutions like JP Morgan Chase (JPM), Goldman Sachs (GS), Morgan Stanley (MS), Capital One Financial Corp. (COF), and U.S. Bancorp (USB):** Investor perception around Democrats being far less sympathetic to large financial institutions would likely create major headline risk for these companies over the weeks if not months following the election. However, we don't think there is any real policy risk for this sector even under a Democratic sweep.
- **Telecom companies Verizon (VZ), AT&T (T), Sprint (S), and T-Mobile (TMUS):** Efforts in both chambers to address the void created by the Federal Communication Commission's net neutrality regulations will create headline risk for these companies, despite there being no real policy risk here since we expect Trump would veto anything that reaches his desk.

Reading the Political Tea Leaves

A number of trends continue to favor Democrats ahead of the 2018 midterm elections, including [Democratic voter turnout trends](#), the fact that the [national Republican Party stopped funding a number of at-risk House seats](#), and [voter enthusiasm remains higher for Democratic voters](#) than it does for Republican voters. To the extent that the recent controversy surrounding Supreme Court Justice Brett Kavanaugh's Senate confirmation [drives more Republicans to the polls](#) this November than otherwise would have turned out, of course that would change the trajectory that otherwise favors Democratic candidates. But elections are not events that build over time; they are a snapshot on Election Day of voter sentiment and turnout. We think a lot can happen in the five weeks between now and election day. However, based on a spring and summer of primaries that generally favored Democratic candidates over Republicans and considering all the other [issues that drive voters to the polls](#), we still see Democrats having a clear advantage at least in the House.

As such, we place 70% odds on Democrats winning majority control of the House of Representatives as a result of the November 6 midterms. We place only 15% odds that Democrats can win majority control of the Senate. In light of these projections, this means the most likely election scenario includes the House flipping to a Democratic majority and the Senate remaining under Republican control. The next-most likely scenario would see both chambers remaining under Republican control. The least-likely election outcome would see Democrats winning the majority of both the House and the Senate.

For additional background from our prior election coverage, see our [September 11](#), [August 29](#), [August 22](#), [August 15](#), [August 8](#), and [August 6](#) reports.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Atmosphere in Congress Under the Three Election Scenarios

Under our most likely scenario where Democrats win control of the House, we expect the Democratic majority will hold many hearings on issues related to perceived Administration corruption, ties to Russia, and the Mueller investigation. The House can and will likely investigate both the Administration writ large but also the President and senior White House staff specifically. A Democratic House will likely create a special investigatory committee to oversee much of these proceedings. But we do not expect impeachment will seriously be on the table (unless of course other catalysts emerge that compel impeachment actions).

Under our #2 scenario where Republicans hold majorities in both chambers of Congress, we expect the Mueller investigation will continue and eventually conclude. Most likely, President Trump will continue to deride the investigation as a witch hunt. We expect little Congressional involvement in any of these issues other than a Senate vote to replace Attorney General Jeff Sessions, who we expect will depart the Department of Justice shortly after the midterms.

Under our least likely election scenario, a Democratic sweep, we expect a deluge of oversight and investigatory hearings into the Trump Administration and the President himself. Under this scenario, it is likely that members will create special committees in both chambers to oversee these efforts, which we expect will be especially intense during the initial months of the new Congress (roughly 1Q-2Q 2019) that may be a distraction from other policy efforts. We do *not* expect impeachment efforts to progress meaningfully in either chamber in the absence of additional catalysts or information. Nevertheless, we do expect some headline risk from what will likely be frequent and intense scrutiny of the President by Congress over those early months of 2019.

Section 2: How the Elections Will Impact Height Coverage Areas

As we write above, we place 70% odds on Democrats winning majority control of the House of Representatives as a result of the November 6 midterms. We place only 15% odds that Democrats can win majority control of the Senate. In light of these projections, this means the most likely election scenario sees the House flipping to a Democratic majority and the Senate remaining under Republican control. The next-most likely scenario would see both chambers remaining under Republican control. The least-likely election outcome would see Democrats winning the majority of both the House and the Senate.

Based on these election scenarios and the resulting political environment we expect in Washington under each of them, we identify the winners and losers across the following Height coverage areas: Trade; Energy & Utilities; Financial Services & Housing; Healthcare; Transportation & Infrastructure; Marijuana; Technology, Media, & Telecommunications; and Tobacco.

Trade

Winners & Losers of Trade Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** In this scenario, we think Congress ultimately approves the USMCA, but not without NAFTA withdrawal headline risk first. Therefore...

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



- **LOSERS:** We think headline risk is likely in early 2019 around possible NAFTA withdrawal that will likely be harmful to industries dependent on open trade across North America such as automobiles (**F, FCAU, GM, HMC, TM**), agriculture (**ADM, BG, DWDP, MOS, NTR**), telecom (**VZ, T, S, TMUS**), infrastructure (**ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, VMC**), and trucking (**JBHT, KNX, ODFL, SNDR**).

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** Congress will approve the USMCA with relative ease under this scenario. While there are no clear standout winners in the new deal relative to NAFTA, we think the absence of headline risk will be marginally helpful to the economy and industries dependent on free trade among the U.S., Mexico, and Canada.
- **LOSERS:** No clear losers in this scenario.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** We think NAFTA withdrawal risk with no substitute agreement is real. We cannot identify any winners if that occurs.
- **LOSERS:** In the event President Trump withdraws from NAFTA and a Democratic Congress is unable to ratify anything in its place, we think this hurts the U.S. economy and industries dependent on open trade across North America such as automobiles (**F, FCAU, GM, HMC, TM**), agriculture (**ADM, BG, DWDP, MOS, NTR**), telecom (**VZ, T, S, TMUS**), infrastructure (**ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, VMC**), and trucking (**JBHT, KNX, ODFL, SNDR**).

Analysis of the Regulatory Risks Facing Industries Impacted by Trade Policy

The New NAFTA (USMCA)

As we have [written](#), we do not expect Congress will vote on USMCA approval until 2019 due to procedural hurdles that make a 2018 vote difficult. There is a chance that Trump, facing the reality of a Democratically controlled House, could look to circumvent Trade Promotion Authority requirements to accelerate the vote; however, our most likely scenario has a USMCA vote occurring in 2019 with a Democratically controlled House and a Republican Senate. Under our most likely scenario, we think Congress will ultimately vote to approve the USMCA but not without headline risk around possible NAFTA withdrawal first. This would create headline risk likely in early 2019, which would be harmful to industries dependent on open trade across North America such as automobiles (**F, FCAU, GM, HMC, TM**), agriculture (**ADM, BG, DWDP, MOS, NTR**), telecom (**VZ, T, S, TMUS**), infrastructure (**ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, VMC**), and trucking (**JBHT, KNX, ODFL, SNDR**).

In the less likely event that Republicans maintain majority control of both chambers, we expect USMCA approval to be relatively easier for Republicans to navigate, especially in light of the fact that only a simple majority of votes are needed for the Senate to approve the trade deal (rather than the 60-vote threshold required for most legislation).

Finally, in our least likely scenario that Democrats control both chambers of Congress in 2019, we think it's unlikely Congress will approve USMCA as it is currently negotiated. Under this scenario, we expect Trump will threaten NAFTA withdrawal, and we are far less certain in this instance that Congress will be in a position

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



politically to do anything to avoid it. We expect this would be materially harmful to the U.S. economy and to all those aforementioned industries / companies dependent on open trade among the three countries.

Trade Policy: Who Matters in Congress

- *Sen. Mitch McConnell (R-KY)* – He will likely remain Senate Majority Leader in 2019. Trade will be a leadership-level issue that will require Sen. McConnell and Republican Whip Sen. John Thune (R-SD) to corral a disparate Republican caucus around the USMCA, which we ultimately think they will be able to do.
- *Sen. John Thune (R-SD)* – He will become Senate Republican Whip in the most likely scenario that Republicans maintain control of the Senate. Sen. Thune will inherit the position from Sen. John Cornyn (R-TX), who will be term-limited out of the role at the end of 2018. Sen. Thune's first major effort as Whip is likely to be USMCA, which will be a difficult but we think ultimately doable challenge for him.
- *Sen. Chuck Schumer (D-NY)* – He will become Senate Majority Leader in the low-likelihood outcome that Democrats win control of the Senate. In this instance, we think there would be many heated negotiations directly between Sen. Schumer and President Trump and other senior level administration officials around USMCA. In the event the Senate flips to Democratic control, we think that means it's likely the House will have flipped as well. Under this scenario, we do not envision a Democratically controlled Congress coming to an agreement with the Administration around approving the USMCA, creating an intense negotiating environment and leading to real risk that the President withdraws from NAFTA.
- *Rep. Nancy Pelosi (D-CA)* – She will likely become House Speaker in the likely event Democrats win majority control of the chamber. She will likely need to work with Sen. Mitch McConnell, senior Republican House leadership, and the White House to bring the right number of votes to approve the USMCA, which we ultimately think can happen but not without threat of NAFTA withdrawal first.
- *Rep. Kevin McCarthy (R-CA)* – he will likely be House Minority Leader in the most likely election outcome that Democrats win control of the House. Rep. McCarthy will play an important role in bipartisan, bicameral negotiations around USMCA approval in the early months of 2019.

Energy & Utilities

Winners & Losers of Energy & Utilities Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** A Republican Senate would likely confirm pending FERC nominee Bernard McNamee, creating stability for power markets into 2019, beneficial to PJM merchant generators like **VST**, **NRG**, and Talen creditors. Under this election scenario where Democrats control the House, despite headline risk created by a number of Democratic-led committees criticizing Trump's EPA for unwinding Obama-era pollution standards, we don't think Congress will do anything to actually intervene. Therefore, we see coal-heavy utilities like **SO** and **DUK** as continued beneficiaries of these policies.
- **LOSERS:** Investor expectations are likely wrong that FERC nominee Bernard McNamee, who we expect a Republican Senate will confirm in early 2019, will help usher through regulations to complement efforts at the Dept. of Energy to require grid operators to purchase power from coal and nuclear plants (the so-called "DOE Bailout"). The realization of McNamee's intent once he is confirmed at DOE, that he's unlikely to pursue policy at FERC to augment the DOE Bailout, will likely be viewed as harmful for companies that would have benefited from the subsidies: **PEG**, **EXC**, and First Energy Solutions creditors. Under this election scenario,

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



we expect the Democratic House will put pressure on FERC to do something about the multiple pipeline spills of recent years, where we think the most obvious punching bag will be **ETE**. Other companies building major gas pipelines, like **EQT** and **D**, could be dragged into the fray as well.

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** A Republican Senate would likely confirm pending FERC nominee Bernard McNamee, creating stability for power markets into 2019, beneficial for PJM merchant generators like **VST**, **NRG**, and Talen creditors. We expect Republican majorities in both chambers would stay out of the way of Trump's EPA as it continues to unwind Obama-era pollution standards, a continued benefit for coal-heavy utilities like **SO** and **DUK**. Under a scenario where an all-Republican Congress is attempting to advance National Environmental Policy Act (NEPA) repeal legislation, we think it would create a series of headlines viewed as beneficial for coal miners (like **BTU** and **ARCH**), as well as pipeline developers (like **EQM** and **WMB**), although we do not expect NEPA repeal can become law as it is unlikely to achieve enough votes to pass the Senate.
- **LOSERS:** Investor expectations are likely wrong that FERC nominee Bernard McNamee, who we expect a Republican Senate will confirm in early 2019, will help usher through regulations to complement efforts at the Dept. of Energy to require grid operators to purchase power from coal and nuclear plants (the so-called "DOE Bailout"). The realization of McNamee's intent once he is confirmed at DOE, that he's unlikely to pursue policy at FERC to augment the DOE Bailout, will likely be viewed as harmful for companies that would have benefited from the subsidies: **PEG**, **EXC**, and First Energy Solutions creditors.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** Democratic control of the Senate combined with the House could create an environment of a prolonged 2-2 Commissioner split at FERC, which likely prevents the agency from doing anything to stand in the way of the so-called "DOE Bailout," beneficial to companies that will receive the subsidies: **PEG**, **EXC**, and First Energy Solutions creditors. Under this election scenario where Democrats control both chambers, despite headline risk created by a number of committees criticizing Trump's EPA for unwinding Obama-era pollution standards, we don't think Congress will actually do anything to intervene; therefore, we see coal-heavy utilities like **SO** and **DUK** as continued beneficiaries of these policies.
- **LOSERS:** Democratic control of the Senate could create a prolonged 2-2 split at FERC, which likely will create an environment where very little would be accomplished. In this environment, we do not expect FERC would be able to advance power market reforms that would be meaningful to **VST**, **NRG**, and Talen Energy Supply creditors.

Analysis of the Regulatory Risks Facing Industries Impacted by Energy & Utilities Policy

Power market reforms

Despite the fact the Administration will not change under any scenario this November, the Senate's role in confirming Federal Energy Regulatory Committee (FERC) nominees means whichever party controls the upper chamber will have a say in the trajectory of power market regulations. At the Commissioner level, FERC currently has one vacancy (out of five seats). On October 3, President Trump officially [nominated](#) a senior Dept. of Energy (DOE) official, Bernard McNamee, to fill that vacant seat. In our top two most likely election scenarios – where Republicans maintain control of the Senate – we expect the Senate will be able to approve McNamee's nomination, although we continue to [expect](#) the confirmation process could take the remainder of 2018. Under

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



this scenario, we would expect to see stability for power markets into 2019, positive for **VST**, **NRG**, and Talen creditors. However, we view a McNamee confirmation as harmful for companies dependent on efforts by the DOE to require grid operators to purchase power from coal and nuclear plants (the so-called “DOE Bailout”), including **PEG**, **EXC**, and First Energy Solutions. This is despite the fact that McNamee has helped usher these efforts through the DOE in his current capacity as Executive Director of the DOE’s Office of Policy. There are elements of the Bailout DOE can accomplish unilaterally, but there are other elements that would require rulemaking by FERC. We have witnessed with prior Commissioners a moderating effect at FERC that tends to force regulators into a narrower policymaking box than they may have previously hoped. For instance, current FERC Commissioner Neil Chatterjee [arrived](#) at the agency as a major proponent of the coal industry, and even he now [opposes](#) the idea of a coal and nuclear bailout.

Currently, FERC is perfectly split between two Republican Commissioners (the aforementioned Chatterjee and Chairman Kevin McIntyre) and two Democrats (Commissioners Richard Glick and Cheryl LaFluer). In the lower probability event that Democrats win majority control of the Senate, we think that could significantly delay if not derail McNamee’s nomination. We think an ongoing 2-2 split at FERC would create an environment where very little would be accomplished, including around power market reforms, an outcome which is harmful for companies reliant on power market stability such as **VST**, **NRG**, and Talen. A divided FERC would also likely prevent the agency from doing anything to stand in the way of the DOE Bailout. This, to the extent that DOE can take action unilaterally to require that grid operators purchase power from coal and nuclear plants, this would be particularly beneficial to **EXC** and First Energy Solutions, which have generators that would likely be entitled to federal support.

Energy & Utilities Oversight to Watch

Dept. of Interior / NEPA Violations: In our most likely election scenario, where Democrats win majority control of the House and Republicans maintain control of the Senate, we expect Democrats on the House Natural Resources Committee will hold oversight hearings of the Department of Interior (DOI) focused on the agency’s deregulatory push around environmental permitting requirements. We could even see the Committee and possibly the Full House approve legislation attempting to tighten these environmental regulations, although we see virtually no chance that legislation like this could pass the Senate, which will remain under Republican control. In our second-most likely scenario, where Republicans maintain control of both chambers, we think there may be an interest by some in the caucus to push legislation through Congress to repeal the National Environmental Policy Act (NEPA), which would essentially remove many of the environmental permitting requirements that currently exist for major infrastructure, transportation, and construction projects. But we do not foresee a scenario where NEPA repeal could pass the Senate, where 60 votes are needed for legislation to advance and where Republicans are likely to only hold a slim majority of 51 or 52 seats at most. NEPA is such a sweeping law, affecting so many areas of energy infrastructure, that the companies which stand to benefit from substantial reform is nearly endless. However, certain subsectors and companies more regularly come into conflict with NEPA than others. Therefore, under a scenario where an all-Republican Congress is attempting to advance NEPA repeal legislation, we think it would create positive headlines for coal miners (like **BTU** and **ARCH**) as well as pipeline developers (like **EQM** and **WMB**).

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



FERC / Pipelines: In our most likely election outcome, we expect a Democratic-controlled House Energy and Commerce Committee will hold a number of oversight hearings targeting FERC. We think it is likely under this scenario that the Committee will put pressure on FERC to do something about the environmental ramifications of pipeline spills and other issues. While we do not see legislation or a change in regulation as a result of these hearings, we do think it is reasonable to expect that FERC may levy fines on **ETE** as a result of the multiple Rover pipeline [spills](#) and the destruction of the Stoneman House, an historic register-eligible property that is the subject of a FERC investigation. We could see other companies building major gas pipelines, like **EQT** and **D**, dragged into the fray as well.

EPA / Environmental Regulation Rollback: A final area of environmental oversight could put the EPA under the Congressional spotlight should Democrats win the majority of one or both chamber. Under any election scenario, however, we view **SO** and **DUK** as continued beneficiaries of EPA's ongoing activities to unwind tougher Obama-era pollution standards. Even under our least likely election scenario with Democrats in control of both chambers of Congress, we do not think Democrats will hold a large enough majority in the Senate to pass legislation to compel the EPA to change course on any of its initiatives.

Energy & Utilities Policy: Who Matters in Congress

- *Sen. Lisa Murkowski (R-AK)* – She will likely remain Chair of the Senate Energy and Natural Resources Committee. This Committee has oversight over FERC and elements of the EPA.
- *Sen. Maria Cantwell (D-WA)* – She will likely remain Ranking Member of the Senate Energy and Natural Resources Committee, but she would become Chair in the unlikely event that Democrats win majority control of the Senate. In a Chair role, Sen. Cantwell would be highly critical of the EPA and likely serve as a roadblock to Republican FERC nominees including McNamee if his confirmation is not completed by year's end.
- *Rep. Raul Grijalva (D-AZ)* – He will likely become Chair of the House Natural Resources Committee under our most likely election scenario, where we expect he will host a number of Dept. of Interior oversight hearings.
- *Rep. Rob Bishop (R-UT)* – He is likely to remain Chair of the House Natural Resources Committee in the lower likelihood event that Republicans maintain control of the House. Under this scenario we would be unlikely to see Dept. of Interior oversight hearings.
- *Rep. Frank Pallone (D-NJ)* – He will become Chair of the House Energy and Commerce Committee, where we expect to see a number of FERC oversight hearings related to pipeline issues.
- *Rep. Greg Walden (R-OR)* – He will remain Chair of the Energy and Commerce Committee in the less likely event that Republicans maintain control of the House. We would not expect FERC oversight hearings in this environment.

Financial Services & Housing

Winners & Losers of Financial Services & Housing Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** GSEs (**FNMA**, **FMCC**) would benefit from increased prospects for housing finance policy reform.
- **LOSERS:** Headline risk from hearings and even House-passed legislation but not real risk for big financial institutions (**JPM**, **GS**, **MS**, **COF**, and **USB**) and payday lenders (**ENVA**)

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** Investor perception around Republicans being more sympathetic to big financial institutions would likely create short-term winners out of **JPM, GS, MS, COF, and USB**. However, it is hard for us to envision a scenario where policies that would actually create benefits for these companies over the next couple years would actually pass Congress.
- **LOSERS:** No clear losers under our financial services and housing coverage.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** No clear winners under our financial services and housing coverage.
- **LOSERS:** Investor perception around Democrats being far less sympathetic to large financial institutions would likely create major headline risk for **JPM, GS, MS, COF, and USB** over the weeks if not months after the election. But we don't think there's a real threat of policy action for this sector.

Analysis of the Regulatory Risks Facing Industries Impacted by Financial Services & Housing Policy

Bank Capital Requirements and other Financial Services Regulations

We expect a lot of headline risk for banks (**JPM, GS, MS, COF, and USB**) under our most likely scenario next year that the House flips to Democratic control and the Senate remains under Republican control. Under this scenario, we expect the House Financial Services Committee Chair Maxine Waters (D-CA) will hold many hearings to discuss whether larger financial institutions are too large and contemplate additional legislation around capital requirements and other regulations that the industry will view as harmful. We even expect a Democratic House could pass a number of bills in this vein. We do not, however, expect any of this legislation to pass a Republican-controlled Senate, so we consider this as mainly headline risk for the industry.

Under our next most-likely scenario that Republicans maintain control of both chambers, we think it will be a relatively quiet time in Congress for large financial institutions. The real action will remain in the Administration. The deregulatory gears of the Federal Reserve, Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) will keep turning, which will be the case regardless of which party controls the Congress. This should result in several rules being finalized in 2019 and becoming effective in 2020 (stress testing, SIFI status, Volcker rule, capital and liquidity requirements).

In the least likely scenario – that Democrats win majority control of the House and Senate in the midterms – investors are likely to expect a largely harmful environment in Washington for large financial institutions. However, we view that situation as far more nuanced. A Senate Banking Committee chaired by Sen. Sherrod Brown (D-OH) and House Financial Services Committee chaired by Rep. Maxine Waters (D-CA) would certainly create lots of headline risk for big banks. But we do not expect that any policies that constrict the business of large financial institutions can pass in 2019 or 2020. Not only could President Trump veto anything that reaches his desk, but we don't even think additional banking regulations can pass out of Congress. The Democratic Party is far more diverse than the most progressive (and often loudest) voices of the caucus, such as Sen. Elizabeth Warren (D-MA). Instead, we expect that moderates, especially in the Senate like Banking Committee members Sen. Mark Warner (D-VA) and Doug Jones (D-AL) – both of whom are up for reelection in 2020 – will likely serve as checks on more aggressive policies contemplated by some of their liberal colleagues. Additionally, any

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



banking regulatory legislation out of the Senate will require bipartisanship as a Democratic majority will likely only be slim (51 or 52 Democratic seats at most). Therefore, with 60 votes needed to advance policy out of the chamber, Democrats would need at least eight if not more Republicans to join them – which we see as virtually impossible for this type of policy.

Housing Finance Reform

In our #1 most likely scenario that Democrats control the House and Republicans control the Senate, we think one area for bipartisan compromise could be housing finance reform, beneficial to **FNMA** and **FMCC**. Committees with jurisdiction over housing, the Senate Banking, Housing, and Urban Affairs Committee and the House Financial Services Committee, are poised to be chaired by Sen. Pat Toomey (R-PA) and Rep. Maxine Waters (D-CA), respectively. We think these two – who diverge politically on many financial services issues – are actually positioned to agree on housing policy for a few reasons. First, we think Sen. Toomey, who is one of the few Republicans in the Senate to hail from a state with large urban interests, is likely to be more motivated than many of his Republican colleagues, who tend to represent more rural states, to seriously contemplate housing policies. Second, Toomey has several large financial services companies that directly benefit from the mortgage market and the GSEs, specifically (**RDN**, **ESNT**). Third, Toomey directly questioned the Federal Housing Finance Agency (FHFA) Director about the amount of dividends the GSEs have paid to Treasury and noted the companies have almost fully repaid Treasury's investment. (We estimate the GSEs have more than paid back Treasury.) Fourth, if Sen. Toomey is willing to allow an increase in affordable housing funding and goals by the GSEs, we could see a scenario where he and Rep. Waters reach an agreement to recap and release the GSEs from conservatorship. Finally, if economic growth begins to slow in 2019 and cost of living measures continue to rise (particularly rent and mortgage rates), we think voters will be more likely to pressure their Congressional representatives to provide relief – creating an attractive, bipartisan issue for Republicans and Democrats to coalesce around ahead of the 2020 elections.

In our second most likely scenario (that Republicans hold both chambers), we are less certain housing finance reform can become law; however, it is possible. We've seen many attempts at GSE reform over prior years, and what's become apparent is that the difficult political decisions needed to advance this policy are likely too great for one political party to own. If a senior Republican Senator on the Senate Banking Committee was willing to drive legislation that met terms acceptable to Toomey, Treasury Secretary Steven Mnuchin, and Rep. Patrick McHenry (R-NC) – who in this scenario would be Chair of the House Financial Services Committee – then the legislation would have an opportunity to advance. The question remains: is there another member like Sen. Bob Corker (R-TN), who is retiring at the end of 2018? If so, who is it?

In our third most likely scenario, in which Democrats take both chambers of Congress, we do not think it is likely they would be in a position to send the President something on housing reform that he would sign.

Financial Services & Housing Oversight to Watch

Under our most likely midterm scenario, Democrats will control the House while Republicans maintain the Senate. We expect Rep. Waters will use her position as House Financial Services Committee Chair to try to force the Consumer Financial Protection Bureau (CFPB) to be more proactive in enforcing the Military Lending Act (MLA). Because we continue to [expect](#) the Senate will confirm Kathy Kraninger to lead the CFPB before the

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



end of 2018, we believe that Rep. Waters will have a sympathetic partner in Kraninger, who should be more proactive on this issue than the current Acting Director, Mick Mulvaney. We also expect that Rep. Waters will hold oversight hearings of the CFPB regarding its Trump-era revisions to the payday lending rule. This will likely create headline risk for payday lenders including **ENVA**. However, unlike MLA, we expect this push will be unsuccessful, especially in light of the directives by the OCC and National Credit Union Administration (NCUA) to permit banks and credit unions to offer small dollar loans.

Under our next most likely election scenario, that Republicans retain majority control of both chambers, we do not expect any oversight risk to the above-mentioned sectors. We expect Congress and the Administration will encourage the CFPB to move swiftly to address the payday lending rules in this scenario. Under our least-likely election scenario, a Democratic sweep, we expect the oversight of the CFPB will move into overdrive with lots of rhetoric out of both the House Financial Services Committee and the Senate Banking Committee (which, under this scenario, would be chaired by Sen. Sherrod Brown (D-OH)). We expect this would create headline risk only (albeit, intense headline risk), but we do not believe Congress could approve legislation requiring the CFPB to take any different actions than it otherwise would under Kathy Kraninger's direction.

Financial Services & Housing Policy: Who Matters in Congress

- *Sen. Pat Toomey (R-PA)* – He will likely become chair of the Senate Banking, Housing, and Urban Affairs Committee in our most likely election scenario where Republicans maintain control of the Senate, and he will represent a leadership shift toward a far more urban rather than rural perspective (the existing chairman, Sen. Mike Crapo, represents the state of Idaho). We think this makes Toomey more likely to broker a solution on housing finance reform even if it means potentially making more compromises with Democratic members than his predecessor would have been willing to bear.
- *Sen. Sherrod Brown (D-OH)* – He will be Ranking Member of the Banking Committee or, in our low-likelihood scenario, he could become Chair under a Democratically controlled Senate. Sen. Brown will likely offer a lot of heated rhetoric (and perhaps lead hearings) against large financial institutions. Nevertheless, we do not think his rhetoric will translate into Congressional action.
- *Sens. Mark Warner (D-VA) and Doug Jones (D-AL)* – They are conservative Democrats on the Senate Banking Committee and are worth watching. Both Senators are up for reelection in 2020. To the extent that any financial services or housing policies are going to pass the Senate, these two Senators will serve as a good barometer for the possible. Under any election scenario, the Party that controls the Senate is likely to hold only a one or two-seat majority. There's even a scenario where the Senate is perfectly divided, 50-50, which would allow Republicans to maintain control but without a majority of seats (as Vice President Mike Pence would serve as a tie-breaking vote in the event it is needed). This means that legislation *must* be bipartisan to hit that 60-vote requirement threshold in order to move through the Senate. If Senators Warner and Jones are not in support of legislation out of their Committee, we think that's a very good sign it won't be able to pass the full Senate.
- *Rep. Maxine Waters (D-CA)* – She will likely chair the House Financial Services Committee under our most likely election scenario that Democrats win majority control of the House, and she is positioned to use this seat mostly in an oversight and rhetorical capacity. In addition to oversight, we think Rep. Waters could place meaningful pressure on a Kraninger-led CFPB to commence enforcement more quickly of the Military Lending Act than we would see otherwise. We also think there's a scenario where Rep. Waters and Sen. Toomey could come together in 2019 to approve a bipartisan housing finance reform package.

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



- *Rep. Patrick McHenry (R-NC)* – He will likely become Ranking Member of the House Financial Services Committee or in the lower-likelihood scenario that Republicans maintain majority control of the House would become Chair of the Committee. Rep. McHenry should be viewed as part of the Republican Leadership establishment. When Republican Whip Steve Scalise (R-LA) was absent after being critically injured in a shooting during the summer of 2017, McHenry substituted in as a temporary replacement. McHenry will follow the Party line. In the event he becomes Chair, we expect he will work closely with Leadership to continue promoting pro-business, pro-industry activities out of the Committee.

Healthcare

Winners & Losers of Healthcare Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** ACA repair (and lack of repeal) would be beneficial for managed care companies leveraged to the individual market and Medicaid (**CNC, MOH, and WCG**) and hospitals (**HCA, THC, CYH, UHS, and QHC**). Generic manufacturers are also better positioned for the CREATES Act to pass, which would benefit them (**BAX, HIK:LN, and MYL**).
- **LOSERS:** Branded manufactures (**NVS, PFE, JNJ, AMGN, MRK, GSK, and GILD**) will most likely have to pay a higher price to delay the so-called TrOOP cliff, and they will face headline risk from hearings on drug pricing.

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** We think ACA repair could happen even if Republicans continue to control both chambers, which would be beneficial for managed care companies leveraged to the individual market and Medicaid (**CNC, MOH, and WCG**) and hospitals (**HCA, THC, CYH, UHS, and QHC**).
- **LOSERS:** Interestingly, we think initial headline risk around Republicans being likely to try again to repeal the ACA in the months following the midterm election would harm managed care companies leveraged to the individual market and Medicaid (**CNC, MOH, and WCG**) and hospitals (**HCA, THC, CYH, UHS, and QHC**), despite the fact we don't think ACA repeal is likely to become law in 2019. PBMs (**CVS** and **UHS**) and drug manufacturers (**NVS, PFE, JNJ, AMGN, MRK, GSK, and GILD**) would also continue to face headline risk from drug pricing conversations, but we do not think disruptive changes will materialize for either sector.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** ACA repair could happen under this scenario as well, which would be beneficial for managed care companies leveraged in the individual market and Medicaid (**CNC, MOH, and WCG**) in addition to hospitals (**HCA, THC, CYH, UHS, and QHC**).
- **LOSERS:** Branded pharmaceuticals (**NVS, PFE, JNJ, AMGN, MRK, GSK, and GILD**) would face the greatest harm due to actions around drug pricing.

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



Analysis of the Regulatory Risks Facing Industries Impacted by Healthcare Policy

Drug Affordability

Regardless of party control in Congress, drug pricing will take center stage in the healthcare space in 2019. We expect the Administration will continue to refine, amplify, and implement the [Drug Pricing Blueprint](#) ("Blueprint") and to call on Congress to take up proposals in the Blueprint and the [President's FY 2019 Budget](#) that require Congressional action. Expect hearings, and plenty of them. If Democrats control the House, our most likely midterm scenario, hearings will highlight high drug prices and how the Administration's proposals fail to deliver enough savings for patients. If Republicans retain control of the House, our next most likely scenario, hearings will amplify the President's proposals on areas of broad consensus that Congress can address. One policy we expect both parties to criticize soon is the Centers for Medicare and Medicaid Services' (CMS) new allowance of step therapy in Medicare Advantage (MA) plans. We expect little legislating on major drug pricing policies in 2019, but we identify one clear catalyst for Congressional action: the Medicare Part D true out-of-pocket (TrOOP) spending cliff that expires at the end of 2019. If lawmakers want to avoid seniors' out-of-pocket costs increasing by \$1,250 in 2020, Congress must act before Part D plans begin designing their 2020 benefit plans in April 2019. (For more information, see our prior [analysis](#) on this issue.)

Under any scenario, the pharmaceutical industry is at risk of being required to "pay for" fixing the cliff. PhRMA is reportedly advocating for a rollback of the 70% discounts required in Part D, alongside a two-year delay of the TrOOP cliff. The budgetary cost of offsetting these policies would most likely be at least partially offset by passage of the CREATES Act, which would benefit generic manufacturers. CREATES is a bipartisan bill, so it could pass under Republican leadership, but it is a higher priority for Democrats. Under our #1 most likely scenario of a Democratic-controlled House and Republican-controlled Senate, branded drug manufacturers (such as **NVS**, **PFE**, **JNJ**, **AMGN**, **MRK**, **GSK**, **GILD**) face more risk of deep offsets like the CREATES Act that will benefit generic manufacturers (**BAX**, **HIK:LN**, **MYL**). Under our #2 scenario where Republicans maintain control of both chambers, we think branded drug manufacturers will fare better with their GOP defenders at the helm. Under GOP leadership in both chambers, we are less confident that Congress will pass meaningful drug pricing reforms in 2019 and see 2020 as a more likely timeframe. Under our lowest likelihood scenario that Dems sweep both chambers, we expect a lot of headline risk to drugmakers and potential legislative risk if the President decides to make it his bipartisan issue. Even under this scenario, we do not think Democrats will succeed in legislating reimportation or Medicare price negotiation in what is likely to be a slim Senate majority that will still need 60 votes to approve policy.

ACA: Repeal and Replace, or Repair?

Whether and how legislators address the individual insurance market and Medicaid through further reforms to the Affordable Care Act (ACA), in our view, will be the most interesting area of healthcare policy in 2019. Healthcare [remains](#) a top issue for voters heading into the midterms, which means in any scenario next year we expect lawmakers will feel compelled - at a bare minimum - to hold hearings on the issue, if not do more. Democratic candidates are running on platforms that [promote](#) preserving the consumer protections (e.g., extending coverage to individuals with pre-existing conditions, no lifetime limits on coverage, etc.) established by the ACA. Republicans continue to want to do something to change the ACA - and we have witnessed a critical mass of GOP legislators shift their messaging from "repeal" to "repair" over the past year. What this likely means

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



under a Democratic-controlled House and Republican-controlled Senate is that some form of a bipartisan “ACA repair” bill akin to the 2017 “Alexander-Murray” proposal could pass in 2019. This proposal was named for its brokers, Senate Health, Education, Labor, and Pensions (HELP) Committee Chair Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) who have a strong relationship and passed a number of bipartisan under-the-radar public health bills in 2018. Both Sens. Alexander and Murray would remain in their current roles under the likely scenario that Republicans maintain control of the Senate, and we think something bipartisan out of the Senate to repair the ACA could reasonably move through a Democratically-controlled—or even Republican-controlled—House. As we [wrote](#) in October 2017 when Sens. Alexander and Murray announced their agreement, the proposal takes steps to stabilize the ACA’s health insurance markets, which would likely increase enrollment and therefore benefit managed care companies heavily tied to the individual market (**CNC, MOH, WCG**) and hospitals (**HCA, THC, CYH, UHS, QHC**).

Even under our #2 most likely election scenario (R control of both chambers), we think there’s a path for Alexander-Murray because we expect Republicans would maintain their control of both chambers with thin margins. In this scenario where there is pressure on Congress to do something to repair the ACA and a need for a bipartisan bill at least in the Senate (where 60 votes are needed to pass and Republicans at best are likely to hold only 52 seats), we think Alexander-Murray could pass. But we expect in the months shortly after the election there will be headline risk here around Republicans again contemplating ACA repeal (which we do not think can pass).

In our least likely scenario of a Democratic sweep, we think there will be perception by the business community and investors that Congress will take actions to fully restore the ACA, but we caution that any legislation would need to move with Republican support in the Senate and ultimately would need Trump’s signature. Thus, something bipartisan a la Alexander-Murray is the most likely blueprint of what’s reasonable to pass, in our view.

Opioid epidemic

The opioid epidemic will continue to be an area of bipartisan focus for Congress. Following [passage](#) of opioids legislation in 2018, we view this as an area for oversight and hearings rather than something that will receive additional policymaking in 2019.

Healthcare Oversight to Watch

We expect many HHS oversight hearings out of a Democratic House on ACA “sabotage,” including rulemaking on short-term health plans, association health plans, rescinding funding for outreach and enrollment, and supporting a lawsuit to undermine pre-existing conditions protections. These will all create an atmosphere of headline risk, but we do not expect these hearings will lead to legislation.

Healthcare Policy: Who Matters in Congress

- *Sen. Mike Crapo (R-ID)* – He will likely become chair of the Senate Finance Committee, which has jurisdiction over Medicare and Medicaid. Sen. Crapo is currently Chair of the Senate Banking Committee and should be viewed as a fairly party-line senator, so we do not expect many surprises. Interestingly, he is a cancer survivor and that tends to influence his view of policymaking on healthcare. Sen. Crapo sees this as possible

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



through less and not more government intervention. He voted to repeal ACA in 2017 so we expect Crapo would support additional changes to ACA.

- *Sen. Ron Wyden (D-OR)* – He will likely be Ranking Member of the Finance Committee or, in our low-likelihood scenario, could become Chair under a Dem-controlled Senate. Wyden will likely push to strengthen ACA and protect Medicare and Medicaid. We look to Sen. Wyden’s [RxCAP Act](#) on Medicare Part D reform as a starting point for bipartisan negotiations on drug pricing; notably, his policies overlap with President Trump’s FY 2019 Budget.
- *Sen. Lamar Alexander (R-TN)* – He will likely to remain Chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee and has a strong working relationship with Ranking Member Patty Murray (D-WA).
- *Sen. Patty Murray (D-WA)* – She will likely remain Ranking Member of the HELP Committee or, under our low likelihood projections, would become Chair. As we write above, she has a very good working relationship with HELP Committee Chair Alexander.
- *Rep. Frank Pallone (D-NJ)* – He will become Chair of the House Energy and Commerce Committee in our most likely scenario that Democrats win majority control of the House. Rep. Pallone comes from district with a major pharmaceutical presence, which we think will be meaningful to his approach as Chairman (read: don’t expect there to be many policies gouging branded pharma out of his Committee). We think Pallone will hold oversight hearings and investigations into the Trump Administration. Topics ripe for consideration include ACA “sabotage,” Medicaid work requirements, and the Administration’s role in supporting plaintiffs’ views of undermining pre-existing condition protections in *Texas v. Azar*. These will all create an atmosphere of headline risk, but we do not expect these hearings to lead to true regulatory action.
- *Rep. Greg Walden (R-OR)* – He will be Ranking Member of the House Energy & Commerce Committee in our most likely scenario that Democrats win control of the House. Under the less likely scenario that Republicans maintain their majority, Rep. Walden will remain Chair of the Committee. If Republicans hold onto the House, we do not believe Rep. Walden would hold any of the oversight hearings outlined above.

Transportation & Infrastructure

Winners & Losers of Transportation & Infrastructure Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** This is the only scenario in which we think Congress can pass a comprehensive infrastructure package in 2019 or possibly even the first quarter of 2020 (we put odds at 35%) that will cost roughly \$350-450 billion, benefiting many companies including **ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, and VMC**.
- **LOSERS:** In the 35% scenario that Congress passes an infrastructure bill, we think it comes with an increase to the federal gas tax, which would be harmful for certain companies in the consumer discretionary sector – such as consumer services (like **MAR, HLT, DRI, SBUX, and EXPE**), and retailing (such as **JWN** and **M**). It would also likely hurt convenience stores (like **CASY** and **MUSA**).

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** No clear winners under our transportation and infrastructure coverage.
- **LOSERS:** No clear losers under our transportation and infrastructure coverage.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** No clear winners under our transportation and infrastructure coverage.
- **LOSERS:** No clear losers under our transportation and infrastructure coverage.

Analysis of the Regulatory Risks Facing Industries Impacted by Transportation & Infrastructure Policy

Comprehensive Transportation & Infrastructure Legislation

Under any election scenario, the federal deficit is likely to **exceed \$1 trillion** in 2019. In this environment, Congress cannot garner the requisite votes to pass an infrastructure package unless it is largely (if not fully) offset by revenue raisers. It is relatively easy to find projects on which to spend money, but the revenue raisers tend to create losers out of incumbent interests, especially in this circumstance when a federal motor vehicle tax increase is a serious proposal on the table that policymakers will consider. The difficult decision to raise the gas tax and pass other spending cuts or new taxes in order to offset an infrastructure bill can only happen in a bipartisan environment where both Parties jump in together and politically cannot use the policy decision against the other. In our most likely scenario that Democrats win majority control of the House and Republicans maintain control of the Senate, we continue to place **35% odds** on prospects the two chambers could pass a comprehensive infrastructure package in 2019 or possibly even the first quarter of 2020 that will cost roughly \$350-450 billion and will be largely paid for with an increase to the federal motor vehicle tax as well as a handful of other revenue raisers such as public-private partnerships (P3s), private activity bonds, and possibly even federal asset sales. Many companies would benefit from the increase in federal dollars flowing to transportation and infrastructure projects, including **ACM, CAT, CX, DE, EXP, FLR, GVA, KBR, MLM, PRIM, USCR, and VMC**. However, an increase to the federal gas tax would be harmful for certain companies in the consumer discretionary sector – such as consumer services (like **MAR, HLT, DRI, SBUX, and EXPE**), and retailing (such as **JWN** and **M**). It would also likely hurt convenience stores (like **CASY** and **MUSA**).

Under our less likely scenario that Republicans maintain control of both chambers, we believe it is possible that lawmakers could come together on a much smaller package of infrastructure policies that they message as comprehensive reform but that in reality will not be nearly as meaningful to the aforementioned companies.

In our least likely scenario that Democrats control both chambers of Congress, we also think it will be politically difficult for them to jam through a major infrastructure package that's largely unpaid for, even if many of them would like to do so. In the Senate where Democrats would hold a narrow majority of 51 or 52 seats, they would need at least eight Republicans to join them to reach the 60-vote threshold. In this scenario, after months of what we expect to be Democrats holding oversight and investigatory hearings of the Administration and Republican priorities, it is hard for us to envision the two sides would be able to coalesce around a comprehensive infrastructure package. At best, we think an all-Democratic Congress, like an all-Republican Congress, could pass a series of smaller infrastructure bills that would be incrementally beneficial to industries with exposure to federal spending here.

Transportation & Infrastructure Oversight to Watch

In our most likely scenario that Democrats take majority control of the House, the one area of oversight risk for prospects of an infrastructure package would be ongoing hearings around the recent **discovery** that Dept. of

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



Transportation Secretary Elaine Chao blocked off 290 hours of private appointments over a 14 month period. To the extent this investigation hampers Sec. Chao's ability to serve as an Administration liaison to Congress during the formulation of an infrastructure policy, we think it would slow or in a worst-case scenario derail progress.

Transportation & Infrastructure Policy: Who Matters in Congress

- *Sen. John Barrasso (R-WY)* – He will likely remain Chair of the Senate Environment and Public Works (EPW) Committee, which has jurisdiction over most transportation and infrastructure policy. Sen. Barrasso wrote an [op-ed](#) in March 2018 that not surprisingly argues for infrastructure funding to focus on “all of America” and not just more urban populations (Barrasso represents the state of Wyoming). We expect Barrasso will continue to apply this rural-first approach to infrastructure policy. We think under our most likely scenario, in which he's negotiating with a Democratic-majority House, he could agree to an increase in federal motor vehicle taxes in exchange for other policy priorities that favor rural communities, especially if he can convince Democrats to take off the negotiating table a vehicle-miles-traveled policy (which taxes individuals based on actual road use / miles traveled).
- *Sen. Tom Carper (D-DE)* – He will likely remain Ranking Member on the EPW Committee but would become Committee Chair in the low likely event Democrats win majority control of the Senate. Sen. Carper is more interested than Sen. Barrasso in alternative sources of financing, like P3s, because these types of programs work well in his smaller, more populous state of Delaware. We also expect that Democrats, including Sen. Carper, will continue to [propose](#) an increase in the corporate tax rate as a means to pay for infrastructure spending, which we think would be ripe for a Presidential veto should it reach Trump's desk.
- *Rep. Peter DeFazio (D-OR)* – He will become Chair of the House Transportation and Infrastructure (T&I) Committee in our most likely scenario that Democrats take control of the House. DeFazio represents [Oregon's 4th Congressional District](#), which is fairly rural. Taken together with the fact the Senate Committee with jurisdiction will likely be chaired by Sen. John Barrasso (R-WY), if the two chambers advance a bipartisan transportation and infrastructure package in 2019, it will likely not rely heavily on alternative financing regimes, such as P3s, that do not work as well in rural districts. Instead, it will likely include an increase to the federal motor vehicle tax as a large source of financing.
- *Rep. Sam Graves (R-MO)* – He will be Chair of the House T&I Committee under our less likely scenario that Republicans maintain control of the House. Current T&I Chair Bill Shuster (R-PA), has done a lot of work during the current Congress to prepare the Committee for an opportunity to advance a comprehensive infrastructure package, including issuing a [draft infrastructure proposal](#) in July 2018. We think Rep. Graves as Chair would use Shuster's proposal as a starting point. However, as we write above, we do not believe a scenario where Republicans control both chambers of Congress would be politically conducive to passing a comprehensive transportation and infrastructure package.

Marijuana

Winners & Losers of Marijuana Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** This is the most favorable election scenario for the marijuana industry. We think a Democratic House and Republican Senate would be reasonably positioned to approve legislation authorizing additional marijuana research, a necessary first step in our view before Congress can turn to more meaningful policy.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



We also think the Republican Senate will be able to approve with relative ease any Trump nominee to lead the Dept. of Justice in the likely event that current Attorney General (AG) Jeff Sessions leaves the DOJ shortly after the election. This would pave the way for an AG more sympathetic to the marijuana industry in 2019, who could promulgate new enforcement guidance helpful for the marijuana industry.

- **LOSERS:** It is very unlikely that comprehensive marijuana policy will pass in this scenario, meaning the industry will remain constricted by a patchwork of state-based regulations. Additionally, we do not envision any action under this scenario that would result in legislation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** This is the next-most favorable scenario for the marijuana industry as the Senate would be in a position to confirm a new AG potentially more sympathetic to the industry who could promulgate new, helpful enforcement guidance in 2019.
- **LOSERS:** We don't think an all-Republican Congress will be in a position to approve legislation authorizing additional marijuana research, a necessary first step in our view before Congress can turn to more meaningful policy changes. We do not envision any action under this scenario that would result in regulation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** Companies and organizations that stand to benefit from increased marijuana research would be the only winners under this scenario. We think a Democratic Congress could likely usher through research legislation that would ultimately be signed by President Trump.
- **LOSERS:** A Democratic Senate is unlikely to approve any AG nominees Trump sends their way, so additional, helpful DOJ guidance in this scenario would not be likely. In addition, we do not envision any action under this scenario that would result in legislation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.

Analysis of the Regulatory Risks Facing Industries Impacted by Marijuana Policy

Marijuana research

In our most likely election scenario where Democrats win majority of the House and Republicans maintain the Senate, as we have [written](#), we think it's possible Congress will advance legislation to authorize additional marijuana research in 2019. If legislation to expand research opportunities can pass in 2019, we think it bodes well for additional legislative changes in the coming years. In our next most likely scenario where Republicans control both chambers of Congress, we think it is incrementally less likely that marijuana research legislation can pass Congress; Democrats tend to view marijuana policies more favorably than Republicans. Finally, under a low-likely Democratic sweep, we think chances increase that Congress will approve marijuana research legislation and expect that President Trump would sign that provision if it reached his desk. We do not envision any action under these scenarios that would result in legislation that would ringfence liabilities for the financial services sector. As such, the cannabis industry will remain underbanked for the foreseeable future.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Attorney General confirmation process

As we have [written](#), federal marijuana regulations have largely been set by unilateral actions out of the Department of Justice (DOJ). The current Attorney General, Jeff Sessions, is known to be an opponent of marijuana legalization and he has taken actions to roll back Obama-era efforts to loosen federal enforcement actions. Because we expect Sessions will likely depart the DOJ shortly after the election, this creates an opportunity for someone new to lead the DOJ who is more sympathetic to the marijuana industry. In our top two elections scenarios, Republicans are poised to hold onto majority control of the Senate, and we expect that they will be able to seat a new Attorney General with *relative* ease. Many believe that President Trump is poised to nominate Senator Lindsey Graham (R-SC) to fill a vacant AG role. If Sen. Graham becomes AG, this would signal to us a likely softening in marijuana policy at the DOJ. Graham was a cosponsor of the Compassionate Access, Research Expansion and Respect States (CAREERS) Act in 2015 and told reporters: "I am open-minded to the idea that the plant may have medical attributes that could help people....I'm convinced that we should, as a nation, research the medical applications of the marijuana plant....It could be life-changing. I just want to do it in a scientific way...and the current system doesn't allow for the research that we need."

Worth noting is that in our least likely election scenario, where Democrats sweep both chambers of Congress, we could easily see a situation unfold where the Senate does not confirm whomever Trump nominates to be Attorney General. Because the DOJ is tied directly to the Mueller investigation, immigration enforcement, and gun issues that Democrats are passionate about influencing should they win the majority, we think marijuana issues won't be front-and-center, and we think the absence of an Attorney General would slow any loosening of federal marijuana law enforcement that otherwise could occur.

Marijuana Policy: Who Matters in Congress

- *Sen. Corey Gardner (R-CO)* – He will continue to be a leading proponent in the Senate of regulations that benefit the marijuana industry, regardless of which Party controls the Senate. In the event a marijuana research bill is moving through Congress, we expect Sen. Gardner will be involved.
- *Sen. Chuck Grassley (R-IA)* – He will remain Chair of the Senate Judiciary Committee in the likely event that Republicans maintain control of the Senate. Sen. Grassley is a [cosponsor](#) of legislation to expand marijuana research, so we expect he will continue to be a proponent of policies that advance the industry, albeit incremental ones.
- *Sen. Dianne Feinstein (D-CA)* – She will remain Ranking Member of the Senate Judiciary Committee in the likely scenario that Republicans maintain control of the Senate. In the event Democrats take majority control and Sen. Feinstein becomes Chair, we do not think she will work to advance policies that harm the industry (she was also a [cosponsor](#) of the expanded marijuana research legislation with Sen. Grassley). But we think the fact that Trump's Attorney General nominees are likely to run into roadblocks at the Committee and on the Senate Floor will actually do harm to the industry by slowing down progress around federal law enforcement policies.
- *Sen. Richard Shelby (R-AL)* – He will likely remain Chair of the Senate Appropriations Committee. We think if expanded marijuana research is going to pass in 2019, must-pass federal appropriations spending bills are the most likely vehicle. Unfortunately for marijuana proponents, Sen. Shelby is an adamant opponent of marijuana-related bills, and he recently opposed the appropriations rider that blocked the DOJ from using funds to prosecute medical marijuana users in states where it is legal.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



- *Sen. Patrick Leahy (D-VT)* – He will become Chair of the Senate Appropriations Committee in the unlikely scenario that the Senate flips to Democratic control. Representing Vermont, a state where marijuana is accessible for adult recreational use, we expect Senator Leahy would be a strong proponent for marijuana related legislation.
- *Rep. Nita Lowey (D-NY)* – She will become Chair of the House Appropriations Committee under our most likely election outcome scenario. As we write above, we think if expanded marijuana research is going to pass in 2019, must-pass federal appropriations spending bills are the most likely vehicle. Rep. Lowey is a bit of an unknown quantity when it comes to marijuana. While she has not been outspoken against marijuana-related bills and provisions, she has not supported them either. She is one of the many House members hailing from a state where medical marijuana is legal but who does not take a position on the issue.
- *Rep. Hal Rogers (R-KY)* – He will remain Chair of the House Appropriations Committee under a less likely scenario that Republicans maintain control of the House. Rep. Rogers has long opposed the amendment blocking the DOJ from using funds to prosecute medical marijuana users in states where it is legal, and he has signaled his opposition to open banking for the marijuana industry.

Technology, Media, & Telecommunications

Winners & Losers of Tech, Media, & Telecom Policies

In our #1 most likely scenario (House D, Senate R):

- **WINNERS:** We see **NFLX** as the only clear winner under this scenario, albeit only incrementally around headlines that a Democratic House is working to restore Obama-era net neutrality laws (we don't think this legislation would pass the Senate, though). Other companies that stand to benefit from a return to the prior net neutrality regime would be Amazon (**AMZN**) and Google (**GOOGL**) as well. On balance, we think this scenario presents more harm than benefit to these companies because of the increased scrutiny placed on "Big Tech" as Democrats hold hearing after hearing on antitrust and privacy issues.
- **LOSERS:** We think big tech companies (**FB**, **AMZN**, **GOOGL**, and to an extent **TWTR**) will fall under increased Congressional scrutiny with Democrats leading the House around both antitrust and data privacy issues. We do not foresee this scrutiny translating into actual policy, however. We also expect headline risk for telecom companies (**VZ**, **T**, **S**, and **TMUS**) resulting from House efforts to address the void created by the FCC's net neutrality regulations despite there being no real policy risk here due to likely Senate inaction.

In our #2 most likely scenario (both R):

- **WINNERS:** No clear winners under our tech, media, and telecom coverage.
- **LOSERS:** Because House and Senate Judiciary Committees would not have much else to do, we think it would increase the time they spend exploring big tech antitrust legislation, likely creating increased headline risk for **GOOGL**, **AMZN**, and **FB**. In this scenario, however, we are skeptical Republicans will actually enact new policy.

In our least-likely scenario (both D):

- **WINNERS:** We see **NFLX** as a winner under this scenario as well with even more intensity stemming from both chambers of Congress around reversing recent net neutrality rules, although we do not think Trump would sign into law a bill to restore Obama-era rules.

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



- **LOSERS:** Under this scenario, Democrats will need to prioritize what issues they want to tackle first, and we think areas like healthcare, energy, environment, immigration, Russia, Administration corruption, and guns will all take precedence over tech regulations, which creates an environment where these issues move to the backburner at least for a few months. Eventually in 2019, however, we would expect that big tech companies (**FB**, **AMZN**, **GOOGL**, and to an extent **TWTR**) would fall under major Congressional scrutiny around both antitrust and data privacy issues. We think the risk increases that Congress could take steps to issue a series of policies against big tech companies, especially in a news cycle in early 2019 that includes headlines about additional data breaches at any of the aforementioned companies. We think Democrats are more likely to want to take the lead on crafting policy to address issues related to data privacy and big tech antitrust issues. In the event that Democrats control both chambers of Congress, we could see some moderate Senate Republicans joining with the Democratic majority to send something to President Trump, which we think he would sign. We also expect headline risk for telecom companies (**VZ**, **T**, **S**, and **TMUS**) resulting from efforts in both chambers to address the void created by the FCC's net neutrality regulations despite there being no real policy risk here since we expect Trump would veto any such legislation that reaches his desk.

Analysis of the Regulatory Risks Facing Industries Impacted by Tech, Media, & Telecom Policy

Net Neutrality

Under our most likely scenario, where Democrats take control of the House and Republicans maintain control of the Senate, we expect the House Energy and Commerce Committee will hold hearings and potentially even advance some legislation to address the void created by the FCC's net neutrality decision. We note that the House Energy and Commerce Committee also holds jurisdiction over healthcare, energy, and environmental policy as well as telecom and tech – and we expect the former policies are likely to take higher priority for the Committee in the early months of 2019 (these issues tend to **motivate** voters) than the latter. So we expect movement on net neutrality to fall more in a 2Q or 3Q timeline. Despite the fact that the Committee could approve net neutrality legislation, which may even pass the full House, we think it would die in the Republican-controlled Senate. This effort, though, would likely create a harmful press cycle for telecom companies (**VZ**, **T**, **S**, and **TMUS**) and a beneficial one for edge providers and streaming services (**AMZN**, **GOOGL**, and **NFLX**), despite there being no real policy risk in our view.

Under a Democratic sweep, our least likely midterm scenario, we expect this trend would be amplified – even greater headline risk out of Congress. We still think legislation here is unlikely to ever make it to the President's desk as the Senate Democrats under this scenario would likely hold a majority with only 51 or 52 seats, and they would therefore need at least eight Republicans to join them to advance legislation. We do not see net neutrality as being a place for clear bipartisan agreement in this highly political environment; therefore, we wouldn't expect legislation to pass.

Under our second-most likely election scenario, where Republicans maintain control of both chambers, we wouldn't expect any Congressional intervention into the FCC's net neutrality decision.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



Internet Privacy

In our most likely election scenario that Democrats take majority control of the House, we think big tech companies (**FB**, **AMZN**, **GOOGL**, and to an extent **TWTR**) will fall under increased Congressional scrutiny. In fact, Rep. Nancy Pelosi (D-CA) who will likely reclaim her previous role as House Speaker in 2019, recently [said](#) she intends to make internet regulations a priority for her caucus. The headline risk on this issue looks like it will be fairly significant. Nonetheless, we think it is extremely unlikely that the House could pass something that the Senate will agree with, considering we expect the latter chamber will still be controlled by Republicans.

Under our least likely scenario that Democrats sweep both chambers, we do think the risk increases that Congress could take steps to issue a series of policies against big tech companies, especially in a news cycle in early 2019 that includes headlines about additional data breaches at any of the aforementioned companies. We think Democrats are more likely to want to take the lead on crafting policy to address these issues. In this environment, we could see some moderate Senate Republicans joining with the Democratic majority to send something to President Trump, which we think he could sign.

In our second most likely event that Republicans hold the majority of both Congressional chambers, we expect continued hearings and possibly even some policy blueprints, but we think it's unlikely Congress would do much that's concrete on this issue.

Big Tech Antitrust

In our most likely election scenario where Republicans hold the Senate, it is hard for us to see a Democratic-controlled House successfully moving legislation through the Congress that would break up or limit the business activities of major technology companies. But we do expect hearings in the House focused specifically on this issue, which would create headline risk for **GOOGL**, **AMZN**, and **FB**.

In our second-most likely scenario that Republicans maintain control of both chambers of Congress, we expect continued hearings that tangentially touch the issue, such as a recent Senate Judiciary Committee [oversight hearing](#) featuring Dept. of Justice Assistant Attorney General Makan Delrahim and Federal Trade Commission (FTC) Chairman Joseph Simons. Senator Orrin Hatch (R-UT) discussed at this hearing his letter to the FTC requesting an investigation into anticompetitive behavior by **GOOGL** and potential bias. We expect in this environment, where Republicans control both chambers of Congress, it will mean continued headline risk around big tech antitrust issues because we don't think that the Judiciary Committees in either chamber of Congress (with jurisdiction over this issue) will have much else on which to focus on. Under Republican control, they are unlikely to press the Administration around issues related to Russia, immigration, guns, or corruption in the way we'd expect Democrats would.

In our least likely scenario that Democrats win majority control of both chambers, we think chances are decent for some sort of new antitrust policy to move through the Congress that gives the Federal Trade Commission (FTC) more clear authority to assess and enforce antitrust actions against big technology companies, a scenario which is unfavorable for **GOOGL**, **AMZN**, and **FB**. But we think this issue would be on the backburner during the early months of 2019, subordinated to far more high-profile issues such as the Mueller investigation and other oversight related to the Dept. of Justice.

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



Tech, Media, & Telecom Oversight to Watch

In our most likely scenario that Democrats win majority control of the House, we expect the House Energy and Commerce Committee to hold oversight hearings on the FCC to discuss net neutrality and 5G infrastructure. The House Judiciary Committee will likely hold oversight hearings with the FTC to discuss big tech regulations, both around privacy and antitrust issues.

Tech, Media, & Telecom Policy: Who Matters in Congress

- *Sen. Roger Wicker (R-MS)* – He will become Chair of the Senate Commerce, Science, and Transportation Committee in 2019 should Republicans maintain control of the Senate. Wicker will inherit the gavel from Sen. John Thune (R-SD), who will likely ascend to a leadership role next year. Importantly, Sen. Wicker, who represents the state of Mississippi, will continue a trend of prioritizing rural issues (Sen. Thune represents South Dakota). We think this will mean the Committee will continue to pressure the FCC to do more on rural access to internet.
- *Sen. Bill Nelson (D-FL)* – He will likely be the Chair of the Senate Commerce, Science, and Transportation Committee in the event that Democrats win the majority in the Senate (Nelson is at risk of losing his reelection in the midterms, but in the event Democrats take control of the Senate we think this will be in part because Sen. Nelson wins his race). As we write above, we think in the event of a Democratic sweep that net neutrality and other big tech issues are pulled more to the forefront in the Senate, both of which would fall under Sen. Nelson's jurisdiction as Committee Chair.
- *Sen. Maria Cantwell (D-WA)* – She will be Ranking Member (most senior Democrat) on the Senate Commerce Committee in the likely event that Republicans maintain control of the Senate and Sen. Bill Nelson (D-FL) loses his reelection bid. Cantwell comes from the technology industry, so she would be an interesting Democratic counterweight to a Commerce Chairman Wicker on policy issues impacting the technology sector.
- *Sen. Chuck Grassley (R-IA)* – He will remain Chair of the Senate Judiciary Committee in the most likely event that Republicans maintain control of the Senate. The Judiciary Committee has jurisdiction over the FTC and antitrust issues, and we expect that Sen. Grassley's continued tenure as Judiciary Chair will include more of what we saw at the October 3 hearing at which Assistant Attorney General Delrahim and FTC Chairman Simons testified on the status of antitrust enforcement in the United States. We note that big tech antitrust is unlikely to be a top issue for the Senate Judiciary Committee, which also oversees the Dept. of Justice (DOJ) and which is likely to need to confirm a new Attorney General in the event that Jeff Sessions leaves the role shortly after the election (which we think is a likely scenario).
- *Sen. Dianne Feinstein (D-CA)* – She will become Chair of the Senate Judiciary Committee in the less likely event that Democrats win majority control of the Senate. As we write above about this scenario, we think there's increased risk for legislation around big tech antitrust issues. However, a Democratic-controlled Senate Judiciary Committee is very likely to focus initially on much higher profile issues under its jurisdiction, including the Mueller investigation, gun control, immigration, and possibly even work to impeach the recently-confirmed Supreme Court Justice Brett Kavanaugh.
- *Rep. Frank Pallone (D-NJ)* – He will become Chair of the House Energy and Commerce Committee under the most likely scenario that Democrats win the House majority. While we expect a number of hearings out of the Subcommittee on Communications and Technology and the Subcommittee on Digital Commerce and Consumer Protection, as we write above we think at the full Committee level the early months of policymaking will be focused on higher profile issues under its jurisdiction – healthcare, energy, and the environment.

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



- *Rep. Greg Walden (R-OR)* – He will remain Chair of the Energy and Commerce Committee in the less likely event that Republicans maintain control of the House. This would represent a status quo scenario relative to the current Congress, where Chairman Walden has hosted hearings to investigate **FB** CEO Mark Zuckerberg but has not issued details around what he would like an internet privacy regulatory regime to look like.
- *Rep. Jerry Nadler (D-NY)* – He will be Chair of the House Judiciary Committee in the event Democrats win majority control. For the first few months of 2019, we expect the issue of big tech antitrust will take a backseat to guns, immigration, and Russia. But eventually we think the Committee could turn to this issue, especially if there's another catalyst event such as a data breach or even another *60 Minutes* exposé such as the one we saw on **GOOGL** earlier this year.
- *Rep. Steve Chabot (R-OH)* – He will likely be House Judiciary Committee Chair in the event Republicans maintain majority control. We note that Rep. Chabot's reelection campaign is currently rated as a toss-up race, but in the scenario Republicans hold onto the House majority we think he's more likely to have won. Whomever leads the House Judiciary Committee next year, it's likely that big tech antitrust issues will receive ongoing hearings as the Committee is unlikely to have much else that it is focused on (all the investigations a Democratic-led committee would initiate won't happen under Republican leadership).

Tobacco

Winners & Losers of Tobacco Policies

In our #1 most likely election scenario (Democratic House, Republican Senate):

- **WINNERS:** E-cigarette flavor and tax regulation could pass the House, creating modestly beneficial headlines for incumbent cigarette manufacturers with a current or expected U.S. presence (like **MO** particularly, but also **BTI**, **IMBBY**, **PM**, and **JAPAY**) – although we don't think this policy can pass a Republican Senate.
- **LOSERS:** A House bill to regulate e-cigarette flavors and tax the product category would create significant headline risk for JUUL Labs, despite the fact we don't think these policies can pass a Republican Senate.

In our #2 most likely election scenario (both chambers under Republican control):

- **WINNERS:** We do not expect Congress to legislate in this scenario. Instead, we expect the FDA to promulgate e-cigarette flavor regulations and approve a handful of pending reduced risk applications, more meaningfully beneficial to **MO**, **PM**, and **BTI**, and incrementally beneficial to **IMBBY**, and **JAPAY**.
- **LOSERS:** An absence of Congressional action will allow for continued action out of FDA that's likely to be incrementally harmful to companies heavily exposed to e-cigarette sales, including JUUL Labs.

In our least-likely scenario (both chambers under Democratic control):

- **WINNERS:** We think Democrats and the Administration could work together to advance legislation to regulate e-cigarette flavors and taxation that would be perceived as meaningfully beneficial to incumbent tobacco companies with a current or expected U.S. presence (like **MO** particularly, but also **BTI**, **IMBBY**, **PM**, and **JAPAY**).
- **LOSERS:** Policies to remove virtually all e-cigarette flavors other than tobacco and create a federal tax regime on the industry would be materially harmful to companies highly exposed to their e-cigarette sales, including JUUL Labs.

Height Commentary

Height Research
 (202) 629-0000
 heightresearch@heightllc.com



Analysis of the Regulatory Risks Facing Companies Impacted by Tobacco Policy

E-cigarette flavor and taxation legislation

The Food and Drug Administration (FDA) is currently undertaking unilateral actions of importance to the tobacco industry. But there is a chance Congress could insert itself into tobacco policy legislatively as well in the wake of the [youth e-cigarette “epidemic.”](#) Under our most likely election scenario in which Democrats win majority control of the House and the Senate remains under Republican control, we think the House would be positioned to pass legislation that would permanently ban “kid appealing” e-cigarette flavors – potentially defined as all flavors other than tobacco – and create a federal e-cigarette tax regime. We do not believe either of these policies could pass the Republican-controlled Senate, so we view this as mostly headline risk for companies highly exposed to their e-cigarette sales (such as JUUL Labs), and modestly beneficial for incumbent cigarette manufacturers with a current or expected U.S. presence (like **MO** particularly, but also **BTI**, **IMBBY**, **PM**, and **JAPAY**).

Under the less likely scenario that Republicans maintain control of both chambers of Congress, we do not expect members will seriously contemplate any legislation on e-cigarette flavors or taxation measures. In this scenario, we would expect that FDA’s unilateral actions around flavors will be incrementally harmful for companies that depend largely on e-cigarette sales (like JUUL Labs). They would create modest winners out of companies with applications to label certain of their portfolio products as relatively less harmful than cigarettes that we think the FDA can approve in 2019 (**PM**, **MO**, and **BTI**). Finally, they would continue to create incremental benefit for the remainder incumbent tobacco companies (**IMBBY** and **JAPAY**) where investor perception is clearly that e-cigarettes are cutting into other tobacco product sales.

In the event that Democrats win control both chambers of Congress, we think they could spearhead e-cigarette flavor and taxation bills during 2019. If the e-cigarette “youth epidemic” narrative continues at the national level, we think there’s a reasonable chance this legislation could pass both chambers with a handful of Republicans joining Democrats in the Senate to achieve the requisite 60 votes to send legislation the President Trump, which we think he would sign. This event would be materially harmful to companies highly exposed to their e-cigarette sales (like JUUL Labs) and would likely be perceived as meaningfully beneficial to incumbent tobacco companies with a current or expected U.S. presence (like **MO** particularly, but also **BTI**, **IMBBY**, **PM**, and **JAPAY**).

Tobacco Oversight to Watch

Under the most likely scenario that Democrats win majority control of the House, we expect oversight hearings around FDA Commissioner Scott Gottlieb’s handling of e-cigarette regulations. Democrats are likely to focus on Commissioner Gottlieb’s 2017 [decision](#) to delay enforcement of premarket reviews for e-cigarettes as a contributing factor to the emergence of the youth epidemic. We expect these hearings will place pressure on Gottlieb to continue taking actions that favor youth prevention over adult cessation, a trend we are already seeing emerge out of the FDA.

Tobacco Policy: Who Matters in Congress

Height Commentary

Height Research
(202) 629-0000
heightresearch@heightllc.com



- *Sen. Lamar Alexander (R-TN)* – He will likely remain Chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee, which has jurisdiction over tobacco policy. To our knowledge, Sen. Alexander has not waded into the policy discussion around youth e-cigarette use in recent years, so we think that is a good indication that the Committee under Alexander's leadership is unlikely to advance policy impacting the industry in 2019.
- *Sen. Patty Murray (D-WA)* – She will become Chair of the Senate HELP Committee in the low likelihood event that Democrats win majority control of the chamber. She wrote a [letter](#) in August 2017 to criticize Commissioner Gottlieb's decision to delay e-cigarette application enforcement actions, specifically mentioning what she viewed at the time as an issue of flavored e-cigarettes. This reinforces our view that if Sen. Murray is HELP Committee Chair, she is likely to work to advance policy severely limiting the number of flavored e-cigarettes on the market – potentially as restrictive as banning all flavors except tobacco.
- *Rep. Frank Pallone (D-NJ)* – He will become Chair of the House Energy and Commerce (E&C) Committee in the likely event that Democrats win majority control of the chamber. Rep. Pallone sent a [letter](#) to FDA Commissioner Gottlieb in May 2018 criticizing the FDA's decision to delay e-cigarette application enforcement actions where he specifically called out popular JUUL flavors crème brulee (now "crème"), fruit medley (now "fruit"), and cool cucumber (now "cucumber") as "especially concerning" to him. This reinforces our view that under our most likely election scenario, Rep. Pallone is likely to advance policy severely limiting the number of flavored e-cigarettes on the market – potentially as restrictive as banning all flavors but tobacco.
- *Rep. Greg Walden (R-OR)* – He will remain Chair of the E&C Committee in the lower likelihood event that Republicans maintain majority control of the House. To our knowledge, Rep. Walden has not weighed in on the youth e-cigarette debate one way or another, reinforcing our view that policy action from a Republican House is unlikely.

Height Commentary

Height Research
 (202) 629-0000
heightresearch@heightllc.com



COMPANIES MENTIONED IN THIS REPORT

AECOM (ACM), Archer Daniels Midland Company (ADM), Amgen Inc (AMGN), Amazon.com Inc (AMZN), Arch Coal Inc (New) (ARCH), Baxter International Inc (BAX), Bunge Ltd (BG), British American Tobacco PLC (BTI), Peabody Energy Corp (BTU), Casey's General Stores Inc (CASY), Caterpillar Inc (CAT), Centene Corp (CNC), Capital One Financial Corp (COF), CVS Health Corp (CVS), Cemex (CX), Community Health Systems Inc (CYH), Dominion Energy Inc (D), Darden Restaurants Inc (DRI), DowDuPont Inc (DWD), Enova International Inc (ENVA), EQT Midstream Partners LP (EQM), EQT Corp (EQT), Essent Group Ltd (ESNT), Energy Transfer Equity LP (ETE), Exelon Corp (EXC), Eagle Materials Inc (EXP), Ford Motor Co (F), Facebook Inc (FB), Fiat Chrysler Automobiles N.V. (FCAU), Fluor Corp (FLR), Freddie Mac (FMCC), Fannie Mae (FNMA), Gilead Sciences Inc (GILD), General Motors Co (GM), Alphabet Inc (GOOGL), Goldman Sachs Group Inc (GS), GlaxoSmithKline Shs Sponsored American Deposit Receipt Repr 2 Shs (GSK), Granite Construction Inc (GVA), HCA Healthcare Inc (HCA), Hilton Worldwide Holdings Inc (HLT), HONDA MOTOR Shs Sponsored American Deposit Receipt Repr 1 Sh (HMC), Imperial Brands PLC (IMBBY), Japan Tobacco Inc (JAPAY), J.B.Hunt Transport Services Inc (JBHT), Johnson & Johnson (JNJ), JPMorgan Chase & Co (JPM), JUUL Labs Inc. (JUUL), KBR Inc (KBR), Knight Transportation Inc (KNX), Marriott International Inc (New) (MAR), Martin Marietta Materials Inc (MLM), Molina Healthcare Inc (MOH), Mosaic Co (MOS), Merck & Co Inc (MRK), Murphy USA Inc (MUSA), Netflix Inc (NFLX), NRG Energy Inc (NRG), Mylan N.V. (MYL), Nutrien Ltd (NTR), Novartis Shs Sponsored American Deposit Receipt Repr 1 Sh (NVS), Old Dominion Freight Line Inc (ODFL), Pfizer Inc (PFE), Philip Morris International Inc (PM), Primoris Services Corp (PRIM), Quorum Health Corporation (QHC), Radian Group Inc (RDN), Southern Co (SO), Schneider National Inc (SNDR), Sprint Corporation (S), AT&T Inc (T), Tenet Healthcare Corp (THC), Toyota Motor Shs Sponsored American Deposit Receipt Repr 2 Shs (TM), T-Mobile US Inc (TMUS), Twitter Inc (TWTR), Universal Health Services Inc (UHS), US Bancorp (USB), US Concrete Inc (USCR), Vulcan Materials Co (Holding Co) (VMC), Vistra Energy Corp (VST), Verizon Communications Inc (VZ), Wellcare Health Plans Inc (WCG), Williams Companies Inc (WMB), Deere & Company (DE), Public Service Enterprise Group Inc (PEG), Duke Energy Corp (DUK), Altria Group Inc (MO), Morgan Stanley (MS), Hikma Pharmaceuticals Plc (HIK:LN), Nordstrom, Inc (JWN), Macy's Inc (M), Starbucks Corporation (SBUX), Expedia Group Inc (EXPE)

RISKS

The legislative and regulatory agendas are subject to change at the discretion of leadership. Unprecedented economic conditions could instigate unanticipated and/or sweeping shifts in policy. Predicting the future is a hazardous endeavor and economic / market forecasting is an imprecise science. Actual outcomes may differ substantially from our forecasts. The predictions and opinions expressed herein are subject to change at any time.

ANALYST CERTIFICATION

We, Stefanie Miller, Katie Bays, Andrea Harris, Ed Groshans, Josh Price, Hunter Hammond, Clayton Allen and Chase White, CFA, certify with respect to each security or issuer covered in this research report that (i) the views expressed in this research report accurately reflect our personal views about those subject securities or issuers and (ii) no part of our compensation was, is, or will be, directly or indirectly, related to the specific recommendations or views expressed by us in this research report.

ANALYST CERTIFICATION

I, Height Research, certify with respect to each security or issuer covered in this research report that (i) the views expressed in this research report accurately reflect my personal views about those subject securities or issuers and (ii) no part of my compensation was, is, or will be, directly or indirectly, related to the specific recommendations or views expressed by me in this research report.

DISCLAIMER

This report is intended for the private use of Height Analytics' and Height Securities' clients and prospective clients. Reproduction or editing by any means, in whole or in part, or any other unauthorized use, disclosure or redistribution of the contents without the express written permission of Height Analytics is strictly prohibited. The information contained in this report has been obtained from sources which Height Analytics believes to be reliable; however, Height Analytics does not guarantee the accuracy, completeness or timeliness of any information or analysis contained in the report. Opinions in this report constitute the personal judgment of the analysts and are subject to change without notice. The information in the report is not an offer to purchase or sell any security. The information herein is not intended to a complete analysis of all material facts representing any company discussed herein nor by itself is this report sufficient upon which to base an investment decision. This report may be distributed by Height Securities, LLC, member FINRA/SIPC. Height Analytics and Height Securities are affiliates.

Users assume the entire cost and risk of any investment decisions they choose to make. Height Analytics shall not be liable for any loss or damages resulting from the use of the information contained in the report, or for errors of transmission of information, or for any third party claims of any nature. Nothing herein shall constitute a waiver or limitation of any person's rights under relevant federal or state securities laws.

IMPORTANT DISCLOSURES

Disclosures for JUUL

JUUL Labs Inc. is or was during the 12-month period preceding the date of the distribution of this report a client of Height Capital Markets or an affiliate. Height Capital Markets or an affiliate provided non-securities related services.

Height Capital Markets or an affiliate has received compensation for non-investment banking, securities-related services from this subject company JUUL Labs Inc. in the last 12 months.