

Pre-Election Update From Washington: COVID-19, Policy Outcomes and the Election

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell

October 23, 2020



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Nothing contained in here shall be deemed legal advice.

More Resources: www.onevoiceinfo.org

ONE VOICE COVID-19 RAPID RESPONSE WEBSITE

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COVID-19 Relief Legislation Status Update

(Trump and Pelosi have not spoken since Oct 16, 2019)

Legislative Update: Two Weeks in COVID Talks

- Oct 6 2:48 PM: President Trump calls off negotiations between Pelosi, Mnuchin
- Oct 6 10:18 PM: President reverses and calls for large stimulus bill
- Oct 8: Pelosi and Mnuchin speak, Speaker says no separate bills for airlines, others
- Oct 9: White House floats \$1.8 Trillion offer; Senate Republicans livid, reject outright
- Oct 10: Pelosi rejects offer, insists on at least \$2 trillion
- Oct 11: Pelosi sends letter to Democrats: proposal “one step forward, two steps backward”
- Oct 13: McConnell says Senate will vote on another \$500b “skinny bill” in a week
- Oct 15: Trump calls for a “big deal”, vulnerable GOP Senators agree
- Oct 15: McConnell says, “That’s not what I’m going to put on the floor”
- Oct 15: Mnuchin says will accept Democrats’ testing and tracing request (reverses next day)
- Oct 18: Pelosi, Mnuchin speak for 75 minutes
- Oct 20: Pelosi set deadline to finish talks. Election was then 14 DAYS AWAY

COVID-19 Relief Legislation – Next Step Scenarios

- President **Trump re-elected, GOP holds Senate**: COVID-19 vote likely in December with robust “lame duck” legislative activity;
- President **Trump re-elected, Democrats win Senate**: McConnell tries to press through a vote, unclear Pelosi would allow COVID-19 bill as will have more leverage with a Democratic controlled Senate in 2021;
- President **Trump defeated, GOP holds Senate**: Depending on the President, Republicans will want to put their imprint on any final bills in the lame duck despite Speaker Pelosi wanting to wait for Biden swearing in, still a good chance of COVID-19 relief;
- President **Trump defeated, Democrats take Senate**: Little chance of a vote on COVID-19 relief bill as Democrats will have a “trifecta” – the White House, Senate, U.S. House and can write their own bill in late January/early February that includes “revenue raisers.”

Despite Lack of Legislative Action

Treasury, SBA, Still Making PPP Forgiveness Changes

PPP FAQ: No Payments Until Forgiveness Sent to Lender

3. **Question:** If a borrower submits a timely loan forgiveness application, does the borrower have to make any payments on its loan prior to SBA remitting the forgiveness amount, if any?

Answer: As long as a borrower submits its loan forgiveness application within ten months of the completion of the Covered Period (as defined below), the borrower is not required to make any payments until the forgiveness amount is remitted to the lender by SBA. If the loan is fully forgiven, the borrower is not responsible for any payments. If only a portion of the loan is forgiven, or if the forgiveness application is denied, any remaining balance due on the loan must be repaid by the borrower on or before the maturity date of the loan. Interest accrues during the time between the disbursement of the loan and SBA remittance of the forgiveness amount. The borrower is responsible for paying the accrued interest on any amount of the loan that is not forgiven. The lender is responsible for notifying the borrower of remittance by SBA of the loan forgiveness amount (or that SBA determined that no amount of the loan is eligible for forgiveness) and the date on which the borrower's first payment is due, if applicable.

Must submit within 10 months of completion of covered period

October 13, 2020

<https://home.treasury.gov/system/files/136/PPP--Loan-Forgiveness-FAQs.pdf>

PPP Forgiveness: No Reduction if Loan Under \$50,000

b. Reductions to Loan Forgiveness Amount

A borrower of a PPP loan of \$50,000 or less, other than any borrower that together with its affiliates received loans totaling \$2 million or greater, may use SBA Form 3508S (or lender's equivalent form) to apply for loan forgiveness. A borrower that uses SBA Form 3508S (or lender's equivalent form) is exempt from any reductions in the borrower's loan forgiveness amount based on reductions in full-time equivalent (FTE) employees (section 1106(d)(2) of the CARES Act) or reductions in employee salary or wages (section 1106(d)(3) of the CARES Act) that would otherwise apply. As such, Part III.5 of the First Loan Forgiveness Rule, as revised by Revisions to Loan Forgiveness and Loan Review Procedures Interim Final Rules, does not apply to borrowers of loans of \$50,000 or less that use SBA Form 3508S (or lender's equivalent form) to apply for loan forgiveness.

3.57 million PPP loans
of \$50,000 or less,
totaling \$62 billion

October 8, 2020

<https://home.treasury.gov/system/files/136/PPP--IFR--Additional-Revisions-Loan-Forgiveness-Loan-Review-Procedures-Interim-Final-Rules.pdf>

PPP Forgiveness: Under \$50,000 Loan Application

When a borrower submits SBA Form 3508S or lender's equivalent form, the lender shall:

- i. Confirm receipt of the borrower certifications contained in the SBA Form 3508S or lender's equivalent form.
- ii. Confirm receipt of the documentation the borrower must submit to aid in verifying payroll and nonpayroll costs, as specified in the instructions to the SBA Form 3508S or lender's equivalent form.

October 8, 2020

<https://home.treasury.gov/system/files/136/PPP--IFR--Additional-Revisions-Loan-Forgiveness-Loan-Review-Procedures-Interim-Final-Rules.pdf>

Policy Outcomes Based on November Political Results

Scenarios for a second Trump term vs a Biden administration

Trump vs. Biden: Job Training

Note: Significant policy changes require Congress to pass a bill likely with 60 Senate votes

Issue	Trump Administration II	Biden Administration
Higher Education Act	Passes Congress if no vote in 2020	Passes Congress if no vote in 2020
<u>National Apprenticeship Act</u>	Battle with Congress over IRAPs	Bill passes by end of 2022
Industry Recognized Apprenticeship Program (IRAP)	Continue Standards Recognition Entity (SRE) certifications	<u>Pause/cancel IRAP program</u> or make significant changes to audit standards
Job Training Funding/Grants	President's Budget will continue to cut funding but will sign increased spending bills	Increased funding for MEPs, TAA, WIOA, CTE, minority/women/youth training grants; focus on unions
College Transparency Data	Continue to publish data	More interested in access to college
Community Colleges	Continue to emphasize public-private partnerships	<u>Increased role for community colleges</u> in training and preparing students for work
Industry Partnerships	Continue to emphasize public-private partnerships	Emphasize industry, association should partner with unions
<u>Work-based Learning</u>	Expand opportunities	Include livable wage requirement
K-12 Curriculum	Continue business involvement	Focus on broadband access/learning tools

Trump vs. Biden: Environmental Regulations

Please note many environmental regulations are subject to court review, often reversal

Issue	Trump Administration II	Biden Administration
Expedite Environmental Review Process for Infrastructure Projects – NEPA	<u>Continue expedited process</u> to limit time to review projects prior to approval	Maintain lengthier review with additional factors for consideration
Cost-Benefit Analysis	Limit non-economic factors during rulemaking	<u>Include social cost of carbon, public health impact</u> in rulemaking
Ground Level Ozone – NAAQS	Maintain current 70ppb levels	Possibly lower to 65ppb
Particulate Matter 2.5 Level – NAAQS	Maintain current levels	Lower permissible 8 hour limit
Auto emissions	1.5% annual increase	Up to 5% annual increase; State rights
Heavy Duty Truck Emissions – NOx	Tighter standards expected	Likely aligns with California standards
Power Plant Regulations	Regulate “inside-the-fenceline”	<u>Revert to Obama secondary impact policy</u>
Scientific Review Panels	Continue limiting studies, make reviews public	Rely on science panels; Results, reviewers often not fully made public
Waters of the U.S.	Continue to limit EPA jurisdiction	Revert to Obama policy, expand EPA power

Trump vs. Biden: Human Resources Policy

Issue	Trump Administration II	Biden Administration
Federal Minimum Wage	Slight increase possible	Increase possible depending on Congress
Increase Overtime Threshold	No change for 2-3 years	Regular increases through regulatory changes
<u>FMLA Expansion</u> of Paid Leave	Some expansion likely	Yes for employee and dependents
EEOC Reporting	Fights Court Orders to release detailed EEOC data	Seeks to expand data reported, released
Union organizing votes	Restrictions expand	<u>Revert to Obama-era policies</u> – short term voting, harder to decertify, easier to organize
Affordable Care Act	Focus on Rx pricing	Revert to original Obamacare, expand coverage options, lower Rx pricing
Marijuana Legalization	No new guidance for employers, need DoJ to go along	Indicated no change for now, less federal enforcement
<u>OSHA Inspections</u>	Continue to increase, try to cooperate with businesses	Emphasis returns to pre-COVID PPE (hearing, inhalation, heat exposure requirements)
State Regulations	Significantly Accelerate on their own	Coordinate with federal government

COVID Reality – Federal Taxes Must Go Up But Who Pays?

- Not clear of timing, whether 2021 or later but tax changes likely
- Trump likely hesitant to increase corporate tax rates
- Could shift more top earners into higher tax brackets
- Eliminate certain tax credits/deductions
- Expedite expiration date/phase-out of tax credits, deductions, incentives
- Impose user fees, excise, other taxes

- Sources indicate Biden will want a big stimulus bill (led stimulus for Obama)
- Could see corporate tax rate increase to OECD averages – 25%?
- Return top pass-through rate 39.6% for select taxpayers
- Limit deductions, credits for high earners
- Changes to Estate Tax exemption levels, adjust Social Security tax limit
- Narrows Net Operating Loss (NOL)

Note: Major changes to tax rates or policy require Congress to pass a bill with 51 or 60 Senate votes

Trump vs. Biden: Taxes

Note: Major changes to tax rates or policy require Congress to pass a bill with 51 or 60 Senate votes

Issue	Trump Administration II	Biden Administration
21% C-Corporation Rate	<u>No Change unless funds needed for future COVID stimulus</u>	<u>Campaign says 28%</u> ; if Congress has votes to act, could see increase up to 28% (25% possible)
37% top individual rate	No change until 2025	If Democrats control House, Senate, top rate 39.6% returns for highest earners
Individual Tax Rates	If GOP holds Senate, could realign brackets for middle class cut	If Democrats control House, Senate, increase number of brackets
199A 20% QBI Deduction	On schedule to end Dec. 31, 2025	<u>Narrow eligibility for high earners</u> <u>and</u> high wealth; Phase out for high earners
Payroll Tax	Will seek a holiday for 2020, Congress would have to pass a bill	Impose a Social Security surcharge tax on higher earners
Net Operating Loss	No Change	Narrow CARES Act, limit which years
Capital Gains	Attempts to index to inflation	<u>Treats as ordinary income for top earners</u>
Itemized Deductions	Increase standard deduction	Cap deductions at 28% for high earners
Estate Tax	On schedule to revert Dec. 31, 2025	Lower exemption level from \$11.58m to \$5.49m

Expect tax increases in some form as part of a 2021 economic stimulus bill, especially under Biden but also Trump

Trump V. Biden U.S.-China Relations

- Trump likely content to leave China tariffs in place for entire second term
- Tariffs are leverage and unless he secures a new large deal, no incentive to lift tariffs
- Those around Trump want a fundamental realignment of supply chains, changes from China on IP theft, subsidies
- Executive action with congressional support to *incentivize* suppliers to leave China and *penalize* those who do not
- Expect status quo, tariffs through 2022 as Trump focusses on countries where he can make a deal

- Biden will quickly work to build a global coalition to challenge China
- Tariffs on China likely remain through 2021 and very likely up to 2022 November election
- Like them or hate them, tariffs are leverage over China Biden would inherit
- Could, however, see narrowing of tariff list to remove direct consumer goods
- Expect industrial policies to *incentivize* business to leave China
- Trump has little focus on human rights, Hong Kong; Biden will focus on HK, Taiwan

Trump vs. Biden: Trade

Issue	Trump Administration II	Biden Administration
China 7.5% / 25% Tariffs	<u>Remain in place through 2022</u>	Remain in place at least through 2021
25% Steel Tariffs / 10% Aluminum Tariffs	Remain in place until deals reached with each country subject to tariffs	<u>Lifted in 2021 on allies (EU, Japan, etc.)</u>
Auto, parts tariffs	Threat remains in place	No broad Section 232 auto tariffs
Boeing-Airbus Dispute	Tariffs remain until EU deal	<u>Dispute resolved; Tariffs lifted in 2021</u>
EU and France Digital Services Tax 301 Tariffs	If no deal, tariffs imposed	No tariffs, attempt to establish OECD global corporate minimum tax
Trade Agreements	Negotiations with UK, EU, Kenya, Japan mini-deal II	New trade agreements unlikely in 2021; AGOA, Caribbean Basin action possible (if not done in 2020)
Sanctions on China, Export Controls	Yes, to force supply line changes, protect technology	Yes, to pressure on human rights, protect technology
Supply Chains	<u>Sanctions, tariffs to force companies to leave China</u>	Higher taxes on offshoring, incentives for onshoring (taxes need Congressional)
Rare Earth Elements	Tariffs on imports; Increase domestic mining	Develop partnerships with trusted allies

Policymakers moving faster on supply chain realignment than companies – do not get caught off guard

Politics Matter

Possible Outcomes – White House, Senate, U.S. House

Road to the White House – A Pathway for Each

How Trump Wins

- Vaccine, treatment rolled out before election; economy rebounds; schools safely open
- A choice between liberal socialists and law and order
- Depress enthusiasm for Biden among Black voters; reassure voters over 65; Maximize evangelical turnout
- Challenges for Democratic voters in certain suburban areas of toss-up states
- Squeeze every last voter out of rural counties
- Label Biden a typical politician, back to Washington business as usual

How Biden Wins

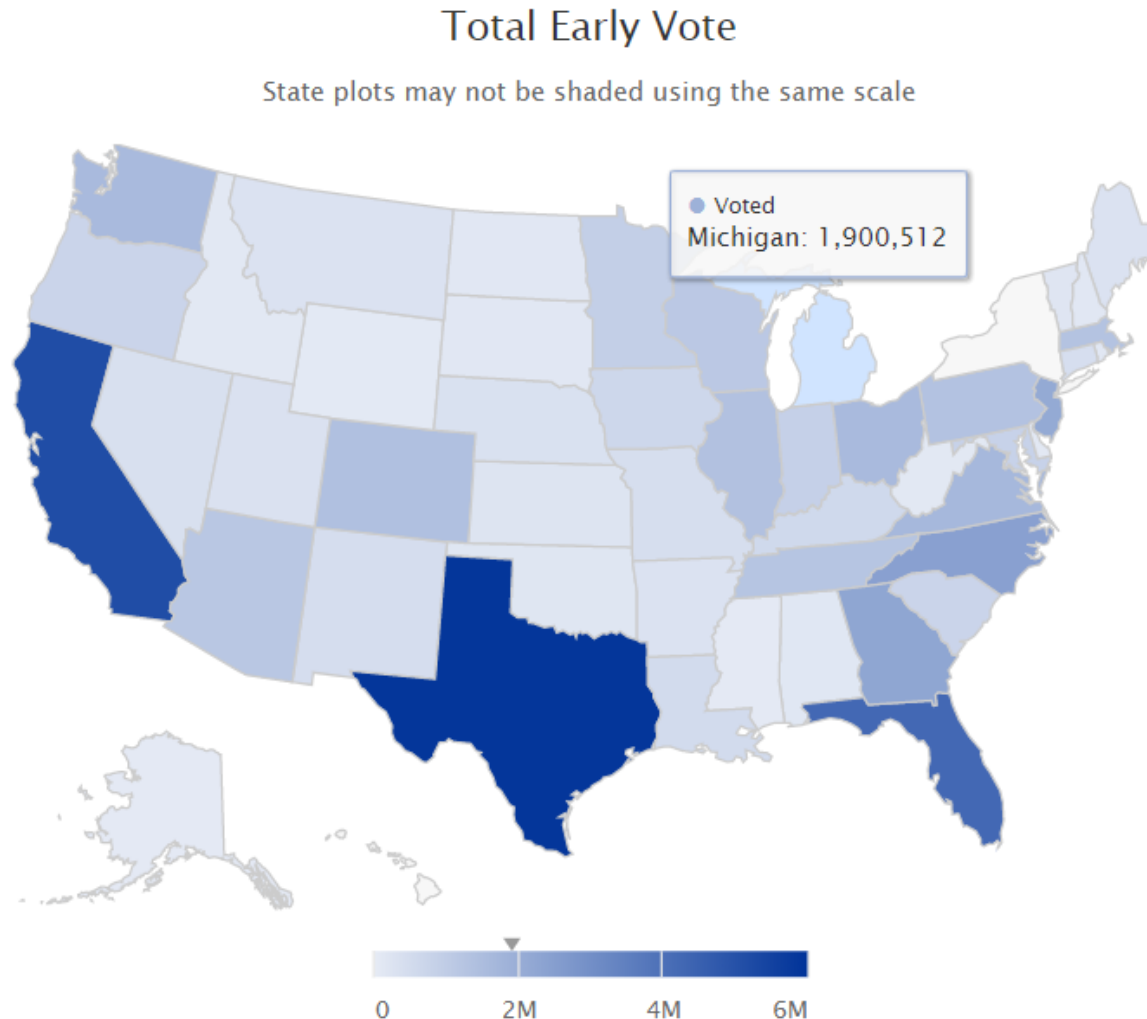
- Election is a referendum on Trump handling of COVID
- Economy does not recover, no positive signs
- Additional disclosures of COVID response mismanagement
- Turn moderate “Romney Republicans” to Biden; switch older voters over 65 from Trump to Biden
- Generate energy among young voters, minorities, suburban women – Supreme Court mobilization

Trump wants this to be a “choice” election Biden needs it to be a referendum on Trump

Impact of Mail-in Ballots and Early Voting

Total Early Votes: **48,674,556** • Mail Ballots: 34,221,827 • In-Person Votes: 14,452,729

Note: Some states do not differentiate between mail ballots and in-person votes.

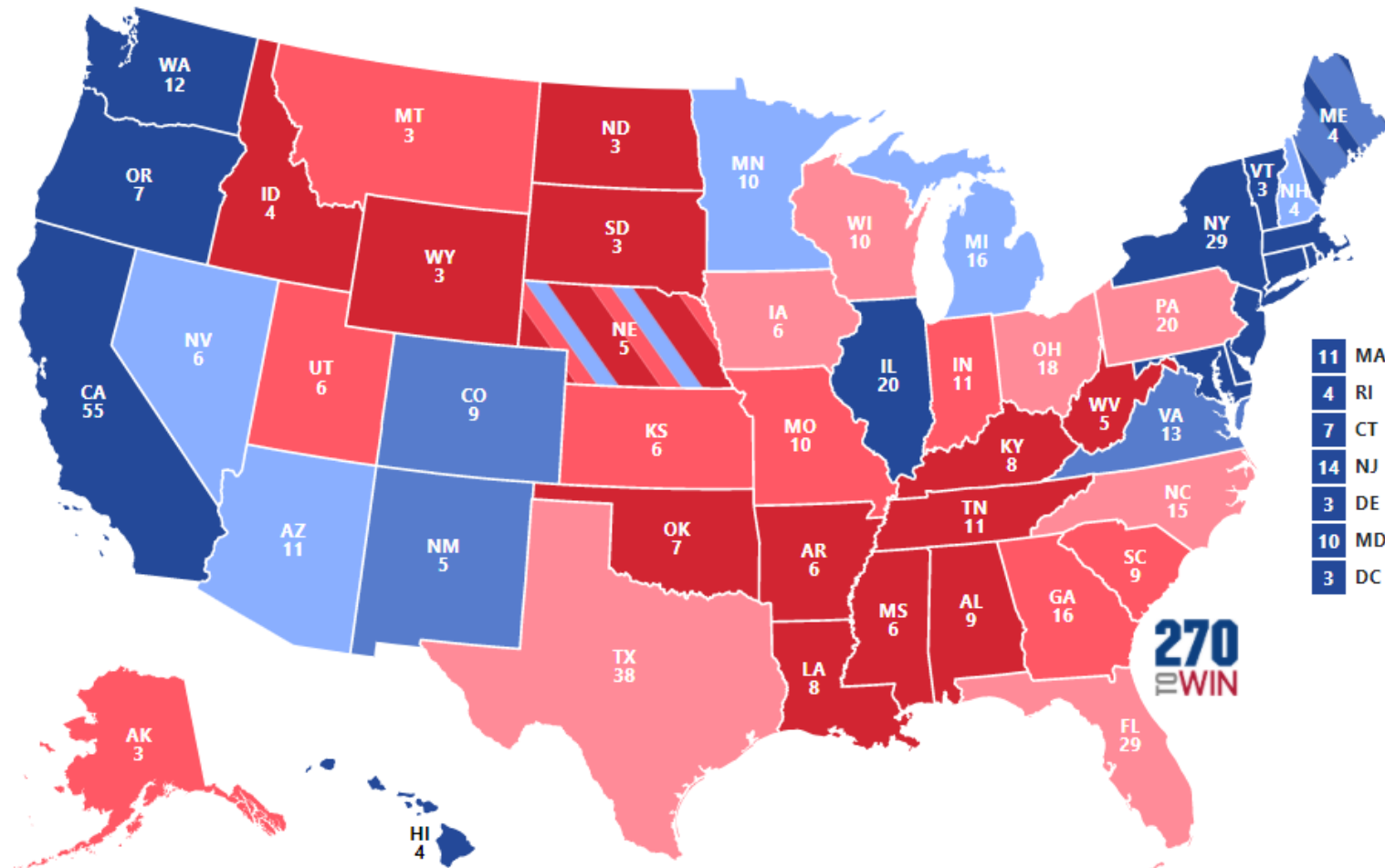


On track to have over
1 in 3 votes cast early,
absentee, or by mail

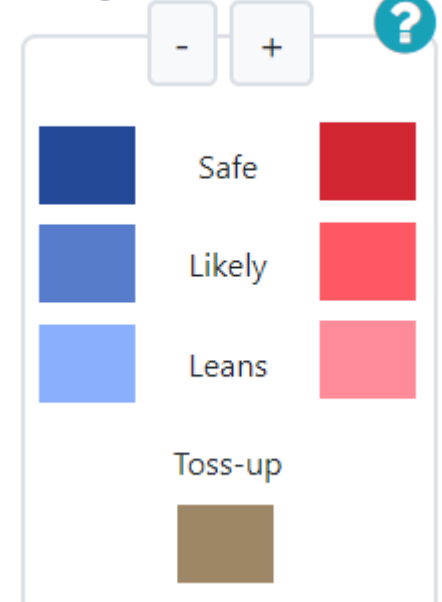
In 2016, 57.2 million
Americans voted early,
absentee, or by mail

As of Oct 22 11:04 PM Eastern

White House Map: Pre-Trump's COVID Infection



Map Color Palette

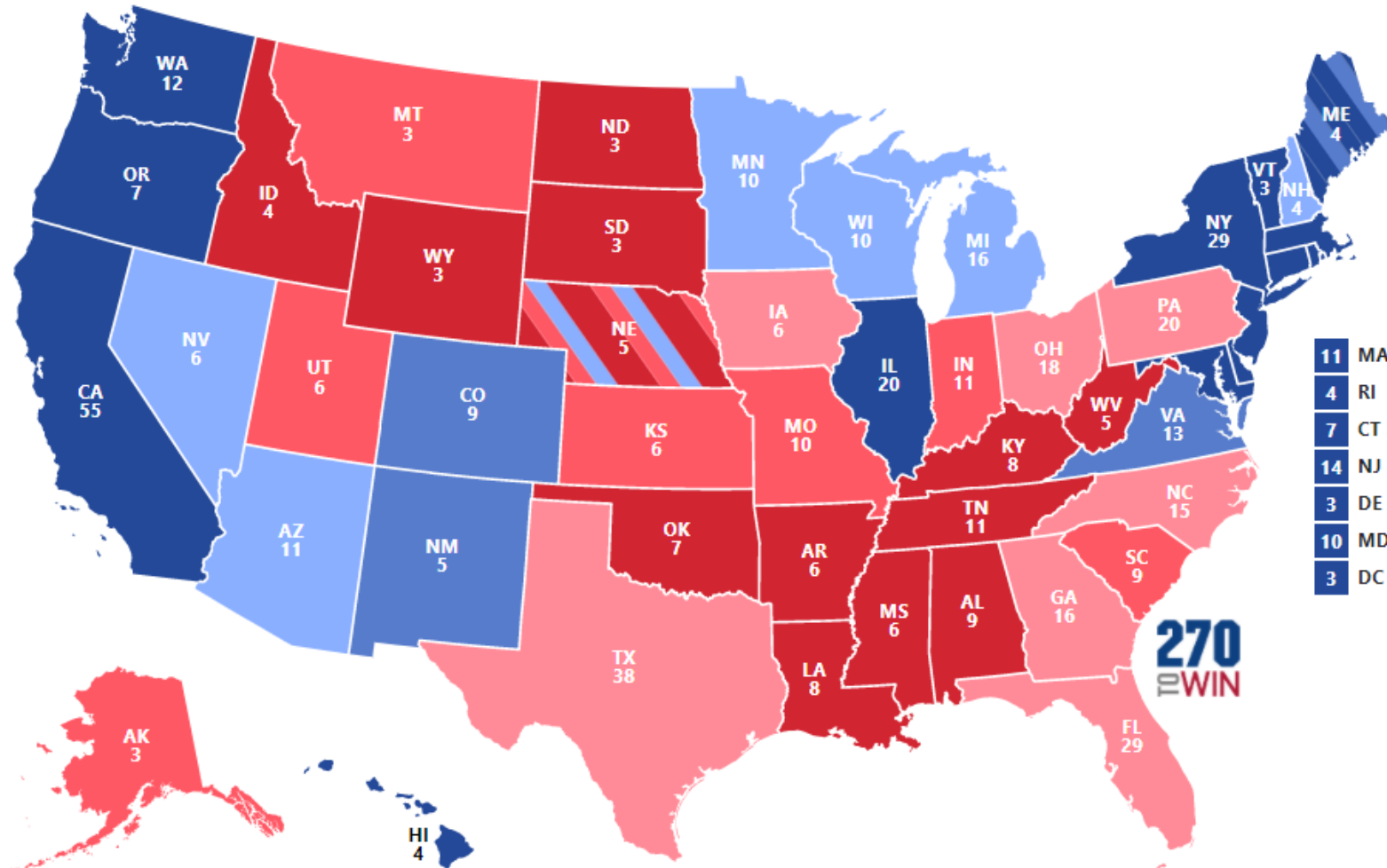


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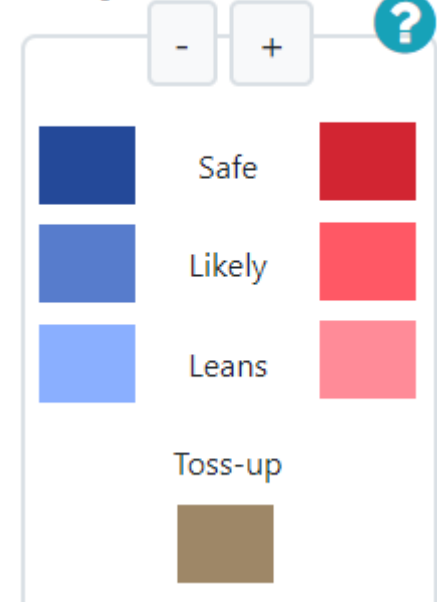
White House Map: The Close Race Scenario

Biden ▾ 271

267 Trump ▾



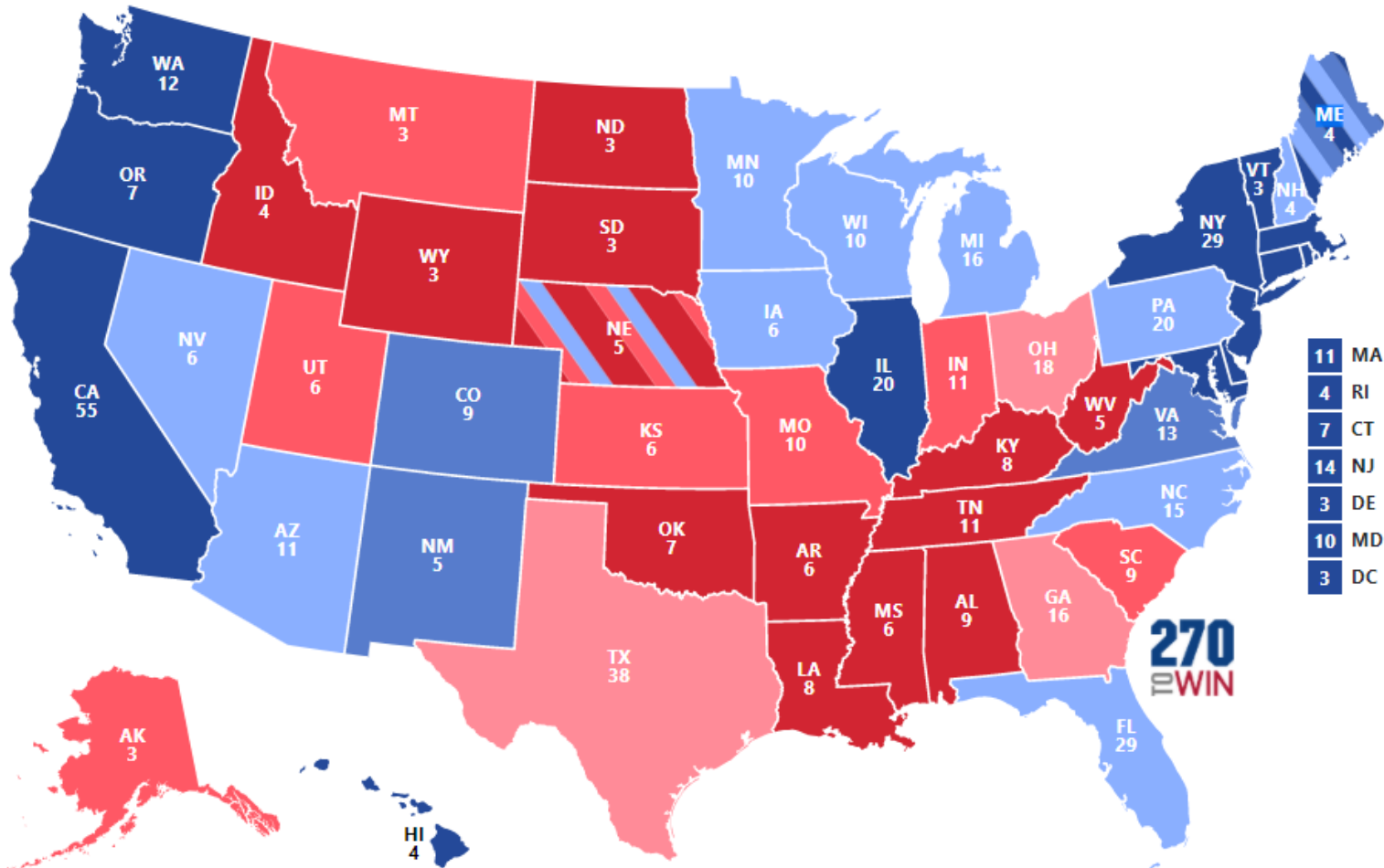
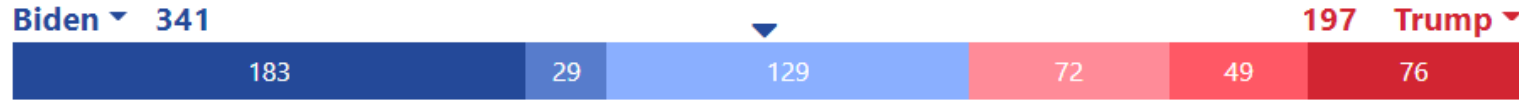
Map Color Palette



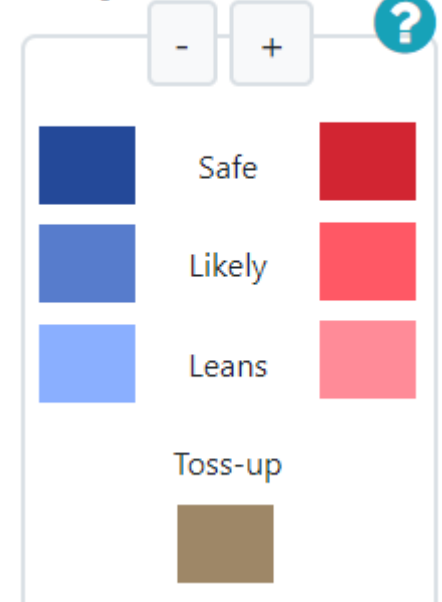
<https://www.270towin.com/>

As of Oct 19, 2020

White House Map: The Blowout Scenario



Map Color Palette



<https://www.270towin.com/>

As of Oct 19, 2020

Senate Map – Currently 53 GOP – 47 Democrats

Democrats 45

46 Republicans

2 33 no 2020 election

7

3

9

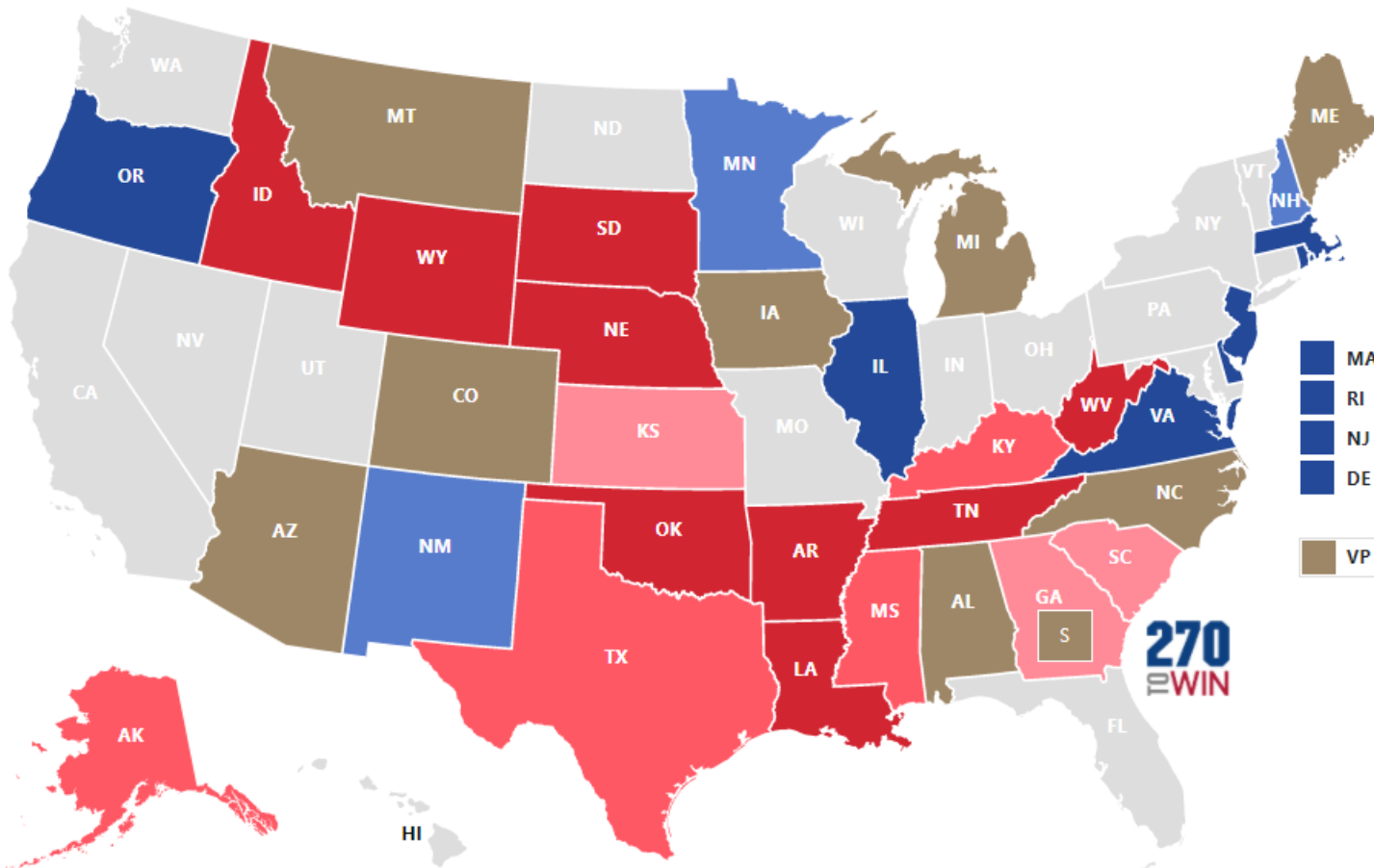
3

4

9

no 2020 election

30



If Biden wins, Democrats must net 3 Senate seats to take control

If Trump wins, Democrats must net 4 seats to take control

Democrats likely lose Alabama, hold Michigan

GOP likely loses AZ and CO

Democrats need 3 of: MT, IA, GA, NC, ME if Trump wins

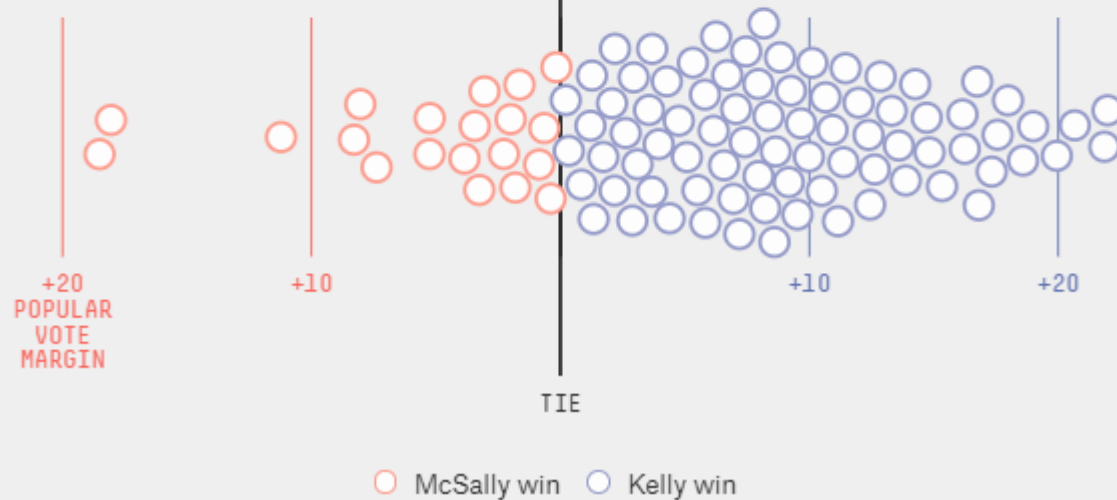
Key Senate Races

Kelly is *avored* to win Arizona's special Senate election

The Deluxe version of our model simulates the election 40,000 times to see who wins most often. The sample of 100 outcomes below gives you a good idea of the range of scenarios the model thinks is possible.

Martha McSally wins
20 in 100

Mark Kelly wins
80 in 100

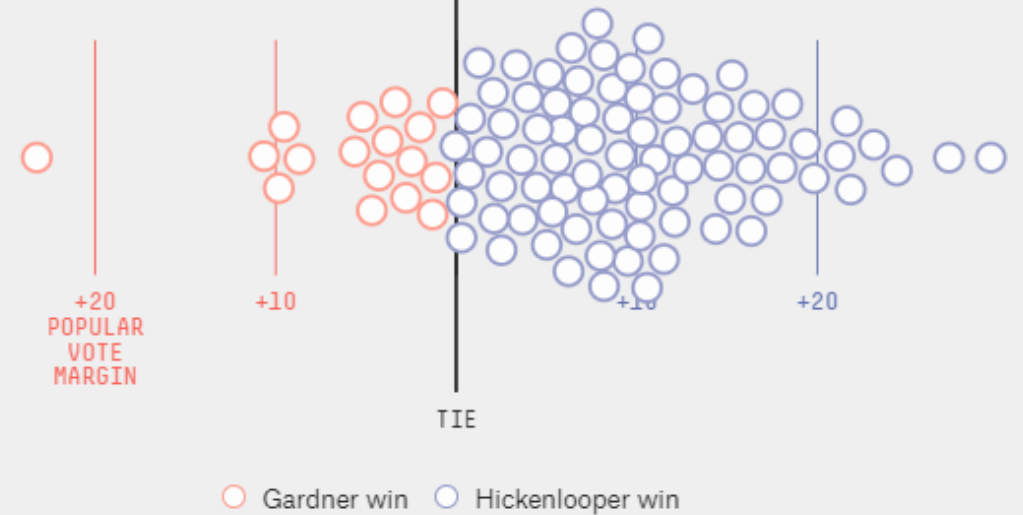


Hickenlooper is *avored* to win Colorado's Senate election

The Deluxe version of our model simulates the election 40,000 times to see who wins most often. The sample of 100 outcomes below gives you a good idea of the range of scenarios the model thinks is possible.

Cory Gardner wins
17 in 100

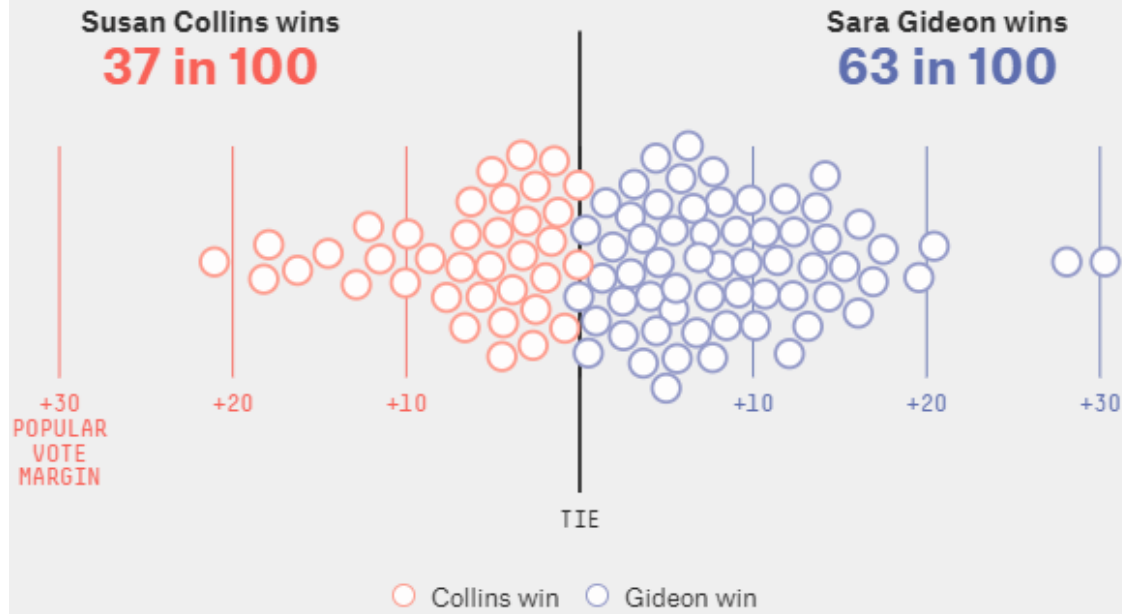
John W. Hickenlooper wins
83 in 100



Key Senate Races

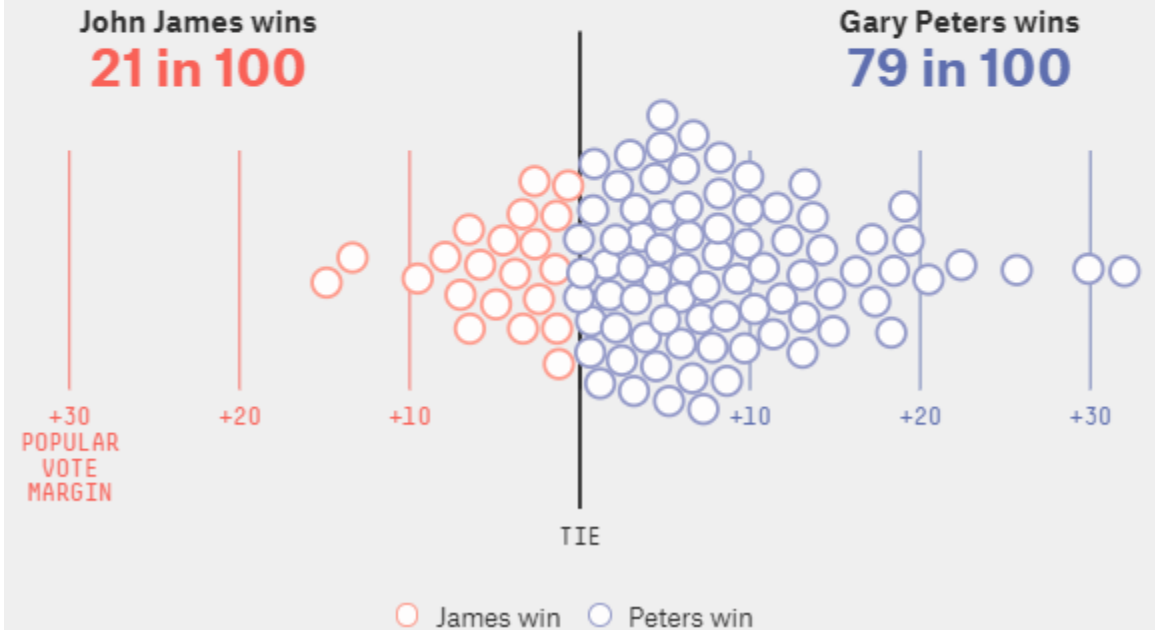
Gideon is *slightly favored* to win Maine's Senate election

The Deluxe version of our model simulates the election 40,000 times to see who wins most often. The sample of 100 outcomes below gives you a good idea of the range of scenarios the model thinks is possible.



Peters is *favored* to win Michigan's Senate election

The Deluxe version of our model simulates the election 40,000 times to see who wins most often. The sample of 100 outcomes below gives you a good idea of the range of scenarios the model thinks is possible.



Key U.S. House Races – Dems May Net 5-15 Seats

AZ-06	North Phoenix: Paradise Valley, Cave Creek <i>Dense suburban</i>	R+9	David Schweikert (R)	Toss Up
<u>Democrats:</u> - Hiral Tipirneni, physician/2018 AZ-08 nom. (1)				
IN-05	Central: Indianapolis suburbs, Anderson <i>Sparse suburban</i>	R+9	OPEN (Brooks) (R)	Toss Up
<u>Democrats:</u> - Christina Hale, frm. st. Rep. (1)				
<u>Republicans:</u> - Victoria Spartz, st. Sen. (1)				
MO-02	East: Western St. Louis suburbs <i>Dense suburban</i>	R+8	Ann Wagner (R)	Toss Up
<u>Democrats:</u> - Jill Schupp, st. Sen. (1)				
OH-01	Southwest corner: Cincinnati, Warren County <i>Sparse suburban</i>	R+5	Steve Chabot (R)	Toss Up
<u>Democrats:</u> - Kate Schroder, healthcare executive (1)				
<u>Independents:</u> - Kevin Kahn (Libertarian Party)(1)				
OK-05	Central: Oklahoma City and suburbs <i>Dense suburban</i>	R+10	Kendra Horn (D)	Toss Up
<u>Republicans:</u> - Stephanie Bice, st. Sen. (1) - Terry Neese, businesswoman (1)				
PA-10	Central: Harrisburg, York <i>Sparse suburban</i>	R+6	Scott Perry (R)	Toss Up
<u>Democrats:</u> - Eugene DePasquale, st. auditor general (1)				

GOP must net 17 seats to win

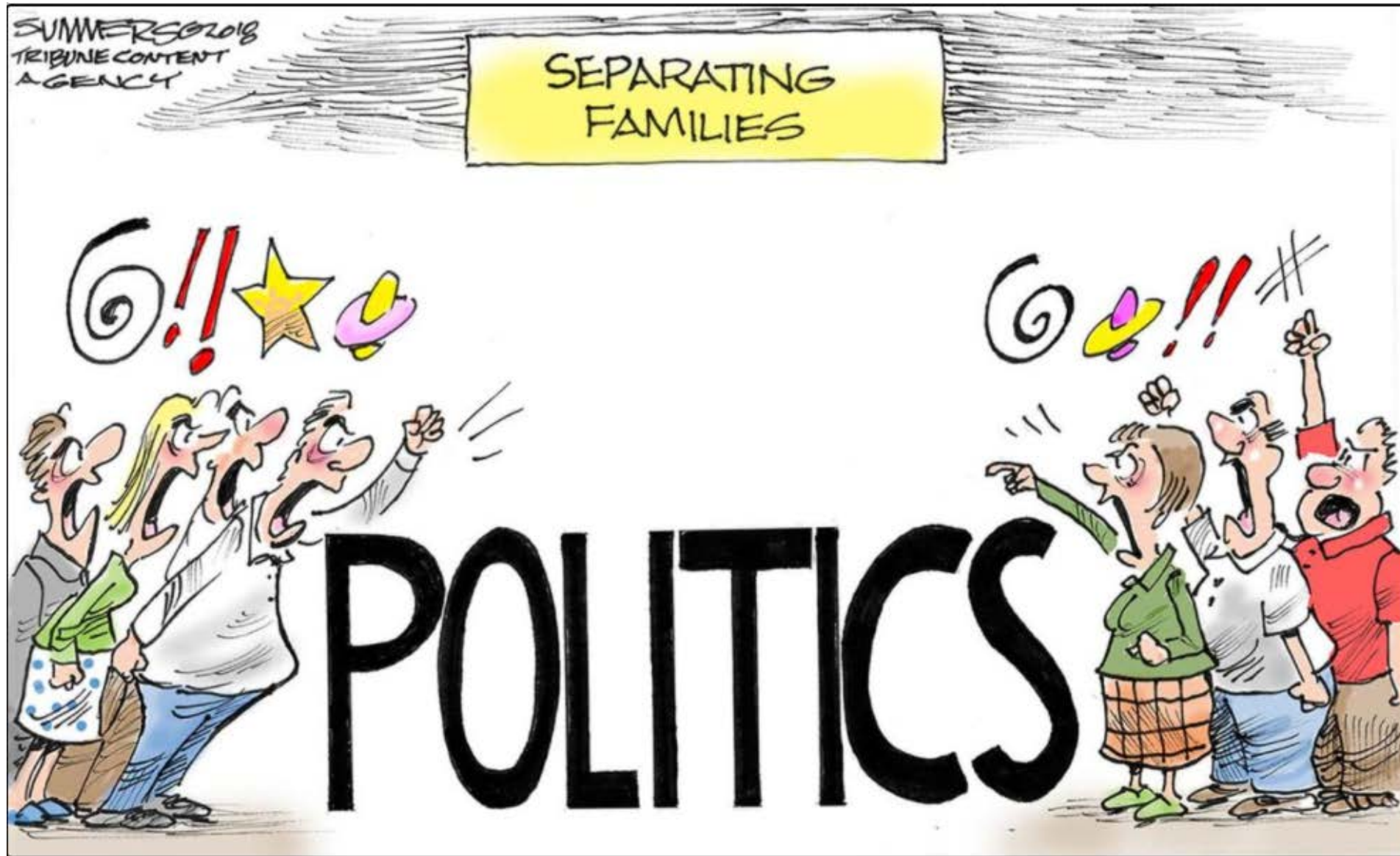
26 GOP Members retiring
9 House Democrats retiring

Democrats hold 11 seats rated
as Toss-Up

Republicans hold 14 seats
rated as Toss-Up

2018: Pelosi won Speakership
with moderate Democrats
winning in suburbs

We Are All Tired of Politics...



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