

## The Senate is definitely in play

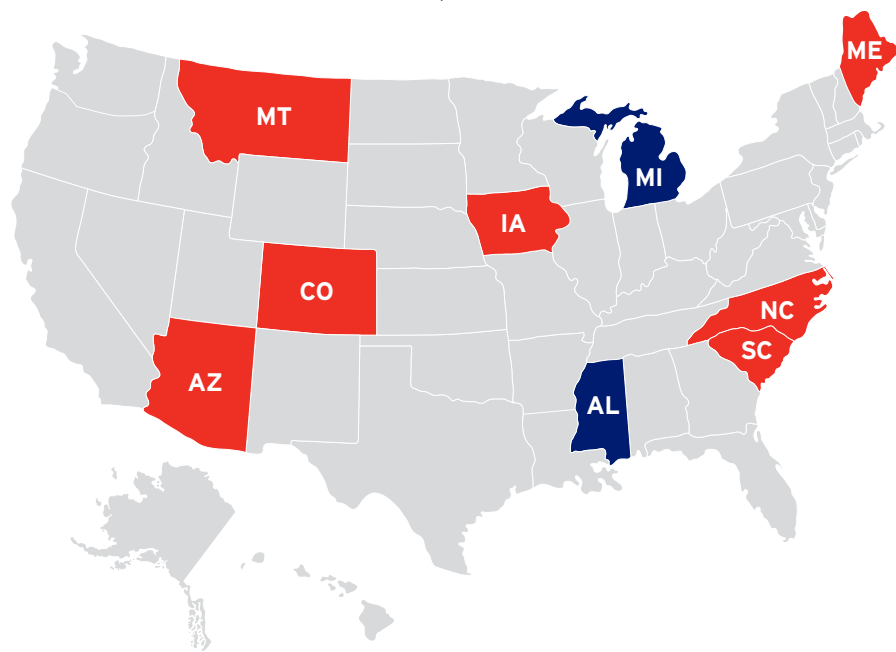
A year ago, anyone who looked at the map of Senate seats up in 2020 would have concluded that Democrats had a difficult path back to the majority. Fast forward a year and the persistent lead of former Vice President Biden over President Trump, along with a gusher of campaign cash for Democratic candidates, suddenly has Republicans playing defense in usually reliable red states.

The current split in the Senate is 53 Republicans to 45 Democrats along with two Independent senators, Angus King from Maine and Bernie Sanders from Vermont, who caucus with Democrats. Based on that ratio, Democrats need a net gain of three seats if Biden wins or a net gain of four if President Trump is re-elected.

Of the seats Democrats are defending, two are considered most likely to flip to the Republicans: Doug Jones of Alabama and Gary Peters of Michigan. On the Republican side, there are nine seats considered most likely to flip: Martha McSally in Arizona, Cory Gardner in Colorado, Joni Ernst in Iowa, Susan Collins in Maine, Steve Daines in Montana, Thom Tillis in North Carolina, and Lindsey Graham in South Carolina. Separately, David Perdue finds himself in a neck and neck race with Democratic challenger Jon Ossoff in Georgia. Perdue's tenuous situation is partially due to being overshadowed by an intense special election for the second Senate seat that is playing out in a jungle primary between Republicans Kelly Loeffler and Doug Collins and Democrats Raphael Warnock and Matt Liebman. Both races must result in one candidate reaching a 50% threshold or face a January runoff. The good news for Democrats is that there are more Republican seats in play than Democratic seats. The bad news for Democrats is that many of those seats are in usually reliable red states.

### Top Senate seats on the defense

■ Current Democratic Senator   ■ Current Republican Senator



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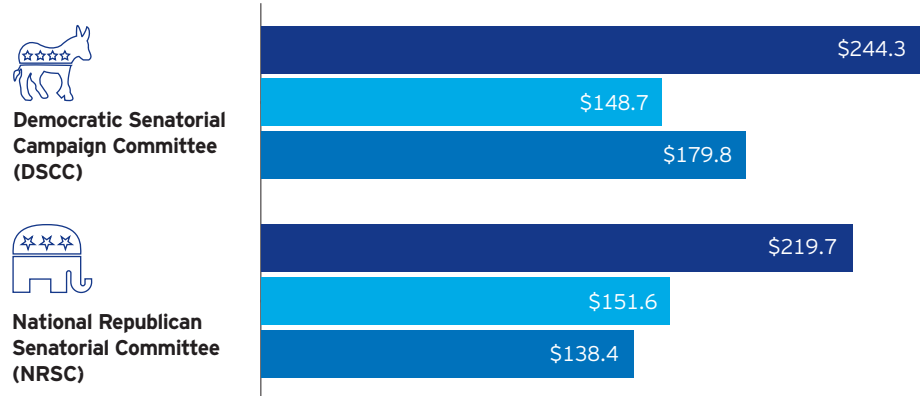
With a nation just days away from the election, let us consider the factors that give Democratic challengers hope and Republican incumbents cause for concern.

## Money

It's long been said that money is the mother's milk of politics, and that could not be more accurate than this year. The Democratic Senatorial Campaign Committee (DSCC) has raised more than \$244 million in this cycle compared to \$148 million in 2018. The National Republican Senatorial Committee (NRSC) has raised a similar amount this year, bringing in nearly \$220 million - about \$70 million more than they raised in 2018. What does all this money do? It allows both parties to make their case on television, a lot. The NRSC and affiliated Republican groups have spent over \$257 million on television spots across ten battleground states. The DSCC and affiliated groups have, similarly, spent \$256 million across the same 10 states.

### Senate party campaign committee fundraising (millions)

■ 2020 ■ 2018 ■ 2016



Source: Federal Election Commission, as of October 23, 2020

Individual candidates are raising eye-popping sums as well, changing the shape of races once thought safe. Take South Carolina, for example, in a race that six months ago, no one thought would be close. Democratic challenger Jaime Harrison has pulled within striking distance of longtime incumbent Senator Lindsey Graham. As of September 30, Harrison had raised \$86.8 million to Graham's \$59.4 million. In a dark red state that President Trump carried easily in 2016, Harrison has made a race of it. In fact, he shattered a three-month, \$38 million fundraising record previously held by Beto O'Rourke in 2018 by raising an eye-popping \$57 million in the third quarter of 2020.

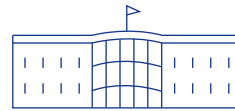
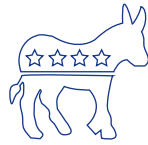
In neighboring North Carolina, Army veteran and former state legislator Cal Cunningham has raised \$43.4 million, outpacing Senator Thom Tillis, who has raised less than half of that. Outside prognosticators have this race as a toss-up or leaning Democratic, but late revelations of an extramarital affair may damage some of Cunningham's standing with voters.

Yet more money does not always equal electoral success. Senator Doug Jones in Alabama has raised nearly \$25 million, three times the amount raised by his challenger, former Auburn football coach Tommy Tuberville. Yet, Jones continues to trail Tuberville by double digits in recent polls.

This pattern of Democrats significantly outraising Republicans is playing out in battlegrounds across the country. The notable exception is in Michigan, where Senator Gary Peters is in a close race with businessman and Army veteran John James. Peters has raised \$35.6 million to James' \$33.9 million. While outside observers rate this race as leaning Democratic, it is the race that keeps Democratic strategists up at night, and a loss here could complicate the Democrats' path to the majority.

## Potential Senate scenarios

### 1. Blue Wave



White House



Senate



House of Representatives

The dream scenario for Democrats is a blue wave that washes over the nation, carries Biden to the White House and gives him a majority in both the Senate and House of Representatives. The key questions in this scenario are how large a Senate majority and will it be enough to allow Biden to enact some of his more ambitious agenda items. It seems unlikely that Democrats would achieve a “supermajority” of 60 or more votes necessary to break any filibuster and, if past is prologue, then Minority Leader Mitch McConnell (R-Kentucky) will use all the tools at his disposal to try to stop the Democratic agenda.

This concern gives rise to talk of ending the filibuster, the procedure that gives any individual senator the ability to prevent the Senate from moving forward on legislation. While this seems like a simple thing for a new majority to do at the beginning of the Congress, it is not easy procedurally or politically. Eliminating the filibuster by changing the rules would require two-thirds of senators to be present and voting or 67 votes if all 100 senators are present and voting. It is unlikely that any senator in the minority would vote to give away their leverage over the Senate’s agenda. Democrats could choose to modify the filibuster instead by banning it on certain proceedings as was done for judicial nominations or make it more difficult to use by requiring senators to filibuster in person.

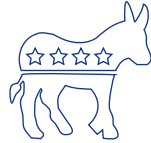
For example, Democrats could choose to eliminate the filibuster on “motions to proceed,” which are the motions that allow the Senate to move to debate. This would preserve a senator’s right to object to passage of the underlying matter without preventing the Senate from considering it at all. A new Senate majority could limit the time for debate on certain kinds of legislation as has been done for the annual budget resolution, to prevent arms sales to foreign governments or to ratify trade agreements. Because of the two-thirds requirement to change the standing rules, the new majority would have to rely on creating a new “precedent,” which can be done by a simple majority. This process involves having the Senate’s presiding officer rule on a point of order, then appealing the ruling and voting to overturn it. This vote requires only a simple majority. Former Majority Leader Reid (D-Nevada) used this process in 2013 for certain judicial nominations. Majority Leader McConnell (R-Kentucky) used the same process in 2017 for Supreme Court nominations.

The Senate could also return to the form of the filibuster abandoned in the 1970’s. Before that, senators who objected to legislation had to do so in person on the Senate floor. This was because the Senate considered bills in sequence and could not move on to other business until the current matter had been disposed of. A change in Senate procedure proposed by then-Majority Whip Byrd (D-West Virginia) allowed the majority leader under unanimous consent, or with agreement of the minority leader, to set aside the pending issue and move on to other business. Changing it back would preserve the filibuster but force senators to be particular about when they object.

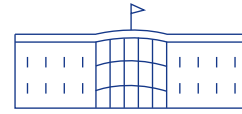
Politically, there are Democrats who have expressed either misgivings with or outright objection to changing the rule. Senator Joe Manchin (D-West Virginia), for example, has come out against changing the filibuster. Senators John Tester (D-Montana) and King (D-Maine) have both suggested that modification is preferable. The conventional wisdom is that if Democrats take the Senate, incoming Majority Leader Chuck Schumer (D-New York) will wait to see how opposition to Biden’s agenda materializes before making any significant changes to Senate rules.

An alternative would be for Democrats to use a process under the Budget Control Act of 1974 called “reconciliation.” It expedites the passage of certain budget-related items without the threat of the filibuster. For reconciliation to be used, both the House and Senate would have to pass a concurrent budget resolution (not an easy task these days). This process has been used in the past, including for tax cuts passed during the George W. Bush and Trump administrations and - contrary to popular belief - only to make a series of discrete budgetary changes to Obamacare (not to pass the actual law). In fact, progressive groups have already called for Congress to use this process to enact climate change legislation.

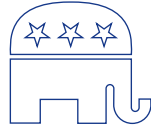
## 2. Republicans Hold Senate



House of Representatives



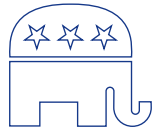
White House



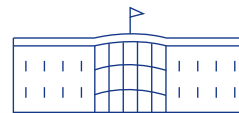
Senate

A second scenario is a Biden victory and Republicans retaining the Senate. In this case, the Senate will continue to be the place where Democratic agenda items go to die. Neither the Green New Deal (nor any form of major climate change legislation) nor Medicare for All will be considered, let alone pass in a 117th Congress controlled by Senate Republicans. There could be agreement on an infrastructure package, but even that would be fraught with disagreements of the size, focus, and how to pay for it.

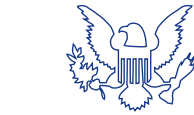
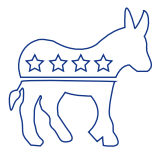
## 3. Status Quo



Senate



White House



House of Representatives

A third scenario is status quo - Trump is re-elected, Republicans retain control of the Senate, and Democrats retain control of the House of Representatives. In this scenario, there may be opportunities for progress on COVID-19 relief and infrastructure spending. However, look for many of the same pitched battles on contentious issues like healthcare, more confirmation of conservative federal judges (appointment by the President and confirmation by the Republican Senate), and President Trump turning to executive orders and regulatory fiat to overcome the overall stalemate in Congress.

Regardless of who wins the presidency on November 3, the fortunes of the next administration rest solely in the hands of the Senate.

# Invesco US Government Affairs



**Andy Blocker**  
Head of US  
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**Andy Blocker** serves as Head of US Government Affairs for Invesco. In this role, he drives Invesco's legislative and regulatory advocacy initiatives with policymakers, engages with clients and opinion leaders on public policy developments, and seeks to maximize the company's political footprint. Previously, Mr. Blocker served as executive vice president of public policy and advocacy for the Securities Industry & Financial Markets Association, where he led a team engaging lawmakers on international, federal, and state issues impacting the financial services industry. Mr. Blocker spent five years as managing director for the US Office of Public Policy for UBS. He also served as vice president of government relations for the New York Stock Exchange, as managing director of government and international affairs for American Airlines, and for the White House as special assistant to the president for legislative affairs.

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**Jennifer Flitton** is Vice President of Federal Government Affairs with the US Government Affairs team, where she advocates on behalf of Invesco's policy initiatives with policymakers and regulators and ensures the firm is an influential part of the Washington conversation. Ms. Flitton joined Invesco from the Securities Industry and Financial Markets Association, where she led lobbying initiatives on behalf of the asset management and broker dealer industries. She spent 16 years on Capitol Hill, last serving as the deputy chief of staff and legislative director for Congressman Patrick McHenry, and as Congressman McHenry's designee to the House Financial Services Committee's Oversight and Investigations Subcommittee.



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