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Trump and the Republican Congress: The Challenges of Governing

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Abstract: This essay highlights the challenges faced by the Trump Administration during the first 8 months of his presidency despite unified Republican control of both chambers of Congress. It begins by focusing briefly on the lead-up to the 2016 election before turning to the struggles the administration has faced in enacting policies since inauguration. The essay concludes with a look ahead at the 2018 midterm elections and the implications for the remainder of the Trump presidency.

Introduction

Donald J. Trump was elected the 45th President of the United States on November 8, 2016, shocking a large segment of the country who believed Hillary Clinton was going to win the election. Despite losing the popular vote to Clinton, Trump won the Electoral College with 304 electoral votes to Clinton’s 227 votes. Trump’s victory was such a shock to the nation since nearly every pre-election poll had Clinton with a modest, or occasionally, a sizeable lead going into Election Day. However, the closeness of the popular vote in several key states – including Michigan, Pennsylvania, and Wisconsin – was sufficient to give Trump the presidency.

Even though Trump was successful in defeating Clinton, the Democrats managed to pick up six House seats and two Senate seats in the 2016 election, but not enough to win control of either chamber. At the start of the 115th Congress, Republicans had unified control of the federal government for the first time in 10 years. The reemergence of unified government led many to believe that Republicans would have an easier time enacting key pieces of their legislative agenda – including repealing and replacing the health care bill popularly known as Obamacare. After several months of failed legislative efforts and a president seemingly unable to deliver on his campaign promises, however, it appears that...
many of the supposed opportunities that once presented themselves have been squandered.

This essay highlights the challenges faced by the Trump Administration during the first few months of his presidency despite unified Republican control of both chambers of Congress. In particular, it focuses on several of the problems that have plagued the Trump presidency since taking office. The essay also examines some of the key issues that have contributed to legislative struggles in both the House and the Senate. The essay concludes with the potential implications of the first few months of the Trump presidency, especially as they relate to the upcoming 2018 midterm elections. Although much can change between now and then, Democrats remain cautiously optimistic about their chances of gaining additional seats in both the House and Senate in 2018.

The 2016 Presidential Election

The 2016 presidential election will be remembered not only for the various candidates that emerged but also for the surprising electoral outcome. For only the second time since 1952, neither the sitting president nor vice president ran for reelection. With a Democratic president for the last 8 years, this created a scenario in which a total of 17 Republican and 6 Democratic candidates decided to declare their intention to run for the presidency (Byers and Carson 2017). There was a wide range of candidates in both party’s primaries. For the Democrats, five of the six candidates had previous electoral experience, while the remaining candidate was a political amateur. The Republican field, in contrast, had 14 candidates with previous electoral experience and three lacking any prior experience in elective office.

Before the first caucus took place in Iowa on February 1, 2017, there was a flurry of debates, scandals, and overall chaos that characterized both political parties. Within a relatively short period of time, the field of Democratic candidates was reduced to only two candidates: Hillary Clinton and Bernie Sanders. But this did not ensure a clear and decisive victory for either candidate, however. The Democrats were reeling from the surprisingly successful and insurgent campaign of Bernie Sanders as well as the multiple scandals plaguing the Clinton campaign, ranging from renewed attention on Benghazi to her use of a private email server while previously serving as Secretary of State.

For the Republicans, they had their own challenges to deal with during the early stages of the election season. First, with so many different candidates vying for the nomination, numerous debates had to be scheduled during the latter half
of 2015. Overall, the GOP held seven debates before the first primary contest even began. Before long, a rift began to develop within the GOP between the establishment candidates and the insurgent campaign of Donald Trump. During the initial series of Republican debates, Donald Trump emerged as the front-runner, which only added to the debate rhetoric and news media coverage of the election, but specifically, the media’s coverage of Donald Trump himself. As such, both parties were dealing with their own internal issues leading up to the Iowa Caucus.1

For the Democrats, the field winnowed dramatically, leaving Hillary Clinton and Bernie Sanders as the top two candidates heading into the Democratic convention. Bernie Sanders withdrew from the contest prior to the convention, allowing Hillary Clinton to secure the nomination and attempt to heal the rift within the party. Alternatively, the Republican primary field remained fairly populated for the first few months of the primary campaign. With the eventual withdrawal of both John Kaisch and Ted Cruz in May, Donald Trump secured the nomination for the Republican Party. Historically, the 2016 primary election will be remembered not only for the large number of candidates that emerged, but for the outcomes as well. For the first time in history, one of the two political parties – the Democrats – nominated a woman as their presidential candidate. Republicans, by contrast, selected a reality television star, without any political experience, as their nominee for president.

Once Hillary Clinton and Donald Trump secured their respective parties nominations, they quickly turned their attention to the general election in November. Leading up to the first of three presidential debates, there were a variety of scandals for both candidates. For Clinton, the investigations into Benghazi and “her emails,” appeared to damage her popularity with the voters. Even after being publicly cleared in both instances, these topics were something that followed her throughout the general election campaign and were used as campaign fodder by Donald Trump. More damage was instigated when former FBI Director James Comey publicly declared that the FBI was looking into more evidence surrounding Clinton’s personal email server. Donald Trump dealt with his own set of scandals as well, many of which would escalate during the fall campaign. One of the first began after Trump made disparaging remarks to a Gold star family followed by his “Second Amendment people” claim, which incited condemnation from both sides of the aisle.2 Both candidates were battered publicly before taking the stage for their first debate.

The three presidential debates were largely grand spectacles with little substantive gains from either side. The first debate in Hempstead, New York, was largely claimed by pundits as a Clinton victory. Clinton appeared to be prepared for both the questions and the attacks from Trump. By contrast, Trump seemed overwhelmed and was easily baited by Clinton on issues relating to race and gender. The second debate in St. Louis, Missouri, was decidedly messier than the first. Before the second debate, Trump held a press conference with several women who have accused former President Bill Clinton of sexual assault. It would appear that this was a strategic move on the Trump campaign's part to unsettle Clinton and divert attention away from his own lewd comments about women from a 2005 conversation with Billy Bush.\(^3\) The third debate held in Las Vegas, Nevada, was a culmination of the first two, where policy issues took a back seat to ad hominem attacks. Overall, the debates were a debacle for both sides, but most pundits would argue that Clinton was easily the winner of all three debates.

In the weeks leading up to Election Day, it was widely assumed that Trump did not stand a chance at victory and might potentially cost the Republicans control of Congress.\(^4\) Most of the polls had Clinton winning by a fairly comfortable margin, which is why the results coming in later that evening caught nearly everyone by surprise. Early in the morning on November 9, 2016, Donald J. Trump became the president-elect of the United States of America by winning a combined 30 states and 304 Electoral College votes compared to 20 states (and the District of Columbia) and 227 votes for Clinton. Trump’s biggest electoral assist came from the six states that “flipped” from the 2012 election to 2016.\(^5\)

Even with a decidedly confident Electoral College victory, Trump failed to win the popular vote by around three million votes, a trend that may become more prevalent in the coming years for Republican candidates as a result of the distribution of voters across the United States. Two of the top four most populated states in the US (California and New York) routinely vote Democratic for president, while Florida has become a swing state and Texas has remained solidly Republican (a trend that may be changing). As such, it may become increasingly difficult for Republican candidates to secure both the popular and Electoral

\(^3\) https://www.washingtonpost.com/politics/trump-recorded-having-extremely-lewd-conversation-about-women-in-20052016/10/07/3b9ce776-8cb4-11e6-bf8a-3d26847eed4_story.html?utm_term=d0b6f39ca6d.


\(^5\) The states that flipped from Democrat to Republican from 2012 to 2016 are Florida, Iowa, Michigan, Ohio, Pennsylvania, and Wisconsin.
College victory in light of changing demographic trends. With Trump's election, 2016 became the 5th presidential election in history to select a president who did not secure both the Electoral College and the popular vote.

The Presidential Transition, the First 100 Days, and Beyond

Donald Trump became president during a time of political unrest and turmoil in America. Even prior to this surprising election result, both voters and members of the polite elite were experiencing fairly high levels of polarization. Nevertheless, Trump did inherit the office with complete control of the government and the opportunity to nominate a conservative justice to the Supreme Court. A typical spectator might have expected a burst of political and policy achievements to have occurred in the first few months of the Trump administration. Such achievements have been few and far between, however. Although there are a few successes for the Trump presidency that deserve recognition, there also have been many pitfalls, which have stalled the administration and any efforts at governing effectively.

One event that has occurred with relative frequency is unilateral executive action (Howell 2003). The Republicans control both the legislative and executive branches, while having a judicial branch that leans in a conservative direction. As such, we would expect the president to fully exercise his unilateral powers to fulfill his policy agenda (Moe and Howell 1999; Howell 2005). Within a few hours of taking office, President Trump signaled to Congress and voters his intentions for repealing and replacing the Patient Protection and Affordable Care Act (i.e. Obamacare), with executive order 13765. Within the next 10 days, President Trump signed seven additional executive orders with policy topics ranging from immigration to regulation.6 The president utilized his executive powers and the presence of unified government to quickly act on his legislative agenda and achieved relative success, with the exception of executive order 13769, commonly referred to as the “Muslim ban.” This executive order has been challenged in the lower courts and, at the time of this writing, the revised version of this executive order is awaiting a hearing with the Supreme Court. Compared to his recent predecessors, Trump has utilized twice as many executive orders during his first 100 days.7

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7 In the first 100 days of their first terms, President’s Obama, Bush, and Clinton had issued 19, 11, and 13 executive orders, respectively.
Federal appointments are another area that have been both successful and unfortunate for President Trump. While the Senate had to ultimately extend the nuclear option for Supreme Court nominations going forward, Trump’s nominee – Neil Gorsuch – was nominated and confirmed in only 3 and a half months.8 With the confirmation, the Supreme Court was once again at full capacity and able to function in its intended manner. While this is clearly a success for the Trump administration, it should be viewed with some caution. Although the president was able to appoint Gorsuch with the assistance of the Republican majority in the Senate, the process took well over a year since Justice Scalia’s death in February 2016. Other federal appointments, outside of the presidential cabinet, have not been nearly as successful. Part of the reason that these executive branch appointments, which require Senate approval, have not been successful falls on the president himself. President Trump has consistently taken to Twitter to blame the “Obstructionist Democrats,” but in reality, his appointments were not filled because he failed to appoint them. Within the first 100 days, only 91 executive branch appointments of the 556 jobs that require Senate approval had been appointed.9 While more of these appointments have been secured since early summer, there are still numerous vacancies within the Executive Branch. On August 27, 2017, President Trump’s response to criticism about his appointment process was that he is “[reducing the size of the government].”10

The first few months of the Trump administration have experienced a growing amount of media attention, not for the exceptional achievements, but for the numerous scandals that have plagued the administration since day one. Russia has once again become a topic of discussion in American politics. There have been numerous reports that the Trump campaign colluded with the Russian government to gain an electoral advantage during the 2016 contest.11 This story has dominated the narrative and political landscape for the first 6 months of the Trump presidency. In the early months, reports started to emerge that newly appointed National Security Advisor Michael Flynn had lied to both the Senate and Vice President Pence about his involvement with Russia, which led to his eventual resignation from the position. This only added fuel to the fire of a

10 http://thehill.com/homenews/administration/348385-trump-defends-unfilled-administra-
tion-posts-under-criticism-from.
html?mcubz=3.
The situation intensified further when former FBI Director James Comey made public his department’s investigation into the Russian allegations and the direct investigation of General Flynn. To be fair, the FBI, CIA, NSA, and other intelligence agencies all agree that the Russians did attempt to influence the 2016 presidential election, but that at the time, there was no evidence to suggest that the Trump campaign colluded with the Russian government to influence the election. After a rather awkward private meeting with the president, Comey was subsequently fired in early May. This sparked an outrage from both sides of the aisle after President Trump told Lester Holt, in a televised interview, that he fired former FBI Director Comey over the Russian investigation. This prompted the appointment of a special prosecuting counsel (Robert Mueller) to investigate a myriad of issues relating to the Russians, Comey’s firing, and anything the counsel deems necessary. As of late August, there are no new developments in this situation, but the prospect of an ongoing investigation continues to hang over the White House.

While there have been drastic differences between the Trump administration and past presidential administrations, one thing that has truly stood out is the amount of negative attention that this administration has received. Mostly, as a result of its own follies, this administration has continued to get in its own way. The first 8 months of the administration have been plagued with scandals and the mishandling of situations that have only stoked the fires from both sides of the partisan aisle. At a time when the administration still should be enjoying relative success as a result of unified control of the government, they have had to deal with external and internal strife that has distracted significantly from governing the nation.

**Challenges to Governing: The House and Senate**

If we use Franklin D. Roosevelt as the benchmark for legislative success within the first “100 days” of taking office, most presidents pale in comparison. But, this does not mean that other administrations have not been able to accomplish legislative goals early on in their tenures. The Trump administration is no different in this respect. At the onset, the Trump administration had ambitious legislative goals – repeal and replace Obamacare, adopt a $1 trillion dollar infrastructure
bill, pass comprehensive immigration reform, and reform the existing tax structure. But, for the most part, these goals have been sidelined by many of the issues that were discussed previously. Many of these issues have been broached with unilateral action, but not in any significant measure through legislation with the help of Congress.

Within the first 100 days, the president did sign around 29 pieces of legislation into law, which did outpace his more recent predecessors (i.e. Obama, Bush, and Clinton). But, these bills largely do not speak to the administration’s overall agenda, and they are not what would be considered as “significant” pieces of legislation. To date, the administration has signed 55 pieces of legislation into law, but they have not yet been able to work closely with Congress to achieve any success on the more important policy goals of the Trump administration and the Republican Party.

The number one thing on the policy agenda of then candidate and now President Trump, along with the Republican Party, was the repeal and replacement of the Patient Protection and Affordable Care Act (i.e. Obamacare). This has been the mantra of the GOP since its enactment in 2010. In early 2016, the Republican controlled Congress was able to pass, through both chambers, a repeal to the Affordable Care Act. President Obama ultimately vetoed this piece of legislation in January 2016. Although the House and Senate have attempted to pass a similar bill in 2017, only the House has managed to accomplish its objective. This raises an important question: what is the difference between then and now? The GOP controls both chambers of the legislative branch and now controls the executive branch as well. Why has Obamacare not been repealed? This situation harkens back to 1994 when Republicans were finally able to take full control of the legislative branch for the first time in 40 years, but struggled with the opportunity to govern (Fenno 1997). There is a major difference in passing legislation that the majority party knows will be vetoed by the president compared with adopting legislation that will attempt to address a complex problem like health care reform for over 300 million Americans. In short, there is a tangible difference between being the obstructionist party within Congress and actually governing the nation.

As mentioned previously, President Trump’s first executive order signaled his intentions to the American people and Congress that he was ready to move forward with the repeal of Obamacare. After much debate, on May 4, 2017, the House of Representatives was able to pass the American Health Care Act, largely down party lines. To be fair, the AHCA does not entirely repeal the ACA; rather

14 https://www.govtrack.us.
it changes the provisions and requirements within the ACA. The CBO released its initial report for the AHCA, and concluded that upwards of 24 million people would drop or lose their insurance coverage by 2026. In an unusual move, the president and leading Republicans from the House congregated in the Rose Garden for a televised event discussing the passage of the AHCA and the subsequent repeal of Obamacare.

Overall, the issue with this entire scenario is that the bill still had to make its way through the Senate, where the Republicans hold only a two-seat majority. Senate Majority Leader Mitch McConnell initially resisted the urge to rush the House’s bill through the Senate, based on the reaction of members in his caucus. Early on, Senators Collins, Heller, and Murkowski indicated they would not vote for the AHCA in its current form, if it was brought up for a vote. For a few weeks, there was strife among the Republicans in the Senate about how to secure enough votes to pass the bill. On June 13, 2017, President Trump spoke candidly about the health care bill that was before the Senate. He urged Senator McConnell to create a bill that was “less harsh” than the bill produced by the House and finally repeal Obamacare.\(^\text{15}\)

Although the Senate was ready to get to work on a bill that would repeal Obamacare following Trump’s urging, they were careful to keep things private. After the House passed their version of the AHCA, many of their members and senators were berated at town hall meetings and had their constituency offices overrun with phone calls and mailings from disgruntled constituents. There was a brief period of time in which members in the Senate were dissuaded from holding interviews with the press or in the halls of Congress, and the GOP’s bill was kept secret to ensure that negative stories related to the bill were curtailed. After a couple of weeks of internal debate, the GOP decided that it would rush its bill through the Senate, but were unable to schedule a vote after the CBO’s report concluded that 22 million people would drop or lose their health insurance by 2026 if the Senate bill were adopted. After the CBO’s report became public, it was clear that Majority Leader McConnell did not have the votes, and delayed the vote for the bill on June 27, 2017.

Much of the uncertainty around the bill’s passage stemmed from the understanding that Senators Collins and Murkowski were largely against the Senate version of the bill. In late July, McConnell was once again ready to hold a vote on the bill (presumably after confirming support from 50 senators), but was sidelined by John McCain’s absence from the chamber. On July 25, 2017, the Senate cast a vote to continue discussion of the health care bill, which passed with a tie-breaking vote from Vice President Pence 51–50. The GOP Senate had settled on

a “skinny” repeal of the ACA, which they would go back through with a series of bills and completely repeal at a later date. The GOP could only lose a few votes, to ensure that their bill would pass, and with John McCain’s surprising “no” vote on July 28, 2017, the Senate’s efforts to repeal the ACA ended for the time being. For now, it appears that both leaders in the House and Senate have placed the health care debate on the back burner. The president has commented briefly on the subject, but has largely downplayed the notion of repealing the ACA in the immediate future.

While the outlook for the repeal of the ACA is currently unknown, there are many other policy objectives that the president and Congress share. They both agree that there should be tax reform of some kind. They both agree that there should be some sort of infrastructure bill. But, what will happen in these instances? Will they meet a similar demise? At the time of this writing, it appears that the likelihood of passage declines with each passing day. There are fundamental problems within the GOP coalition that could prevent them from accomplishing their policy goals. First, President Trump and his supporters (i.e. contributors) have taken to publicly attacking members of their own party who disagree with their stance on policies. These tactics might work in the business world, where President Trump has vast experience, but it will likely backfire within the political arena since they will likely need these members’ support down the road. While incumbents do need the support of the party to be successful, they do not necessarily need the support of the president to gain reelection – especially when incumbents are routinely reelected at rates higher than 90% (Jacobson and Carson 2016).

Additionally, these tactics will certainly not work on members of Congress as long as the president’s national approval ratings continue to plummet as well (Edwards 1989, 2009; Canes-Wrone 2001; Canes-Wrone and de Marchi 2002; Canes-Wrone 2006). As Figure 1 shows, President Trump’s approval ratings have never reached as high as 50 percent, even during the initial weeks of his presidency. After the first few days of his administration, his levels of disapproval have consistently exceeded his approval levels based on Gallup polling. Although things began to tighten up in early May, this was relatively short lived based on trends in the ensuing months. For most of the summer, Trump’s approval rating hovered around 40 percent. As of late August, his approval rating hung around 35 percent with his disapproval remaining fairly constant around 60 percent.17

Another issue that helps explain the lack of legislative progress over the past few months is the variety and strength of the different factions within the Republican party. The Republicans within the House of Representatives are currently splintered. With the election of Tea-Party members in 2010 and 2012, there is a sizeable demographic (i.e. the Freedom Caucus) who hold hardline stances on policy goals (e.g. the hurdles that had to be overcome to pass the AHCA in the House). The Republicans will find it difficult to function properly if approximately 35–40 members of the party fail to support the party’s goals. Although proponents of conditional party government might expect rank-and-file Republicans to cede power to their leaders in hopes of passing a comprehensive agenda (Rohde 1991), this seems less likely given the heterogeneity within the conference. Republicans in the Senate face a related obstacle in that they barely hold a majority and therefore any dissenting members have the potential to halt legislative productivity, which we have seen with the recent health care bill.

Ultimately, it appears that the Republican Party is having the same growing pains as their predecessors in the 104th Congress experienced. It is going to take time for the party to transition into a governing party and not simply the obstructionist party. We must also keep in mind that the current president came into office with zero electoral experience at any level of government. This will continue to be a learning experience for the president as well, assuming he is willing to learn from his mistakes. If the two branches eventually can sort out their issues, both
externally and internally, they will have a better chance at passing their legislative agendas during the next few months.

Looking Ahead to the 2018 Midterm Elections

While the current administration and Congress have had their difficulties, it is still early on in the process. We are still about a year and a few months from the 2018 elections that potentially could spell disaster for the Republican Party if things continue the way that they have since Trump assumed office. If the allegations against President Trump and his subordinates subside and the party is able to overcome their internal struggles within Congress, they might be able to enact policies that reflect their campaign pledges including passing infrastructure, tax reform, health care, and comprehensive immigration reform. If they do not, the first 2 years of the Trump administration under unified government could be for naught.

Most pundits are not quite sold on the proposition that the Democrats will be able to win back control of the House and the Senate in 2018. First, most of the senators up for reelection are members of the Democratic Party. A large majority of them also happen to be from states that voted predominately for Trump in 2016. Senator Heller is the only Republican up for reelection in a state, for instance, that voted for Clinton. It might be safe to say that the Republicans hold on to their slim majority in the Senate even if they fail to pick up a few additional Senate seats. In the House, the Democrats would need to gain at least 24 seats to ultimately win back control of the House. While this is not an insurmountable task, it is one that will likely prove unattainable in an era where the majority of voters are voting straight ticket (Jacobson 2015; Jacobson and Carson 2016).

Additionally, there is a little insight to be gained from the special elections that have taken place over the past few months. For instance, in Georgia’s 6th district, the most expensive House election in history, a relative newcomer to politics took on an established Republican and performed better than expected in the district held formerly by Tom Price, but still lost. The same is true of the special elections that took place in Kansas, Montana, and South Carolina. While the Democrats lost all of those elections, it does indicate that if the party recruits experienced or quality challengers, they will have a shot in some of the 50/50 districts and many others.¹⁸ For now, the Democrats have little choice but to remain unified in their opposition to the president and his agenda and hope that the

Republicans in Congress continue to struggle in passing their key pieces of legislation over the next few months.

**Conclusion**

The Trump Administration has faced a variety of setbacks and struggles during the first 8 months of his presidency. While many of these issues might have been avoided, it is not unusual for a new president to experience delays and obstacles in their attempts to craft their message and get their policy agenda off the ground. President Trump has made his fair share of mistakes so far in his presidency, but he does have the same opportunity to learn from them as he moves forward. If he can find common ground with the Republican controlled chambers of Congress, especially on issues such as infrastructure, then there is a chance that he will be able to take credit for some policy wins in the ensuing months. Absent such policy successes, however, the 2018 midterm elections could make it even harder for President Trump to govern during the final 2 years of his first term.

**References**


