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Composition of the U.S. Congress and Cannabis Reform

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On Saturday, November 7, 2020, the U.S. election was decided and, subject to President Trump's legal challenges to the election, former Vice President Joe Biden will be the new President Elect and Senator Kamala Harris the Vice President Elect. Our previous article discusses the President Elect's stance on cannabis and his support to decriminalize but not necessarily legalize cannabis.

Arguably even more important to continued cannabis reform than who is the President is which party controls the U.S. Congress. In that regard, legislation that would allow for greater participation in the sector or even legalize cannabis entirely such as the *Marijuana Opportunity, Reinvestment and Expungement (MORE) Act*, the *Secure and Fair Enforcement (SAFE) Banking Act*, and the *Strengthening the Tenth Amendment Through Entrusting States (States) Act*, has already passed or is waiting to be voted on by the Democratic controlled House of Representatives. The MORE Act, which was introduced in the Senate by Vice President Elect Kamala Harris, would deschedule cannabis from the *Controlled Substances Act* and facilitate the expungement of prior cannabis related convictions. The MORE Act has made it farther than any other cannabis reform legislation in that it is the only bill that calls for cannabis legalization to have been approved by a congressional committee. The MORE Act was supposed to be voted on by the House in September 2020, however it was delayed due to the need to focus on legislation regarding COVID-19 related spending. The STATES Act is a bill that would recognize the legalization of cannabis by each state and would exempt individuals and corporations from federal enforcement in such states that are in compliance with U.S. state laws on cannabis. This bill was reintroduced in the House and Senate in April 2019 after being previously blocked by Senate Majority Leader Mitch McConnell. Finally, the SAFE Banking Act which proposes to allow financial institutions to provide financing and banking services to the legal cannabis industry was passed by the House on September 25, 2019, but has yet pass the Senate. As at the time of this article, the Democrats are on track to keep control of the House of Representatives, which bodes well for cannabis reform.

However, one of the major impediments to significant cannabis reform is whether the above mentioned legislation and other further initiatives will be approved by the U.S. Senate, which is currently under Republican control. If the Republicans maintain control of the Senate, cannabis legislation is expected to

be stalled or even blocked in Senate, meaning that the key to passing meaningful cannabis legislative reform will be the Democratic Party obtaining control of the Senate. Currently, the 96 out of 100 Senate seats have been confirmed, which are split evenly between the Republicans and the Democrats at 48-48. Two uncalled elections in the states of North Carolina and Alaska are leaning towards the respective Republican candidates, meaning that if those elections are determined as predicted, Democrats will need to attain the remaining two seats, which are both in the state of Georgia. None of the candidates in Georgia obtained the 50% threshold required to win their seat, forcing run-off elections that will be held in January 2021 to determine Senate winners in this state.

If the Democrats do not win both Senate seats in Georgia, then the Republicans will maintain their control in the Senate, which is believed to limit significant cannabis reform. Two wins, however, would mean the Senate would be split 50-50. In such an instance, the Vice President would have a casting vote to break any ties in passing legislation. Since the Vice President Elect, Kamala Harris, has been one of the most progressive politicians in favour of cannabis legalization, it would stand to reason that legislative reform will be well served by such a composition of the Senate and the presidency. For now we have to wait to see who will win the hotly contested January 5, 2021 run-off Senate race and will control the U.S. Senate.

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