

ANALYSIS OF THE 2022 ELECTIONS

ELECTION RESULTS AND POLICY IMPLICATIONS

NOVEMBER 9, 2022

UPDATED: November 18, 2022

Table of Contents

- **Election Analysis and Results** **4**
 - Topline Results 5
 - Election Analysis 6
 - **Detailed Congressional Race Results** **12**
 - U.S. Senate 14
 - U.S. House 18
 - **State Election Results** 24
 - Gubernatorial 25
 - Attorneys General 27
 - State Legislatures 29
 - Key Ballot Initiatives 30
- **The (Outgoing) 117th Congress** **31**
 - Accomplishments 32
 - What's Left? 34
 - Key Dates 36
- **The (Incoming) 118th Congress** **37**
 - Congressional Leadership 38
 - Senators Up In 2024 42

Table of Contents

- **Policy Outlook** **43**
 - Authorization Expirations 44
 - Biden Administration Agenda 45
 - House Republican Leadership Agenda 47
 - Oversight 49
 - Fiscal Issues 50
 - International Trade 53
 - National Security 55
 - Energy, Environment and Climate 56
 - Infrastructure 58
 - Health Care 59
 - Tech and Consumer Protection 61
 - Innovation and Technology 64
 - Financial Services 65
 - Agriculture 66
 - Employment and Workforce 67
 - Looking Ahead: Key Questions 69
- **Contacts** **70**

ELECTION ANALYSIS AND RESULTS

2022 Election Results: Topline

Senate

49 / 50
GOP / Dem

as of 11/18

2 races not yet called

Georgia race goes to 12/6 runoff
AK yet to be decided, but will be GOP

**Democrats Maintain
Majority**

House

218 / 212
GOP / Dem

as of 11/18

5 races not yet called

4 GOP leading
1 Dem leading

**House Republicans
Take Majority**

Gubernatorial

24 / 25
Dem / GOP

as of 11/18

1 race not yet called

1 GOP leading (AK)

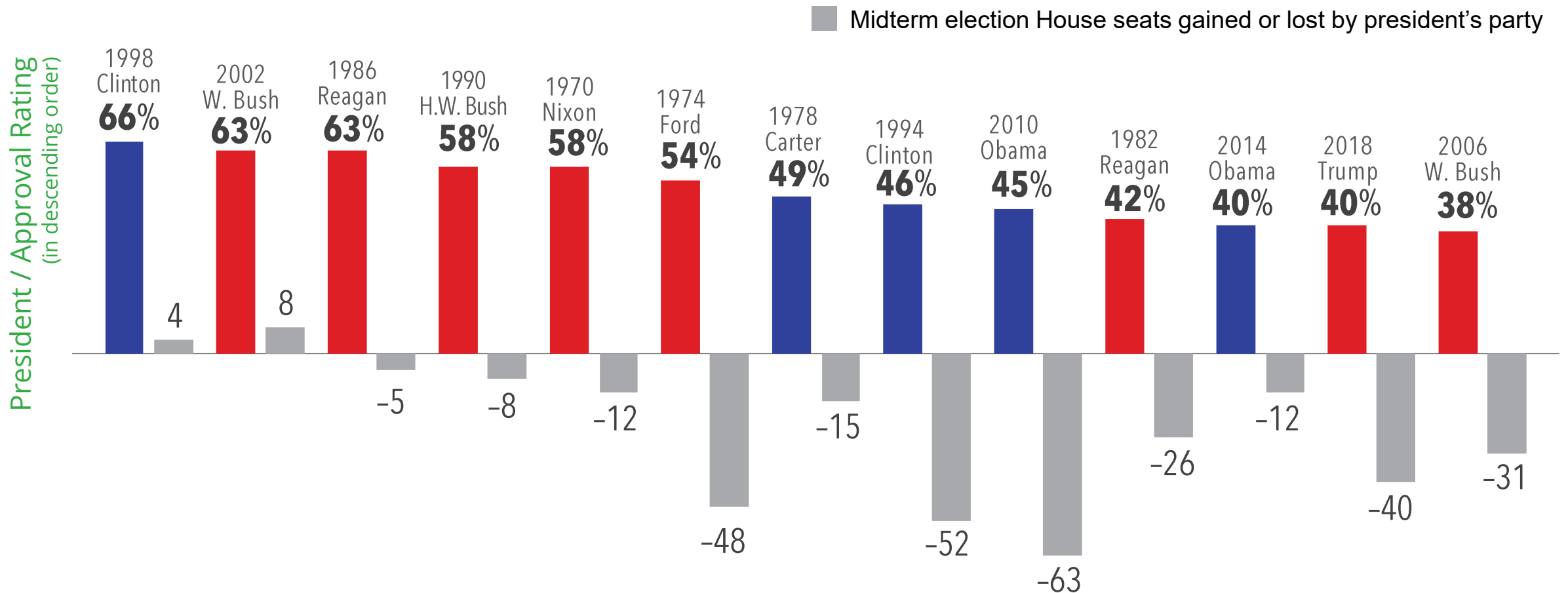
**Democrats Flip
Governorships in AZ, MA, MD;
and GOP Flips NV**

The Big Picture

- The 2022 midterm elections brought more uncertainty than expected
 - Republicans won control of the House, but with narrower margins than predicted and an ideologically-divided caucus that could make legislating difficult
- The “Red Wave” did not materialize, as vulnerable Democrats held their own despite strong economic headwinds and historic trends
 - Since WWII, the President’s party has lost an average of 26 House seats in midterm elections – if current leads hold, Republicans are on track to pickup 10 seats
 - In the Senate, Democrats flipped an open seat in Pennsylvania and will maintain control – whether they will have a one seat advantage or continue at 50/50 hinges on the December 6 run-off in Georgia
- Abortion rights were a top issue, driving strong Democratic turnout at the polls
- Democrats flipped three Gubernatorial seats while the GOP flipped one
- Across the country, former President Trump’s candidates largely underperformed

Democrats Outperform Expectations

- President Biden's approval rating on Election Day: 42%
- Seats lost: ~10



Were the Polls Accurate?

- The pollsters predicted the midterms would be close, but appear to have missed a stronger than expected Democratic turnout
 - Democrats were buoyed by a massive advantage among voters 30 and younger, a demographic that may not have been fully captured in pre-election polling

	House Forecast (as of Tuesday 11/8)	Senate Forecast (as of Tuesday 11/8)
FiveThirtyEight ("Classic" model)	84% chance Republicans win control Republican gain of 17 seats	59% chance Republicans win control Republican gain of 1 seat
Sabato	Republican gain of 24 seats	Republican gain of 1 seat
Cook Political Report	Republican gain of 15-30 seats	Republican pick-up of 0-3 seats

Analyzing the Electorate: Pre-Election Polling

- A pre-election WaPo / ABC News poll asked registered voters about key issues and which party they trusted more
 - While the state of the economy was the top issue, social and cultural issues weren't far behind...

Issue	Important to vote? (most / very)	Trust GOP more?	Trust Dems more?
Economy	26% / 55%	52%	38%
Crime	14% / 55%	54%	34%
Inflation	21% / 57%	50%	38%
Immigration	9% / 50%	46%	44%
Education and Schools	15% / 59%	47%	44%
Threats to Democracy	21% / 52%	47%	43%
Abortion	22% / 40%	37%	50%
Climate	12% / 36%	32%	51%

Source: WaPo, 11/6/22

Analyzing the Electorate: Exit Polling

- The National Election Pool asked voters which issue mattered most in their vote:

Republicans	Issue	Democrats
71%	Inflation (31% total)	28%
23%	Abortion (27% total)	76%
57%	Crime (11% total)	41%
37%	Gun Policy (11% total)	60%
73%	Immigration (10% total)	25%

- **Voters' views on the major political parties reflect the divided nation as a whole**
 - 51% of voters feel the Democratic party is too extreme, while 52% of voters feel the Republican party is too extreme
 - 44% of voters hold a favorable view of the Democratic party, while an identical percentage holds a favorable view of the GOP
- **And the role of party leaders *not* on the ballot...**
 - Almost a third of voters (32%) said their House vote was to *oppose President Biden*
 - And 28% of voters said their House vote was to *oppose former President Trump*
 - And ONE percent of voters said they held a favorable opinion of both Presidents Biden and Trump (for 18%, it was neither)

Analyzing the Electorate: Turnout and Demographics

- While **voter turnout** is not expected to surpass the historic numbers seen in 2018, it was higher than in most midterms
- According to exit polls, **independent voters** – comprising almost one-third of the electorate – broke for Democrats by two percentage points (49% to 47%)
- And the 31 percent of voters who made a **decision on their House vote within the last month** broke for Democrats 51% to 46%
- Republicans made inroads with a number of key demographic groups compared to the 2018 midterms:
 - **Women** backed Democrats by 8 percentage points – a far smaller margin than in 2018
 - Democratic support was driven by **Black and Latina women**, who back Democrats by 78 points and 33 percentage points, respectively
 - Republicans won a majority of **white women** (53% to 45%) – a group that split evenly in 2018
 - **Latino men** backed Democrats by 8 percentage points compared to almost 30 points in 2018
 - Voters **18-29 years of age** supported Democrats 63% to 35%, while **older voters** (both 45-64 and 65+) supported the GOP by about 10 points – compared to 2018, Republicans made gains with both voting blocks
 - **Suburban voters** broke for Republicans by six points (52% to 46%) after supporting President Biden in 2020

DETAILED RACE RESULTS

2022 Election Results: Topline

- The 118th Congress will bring a return to divided government
- Comparison of recent Congressional majorities:

President Bush's 2nd midterm election:
Dems flipped the House and Senate

President Obama's 1st midterm election:
Republicans flipped the House

President Obama's 2nd midterm election:
Republicans flipped the Senate

President Trump's 1st midterm election:
Democrats flipped the House

President Biden's 1st midterm election:
Republicans flipped the House

	109 th (2005-2006)	110 th (2007-2008)	111 th (2009-2010)	112 th (2011-2012)	113 th (2013-2014)	114 th (2015-2016)	115 th (2017-2018)	116 th (2019-2020)	117 th (2021-2022)	118 th (2023-2024)
House*	R+31	D+31	D+79	R+49	R+33	R+59	R+47	D+36	D+10	R+9?
Senate**	R+10	D+2	D+18	D+6	D+10	R+8	R+2 <i>started as R+4</i>	R+6	Even <i>VP tie-breaker</i>	TBD
President	Bush	Bush	Obama	Obama	Obama	Obama	Trump	Trump	Biden	Biden

*House totals based on November election results

**In the 109th Congress, the Democratic total included 1 independent who caucused with the party; in each subsequent year, it included 2 independents

2022 Election Results: U.S. Senate

50 Democrats

2 Undecided

49 Republicans

Flipped 1 Seat (PA)

51 for Control

- Democrats will maintain control of the Senate
 - Alaska: The seat is expected to stay in Republican hands, although we may not know the winner for weeks
 - Georgia: Incumbent Raphael Warnock (D) and challenger Herschel Walker (R) advance to a December 6 runoff
- Georgia run-off will determine whether Senate Democrats have a one-seat advantage in the 118th Congress
 - Should Walker prevail, the Senate will remain at 50/50
 - Vice President Kamala Harris cast 26 tie-breaking votes during the 117th Congress, the most in modern history
 - Third only behind Vice President John C. Calhoun (31) (Presidents John Quincy Adams / Andrew Jackson) and Vice President John Adams (29) (President George Washington)
- And a new Republican Senator is expected early next year with the pending departure of Senator Sasse (R-NE)
 - When Senator Sasse formally resigns, Nebraska's incoming Governor Jim Pillen (R) will appoint a replacement, with the seat then up for a special election in 2024

Results of Key Senate Races

State	Incumbent / Challenger	Winner
Alaska	Lisa Murkowski (R) v. Kelly Tshibaka (R)	If neither clears 50%, race proceeds to ranked choice
Arizona	Mark Kelly (D) v. Blake Masters (R)	Kelly (D)
Colorado	Michael Bennet (D) v. Joe O'Dea (R)	Bennet (D)
Florida	Marco Rubio (R) v. Val Demings (D)	Rubio (R)
Georgia	Raphael Warnock (D) v. Herschel Walker (R)	December 6 Run-Off
Iowa	Chuck Grassley (R) v. Michael Franken (D)	Grassley (R)
Nevada	Catherine Cortez Masto (D) v. Adam Laxalt (R)	Cortez Masto (D)
New Hampshire	Maggie Hassan (D) v. Don Bolduc (R)	Hassan (D)
Washington	Patty Murray (D) v. Tiffany Smiley (R)	Murray (D)
Wisconsin	Ron Johnson (R) v. Mandela Barnes (D)	Johnson (R)

State	Retiring Senator (Open Seats)	Winner
Alabama	OPEN – Richard Shelby (R)	Katie Britt (R)
Missouri	OPEN – Roy Blunt (R)	Eric Schmitt (R)
North Carolina	OPEN – Richard Burr (R)	Ted Budd (R)
Ohio	OPEN – Rob Portman (R)	JD Vance (R)
Oklahoma	OPEN – James Inhofe (R)	Markwayne Mullin (R)
Pennsylvania	OPEN – Pat Toomey (R)	John Fetterman (D) FLIP
Vermont	OPEN – Patrick Leahy (D)	Peter Welch (D)

Incoming Senators



Alabama: Katie Britt (R) (HOLD) defeated Will Boyd (D) in the race to succeed outgoing Senator Richard Shelby. She will become the first woman elected U.S. Senator from Alabama. Britt most recently served as the first woman CEO of the Business Council of Alabama. Before the Business Council, she was Senator Shelby's Chief of Staff.



Missouri: Eric Schmitt (R) (HOLD) defeated Trudy Busch Valentine (D) and replaces outgoing Senator Roy Blunt (R). Schmitt has served as the 43rd Attorney General of Missouri since 2019. He previously served as State Treasurer (2017-19) and in the State Senate (2009-17). He was a lawyer in private practice before his public service career.



North Carolina: Ted Budd (R) (HOLD) defeated Cheri Beasley (D) in the race to succeed outgoing Senator Richard Burr (R). Congressman Budd represents the 13th District (Charlotte suburbs) in the U.S. House, where he serves on the Financial Services Committee. He is also a member of the Freedom Caucus and the Republican Study Committee.



Ohio: J.D. Vance (R) (HOLD) defeated Rep. Tim Ryan (D) and replaces outgoing Senator Rob Portman (R). Vance is a venture capitalist and the best-selling author of *Hillbilly Elegy*.

Incoming Senators



Oklahoma: Markwayne Mullin (R) (HOLD) defeated former Rep. Kendra Horn (D) and replaces outgoing Senator Jim Inhofe (R). Congressman Mullin has represented the 2nd District (eastern Oklahoma) in the U.S. House since 2013. In the House, he serves on the Energy & Commerce and Select Intelligence Committees. He is also a member of the Congressional Western Caucus and the Republican Study Committee.



Pennsylvania: John Fetterman (D) (FLIP) defeated Dr. Mehmet Oz (R) and will replace outgoing Republican Senator Pat Toomey. Fetterman has served as the State's lieutenant governor since 2019. Before statewide office, he was the mayor of Braddock, PA – a suburb of Pittsburgh – for 13 years. He was also director of Braddock's youth program.



Vermont: Peter Welch (D) (HOLD) defeated Gerald Malloy (R) and will replace outgoing Senator Patrick Leahy (D). Welch has served as the state's at-large Congressman in the U.S. House since 2007. In the House, he serves on the Energy & Commerce, Oversight & Government Reform, and Select Intelligence Committees. He is also a member of the Climate Solutions Caucus and the Progressive Caucus.

2022 Election Results: U.S. House



218 for Control
(as of 11/18)

- House Republicans retake control, with a pickup of approximately 10 seats
 - Republicans made inroads in Florida, New York, Arizona
 - On the whole, vulnerable Democratic incumbents proved more resilient than predicted – although Republicans did flip DCCC Chair Sean Patrick Maloney’s (D-NY) seat
- Committee Leaders Departing:

Democratic Committee Chairs	Republican Committee Leaders
Peter DeFazio (D-OR) (Transportation and Infrastructure)	Kevin Brady (R-TX) (Ways and Means)
Ted Deutch (D-FL) (Ethics)	Rodney Davis (R-IL) (House Administration)
Eddie Bernice Johnson (D-TX) (Science)	John Katko (R-NY) (Homeland Security)
John Yarmuth (D-KY) (Budget)	
Carolyn Maloney (D-NY) (Oversight) / lost primary	

2022 Election Results: Incumbent Losses in Primary

- The redistricting process resulted in a handful of Member v. Member primary battles
 - In all cases, the primary winner went on to win this week's general election

Seat	Primary Match-Up (Democrats)	General Election
GA-07	Lucy McBath defeated Carolyn Bourdeaux	McBath
IL-06	Sean Casten defeated Marie Newman	Casten
MI-11	Haley Stevens defeated Andy Levin	Stevens
NY-12	Jerry Nadler defeated Carolyn Maloney	Nadler

Seat	Primary Match-Up (Republicans)	General Election
IL-15	Mary Miller defeated Rodney Davis	Miller
WV-02	Alexander Mooney defeated David McKinley	Mooney

- General election results from other incumbent primary losses

Seat	Defeated Incumbent	New Member	Seat	Defeated Incumbent	New Member
MI-03	Peter Meijer (R)*	Hillary Scholten (D) FLIP	OR-05	Kurt Schrader (D)	Lori Chavez-DeRemer (R) FLIP
MS-04	Steven Palazzo (R)	Mike Ezell (R)	SC-07	Tom Rice (R)*	Russell Fry (R)
NC-11	Madison Cawthorn (R)	Chuck Edwards (R)	WA-03	Jaime Herrera Beutler (R)*	Marie Gluesenkamp Perez (D) FLIP
NY-10	Mondaire Jones (D)	Dan Goldman (D)	WY-AL	Liz Cheney (R)*	Harriet Hageman (R)

*Republican who voted to impeach President Trump in 2021

2022 Election Results: Incumbent Losses in General

Seat	Defeated Incumbent	New Member
AZ-02	Tom O'Halleran (D)	Eli Crane (R)
IA-03	Cindy Axne (D)	Zach Nunn (R)
NJ-07	Tom Malinowski (D)	Tom Keane, Jr. (R)
NM-02	Yvette Harrell (R)	Gabe Vasquez (D)
NY-17	Sean Patrick Maloney (D)	Mike Lawler (R)
OH-01	Steve Chabot (R)	Greg Landsman (D)
VA-02	Elaine Luria (D)	Jen Kiggans (R)

Seat	Incumbent vs. Incumbent	Winner
TX-34	Vincente Gonzalez (D) vs. Maya Flores (R)	Gonzalez (D)
FL-02	Al Lawson (D) vs. Neal Dunn (R)	Dunn (R)

2022 Election Results: House Open Seats



Seat	Retiring Member	New Member
AL-05	Mo Brooks (R)	Dale Strong (R)
AZ-06	Ann Kirkpatrick (D)	Juan Ciscomani (R) FLIP
CA-03	Redistricting	Kevin Kiley (R)
CA-13	Redistricting	<i>TBD</i>
CA-15	Redistricting / Jackie Speier (D)	Kevin Mullin (D)
CA-37	Redistricting / Karen Bass (D)	Sydney Kamlager (D)
CA-42	Redistricting Lucille Roybal-Allard (D) / Alan Lowenthal (D)	Robert Garcia (D)
CO-07	Ed Perlmutter (D)	Brittany Pettersen (D)
CO-08	Redistricting	Yadira Caraveo (D)
FL-04	Redistricting	Aaron Bean (R)
FL-07	Stephanie Murphy (D)	Cory Mills (R) FLIP
FL-10	Val Demings (D)	Maxwell Frost (D)
FL-13	Charlie Crist (D)	Anna Paulina Luna (R) FLIP
FL-15	Redistricting	Laurel Lee (R)
FL-23	Ted Deutch (D)	Jared Moskowitz (D)
GA-06	Redistricting	Rich McCormick (R)
GA-10	Jody Hice (R)	Mike Collins (R)
HI-02	Kai Kahele (D)	Jill Tokuda (D)
IL-01	Bobby Rush (D)	Jonathan Jackson (D)

Seat	Retiring Member	New Member
IL-03	Redistricting / No Incumbent	Delia Ramirez (D)
IL-13	Redistricting / No Incumbent	Nikki Budzinski (D)
IL-17	Cheri Bustos (D)	Eric Sorensen (D)
IN-02	Jackie Walorski (R) (passed away)	Rudy Yakym (R)
IN-09	Trey Hollingsworth (R)	Erin Houchin (R)
KY-03	John Yarmuth (D)	Morgan McGarvey (D)
MD-04	Anthony Brown (D)	Glenn Ivey (D)
MI-03	Peter Meijer (R) – lost primary	Hillary Scholten (D) FLIP
MI-10	Redistricting	John James (R)
MI-13	Brenda Lawrence (D)	Shri Thanedar (D)
MS-04	Steven Palazzo (R) – lost primary	Mike Ezell (R)
MO-04	Vicky Hartzler (R)	Mark Alford (R)
MO-07	Billy Long (R)	Eric Burlison (R)
MT-01	Redistricting	Ryan Zinke (R)
NJ-08	Albio Sires (D)	Robert Menendez (D)
NY-01	Lee Zeldin (R)	Nicholas LaLota (R)
NY-03	Tom Suozzi (D)	George Santos (R) FLIP
NY-04	Kathleen Rice (D)	Anthony D’Esposito (R) FLIP
NY-10	Redistricting / Mondaire Jones (D-17) – lost primary	Dan Goldman (D)

2022 Election Results: House Open Seats

Seat	Retiring Member	New Member
NY-19	Redistricting	Marc Molinaro (R)
NY-22	Redistricting / John Katko (R-24)	Brandon Williams (R)
NY-23	Redistricting	Nick Langworthy (R)
NC-01	GK Butterfield (D)	Don Davis (D)
NC-04	David Price (D)	Valerie Foushee (D)
NC-11	Madison Cawthorn (R)	Chuck Edwards (R)
NC-13	Ted Budd (R)	Wiley Nickel (D) FLIP
NC-14	Redistricting	Jeff Jackson (D)
OH-07	Redistricting (R OPEN)	Max Miller (R)
OH-13	Tim Ryan (D)	Emilia Sykes (D)
OK-02	Markwayne Mullin (R)	Josh Brecheen (R)
PA-12	Mike Doyle (D)	Summer Lee (D)
PA-17	Conor Lamb (D)	Chris Deluzio (D)
RI-02	Jim Langevin (D)	Seth Magaziner (D)
SC-07	Tom Rice (R) – lost primary	Russell Fry (R)
TN-05	Jim Cooper (D)	Andy Ogles (R) FLIP

Seat	Retiring Member	New Member
TX-01	Louie Gohmert (R)	Nathaniel Moran (R)
TX-03	Van Taylor (R)	Keith Self (R)
TX-08	Kevin Brady (R)	Morgan Luttrell (R)
TX-15	Redistricting	Monica De La Cruz (R)
TX-30	Eddie Bernice Johnson (D)	Jasmine Crockett (D)
TX-35	Redistricting	Greg Caser (D)
TX-38	Redistricting	Wesley Hunt (R)
VT-AL	Peter Welch (D)	Becca Balint (D)
WA-03	Jaime Herrera Beutler (R) – lost primary	Marie Gluesenkamp Pérez (D) FLIP
WI-03	Ron Kind (D)	Derrick Van Orden (R) FLIP
WY-AL	Liz Cheney (R) – lost primary	Harriet Hageman (R)

2022 Election Results: House

Congressional Caucus Membership Results

Democratic Caucus	Current Membership	Retirement/Primary Defeat	Incumbents Lost in General (so far)	Endorsed Newly Elected Members*
Progressive (Liberal)	115	12	0	15
New Democrats (Centrist)	98	13	2	16
Blue Dog Coalition (Conservative)	18	4	1	2

Republican Caucus	Current Membership	Retirement/Primary Defeat	Incumbents Lost in General (so far)	Endorsed Newly Elected Members*
Main Street Caucus (Moderate)	64	10	0	14
Freedom Caucus (Conservative)	41	5	1	3

*Note some candidates were endorsed by more than one Caucus-aligned PAC

STATE ELECTION RESULTS

Gubernatorial Results

- Democrats have flipped Gubernatorial seats in Arizona, Maryland and Massachusetts
- And in the only incumbent loss, Joe Lombardo (R) defeated Nevada’s Steve Sisolak (D)
- In Alaska, incumbent GOP Governor Mike Dunleavy appears likely to prevail

Republican-held Seats (20)

AK: Mike Dunleavy (R)

AL: Kay Ivey (R)

AR (OPEN): Sarah Huckabee Sanders (R)

AZ (OPEN): Katie Hobbs (D) **FLIP**

FL: Ron DeSantis (R)

GA: Brian Kemp (R)

IA: Kim Reynolds (R)

ID: Brad Little (R)

MA (OPEN): Maura Healey (D) **FLIP**

MD (OPEN): Wes Moore (D) **FLIP**

NE (OPEN): Jim Pillen (R)

NH: Chris Sununu (R)

OH: Mike DeWine (R)

OK: Kevin Stitt (R)

SC: Henry McMaster (R)

SD: Kristi Noem (R)

TN: Bill Lee (R)

TX: Greg Abbott (R)

VT: Phil Scott (R)

WY: Mark Gordon (R)

Democratic-held Seats (16)

CA: Gavin Newsom (D)

CO: Jared Polis (D)

CT: Ned Lamont (D)

HI (OPEN): Joshua Green (D)

IL: JB Pritzker (D)

KS: Laura Kelly (D)

ME: Janet Mills (D)

MI: Gretchen Whitmer (D)

MN: Tim Walz (D)

NM: Michelle Lujan Grisham (D)

NV: Joe Lombardo (R) **FLIP**

NY: Kathy Hochul (D)

OR (OPEN): Tina Kotek (D)

PA (OPEN): Josh Shapiro (D)

RI: Dan McKee (D)

WI: Tony Evers (D)

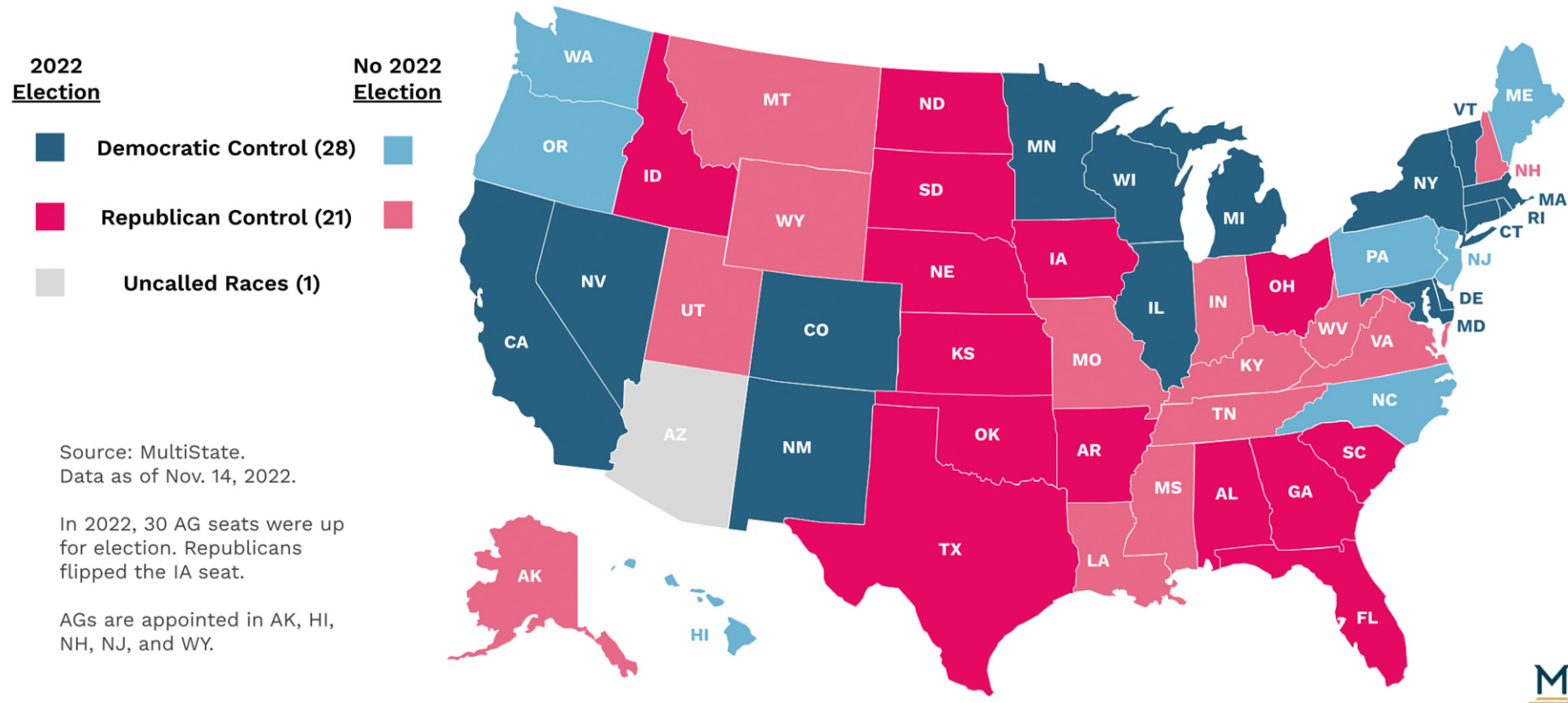
Gubernatorial Results

Source: MultiState Associates

Key State Attorneys General Results

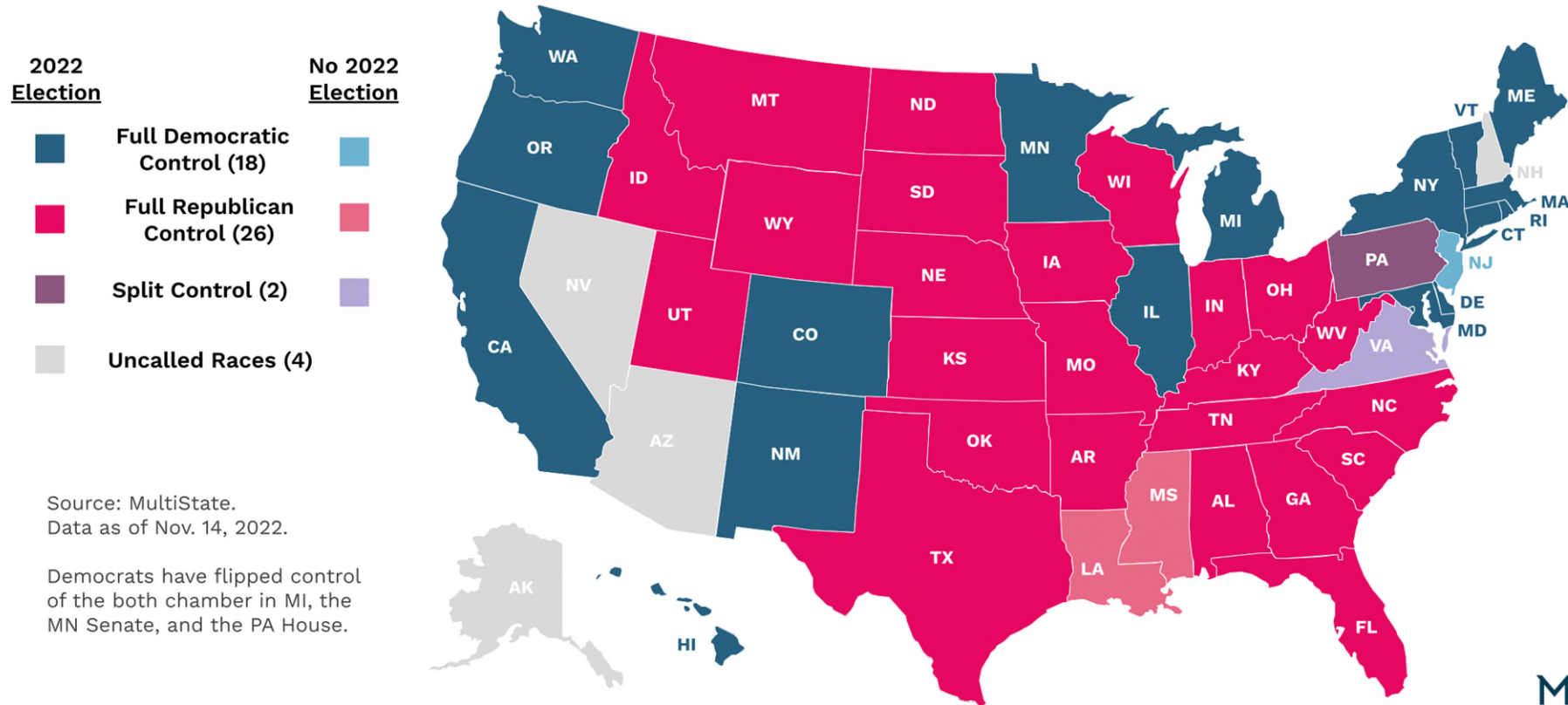
State	Match-Up (incumbent bolded)	Winner
Arizona (OPEN)	Kris Mayes (D) vs. Abraham Hamadeh (R)	Mayes (D) leading
California	Rob Bonta (D) vs. Nathan Hochman (R)	Bonta (D)
Connecticut	William Tong (D) vs. Jessica Kordas (R)	Tong (D)
Georgia	Chris Carr (R) vs. Jen Jordan (D)	Carr (R)
Illinois	Kwame Raoul (D) vs. Thomas DeVore (R)	Raoul (D)
Iowa	Tom Miller (D) vs. Brenna Bird (R)	Bird (R) FLIP
Massachusetts (OPEN)	Andrea Campbell (D) vs. Jay McMahan (R)	Campbell (D)
Michigan	Dana Nessel (D) vs. Matthew DePerno (R)	Nessel (D)
Minnesota	Keith Ellison (D) vs. Jim Schultz (R)	Ellison (D)
Nevada	Aaron Ford (D) vs. Sigal Chattah (R)	Ford (D)
New York	Letitia James (D) vs. Michael Henry (R)	James (D)
Texas	Ken Paxton (R) vs. Rochelle Garza (D)	Paxton (R)
Wisconsin	Josh Kaul (D) vs. Eric Toney (R)	Kaul (D)

Attorneys General | 2022 Post-Election Partisan Breakdown



Source: MultiState Associates

Legislatures | 2022 Post-Election Partisan Breakdown



Source: MultiState Associates

Key Ballot Initiatives

- **Healthcare:** Voters in In South Dakota approved a constitutional amendment requiring the state to provide Medicaid for lower-income adults between the ages of 18 and 65 and in Oregon, a ballot measure to amend the constitution to “ensure” all residents “access to cost-effective, clinically appropriate and affordable health care as a fundamental right” passed by the slimmest of margins
- **Labor:** Illinois voters appear to have approved a constitutional right to collective bargaining and prohibiting the enactment of any right-to-work laws
- **Wages:** Minimum wage increases approved in Nevada and Nebraska, and DC voters increased the minimum wage for tipped employees
- **Taxes:** Voters in Massachusetts approved an additional 4% tax on income over \$1M to fund education programs and transportation projects while Californians rejected a 1.75 percentage point surtax on income greater than \$2M, with revenue directed to zero-emission vehicle infrastructure and purchase incentives
- **Abortion:** Voters in California, Michigan and Vermont approved ballot measures to protect abortion rights, while voters in Kentucky rejected a constitutional amendment to explicitly state that there is no constitutional right to abortion
- **Voting Reform:** Nevada voters approved a ballot initiative to establish ranked-choice voting for Congressional and certain state-level elections (joining Alaska and Maine) while voters in Connecticut opted to allow early voting and Michiganders voted to expand it
- **Marijuana:** Voters in Maryland and Missouri approved measures to legalize recreational marijuana – while initiatives in Arkansas, North Dakota and South Dakota were rejected

OUTGOING 117TH CONGRESS

Accomplishments

- Despite slim majorities in each chamber, the 117th Congress achieved major legislative successes, some with bipartisan support:
 - **American Rescue Plan (March 2021)**
 - \$1.9 trillion COVID relief and economic stimulus package
 - Budget Reconciliation, no GOP support
 - **Infrastructure Investment and Jobs Act (“Bipartisan Infrastructure Law”) (November 2021)**
 - \$1.2 trillion in funding for traditional transportation infrastructure as well as water, broadband, and energy investments
 - Senate vote: 69-30, with 19 GOP “yes” votes | House vote: 228-206, with 13 GOP “yes” votes
 - **CHIPS and Science Act (August 2022)**
 - \$280 billion in funding to boost U.S. innovation and competitiveness, particularly in the semiconductor sector
 - Senate vote: 64-33, with 17 GOP “yes” votes | House vote: 243-187, with 24 GOP “yes” votes
 - **Inflation Reduction Act (August 2022)**
 - \$739 billion in revenue, with landmark investments in energy security and climate change, healthcare, and deficit reduction
 - Budget Reconciliation, no GOP support

Accomplishments, cont'd

- **Trade:** Uyghur Forced Labor Prevention Act
- **Russia / Ukraine:** Ending Importation of Russian Oil Act; Suspending Normal Trade Relations with Russia and Belarus Act; Ukraine Democracy Defense Lend-Lease Act; Emergency Supplemental Appropriations
- **Defense:** FY22 National Defense Authorization Act (2021)
- **Approps:** FY22 Government Funding “Omnibus” (enacted in March 2022); FY23 Continuing Resolution to mid-December
- **Healthcare:** FDA User Fee Reauthorizations; Honoring our PACT Act; Advancing Education on Biosimilars Act
- **Supply Chains:** Ocean Shipping Reform Act; several baby formula bills
- **Guns:** Bipartisan Safer Communities Act
- **Racial Equity:** Juneteenth National Independence Day Act; Emmett Till Antilynching Act; COVID-19 Hate Crimes Act
- **Other:** Postal Service Reform Act
- **Congressional Review Act (*Trump-era regulations overturned*):** Update of Commission’s Conciliation Procedures (EEOC); Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review (EPA); National Banks and Federal Savings Associations as Lenders (Treasury / OCC)
- **Confirmation of President Biden’s Judicial Nominees:** The 50/50 Senate confirmed Ketanji Brown Jackson to the Supreme Court, one of 84 total lifetime judicial confirmations (tying former President Trump’s total at the same point in his presidency)

What's Left?

- Post-election “Lame Duck” agenda expected to be dominated by politics, driven by “must pass” bills
 - **FY23 government funding:** Current “continuing resolution” (CR) expires December 16 – will Congress reach agreement on an FY23 omnibus, or pass another CR into next year?
 - **Disaster relief** and more **Ukraine aid** is likely to be part of a year-end package, as is another extension of the National **Flood Insurance** Program
 - A number of **expiring health care programs** and **FDA “super riders”** *could* ride along – as could **mental health** and **substance use** measures (e.g., the bipartisan Mainstreaming Addiction Treatment (MAT) Act)
 - Several **tax provisions** are also in the mix – e.g., delaying the amortization requirement for **R&D expenses**
 - Will Congress stave off scheduled health care **provider cuts**? What about more **public health** funding for COVID and monkeypox?
 - The bipartisan **PREVENT Pandemics Act** – a priority for retiring HELP Ranking Member Burr (R-NC) – is also possible
 - **FY23 defense authorization bill:** Congress has enacted an NDAA for 61 straight years; this year’s bill appears to be on track for passage before the end of the year
 - The bill is likely to be the vehicle for **several major reauthorizations**, covering the Coast Guard, State Department, and water resources programs (Water Resources Development Act / WRDA)
 - The outlook for **energy permitting reform** championed by Sen. Manchin (D-WV) is less certain
 - There is bipartisan pressure to include **“NOPEC”** to allow OPEC members to be sued under U.S. antitrust laws

- **Cont'd**

- **Trade:** The outlook remains murky for a number of trade provisions, including the Generalized System of Preferences (**GSP**) program and the Miscellaneous Tariff Bill (**MTB**), both of which expired at the end of 2020
 - Democrats are unlikely to agree to a trade deal that doesn't renew Trade Adjustment Assistance, which Republicans won't support without Trade Promotion Authority – the stalemate may prevent action on any trade measures
- With control of the House expected to flip, Democrats are likely to push for passage of the **Electoral Count Act** and the **Respect for Marriage Act**
- Other **priorities for outgoing Members**, for example:
 - Rep. Perlmutter's (D-CO) SAFE Banking Act (**cannabis banking**)
 - Sen. Portman's (R-OH) Retirement Security and Savings Act (with Sen. Cardin (D-MD)) – now reflected in a broader **retirement package** ("SECURE 2.0")
- Continued Senate push to confirm Biden **judicial and executive branch nominations**
- And will Dems seek to raise the **debt limit** while they still control both chambers?

Key Dates

- November 14: Congress returns for Lame Duck session
- November 15: House Republican Conference Leadership Elections
- November 16: Senate Republican Leadership Elections
- November 30: House Democratic Caucus Organizing Meeting and Leadership Elections
- Early December: Senate Democratic Leadership Elections
- Late Nov / Early Dec : GOP Committee Leadership Elections
- December 6: Georgia Senate Run-Off
- December 16: Current FY23 Continuing Resolution (CR) expires
- December ???: Adjournment
- January 3: 118th Congress Convenes / House Speaker Election / Members Sworn In

INCOMING 118TH CONGRESS

118th Congress: House Leadership

Expected Republican Leadership	
Speaker of the House	Kevin McCarthy (R-CA)
Majority Leader	Steve Scalise (R-LA)
Majority Whip	Tom Emmer (R-MN)
Conference Chair	Elise Stefanik (R-NY)
Conference Vice Chair	Mike Johnson (R-LA)
Policy Committee Chair	Gary Palmer (R-AL)
Conference Secretary	Lisa McClain (R-MI)
NRCC Chair	Richard Hudson (R-NC)

Expected Democratic Leadership	
Democratic Leader	Hakeem Jeffries (D-NY)
Democratic Whip	Katherine Clark (D-MA)
Caucus Chair	Pete Aguilar (D-CA)
Assistant Democratic Leader	Jim Clyburn (D-SC)
Caucus Vice Chair	<i>Running / Interested:</i> Joyce Beatty (D-OH), Madeleine Dean (D-PA), Debbie Dingell (D-MI), Ted Lieu (D-CA)
DCCC Chair	<i>Running / Interested:</i> Tony Cárdenas (D-CA), Ami Bera (D-CA)

- Shortly after the election, long-time House Democratic Caucus leaders announced they would step down, opening the door to a new generation of leadership
 - Speaker Nancy Pelosi (D-CA) and House Majority Leader Steny Hoyer (D-MD) announced they would not seek leadership positions next year, but would remain in Congress
 - House Majority Whip Jim Clyburn will remain in leadership, but with a lower-profile role

118th Congress: House Committee Leadership



Leadership changes highlighted

Committee	Likely Republican Chair	Likely Democratic Ranking Member
Agriculture	GT Thompson (PA)	D. Scott (GA)
Appropriations	Granger (R-TX)	DeLauro (CT)
Armed Services	Rogers (AL)	Smith (WA)
Budget	<i>If Smith (MO) gets W&M gavel:</i> Smucker (PA) Arrington (TX) Carter (GA)	Boyle (PA)
Education & Workforce	<i>If Foxx (NC) is not granted a waiver:</i> Walberg (MI) Banks (IN)	Scott (VA)
Energy & Commerce	McMorris Rodgers (WA)	Pallone (NJ)
Financial Services	McHenry (NC)	Waters (CA)
Foreign Affairs	McCaul (TX)	Meeks (NY)
Homeland Security	Crenshaw (TX) Green (TN)	Thompson (MS)
Judiciary	Jordan (OH)	Nadler (NY)
Natural Resources	Westerman (AR)	Grijalva (AZ)
Oversight	Comer (KY)	Connolly (VA) Lynch (MA) Raskin (MD)
Rules	Cole (OK)	McGovern (MA)
Science	Lucas (OK)	Lofgren (CA) Bonamici (OR)
Small Business	Williams (TX)	Velazquez (NY)
Transportation & Infra	Graves (MO)	Larsen (WA) Norton (DC)
Veterans Affairs	Bost (IL)	Takano (CA)
Ways & Means	Buchanan (FL) J. Smith (MO) A. Smith (NE)	Neal (MA)
Intelligence	Turner (OH)	Schiff (CA)

118th Congress: Senate Leadership

- Few leadership changes expected

Democrats		Republicans	
Democratic Leader	Chuck Schumer (NY)	Republican Leader	Mitch McConnell (KY)
Democratic Whip	Dick Durbin (IL)	Republican Whip	John Thune (SD)
Asst. Dem. Leader	Patty Murray (WA)	Conference Chair	John Barrasso (WY)
Policy Chair	Debbie Stabenow (MI)	Policy Committee Chair	Joni Ernst (R-IA)
DSCC	Will Gary Peters (MI) stay on? Alex Padilla (CA) interested	Policy Committee Vice Chair	Shelley Moore Capito (R-WV)
		NRSC	Steve Daines (MT)

- Significant committee leadership changes due to retirements and GOP term limits
 - New GOP leadership on: Appropriations, Armed Services, Banking, HELP, Homeland, Small Business and Rules
 - Under conference rules, Senate Republicans limited to six years as chairman and (separately) six years as ranking member
- A few changes are expected among top Democrats
 - Democrats do not have committee leadership term limits, but changes expected at Appropriations, Budget, and HELP Committees

118th Congress: Senate Committee Leadership

Leadership changes highlighted

Committee	GOP	Democrat
Agriculture	John Boozman (AR)	Debbie Stabenow (MI)
Appropriations	Susan Collins (ME)	Patty Murray (WA)
Armed Services	Roger Wicker (MS)	Jack Reed (RI)
Banking	Tim Scott (SC)	Sherrod Brown (OH)
Budget	Grassley (IA)	Whitehouse (RI)
Commerce, Science, Transportation	Ted Cruz (TX)	Maria Cantwell (WA)
Energy & Natural Resources	John Barrasso (WY)	Joe Manchin (WV)
Environment & Public Works	Shelly Moore Capito (WV)	Tom Carper (DE)
Finance	Mike Crapo (ID)	Ron Wyden (OR)
Foreign Relations	Jim Risch (ID)	Bob Menendez (NJ)

Committee	GOP	Democrat
HELP	Cassidy (LA)	Bernie Sanders (I-VT)
Homeland Security	Paul (KY)	Gary Peters (MI)
Judiciary	Graham (SC)	Dick Durbin (IL)
Rules	Deb Fischer (NE)	Amy Klobuchar (MN)
Small Business	Joni Ernst (IA)	Ben Cardin (MD)
Veterans Affairs	Jerry Moran (KS)	John Tester (MT)
Indian Affairs	Lisa Murkowski (AK)	Brian Schatz (HI)
Ethics	James Lankford (OK)	Chris Coons (DE)
Intelligence	Marco Rubio (FL)	Mark Warner (VA)

Senators Up in 2024

21 Democrats

Baldwin, Tammy (D-WI)
Brown, Sherrod (D-OH)*
Cantwell, Maria (D-WA)
Cardin, Benjamin L. (D-MD)
Carper, Thomas R. (D-DE)
Casey, Robert P., Jr. (D-PA)
Feinstein, Dianne (D-CA)
Gillibrand, Kirsten E. (D-NY)
Heinrich, Martin (D-NM)
Hirono, Mazie K. (D-HI)
Kaine, Tim (D-VA)
Klobuchar, Amy (D-MN)
Manchin, Joe, III (D-WV)*
Menendez, Robert (D-NJ)

Murphy, Christopher (D-CT)
Rosen, Jacky (D-NV)
Sinema, Kyrsten (D-AZ)
Stabenow, Debbie (D-MI)
Tester, Jon (D-MT)*
Warren, Elizabeth (D-MA)
Whitehouse, Sheldon (D-RI)

2 Independents

both caucus with Democrats
King, Angus S., Jr. (I-ME)
Sanders, Bernard (I-VT)

10 Republicans

Barrasso, John (R-WY)
Blackburn, Marsha (R-TN)
Braun, Mike (R-IN)
Cramer, Kevin (R-ND)
Cruz, Ted (R-TX)
Fischer, Deb (R-NE)
Hawley, Josh (R-MO)
Romney, Mitt (R-UT)
Scott, Rick (R-FL)
Wicker, Roger F. (R-MS)

*Indicates state carried by President Trump in 2020

POLICY OUTLOOK

Authorization Expirations / Deadlines to Watch

Expiring

- FY23 Continuing Resolution (December 16, 2022)
 - Plus: National Flood Insurance Program
- PAYGO Sequester Suspension (January 2023)
- Public Health Emergency (PHE) Declaration (January 11, 2023)
- Debt ceiling suspension (mid- to late 2023)
- Federal Aviation Administration (FAA) authorization (September 30, 2023)
- “Farm Bill” mandatory programs (September 30, 2023)
- FY23 Government Funding (September 30, 2023)

Expired

- Trade Adjustment Assistance program (*expired* July 1, 2022)
- New Strategic Arms Reduction Treaty (New START) between the U.S. and Russia (*expired* February 5, 2021)
- Trade Promotion Authority (TPA) (*expired* July 1, 2021)
- Generalized System of Preferences (GSP) trade preference program and Miscellaneous Tariff Bill (*expired* December 31, 2020)

Biden Administration Agenda

Domestic Policy Priorities

- Expect the Administration to focus on implementation of major legislative achievements
 - Infrastructure Investment and Jobs Act, CHIPS and Science Act, Inflation Reduction Act
 - *Speed*: the focus will be getting programs stood up and money out the door quickly, in part to cement victories ahead of 2024
 - *Playing Defense*: Given Republican control of the House, the Administration will focus on defending IRA funding and key programs, as well as responding to GOP oversight scrutiny
- And in the absence of unified government, expect more executive actions to satisfy the Democratic base ahead of the 2024 elections
 - In recent months, we've seen executive action on abortion, student loan relief, marijuana policy, and environmental conservation
- A GOP-controlled House will scrutinize – and work to delay – the Administration's regulatory agenda
- Despite predictions of the gridlock that comes with divided government, will we see some attempts at bipartisan policymaking?
 - Alignment on some key issues, including China / trade, holding Big Tech accountable, and workforce

Biden Administration Agenda

Foreign Policy Priorities

- International trade and foreign policy issues likely to dominate
 - Continued response to Russia's war in Ukraine as well as security threats from North Korea and Iran
 - U.S.-China relations in a variety of areas – trade and tariffs, national security, human rights, climate
 - Continued trade talks with key allies
 - Indo-Pacific and Western Hemisphere economic talks, continued U.S.-EU talks (including on technology as well as steel and aluminum), and several bilateral efforts (Taiwan, Kenya, UK, India, Ecuador)

Potential for Distractions

- Expect at least some Cabinet-level and White House staffing changes, following a remarkably stable two years
 - Will White House Chief of Staff Ron Klain stay on?
 - Treasury Secretary Yellen rumored to be considering a departure, as is Climate Envoy John Kerry
 - If Republicans flip the Senate, confirmation battles likely to be time-consuming
- Oversight and investigations by House Republicans, including into the President's family
- And – perhaps the biggest distraction of all – 2024, including:
 - Continued questions about whether President Biden will seek re-election
 - Former President Trump's flirtation with another run

House Republican Leadership Agenda

Commitment to America

- House Republicans have laid out their *Commitment to America* in preparation for retaking the majority in January

An Economy That's Strong

- Fight Inflation and Lower the Cost of Living
- Make America Energy Independent and Reduce Gas Prices
- Strengthen the Supply Chain and End Dependence on China

A Future That's Built on Freedom

- Make Sure Every Student Can Succeed & Give Parents a Voice
- Achieve Longer, Healthier Lives for Americans
- Confront Big Tech and Demand Fairness

A Nation That's Safe

- Secure the Border and Combat Illegal Immigration
- Reduce Crime and Protect Public Safety
- Defend America's National Security

A Government That's Accountable

- Preserve Our Constitutional Freedoms
- Hold Washington Accountable
- Restore the People's Voice



House Republican Leadership Agenda

- The *Commitment to America* was developed over the past 18 months with the recommendations of seven issue-specific task forces, covering:
 - American Security
 - Big Tech Censorship and Data
 - China Accountability
 - Energy, Climate, and Conservation
 - Future of American Freedoms
 - Healthy Future
 - Jobs and the Economy
- And from a pure process standpoint, expect House Republicans to end “proxy” (i.e., remote) voting and to scale back the use of “hybrid” hearings (i.e., in-person and virtual options) – vestiges of Democrats’ pandemic response

Divided Government = Vigorous Oversight

- During the current Congress, Republicans sent 500+ oversight requests to the Administration, they will soon have the power to compel responses

President Biden's Family's Business Interests

- Foreign business transactions involving the President's brother, Jim, and son, Hunter

Foreign Policy

- U.S. withdrawal from Afghanistan
- Military aid to Ukraine
- Administration outreach to OPEC+ countries on oil supply

Health Care

- Origins of COVID-19
- CDC, NIH and FDA COVID-19 response and policies
- Administration grant funding Ecohealth
- Baby Formula shortage

Homeland Security

- Security at the U.S.-Mexico Border, including illegal immigration and fentanyl trafficking

Education

- Student loan relief
- FBI/DOJ pressure on local school boards
- Vaccine and mask mandates in schools

Energy

- Drawdown of SPR and consideration of oil export ban
- Implementation of new clean energy programs
- EPA Sue and Settle policy

Other

- Pandemic relief spending/accountability
- FBI and DOJ investigations related to former President Trump and Hunter Biden
- "Woke Capitalism," "Cancel Culture," and Big Tech Censoring of Free Speech
- Misuse of government funds as it relates to official travel by Cabinet officials

Annual Budget and Appropriations Process

- Congress has yet to finalize any of its 12 Fiscal Year 2023 spending bills (FY 2023 began October 1) and a short-term continuing resolution (CR) is keeping the government funded through December 16
 - Will Congress finalize an omnibus bill next month and clear the decks or will they punt spending bills into 2023?
- As lawmakers turn to FY 2024 spending bills, Congressional Republicans will push to restore Trump-era spending levels – and no doubt have a wish list of policy riders targeting a slew of programs and policies supported by the Biden Administration
 - One exception is defense spending, which the GOP will push to boost, particularly given the effects of inflation on the Pentagon's budget
- House Republicans are likely to focus on the budget process, including passage of an FY 2024 budget resolution – that said, adoption of a concurrent budget resolution by the April 15 statutory deadline seems unlikely

Debt Ceiling

- Last December, after a lengthy standoff with Republicans, Congressional Democrats passed legislation to increase the debt limit by \$2.5 trillion (to approximately \$31.4 trillion)
 - The bill was passed with almost no GOP support – but Senate Republicans did vote to allow Democrats to act on a simple majority vote
- With the use of Treasury's "extraordinary measures," experts expect the true debt limit to be hit sometime in the second half of 2023
- Action on the debt ceiling is likely to be part of a larger fiscal package put forward by Congressional Republicans, who now have leverage and will be looking for concessions from President Biden – will they press for entitlement reform?
- To avoid that battle, will Democrats push through their third reconciliation bill and raise the debt limit during the Lame Duck?

Tax Policy

- While President Biden and Congressional Democrats were not successful in raising the corporate tax rate to offset major spending bills, several of their tax revenue measures were successful and are likely to be the subject of Republican oversight and repeal efforts in the upcoming Congress
 - The 15% Minimum Book Tax and Stock Buyback Tax – both integral to the Inflation Reduction Act (IRA) – are expected to raise \$313 billion and \$74 billion, respectively
 - Incoming Speaker McCarthy has suggested that one of a Republican House's first legislative act would be a vote to repeal the \$80 billion in IRS funding included in the IRA for beefed up enforcement efforts
- Congressional Republicans are likely to push to make permanent individual tax cuts enacted in 2017 as part of the Tax Cuts and Jobs Act (TCJA) – dozens of those provisions are set to expire in 2025
- On the business side, Republicans will seek to extend or make permanent the TCJA's 20% pass-through tax deduction (set to expire in 2025) as well as bonus depreciation for qualified business purchases (fully phases down in 2027)
 - If it isn't addressed during the Lame Duck, Republicans will push to eliminate or delay the amortization requirement for R&D expenses – under the TCJA, the amortization requirement kicked in at the beginning of 2022
 - Republicans are also expected to press to double the R&D tax credit
 - Democrats are unlikely to agree to any business tax cuts unless Republicans agree to reinstitute the expanded Child Tax Credit

Tax Policy, cont'd

- Republicans have also expressed a desire to use the tax code to incentivize the onshoring of key supply chains and further encourage domestic manufacturing
 - Establishing tax deduction for the mining, reclaiming, or recycling of domestic critical minerals and metals
 - Making bonus depreciation permanent
 - Encouraging lower taxes for intellectual property repatriated into the United States
 - Creating a new tax credit for investments in advanced manufacturing equipment or machinery used in the U.S. to manufacture drugs, medical devices, or biological products
- Further, expect Congressional Republicans to continue their scrutiny of the Biden Administration's global tax agreements negotiated under the auspices of the OECD – with Congressional action on either unlikely
 - Reallocation of Profits of largest MNEs (Pillar One)
 - 15% Global Minimum Tax (Pillar Two)
- And despite the rhetoric, the prospects for enactment of a “windfall profit tax” on oil companies will go nowhere with a Republican-controlled House

Trade Legislation

- In the absence of consensus, a trade title was dropped from the bipartisan CHIPS and Science Act this summer
- Should Congress not act on a package of expired trade provisions during the Lame Duck, Republicans may try to move a trade bill early next year
 - In addition to GSP and MTB renewal, Republicans will likely push to reauthorize Trade Promotion Authority (or “Fast Track”), which expired in July 2021
 - To date, the Biden Administration has not requested TPA authority, instead focusing on non-traditional trade and economic agreements *without* a market access component
 - One potential avenue for compromise is more limited Fast Track authority, e.g., a U.K.-specific proposal authored by Senators Coons (D-DE) and Portman (R-OH) earlier this year – could we see TPA for a Taiwan trade agreement?
 - Will Republicans hew to their free trade roots or will we see a more vocal isolationist camp emerge?
 - Democrats are unlikely to support a trade bill that doesn’t reauthorize Trade Adjustment Assistance
- Expect GOP oversight of the Administration’s ongoing trade talks with a variety of allies – particularly in light of a bipartisan desire for more trade consultations with the Administration on existing initiatives
 - E.g., the Indo-Pacific Economic Framework (IPEF) and talks with Taiwan, Kenya, the UK, India and Ecuador
- We are likely to see additional oversight over the Biden Administration's implementation of the Trump-era Section 301 (China) and Section 232 (steel and aluminum) tariff programs
- And a pending Customs reauthorization bill could serve as the vehicle for trade enforcement provisions

U.S.-China Relations

- One area of bipartisan agreement in recent years has been the desire for a tougher stance toward China
- Incoming Speaker McCarthy has already pledged to establish a new Select Committee on China
- In addition to the possible passage of the Taiwan Policy Act (Menendez (D-NJ) / Graham (R-SC)) in the Lame Duck, there appears to be strong bipartisan support for recently-launched U.S.-Taiwan trade talks
- Look for the GOP to push for stricter export control enforcement, with national security and human rights at the forefront
- Will Congressional champions be satisfied by potential Executive Action establishing an outbound review mechanism for U.S. investments in China, or will they push for enactment of their National Critical Capabilities Defense Act?
- With respect to the Trump-era Section 301 tariffs, USTR continues its four-year statutory review of the tariff program – with any programmatic changes pushed until next year
 - Expect Congress to press USTR to move quickly and to step in and mandate a renewal of the exclusion program, if necessary
 - And where will the Court of International Trade come down on the legal challenge to the List 3 and 4A tariffs?

Trade and Climate

- Will we see continued linkage of trade and climate issues?
 - Along with non-market excess capacity, carbon intensity is the focus on ongoing U.S.-EU negotiations on the future of the Trump-era Section 232 steel and aluminum program
 - U.S. allies continue to express concern about the Inflation Reduction Act's clean energy tax provisions (e.g., EVs)
 - Expect more talk of a carbon border adjustment measure – with GOP interest (e.g. Senators Cassidy (R-LA) and Cramer (R-ND))

Russia-Ukraine

- The Biden Administration will continue its strong support of Ukraine in response to Russia's invasion earlier this year, including continued coordination with the EU and other allies on sanctions, export controls and other tools
 - e.g., Recent Commerce Department revocation of Russia's market economy status in AD proceedings
- In the Republican House, will we see continued bipartisan support for Ukraine, or will the isolationist wing of the Republican party limit additional Ukraine funding bills and weapons support?
- There is bipartisan support in Congress to designate Russia a State Sponsor of Terrorism – something that, to date, the Biden Administration has resisted

Other Areas of Focus

- Increasing tensions with Iran, including over its crackdown on women's rights and support for Russia's war in Ukraine
- Deteriorating relations with Saudi Arabia on issues from OPEC to China's increasing influence in the Middle East
- Continued GOP oversight of the U.S. withdrawal from Afghanistan and related fallout
- North Korea's increasing aggression
- Border security
 - Oversight of the Administration's response to the southern border crisis will be a top priority for Congressional Republicans, with possible impeachment proceedings against DHS Secretary Mayorkas
 - Immigration legislation is a non-starter without a border security component – including the border wall
 - Stemming the flow of illegal narcotics (e.g., fentanyl) is also a top focus for Republicans and an issue they've tied to the border

Energy

- Republicans will continue to focus on promoting energy independence
 - Introduction of comprehensive energy legislation in the House expected in early days of new session
 - Focused on permitting reform, more mineral and oil / gas exploration, more pipelines, more natural gas export terminals, and to restart the Keystone XL
 - Sen. Manchin (D-WV), still top Democrat on the Energy Committee, will remain a key player and is likely to support some GOP priorities – permitting and mineral exploration, to name few
 - Sen. Capito (R-WV) has authored her own permitting proposal that has the backing of the GOP leadership
- Rising energy prices – at the gas pump, home heating oil, and diesel shortages – will continue to provide the GOP with an opportunity to criticize and scrutinize (via Committee oversight) the Administration’s energy policies leading into 2024
 - Republican chairs of authorizing and appropriations committees will seek to slow down Administration proposed energy rules through oversight requests, hearings, and appropriations language (i.e. “no such funds”)
 - Oversight of Administration’s use of the Strategic Petroleum Reserve and reports that the Administration is considering an oil export ban
- Implementation of energy provisions in the Infrastructure Investment and Jobs Act and Inflation Reduction Act will continue to attract scrutiny from Republicans

Environment & Climate

- Republicans will offer proposals seeking to foster market-based innovation in the energy sector – “American made energy” – as part of their effort to address climate change and push back on Democrats’ “rush to green”
 - They will argue that American-made energy creates jobs, lowers cost for consumers, produces less emissions, and ensures the United States is less reliant on foreign sources (i.e. China and Russia) for energy needs
 - Expect more focus on nuclear energy, hydropower, and carbon capture technologies
 - Rep. Westerman’s (R-AR) One Trillion Trees Act – reforestation initiative to pull CO2 out of the air – remains a priority
 - Will House Republicans disband or repurpose Democrats’ Select Committee on the Climate Crisis?

Oversight

- Various IJIA and IRA programs – e.g., DOE loan programs (“Solyndra 2.0”), clean energy tax credits
- SEC proposed rule on corporate climate disclosures
- Administration’s National Environmental Policy Act proposed reforms
- Revision of National Air Quality Standards
- House Natural Resources Committee Republicans have stated they intend to follow up on 161 outstanding oversight requests made of the Department of the Interior regarding proposed rules and guidances

Infrastructure Investments

- For the first time in several Congresses, an infrastructure bill is **not** on the to do list
 - The \$1.2 trillion Infrastructure Investment and Jobs Act of 2021 reauthorized surface transportation programs through FY 2026 and the Highway Trust Fund is expected to remain solvent until 2027
 - The IIJA also included landmark investments in drinking and waste water infrastructure – and water resources projects are likely to be dealt with in the Lame Duck through the biennial WRDA bill
- Ahead of the IIJA’s one-year anniversary, the White House released an Action Plan for Accelerating Infrastructure
 - While some agencies have already begun issuing awards for programs with existing funding channels, others are focused on issuing Notices of Funding Opportunity (NOFOs), or even Requests for Information as they work to stand programs up
 - As the Biden Administration works to implement the IIJA and IRA, Congressional Republicans will focus on oversight of the law’s spending and policy changes
- The IIJA also included major expansions of Buy America coverage – expect champions in Congress to push agencies to speed up their implementation and compliance
- Congress will need to reauthorize the Federal Aviation Administration next year, with the last 5-year bill set to expire

Supply Chains

- Congress is likely to continue to focus on a variety of supply chain challenges that have plagued businesses and worsened inflation – with several outstanding concerns:
 - Ongoing labor negotiations affecting freight rail and West Coast ports
 - Record low Mississippi River levels
- Expect continued focus on both onshoring and “friend-shoring”

COVID-19 and Public Health Response

- Republicans will conduct oversight into the Administration's past, current and future efforts to address COVID-19
 - Investigations into the origins of the virus, U.S. funding of research, agency public health guidance, and regulatory approval (or stalled approval) of treatments are all on the table
- Pandemic and All Hazards Preparedness Act (PAHPA) is up for reauthorization and will give Congress the opportunity to update Federal Government programs to better respond to future pandemics
- The COVID-19 Public Health Emergency (PHE) Declaration is set to expire January 11, 2023

Mental Health / Opioids

- Several provisions of the SUPPORT Act – the 2018 law to provide a comprehensive approach to address the opioid crisis – are up for reauthorization in 2023
 - Mental health and recovery advocates are pushing for action on several related items during the upcoming Lame Duck as part of a large bipartisan mental health package, although the outlook remains uncertain
 - SUPPORT reauthorization will be another opportunity for Congress to address the opioid crisis and substance use disorders
 - The House GOP Healthy Futures Task Force proposals support reauthorization of the SUPPORT Act
 - Republicans will continue to tie the fentanyl crisis to border security and will also seek to permanently schedule fentanyl-related substances (*HALT Fentanyl Act*)

Health Care

House GOP Healthy Futures Task Force Proposals

- Increase access to innovative treatments, i.e. Right to Try
- Focus on protecting the medical supply chain, supporting American-made medicines
- Health care price transparency, payment reform, increased competition
- Lower Costs, More Cures Act, which seeks to lower drug costs as an alternative to drug pricing provisions contained in the Inflation Reduction Act

Oversight of Implementation of IRA Health Care Provisions

- CMS authority to negotiate Medicare Part D prescription drug prices
- Premium Tax Credits for Health Insurance Marketplace Consumers
- \$35 monthly cap on out-of-pocket spending on insulin for Medicare beneficiaries

Entitlement Reform?

- Several Republicans, while campaigning, called for entitlement reform – a politically difficult but longtime GOP goal
- House Budget and Ways and Means Committee Republicans have indicated there may be hearings on the topic in the 118th Congress and many believe it could be part of the upcoming debt limit negotiations

Health Care “Extenders”

- Annual list of expiring authorizations for public health, Medicare, and Medicaid programs that Congress typically addresses in an end of (fiscal or calendar) year package

Privacy

- Bipartisan, bicameral negotiations yielded more progress on privacy than in any recent Congress, but the American Data Privacy and Protection Act (ADPPA) is unlikely to get across the finish line by the end of the year
 - The ADPPA reflects broad bipartisan agreement, including on two longstanding sticking points: federal pre-emption (a “must have” for Republicans) and a private right of action for consumers (a “must have” for Democrats)
 - Despite being reported out of the House Energy and Commerce Committee by a vote of 53-2 – and with the support of Chairman Pallone (D-NJ) and Ranking Member McMorris Rodgers (R-WA) – the bill has stalled out
 - Some California Democrats (including Speaker Pelosi) feel the bill is not as protective as their state’s law, and Senate Commerce Committee Chair Cantwell (D-WA) believes the bill’s enforcement provisions are too weak
 - Incoming Energy and Commerce Committee Chair McMorris Rodgers included a federal privacy standard as a key pillar in a package of bills to hold Big Tech accountable – will Republicans use the ADPPA as their privacy starting point next year?
 - And what is the Senate outlook, with Sen. Cruz (R-TX) replacing Sen. Wicker (R-MS) as the top Republican on Commerce?
- Separately, in August, the Federal Trade Commission (FTC) kicked off the process to craft a privacy rulemaking to further regulate the use of consumer data – an approach Congressional Republicans are unlikely to support
- In the absence of a comprehensive bill this year, could we see action on children’s privacy legislation in the Lame Duck?
 - Two bipartisan bills that have advanced out of the Senate Commerce Committee could be in the mix:
 - The Kids Online Safety Act (KOSA), which would require social media platforms to provide minors (up to 16) with stronger data protections and offer additional parental controls (Blumenthal (D-CT) / Blackburn (R-TN))
 - COPPA 2.0, which would ban targeted ads for kids and teens and change COPPA’s “actual knowledge” standard to “constructive knowledge” (Markey (D-MA) / Cassidy (R-LA))

Targeting Big Tech

- Legislators on both sides of the aisle – and President Biden – have called for reforms to Section 230 of the Communications Decency Act, which provides immunity to online platforms that host user-generated content
 - In the current Congress, there are more than two dozen bills aimed at Section 230 reform – so far, none has garnered enough support for passage
 - Legislation runs the gamut, from proposals targeting specific types of harm – e.g., the EARN IT Act, designed to combat child sexual abuse material and the See Something, Say Something Act to stop the illicit sale of opioids – to broader proposals, such as the PACT Act, focused on increased platform transparency and accountability
 - And Section 230 reform is a top priority for Republicans as they seek to address perceived political censorship and bias in Big Tech – although Republicans have suggested they would maintain liability protections for small businesses
 - Further clouding the legislative outlook, the Supreme Court is scheduled to rule next year on two cases related to Section 230 and content moderation
- The American Innovation and Choice Online Act – comprehensive antitrust legislation championed by Sens. Klobuchar (D-MN) and Grassley (R-IA) – has advanced through both the House and Senate Judiciary Committees, but faces an uphill battle for enactment before the end of the year, despite an expected push from the White House
 - The bill would prohibit Big Tech platforms from favoring their own products and services
 - AICOA's outlook in the 118th is even murkier given opposition from House Republican leadership
- Congress could pass a less ambitious antitrust bill yet this year, with momentum following September's House passage of legislation combining the Merger Filing Fee Modernization Act and the State Antitrust Enforcement Venue Act
 - Both bills also have strong bipartisan support in the Senate

Consumer Protection

- On the anti-counterfeiting front – but still targeting Big Tech – the INFORM Consumers Act is likely to hitch a ride on the FY23 National Defense Authorization Act during the lame duck
 - The bill would direct online retail marketplaces that include third-party sellers of consumer products to verify the identity of “high-volume third-party sellers,” with the intent to deter the online sale of counterfeit goods
 - The outlook for a separate online anti-counterfeiting measure – the SHOP SAFE Act – is less certain
- Looking ahead, watch for potential action on “right to repair” legislation given some bipartisan support as well as increasing activity at the state level

FTC Issues

- Expect Congressional Republicans to conduct vigorous oversight over the FTC, on issues ranging from rulemaking to the use of unpaid consultants
- And will the Senate confirm a replacement for Republican Commissioner Noah Phillips who stepped down from his position in October?
 - A replacement would be nominated by President Biden, who would – following tradition – defer to Republican Leader McConnell on the GOP nomination

Funding Initiatives

- Key agencies will remain focused in 2023 and beyond on implementation of historic spending programs enacted over the past year – with Congressional Republicans certain to exercise oversight over the process
 - The IJA included approximately \$65 billion in broadband funding, focused on increasing accessibility and affordability nationwide
 - NTIA's new Office of Internet Connectivity and Growth is administering approximately \$48 billion across six programs – anchored by the BEAD Program – with the remaining funding overseen by the Federal Communications Commission (FCC) and the Department of Agriculture's Rural Utilities Service
 - One area of potential legislation for Congressional Republicans is broadband permitting reform
 - Already, the Department of Commerce has established a CHIPS Program Office to oversee implementation of the \$52 billion in semiconductor manufacturing and R&D incentives in the CHIPS & Science Act
 - Initial grants are expected to go out the door early next year
 - And NTIA will soon move forward on implementing the Wireless Supply Chain Innovation Fund established in 2021, now that it has received \$1.5B in funding included in the CHIPS law

FCC Outlook

- FCC oversight will be a top priority for Congressional Republicans, concerned with agency implementation of the Affordable Connectivity Program and the Broadband Data Collection, and overreach on issues like Broadband Labels
- And will Senate Democrats confirm Gigi Sohn to the FCC during the Lame Duck? Or, if they retain control, for any Democratic nominee in 2023?

Financial Services Agenda

- Incoming House Financial Services Committee Chair McHenry (R-NC) has outlined four areas of focus for his agenda
 - Capital formation, particularly for small businesses
 - Cryptocurrency regulation
 - Earlier this year, McHenry and now Chair Waters (D-CA) developed compromise stablecoin legislation, but never moved a final agreement to the floor
 - Watch for jurisdictional battles with the Agriculture Committees
 - Data privacy standards for regulated financial entities (Gramm-Leach-Bliley Act reform)
 - Look for coordination with Energy and Commerce on its comprehensive privacy legislation
 - Vigorous oversight, including over the Securities and Exchange Commission, the Commodity Future Trading Commission and the Consumer Financial Protection Bureau – and the President’s recent executive action on student loan forgiveness
 - Oversight of the financial *industry* is also likely – e.g., scrutiny of banks’ climate and fossil fuel policies
- Will a Lame Duck extension of the National Flood Insurance Program give policymakers time to consider programmatic reforms and move a full five-year reauthorization in the next Congress (the last five year bill was enacted in 2012)?
- Is there room for bipartisan compromise on affordable housing, particularly in light of skyrocketing housing costs?
- Expect close scrutiny of the Fed’s interest rate increases as it works to tamp down inflation – already, some key Democrats including Senate Banking Chair Brown (D-OH) and Financial Services Chair Waters have urged caution
- And with Sen. Scott (R-SC) taking over as the top Republican on the Banking Committee next year, watch for an emphasis on his “Opportunity Agenda”

Farm Bill

- The 5-year Farm Bill authorization – the most recent of which is set to expire next September – is typically a bipartisan effort to update farm commodity support programs
- Both the House and Senate Agriculture Committees have begun laying the groundwork for reauthorization for months through hearings and direct requests for input
 - Updating the Conservation Reserve Program (CRP) is getting attention from Members and advocates for reform
- House and Senate GOP Committee leaders are concerned about the Administration’s climate funding for ag-related programs, calling it “misplaced priorities,” and may seek to limit funding through the Farm Bill

Immigration

- Republicans made border security one of their top issues for midterms and are expected to maintain a hardline on preventing immigration reforms that grant “amnesty” to those in the US illegally
- However, there remains bipartisan interest in address undocumented agricultural workers (H-2A Visas)
 - H.R. 1603, the Farm Workforce Modernization Act, passed the House in March 2022 but has languished in the Senate

Cryptocurrency

- Rep. GT Thompson (R-PA), expected Chairman of the House Ag Committee, introduced the Digital Commodity Exchange Act to attempt to fill gaps between the CFTC and SEC regulations of the digital asset marketplace
- Senate Committee leaders Stabenow (D-MI) and Boozman (R-AR) have a bipartisan bill that would give CFTC authority
- Sens. Gillibrand (D-NY) and Lummis (R-WY), proposed the Responsible Financial Innovation Act, which would create legal definitions of digital assets and virtual currencies

Lame Duck Potential

- Passage of a bipartisan, comprehensive retirement security bill is a distinct possibility during the Lame Duck
 - “SECURE 2.0” is seen as a follow-on to the original SECURE Act (passed in 2019) and comprises three separate retirement bills
 - H.R. 2954, the Securing a Strong Retirement Act (passed the House by a vote of 414-5)
 - S. 4808, the Enhancing American Retirement Now (EARN) Act (approved by Senate Finance)
 - S. 4953, the Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act (approved by Senate HELP)
 - The final package – still being negotiated – would encourage more Americans to save for retirement and provide more flexibility for current savers
- Also possible is passage of the Pregnant Workers Fairness Act, which has strong bipartisan, bicameral support
 - The bill would require private-sector employers with 15 or more workers to make reasonable accommodations for pregnant employees
- Meanwhile, labor-friendly legislation such as the PRO Act is unlikely to move in the Lame Duck – and will be a non-starter next year with Republicans controlling the House
- And will Congress need to step in to help avert a rail strike?

Workforce Development

- As employers continue to grapple with labor shortages, Congress may act to further develop the talent pipeline, particularly for manufacturing and technical careers
 - In the current Congress, House Democrats passed legislation to reauthorize the Workforce Innovation and Opportunity Act (WIOA) – but the proposal attracted little Republican support
 - While the GOP will likely work to advanced a WIOA authorization next year, look for them to prioritize employers’ needs
 - During the Education and Labor Committee markup, Rep. Stefanik (R-NY) tried to incorporate her Validate Prior Learning to Accelerate Employment Act (to accelerate jobseekers’ return to and advancement in the workforce) and the Employer-Directed Skills Act (to better equip workers for “in-demand” jobs)
 - More generally, House Republicans have pledged to promote career and technical education to address the skills gap
 - Sen. Cotton (R-AR) has proposed the American Workforce Act to overhaul workforce education and support alternatives to college education
 - And a host of bipartisan proposals are out there, including:
 - The Gateway to Careers Act – introduced by Sens. Hassan (D-NH), Young (R-IN), Collins (R-ME) and Kaine (D-VA) – would provide grants to support partnerships between community or technical colleges and workforce development partners such as state workforce development boards, industry associations, and community-based organizations
 - The bipartisan, bicameral Jumpstart Our Businesses By Supporting Students (JOBS) Act – led by Sens. Portman (R-OH) and Kaine (D-OH) – would make high-quality, shorter-term education and training programs eligible for federal Pell Grants

Looking Ahead: Key Questions

- How will leaders in both chambers deal with narrow margins?
- How will the 2024 election dynamics affect policy making decisions over the next two years?
- Do midterms results validate a Biden reelection campaign?
- Looking ahead to 2024, is Governor Ron DeSantis (R-FL) emboldened by his double-digit victory?
- How effective and consequential is polling going forward?
- Did midterm results signal a rejection of extreme policy platforms on both sides – are voters looking for more moderate candidates?
- The Democratic strategy of “playing” in GOP primaries appeared to pay off – will we see more engagement in primaries?
- Will a Republican House portend gridlock for a Biden agenda? Or will dealmakers emerge?
- Do Congressional Republicans return to traditional GOP positions on fiscal restraint and international trade?

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