

BGR | GROUP

Quarterly Outlook, September 2022

BGR Group

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

Overview

After a lengthy end-of-summer break, Congress is returning to Washington for the last few weeks of legislating before the first midterm elections of President Biden's tenure. Predictions of a Republican wave in November have been receding recently as Democrats scored several key victories in late summer.

Passage of the Inflation Reduction Act, the CHIPS and Science Act, and an announcement from the Biden administration regarding student loan debt forgiveness have buoyed Democratic spirits. It remains to be seen if these accomplishments are enough to buck the historic trend of the party of Presidents losing seats in Congress after their first two years in office. Inflation remains a challenge for Americans and more than 70 percent of Americans believe the country is on the "wrong track" [according to the RealClear-Politics poll average](#). President Biden and Democrats continue to make the case that Republicans, led by former President Trump, cannot be trusted with power. Republicans, meanwhile, argue that complete Democratic control of government has driven up costs for American families. Given the historically narrow majorities held by Democrats and the extreme polarization of the American electorate, the 2022 midterm elections could defy all traditional election logic. Whatever the outcome in early November, there will still be work to do in Washington and in the states to address critical issues, which will have to be done after a great deal of turnover. Here's a look ahead to the midterms and the remainder of the policy agenda before Congress and the states.

KEY DATES

- **September 30:**
 - Funding for Federal Government expires
 - National Flood Insurance Program Authorization expires
 - Temporary Assistance for Needy Families (TANF) and the Child Care Entitlement to States expire
 - Food and Drug Administration User Fee Programs expire:
 - Prescription Drug User Fee Act (PDUFA VI)
 - Biosimilar User Fee Amendments (BsUFA II)
 - Generic Drug User Fee Amendments (GDUFA)
 - Medical Device User Fee Amendments (MDUFA IV)
 - FAA Reauthorization Act of 2018 expires
 - The PEPFAR Extension Act of 2018 expires
 - The Water Resources Development Act (WRDA) of 2020 expires
 - FCC Spectrum Auction Authority expires
- **November 8**
 - Midterm elections



Historic Midterm Trends

Composition of the 117th Congress

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

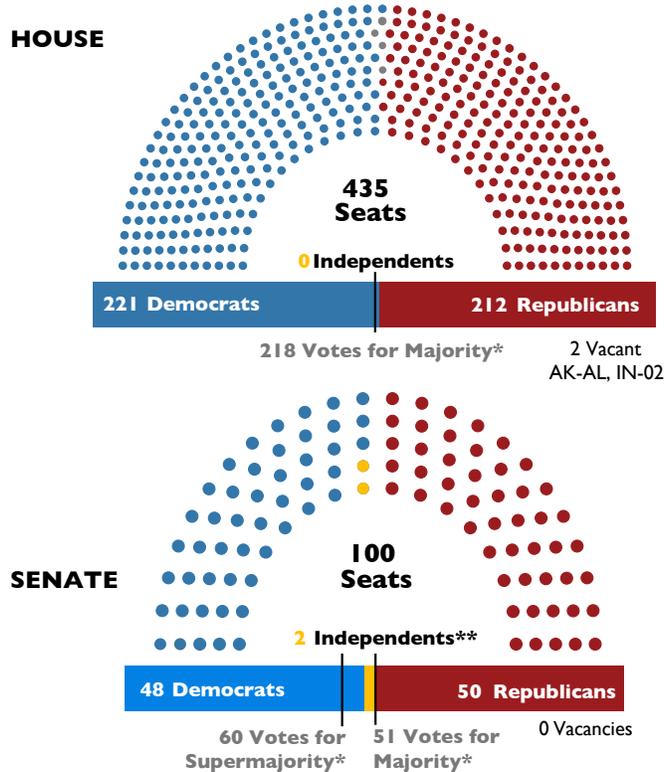
Appropriations

Defense

International

Public Relations

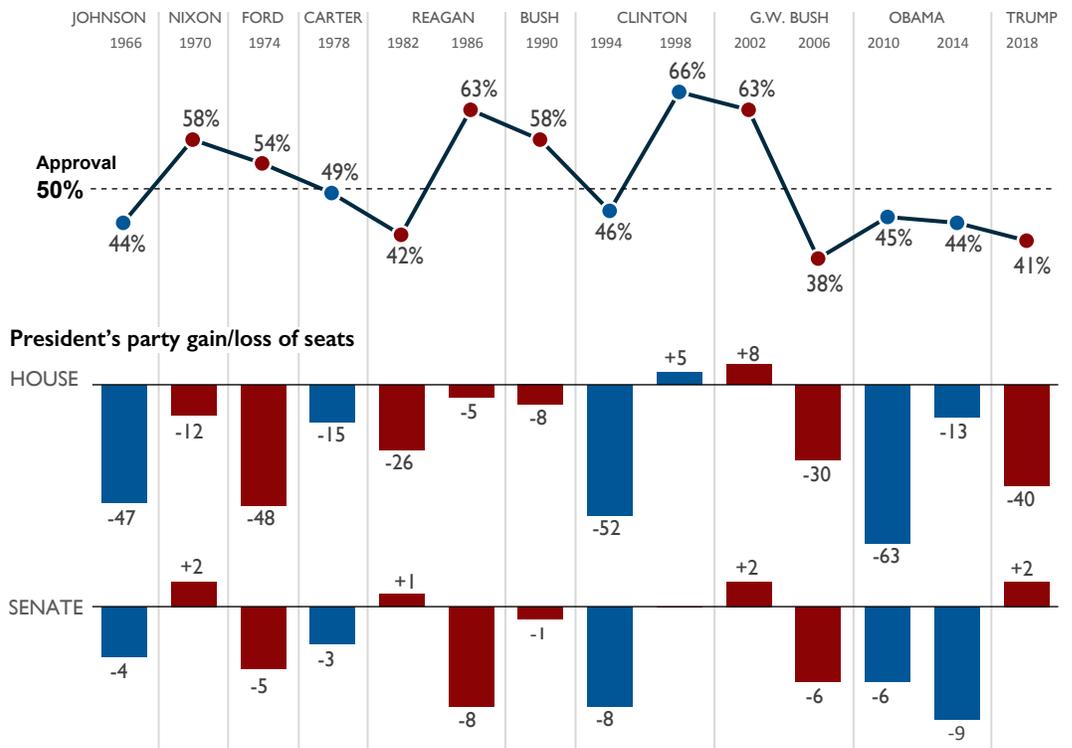
Contact Us



President's Party Usually Loses Seats in Midterms

Gallup presidential approval the week before the midterm

■ Democrat ■ Republican



Click on the subjects below to view:

Polling Snapshot

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

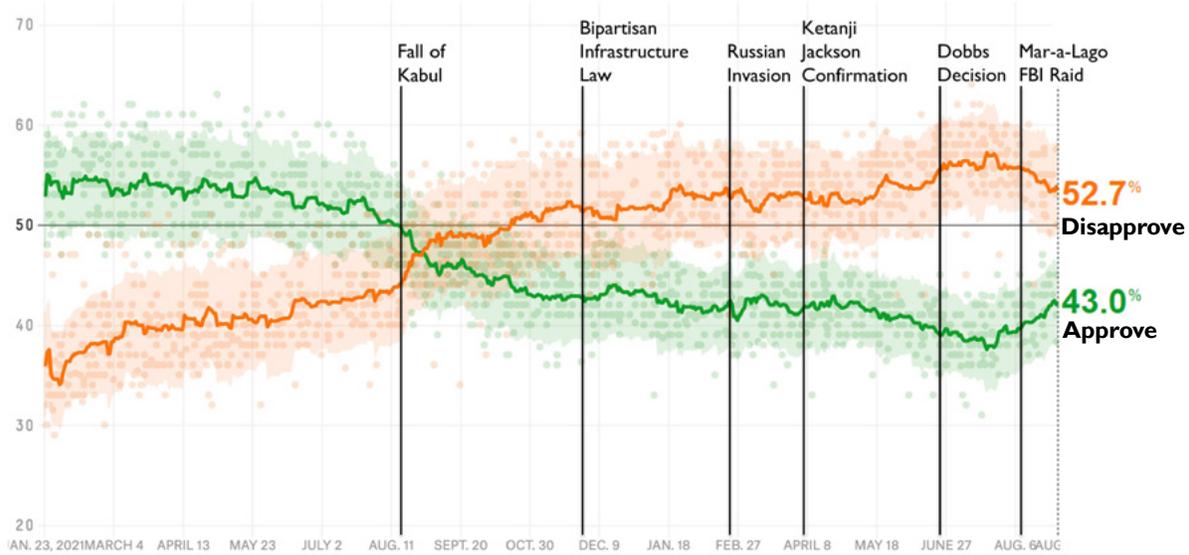
Defense

International

Public Relations

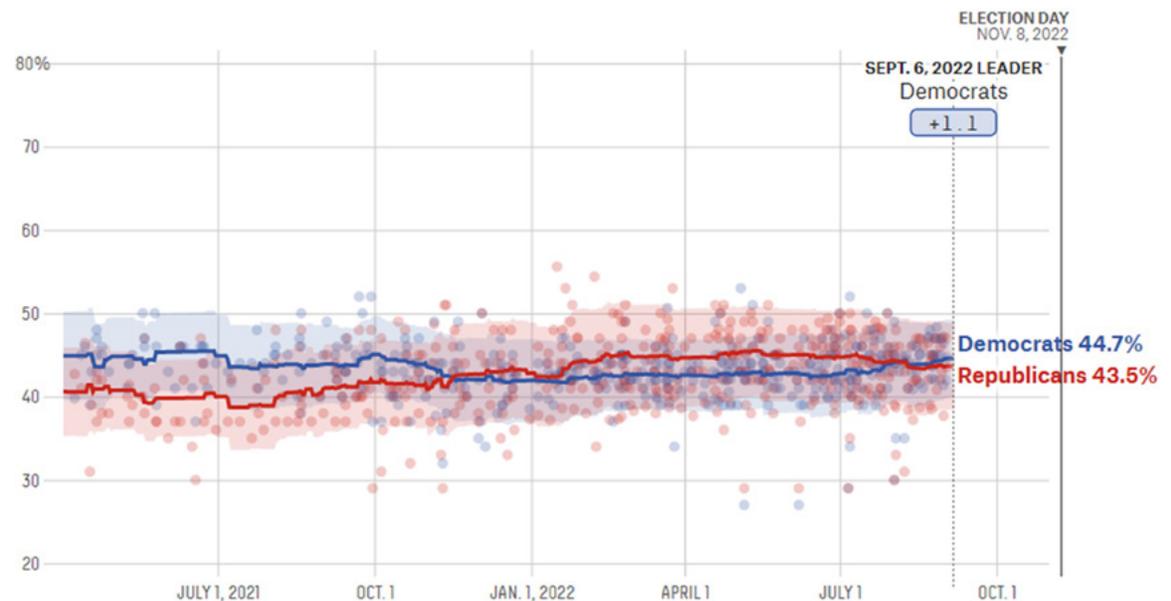
Contact Us

Presidential Approval Rating



SOURCE FiveThirtyEight Avg.: As of 08/31/22

Generic Congressional Ballot



SOURCE FiveThirtyEight Avg.: As of 08/31/22

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

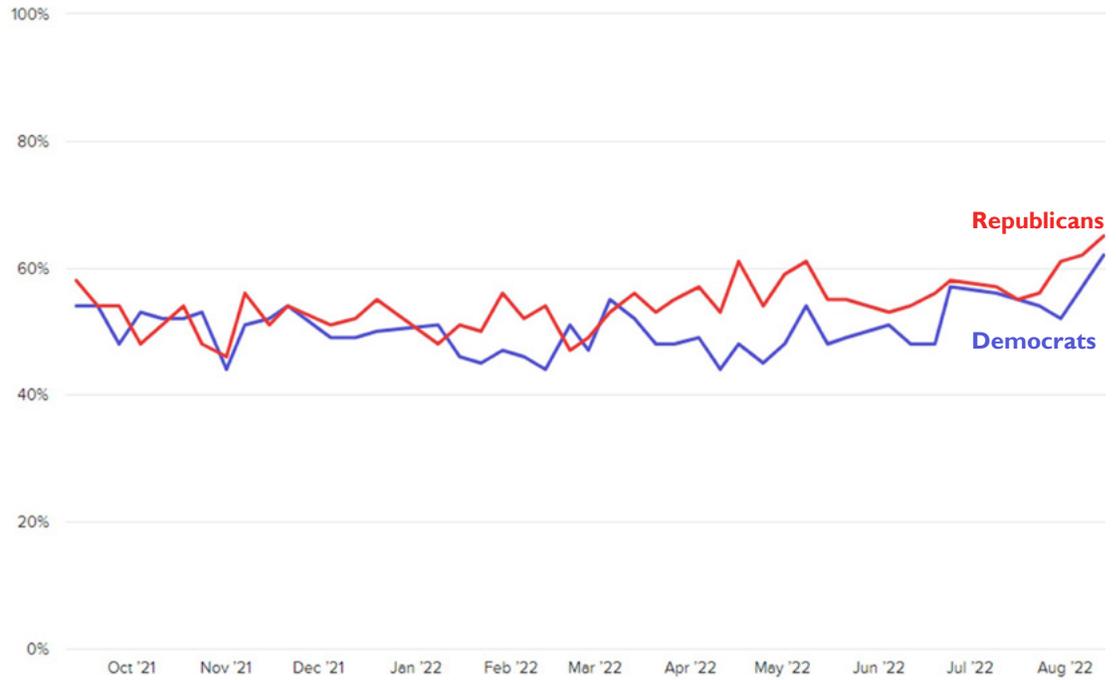
Contact Us

Polling Snapshot

Enthusiasm Gap

Republican-leaning voters are much more enthused about the election than Democratic-leaning ones but Democratic voters have caught up recently.

Share of voters who said they were “**extremely**” or “**very**” enthusiastic about voting in the 2022 midterms



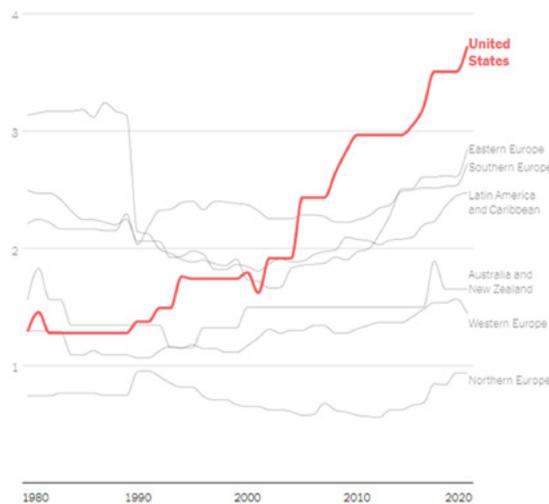
SOURCE Morning Consult Avg.: As of 08/31/22

MORNING CONSULT | POLITICO

Political Polarization

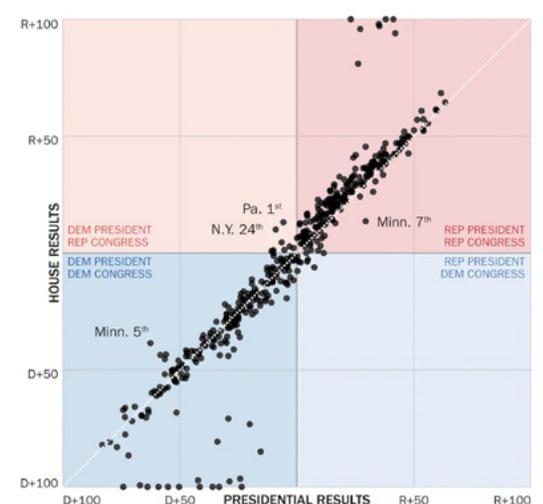
Polarization in the United States is at the highest it has ever been and ticket-splitting (voting for different parties on the same ballot) is declining.

Political polarization rating



SOURCE Varieties of Democracy Institute | New York Times

House and presidential results in House districts



SOURCE The Washington Post

Note: Polarization ratings are aggregated among countries by region, with not all regions shown. A rating of 0 indicates that opposing political groups tend to interact in a friendly manner, ranging to a rating of 4 that indicates that they tend to be hostile.

Click on the subjects below to view:

Top 10 House Races to Watch

[Click Here To Learn More](#)

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Yesli Vega
Republican



Lori Chavez-DeRemer
Republican



Tom Barrett
Republican



Cassy Garcia
Republican



Mayra Flores
Republican – Incumbent



David Valadao
Republican – Incumbent



Bruce Poliquin
Republican



April Becker
Republican



Anna Paulina Luna
Republican



J.R. Majewski
Republican

VIRGINIA'S 7TH

Northern Virginia

2020 Results: Biden 52.4 – Trump 45.7

OREGON'S 5TH

Portland suburbs, Bend

2020 Results: Biden 52.8 – Trump 44.0

MICHIGAN'S 7TH

Lansing

2020 Results: Biden 49.6 – Trump 48.7

TEXAS' 28TH

Rio Grande Valley, San Antonio suburbs

2020 Results: Biden 52.8 – Trump 45.8

TEXAS' 34TH

Rio Grande Valley

2020 Results: Biden 57.2 – Trump 41.7

CALIFORNIA'S 22ND

Central Valley, Bakersfield

2020 Results: Biden 55.2 – Trump 42.4

MAINE'S 2ND

Northern Maine

2020 Results: Trump 51.6 – Biden 45.5

NEVADA'S 3RD

Las Vegas suburbs

2020 Results: Biden 52.4 – Trump 45.7

FLORIDA'S 13TH

Tampa Bay, Clearwater

2020 Results: Trump 52.7 – Biden 46.0

OHIO'S 9TH

Toledo

2020 Results: Trump 50.6 – Biden 47.7

[See more analysis on next page](#)



Abigail Spanberger
Democrat – Incumbent



Jamie McLeod-Skinner
Democrat



Elissa Slotkin
Democrat – Incumbent



Henry Cuellar
Democrat – Incumbent



Vicente Gonzalez
Democrat – Incumbent



Rudy Salas
Democrat



Jared Golden
Democrat – Incumbent



Susie Lee
Democrat – Incumbent



Eric Lynn
Democrat



Marcy Kaptur
Democrat – Incumbent

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

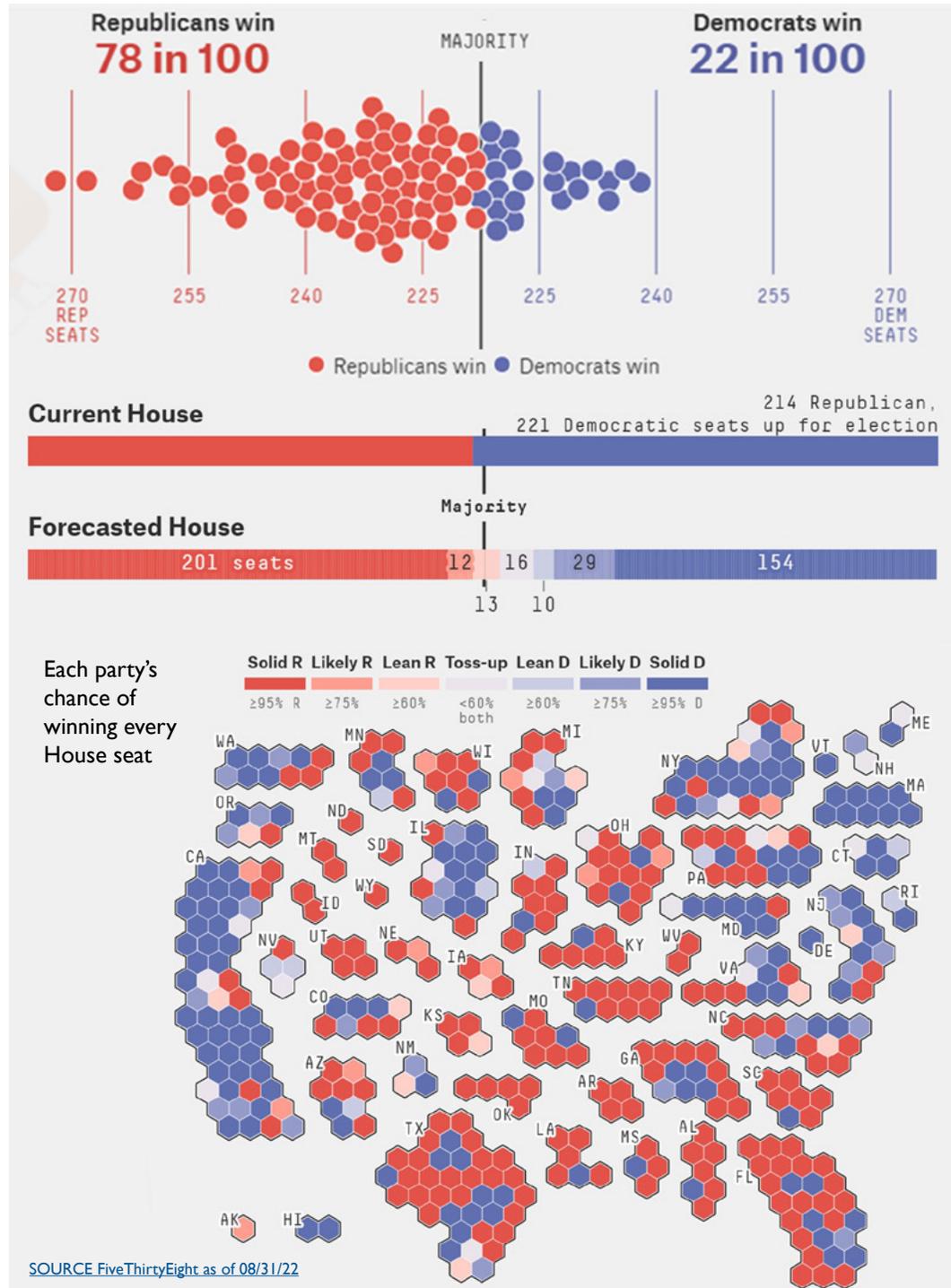
Contact Us

FiveThirtyEight House Model

FiveThirtyEight's model runs scenarios as to what the outcome of the election could be and makes predictions based on that.

Republicans are *favored* to win the House

The Deluxe version of our model simulates the election 40,000 time to see which party wins the House most often. This sample of 100 outcomes gives you an idea of the range of scenarios the model considers possible



Click on the subjects below to view:

Top 10 Senate Races to Watch

[Click Here To Learn More](#)

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Blake Masters
Republican



Herschel Walker
Republican



Adam Laxalt
Republican



Mehmet Oz
Republican



Marco Rubio
Republican – Incumbent



Donald Bolduc
Republican – Leading the primary



Ted Budd
Republican



J.D. Vance
Republican



Ron Johnson
Republican – Incumbent



Joe O'Dea
Republican

ARIZONA

Super Competitive

2020 Results: Biden 49.36 – Trump 49.06



Mark Kelly
Democrat – Incumbent

GEORGIA

Super Competitive

2020 Results: Biden 49.47 – Trump 49.24



Raphael Warnock
Democrat – Incumbent

NEVADA

Super Competitive

2020 Results: Biden 50.06 – Trump 47.67



Catherine Cortez Masto
Democrat – Incumbent

PENNSYLVANIA

Super Competitive - OPEN

2020 Results: Biden 50.01 – Trump 48.84



John Fetterman
Democrat

FLORIDA

Competitive

2020 Results: Trump 51.22 – Biden 47.86



Val Demings
Democrat

NEW HAMPSHIRE

Competitive

2020 Results: Biden 52.71 – Trump 45.36



Maggie Hassan
Democrat – Incumbent

NORTH CAROLINA

Competitive - OPEN

2020 Results: Trump 49.93 – Biden 48.59



Cheri Beasley
Democrat

OHIO

Competitive - OPEN

2020 Results: Trump 53.27 – Biden 45.24



Tim Ryan
Democrat

WISCONSIN

Competitive

2020 Results: Biden 49.45 – Trump 48.82



Mandela Barnes
Democrat

COLORADO

Sleeper

2020 Results: Biden 55.40 – Trump 41.90



Michael Bennet
Democrat – Incumbent

[See more analysis on next page](#)

FiveThirtyEight Senate Model

FiveThirtyEight's model runs scenarios as to what the outcome of the election could be and makes predictions based on that.

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

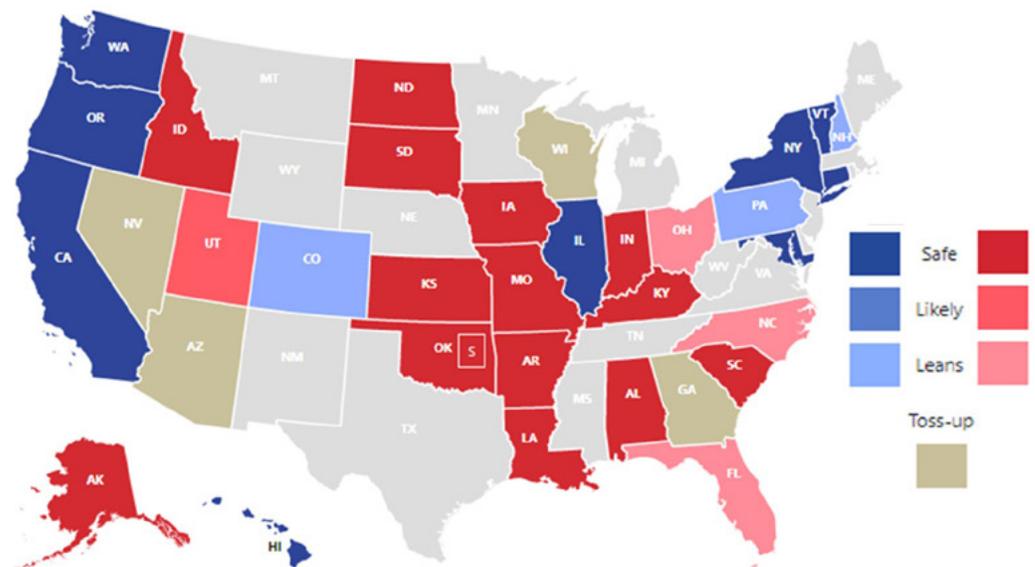
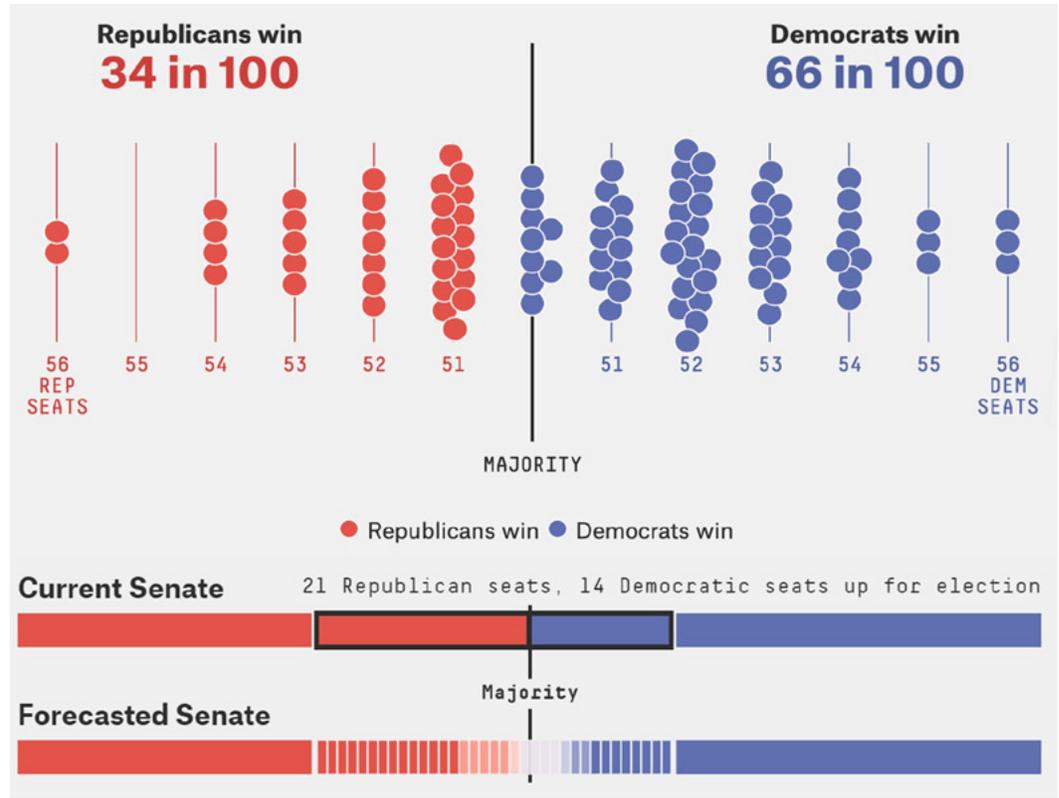
International

Public Relations

Contact Us

Democrats are *slightly favored* to win the Senate

The Deluxe version of our model simulates the election 40,000 time to see which party wins the Senate most often. This sample of 100 outcomes gives you an idea of the range of scenarios the model considers possible



SOURCE FiveThirtyEight as of 08/31/22

Click on the subjects below to view:

Top 10 Governors Races to Watch

[Click Here To Learn More](#)

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Kari Lake
Republican



Brian Kemp
Republican – Incumbent



Joe Lombardo
Republican



Doug Mastriano
Republican



Ron DeSantis
Republican – Incumbent



Tudor Dixon
Republican



Derek Schmidt
Republican



Marc Ronchetti
Republican



Tim Michels
Republican



Christine Drazan
Republican

ARIZONA

Super Competitive - OPEN

2020 Results: Biden 49.4 – Trump 49.1



Katie Hobbs
Democrat

GEORGIA

Competitive

2020 Results: Biden 49.5 – Trump 49.2



Stacey Abrams
Democrat

NEVADA

Super Competitive

2020 Results: Biden 50.1 – Trump 47.7



Steve Sisolak
Democrat – Incumbent

PENNSYLVANIA

Competitive - OPEN

2020 Results: Biden 50.0 – Trump 48.8



Josh Shapiro
Democrat

FLORIDA

Competitive

2020 Results: Trump 51.2 – Biden 47.9



Charlie Crist
Democrat

MICHIGAN

Competitive

2020 Results: Biden 50.6 – Trump 47.8



Gretchen Whitmer
Democrat – Incumbent

KANSAS

Super Competitive

2020 Results: Trump 56.2 – Biden 41.5



Laura Kelly
Democrat – Incumbent

NEW MEXICO

Competitive

2020 Results: Biden 54.3 – Trump 43.5



Michelle Lujan Grisham
Democrat – Incumbent

WISCONSIN

Super Competitive

2020 Results: Biden 49.5 – Trump 48.8



Tony Evers
Democrat – Incumbent

OREGON

Sleeper - OPEN

2020 Results: Biden 56.5 – Trump 40.4



Tina Kotek
Democrat

[See more analysis on next page](#)

Click on the subjects below to view:

Gubernatorial Races

Out of all 50 governorships, Republicans hold 28 and Democrats hold 22. 36 Gubernatorial races are up in 2022. Democrats are defending 15 of these state governorships with Republicans defending 18.

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

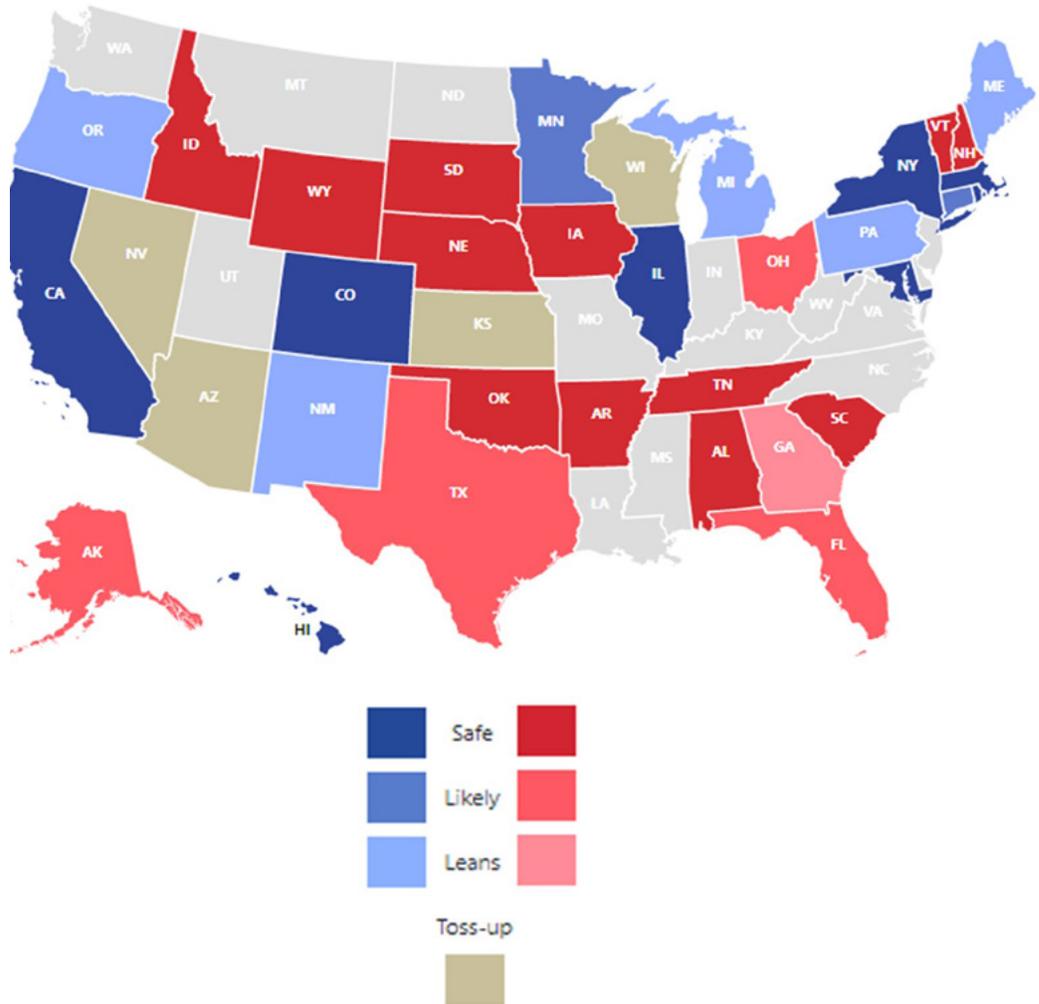
Appropriations

Defense

International

Public Relations

Contact Us



Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Bipartisan Take

WILL THE GOP BE FEELING BLUE?

Fred Turner

SENIOR VICE PRESIDENT



Times are strange. That’s not groundbreaking, but it’s an apt description of the current political climate. Past political performances no longer can be used as reliable indicators of future results. Historically, Democrats should be in for a rough November but this year could be very different.

Typically, the President’s party is at a disadvantage in midterm elections. Moreover, House Democrats have had to deal with extreme partisan gerrymandering in states where Republicans controlled the entire decennial redistricting process. Florida is the best example of this but certainly not the only one. Texas and Ohio, like Florida, were graded “F”—indicating a lack of partisan fairness—by the independent Princeton University “Redistricting Report Card.” So, through no failure of policy outcome or popular support, some incumbent Democratic House Members have been forced into districts where they will likely lose.

However, there are reasons for Democratic electoral optimism. First, according to most surveys and public opinion polls, the U.S. Supreme Court decision in *Dobbs*—overturning the generations-old constitutional protection of reproductive rights—has galvanized voters, and especially women and young people, across the political spectrum. The recent statewide vote in Kansas, a state that gave Donald Trump a nearly 15 percent margin

[Turner continued on next page](#)

DIVIDED GOVERNMENT A STRONG POSSIBILITY FOLLOWING MIDTERMS

David Urban

MANAGING DIRECTOR



The conventional wisdom regarding midterm Congressional elections is that the party of the sitting President LOSES seats. In modern history, only seven Presidents have seen their party gain seats in the House or Senate, and in only two instances has there been a gain in both the House and Senate. Despite Democrats’ best hopes for retaining control in the Congress, 2022 will be no different. Democrats’ spirits have been recently buoyed by activism regarding the SCOTUS decision on *Roe vs Wade* and subsequent defeat of a prohibition on abortions in a Kansas referendum, passage of the CHIPS and Science Act, the Inflation Reduction Act and the Biden administration’s announcement of student debt forgiveness.

However, I submit that their glee should be tempered as politics, like physics, is governed by certain laws. For every action, there is an equal and opposite reaction. For every Democrat that is motivated and inspired to vote by those recent actions, there is a Republican who is equally opposed to and equally inspired to vote by those same actions. I would highlight the 2010 midterm cycle where Democrats made the passage of the crown jewel of progressive politics, the Affordable Care Act, the center of their campaign. While historic, the achievement did nothing to blunt the pummeling Democrats took in that midterm, losing 63

[Urban continued on next page](#)

Overview

**Historic
Midterm Trends**

Polling Snapshot

House Outlook

Senate Outlook

**Governors
Outlook**

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

Turner continued

of victory over President Biden less than two years ago, is instructive and perhaps predictive. The people of Kansas recently rejected an amendment which would have permitted the state legislature to ban reproductive choices. That amendment was defeated by an 18 percent margin. Recent elections in other states have indicated a similar electoral response to the Court's overturning of Roe v. Wade. This will bring Democrats and like-minded voters to the polls in numbers that are atypical for a midterm election and that will, perhaps obviously, disproportionately benefit Democrats up and down the ballot.

Second, Democrats have scored recent significant policy wins in line with American voter preferences. President Biden and Congressional Democrats have achieved a decades-long quest to upgrade our nation's crumbling infrastructure. They have made a commitment to today's citizens and the generations to come by passing the most significant legislation to improve and preserve our shared air, land, and water resources and make the United States again a leader in global competitiveness and environmental protection. Additionally, President Biden has helped lift the financial burden for those Americans saddled by educational debt, which is long overdue. Americans across the political spectrum know that these policies will benefit them today and in the years to come.

Finally, political races are not held in a vacuum. It's not simply Democrats versus Republicans. Candidates matter, especially in Senate races. In this regard, Democrats are in a far stronger position than Republicans according to several independent observers. Senate Republican Leader Mitch McConnell himself has alluded to this factor in recent remarks. In multiple states across the country, Democrats feel that their candidates align more closely with the typical American voter than the GOP alternatives. Party leaders believe that these combined factors will lead to surprising political success in November. Will the long-predicted Republican tidal wave materialize? We shall see.

Urban continued

House seats and 6 Senate seats.

President Biden's approval ratings have recently taken a slight upward tick from his all-time historic lows, but they still hover around 40 percent. To further highlight how unhappy Americans are with inflation, gas prices, crime and open borders, NBC released a poll on August 21st that noted 74 percent of Americans believed the country was on the "wrong track." That number mirrors many other polls which had similar numbers. What should be very concerning for Democrats about that particular NBC poll was that never in the history of NBC polling had that number been so bad for so long - nearly one year at this point.

Because of the individual politics underlying House races, I don't think even the most optimistic Democrats believe in their hearts that Speaker McCarthy will not be a reality. That being said, the size of the Republican majority in the House will matter. If Republicans fail to have big gains in the House in the fall (say 20 or so seats), McCarthy will be criticized by the more conservative Members of his party as failing and have a tougher time leading a thinner majority as Speaker.

The Senate gives Democrats more reason to be optimistic. While the Republican primary cycle largely avoided a slate of Senate candidates that had zero chance of winning in the fall a la 2010, Mitch McConnell lamented "candidate quality" this cycle as the McConnell-connected Senate Leadership Fund poured tens of millions of dollars into battleground states like Arizona, Ohio, Georgia and Pennsylvania.

According to FiveThirtyEight, Democrats are "slightly favored" (read: toss-up) to win the Senate, with its extensive modeling tipping to Democrats holding on average 50.5 seats, noting there is 80 percent likelihood the Senate will comprise a range of anywhere between 53 Republicans to 54 Democrats (again, a toss-up). So as we head into 2023 and a Presidential election year in 2024, it's likely America will have a divided government once again.

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



State Advocacy

STATES TAKING ON BIG PICTURE POLICY DEBATES

Recent decisions by the U.S. Supreme Court have put a renewed focus on federalism by returning key policy decisions across a range of issues, including abortion, energy, and voting rights, to the states. As a result, the stakes in this November’s midterm elections are even higher, particularly when considering they are likely to usher in divided government – and further gridlock – in Washington.

Starting at the top, 36 governors’ races are on the ballot in November. Not as high profile, however, are down-ballot races, where 85 percent of state legislative seats across 88 of the country’s 99 state legislative chambers are up for election. Of the 46 states with legislative elections in 2022, 28 are controlled by Republicans, 16 by Democrats, and two are split. Only four states do not have any legislative elections this year: Louisiana, Mississippi, New Jersey, and Virginia. State legislative races to watch will be in Arizona, Colorado, Michigan, Minnesota, Nevada, New Hampshire, Oregon and Pennsylvania.

How these elections pan out will directly impact policy making in states. On fiscal matters, states are already moving through their budget processes and trying to determine how to continue spending unexpected revenue windfalls from high tax collections and a series of federal stimulus bills – first the CARES Act, then American Rescue Plan, then Infrastructure Investment and Jobs Act, and more recently the Inflation Reduction Act. When combined, these measures represent more than \$6 trillion in federal spending. Unlike pre-pandemic fiscal years, no states reported making net mid-year budget cuts due to a revenue shortfall in fiscal

“The policy directions on many high-profile issues are increasingly diverging based on the legislative majorities in red and blue states.”



Keiffer Mitchell

VICE PRESIDENT, STATE AND LOCAL ADVOCACY

2022, while 22 states reported net mid-year spending increases.

While state legislatures have a fair amount of leeway in allocating discretionary federal dollars, the contours of these bills and related grant funding streams are driving significant investments into a range of sectors, including public transit, broadband, technology modernization, cybersecurity, electric vehicle charging infrastructure, and water infrastructure programs.

[Continued on next page](#)

Click on the subjects below to view:

Overview

**Historic
Midterm Trends**

Polling Snapshot

House Outlook

Senate Outlook

**Governors
Outlook**

Bipartisan Take

Looking beyond the dollars and cents, state legislators will address a myriad of public policy issues ranging from oversight of corporate environmental, social, and governance (ESG) efforts to potential bias in Artificial Intelligence (AI).

Additional topics include broadband deployment and adoption, Medicaid coverage, expansion of mental health services, telehealth, workforce training and retention, teacher shortages as well as online gambling expansion. The policy directions on many high-profile issues are increasingly diverging based on the legislative majorities in red and blue states. Many Republican-led state legislatures, for example, have

moved or plan to move ahead with new abortion restrictions, while Democratic-controlled states have sought to enshrine and expand protections. On big tech and social media, Republican legislators are pushing measures to prevent companies from censoring content or blocking users, while Democrats are looking to require companies to report or prevent hate speech or misinformation. Expect similar partisan policy divides during debates over gun control, greenhouse gas reductions, tax rates, election integrity, public education, and other policy issues being fought over in the nation's capital but acted upon in the states.

STATE AND LOCAL ADVOCACY PRACTICE HEAD

Loren Monroe

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Health and Life Sciences

SO LITTLE TIME (SO MUCH TO DO)...IN HEALTH CARE SPACE

The title of this article refers both to the classic song by musical legend Louis Armstrong and to what Congress has in store for the back half of this year in the health care world. With the enactment of the Inflation Reduction Act containing drug pricing reforms, Medicare benefit redesign, and ACA subsidy support, you would think now would be the time for repose. But this is not the case – there’s just too much Congress wants and needs to address in the sector.

For example, consider that prior to September 30th, Congress is going to have to extend various user fee programs of critical importance to the Food and Drug Administration (FDA). Under current law, FDA is funded, in part, by user fees paid by the regulated industry to support reviews and regulatory science advancements, which lapse every five years. 2022 happens to be one of those years. So, FDA’s ability to collect fees authorized by the Prescription Drug User Fee Act (PDUFA), the Generic Drug User Fee Act (GDUFA), the Biosimilars User Fee Act (BsUFA), and the Medical Device User Fee Act (MDUFA) (combined, these programs are referred to as the “UFAs”) is set to expire barring Congressional intervention. The House has passed its bill, and the Senate package was approved by the Senate Health, Education, Labor and Pensions (HELP) Committee earlier this summer. What’s left to do is to negotiate out the differences in the bills and to decide what can and cannot be included in a final package, which will likely be advanced with the Continuing Resolution which keeps the overall government funded before the end of the month.

[Continued on next page](#)



Click on the subjects below to view:

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

“There are several outstanding other major Congressional health priorities that could be addressed this year in addition to the FDA user fees, such as a mental health package or a pandemic preparedness package, given Committees of jurisdiction have advanced bills in these spaces.”



Dan Farmer
PRINCIPAL

There are several outstanding Congressional health priorities that could be addressed this year in addition to the FDA user fees, such as a mental health package or a pandemic preparedness package, given Committees of jurisdiction have advanced bills in these spaces. Additionally, Congress might consider what to do about telehealth long-term after greater utilization during the pandemic. And we have already seen some members and the White House pushing for funding to address rising monkeypox infections.

Most likely, these issues will have to wait until

a Congressional Lame Duck session after the election or next Congress. Physicians will be up on the Hill looking for relief from scheduled cuts in payment (just as they have the last two years), and other providers may join them there. Further, the possibility that the Biden administration might let the COVID-19 Public Health Emergency declaration lapse in January may call the question on preserving some flexibilities the executive branch had implemented through emergency authorities – like Medicare payment for telehealth and the Hospital at Home demonstration. Just so little time, and so much to do...

HEALTH AND LIFE SCIENCES PRACTICE CO-HEADS

Brent Del Monte

Remy Brim, Ph.D.

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Commerce

AUTO RIGHT-TO-REPAIR ISSUES POISED FOR BREAKTHROUGH IN NEXT CONGRESS

The cost of auto repair has been on a steep incline in the last several years, even outpacing the current levels of inflation not seen since the 1980s. Because of this, the right-to-repair movement has received significant attention in the second half of the 117th Congress, and we expect that to continue in a potentially divided government next year. It's an issue with bipartisan support that continues to gain traction.

In January, in the days leading up to the Biden administration White House Competition Council meeting, President Biden tweeted, "When you own a product, you should be able to repair it yourself. That's why I included support for the 'right to repair' in my Executive Order." Then in February, Congressman Bobby Rush (D-IL) introduced the REPAIR Act (H.R. 6570), a bill that would preserve consumer access to high-quality, affordable vehicle repair by ensuring that vehicle owners and independent repair shops have equal access to repair and maintenance tools and data as car companies and licensed dealerships. Throughout 2022, the REPAIR Act gained 12 additional cosponsors: six Republicans and six Democrats.

[Continued on next page](#)

"With more and more high-tech vehicles that can block off non-Original Equipment Manufacturers (OEM) repairers from accessing necessary vehicle information and data and other limitations to repair, such as design patents, right-to-repair is having its moment and gaining traction on Capitol Hill."



Justin Rzepka
PRACTICE CO-HEAD



Click on the subjects below to view:

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

Then in March, Senator Ted Cruz (R-TX) highlighted automotive right-to-repair while participating in a trade association roundtable. When asked about his position on access to quality affordable motor vehicle repair and ensuring that vehicle owners will be able to repair their vehicles at independent shops, he responded that he “strongly support[s] the right to repair your own vehicle, your own car, your own truck... and get whoever you want to repair it. That’s a fundamental question of individual liberty and individual property rights. But, it’s also a question of small businesses. We have so many small businesses that provide jobs and lower-cost repairs.” With Senator Cruz likely taking over the top Republican spot on the Senate Commerce Committee, expect this issue to receive attention regardless of who controls the Senate.

This is not to mention the other bipartisan, bicameral right-to-repair bills that have been introduced including H.R. 3664, the Save Money on Auto Repair Transportation (SMART) Act,

introduced by Congressman Darrell Issa (R-CA) or H.R. 6566, the Freedom to Repair Act of 2022, introduced by Congressman Mondaire Jones (D-NY), among others. Additionally, [Congresswoman Jan Schakowsky \(D-IL\)](#) sent a letter to the GAO asking for a study of right-to-repair and possible anticompetitive practices by the automotive manufacturers.

With more and more high-tech vehicles that can block off non-OEM (Original Equipment Manufacturers) repairers from accessing necessary vehicle information and data and other limitations to repair, such as design patents, right-to-repair is having its moment and gaining traction on Capitol Hill. The right to repair debate is multifaceted in terms of industry, such as agriculture equipment, technology such as cell phones and laptops, consumer vehicles, and even the McDonald’s ice cream machines, and these debates are likely to continue through the end of the year and into the 118th Congress, whichever party has control.

COMMERCE PRACTICE CO-HEADS

[Justin Rzepka](#)

[Jonathan Mantz](#)

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Financial Services

BIDEN AGENDA COULD FACE MORE OVERSIGHT IN NEXT CONGRESS

The 117th Congress has been active in the tax and financial services spaces, particularly the former, as Congress finally passed a reconciliation bill in August, the Inflation Reduction Act. It included provisions ranging from a new corporate minimum tax to a 1% excise tax on stock buybacks to hundreds of billions of dollars in tax incentives for renewable energy, an ambitious effort to combat climate change.

In addition to major tax law changes, the committees in the financial services and tax spaces have been actively working on multiple issues, including digital assets and cryptocurrency, retirement savings, privacy, payments, diversity, equity and inclusion (DEI) issues, and policy related to environmental, social and governance (ESG) issues. On the Senate side, Senate Banking has spent much of 2022 moving President Biden's financial regulatory nominees, and the financial regulators are now nearly fully staffed.

While 2022 has already been an extraordinarily active year on many fronts, we expect significant activity for the end of the year. For the balance of 2022, we anticipate action, or potential action, on a tax extenders package;

cannabis legislation that could include the SAFE Banking Act and other provisions; flood insurance reauthorization; and a retirement savings package, commonly referred to as SECURE 2.0.

On the policy front, the committees have set the stage for the 118th Congress in several areas, including digital assets and crypto. Both pro-crypto and anti-crypto conversations have increased, and market forces (and their impacts on retail investors) have accelerated the timetable for potential meaningful action in the space. From bipartisan, comprehensive Senate bills to targeted House bills that focus on stablecoins, members from both parties and both bodies have spent much of 2022 putting serious

[Continued on next page](#)



Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

“The atmosphere reminds me of when I entered Congress, with Republicans regaining control after several years in the minority. If history serves a lesson, the Republican-controlled committees leaned into a Democratic administration with a heavy oversight role in 2011 and are almost certainly going to take the same approach.”



Sean Duffy

thought and work into how best to regulate and govern an area of financial services that has seen explosive growth over the last few years. On the House side, we anticipate the House Financial Services Committee, which will likely be led by Patrick McHenry (R-NC), to take a very active role in spearheading the effort for a comprehensive digital assets package in the next Congress.

One of the biggest players in the financial services space continues to be SEC Chair Gary Gensler, as well as CFPB Director Rohit Chopra. Should the House flip to Republican control, we anticipate both Gensler and Chopra, as well as some others, will be a major focus of congressional oversight, with a particular focus on the SEC’s increased regulation by enforcement, as well as attention on ESG and climate regulations. These areas have been a growing concern amongst Congressional Republicans, and many

members in the House and Senate are telegraphing their agenda on ESG and specifically climate disclosures.

“The atmosphere reminds me of when I entered Congress, with Republicans regaining control after several years in the minority. If history serves a lesson, the Republican-controlled committees leaned into a Democratic administration with a heavy oversight role in 2011 and are almost certainly going to take the same approach,” says Sean Duffy, Co-head of BGR’s Financial Services Practice.

At the same time, though, we expect significant bipartisanship in areas like digital assets and privacy that will continue to demonstrate Congress’ ability to be both bipartisan (as in the 2021 infrastructure law) and partisan (see the IRA) at the same time, and when the policy and political needs suit both parties.

FINANCIAL SERVICES PRACTICE CO-HEADS

Sean Duffy

Andy Lewin

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Appropriations & Budget

SPENDING BILLS REMAIN UNRESOLVED, MORE BATTLES AHEAD

Congress will return to Washington after Labor Day with no appropriations bills signed into law. Only six bills passed through a consolidated measure by the House, while the Senate has not taken any formal action. The Senate only released draft versions of their 12 bills, largely due to disagreements on topline spending. The Senate also released a \$21 Billion Emergency Supplemental to address COVID and other diseases. The supplemental includes \$16 Billion for the Public Health and Social Services Emergency Fund and \$5 Billion for the Global Response.

A continuing resolution will be necessary to ensure no lapse in funding when the current fiscal year ends on September 30. Lawmakers in both parties have said they expect spending bills will be the subject of lame-duck negotiations after the midterm elections, but even then, the bills' success still depends on election outcomes and how much both parties are willing to negotiate. Senator Richard Shelby (R-AL), Ranking Member of the Senate Appropriations Committee, has even warned about the possibility of a long-term continuing resolution for the FY 23 Appropriations Bills.

The House bills include approximately \$8 billion worth of earmarks, or "community project funding," in FY 23. The fiscal year 2022 budget included a total of \$9 billion in earmarks – \$5 billion of which went to projects requested by Senators.

On September 2nd, the administration issued technical assistance for the continuing resolution that will need to be approved by the end of the month. Included in the memo was a request

“Lawmakers in both parties have said they expect spending bills will be the subject of lame-duck negotiations after the midterm elections, but even then, the bills’ success still depends on election outcomes and how much both parties are willing to negotiate.”



Bill Viney

PRINCIPAL, APPROPRIATIONS PRACTICE

for additional funding for Ukraine, COVID, [Continued on next page](#)

Click on the subjects below to view:

Overview

Monkeypox, and recovery from natural disasters. This initial continuing resolution could run through December. Any large omnibus measure assembled by the end of the year will likely include many extraneous riders as it could be the last major legislative vehicle of the 117th Congress.

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations Bill

	House Markup Amount (in billions)	Senate Bill Amount (in billions)	Passed House?
Defense	\$761.7	\$792.1	
Military Construction, Veterans Affairs, and Related Agencies	\$314.1	\$317	Yes
Labor, Health and Human Services, Education, and Related Agencies	\$242.1	\$216.1	
Transportation, Housing and Urban Development and Related Agencies	\$90.9	\$89.0	Yes
Commerce, Justice, Science, and Related Agencies	\$85.5	\$85.8	
Homeland Security	\$85.7	\$59.9	
Department of State, Foreign Operations, and Related Programs	\$64.6	\$64.6	
Energy and Water Development, and Related Agencies	\$56.3	\$57.5	Yes
Interior, Environment, and Related Agencies	\$44.8	\$42.2	Yes
Financial Services and General Government	\$29.8	\$29.5	Yes
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies	\$27.2	\$27.1	Yes
Legislative Branch	\$5.7	\$4.8	

Appropriations

[House Appropriations Bills](#)

[Senate Appropriations Bills](#)

Defense

International

Public Relations

Contact Us

APPROPRIATIONS PRACTICE HEAD
Bill Viney

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Defense & Critical Technologies

NATIONAL DEFENSE AUTHORIZATION ACT ON DECK BEFORE END OF YEAR

When Congress returns from its August recess, it will be under a time crunch to finalize the Fiscal Year (FY) 2023 National Defense Authorization Act (NDAA). While the House passed its version of the NDAA on July 14, 2022, the Senate only completed Senate Armed Services Committee action to date.

The House version of the bill authorizes \$839.3 billion – \$37 billion more than the Administration requested. The increase resulted from an amendment proposed by Reps. Jared Golden (D-ME) and Elaine Luria (D-VA) during the House Armed Services Committee (HASC) markup of the bill that increased topline spending by \$37 billion despite criticism from HASC Chair Adam Smith (D-WA), who fought to keep spending levels even with President Biden’s budget request. During debate on the House floor 631 amendments were adopted, and the final bill, as amended, passed with strong bipartisan support with a vote of 329-101.

On July 18, the Senate Armed Services Committee (SASC) filed its version of the FY23 NDAA, which authorizes \$846.9 billion – \$44.9 billion more than the Presidential Budget submission. Earlier this summer, SASC Chair

Jack Reed (D-RI) announced his intent for the Senate to consider the legislation sometime in September. The bill is expected to receive several hundred amendments to be debated on the Senate Floor. (Nearly 1,000 amendments were filed to the bill last year.) The September Senate NDAA Floor action is later than normal this year, but the measure was delayed as the Senate prioritized negotiations over the Inflation Reduction Act and the Chips and Science Act. If the Senate moves quickly to pass its version of the FY23 NDAA, this will allow time for the NDAA Conference Committee of lawmakers to reconcile the final bill for its traditional December passage by both chambers.

The final version of the FY23 NDAA is expected to reflect strong support for Ukraine, authorizing additional weapons, equipment,

[Continued on next page](#)



Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

“There is broad bipartisan support to continue investing in research, development, testing, and evaluation (RDT&E), particularly related to the Department of Defense’s 14 Critical Technology areas. This will mark the second consecutive year of large-scale investments in these areas including microelectronics, space technology, advanced materials, hypersonics, artificial intelligence/machine learning, directed energy, and more.”



Dan Greenwood
SENIOR VICE PRESIDENT

and long-term programs. The legislation will contain a number of measures and amendments focused on countering China, from increasing modernization and securing defense industrial supply chains to preventing Intellectual Property (IP) theft. There is broad bipartisan support to continue investing in research, development, testing, and evaluation (RDT&E), particularly related to the Department of Defense’s 14 Critical Technology areas. This will mark the second consecutive year of large-scale investments in these areas including microelectronics, space technology, advanced materials, hypersonics, artificial intelligence/machine learning, directed energy, and more.

As this Congress completes consideration of the FY23 NDAA, discussions are already begin-

ning around FY2024. Senator Roger Wicker is expected to take the senior Republican spot following Ranking Member Inhofe’s retirement and will place a large focus on strengthening NATO alliances and rebuilding the U.S. Navy fleet to counter China. Senator Wicker was recently quoted saying, “We need a military that can fight and win a Pacific war while still offering credible deterrence on the other side of the world. Such a capability is the surest guarantee of preventing an armed conflict with China and of denying Beijing its strategic aims.” The expected high levels of defense authorizations in the FY23 NDAA, and potentially historic levels in FY24, portend sustained long-term investment in national security.



International and Trade

A CHANGING HOUSE; A CHANGING CHINA POLICY?

A change from Democratic to Republican leadership in the November midterm elections, which many prognosticators expect, would have serious impacts on the U.S.-China relationship and the Biden administration's foreign policy more broadly. Because House Republicans believe the Biden administration has been insufficiently tough against China's economic and military aggression, they are likely to develop a strong legislative package focused on constraining China.

Though convention holds that the House has minimal foreign policy setting power, even signaling efforts by the House can impact the U.S.-China relationship, as evidenced by China's vociferous rhetoric against House Speaker Nancy Pelosi's (D-CA) recent trip to Taiwan. Expect a potential Speaker Kevin McCarthy (R-CA) to be as vocal and demonstrative on the issue as Pelosi.

Democrats' efforts to target China in the 117th Congress, culminating in the Senate-

passed USICA and the House-passed America COMPETES Act, fell apart in conference. Out of that process, Congress passed the CHIPS and Science Act on a bipartisan basis, which substantially increases incentives and funding for semiconductor manufacturing and domestic innovation but has few measures pertaining to the Chinese government or Chinese companies, as nearly all foreign policy and export control provisions were excluded from the final law.

[Continued on next page](#)

Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Overview

Historic
Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors
Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us

“With a flipped House, the Biden administration would face greater oversight of its China policies, and House Republican leaders will continue to assert themselves more in the foreign policy space, increasing the uncertainties, risks, and potential opportunities for entities maneuvering between China and the United States.”



Lester Munson
PRINCIPAL

Meanwhile, House Republicans have been wary of climate negotiations with China, warning that China trades concessions on climate for U.S. concessions on market manipulations or human rights. House Republicans have also raised concerns about the effectiveness of U.S. export controls levied against China and the tension between the Commerce Department’s mandates to promote U.S. exports and to protect U.S. national security. More stringent oversight activities are expected in this space.

As such, a Republican-controlled House Foreign Affairs Committee will more forcefully insert itself into discussions on Commerce’s Bureau of Industry and Security and the underlying Export Administration Regulations (EARs), over which the Committee has jurisdiction. Republican leadership is also expected to build off the existing China Task Force to create an oversight-focused Select Committee on China, drawing its membership from national security committees. The Select Committee would be focused on examining the Biden administration’s policies and actions on

China rather than introducing legislation.

Following the legislative blueprint of the 2020 China Task Force Report, House Republicans will also seek stronger U.S. support for Taiwan, through arms sales and closer diplomatic links (following the lead of legislation like the 117th Congress’s “Taiwan Policy Act”). Expect investigative hearings on the origins of the COVID-19 pandemic and legislative efforts that increase sanctions on Chinese officials and oversight of U.S. companies operating in China, though many of these priorities are contingent on Senate support. Additionally, expect Republicans to seek tougher policies on intellectual property rights and personal data theft risks from Chinese entities, including through disclosure requirements or export controls. With a flipped House, the Biden administration would face greater oversight of its China policies, and House Republican leaders will continue to assert themselves more in the foreign policy space, increasing the uncertainties, risks, and potential opportunities for entities maneuvering between China and the United States.

INTERNATIONAL AND TRADE PRACTICE CO-HEADS

Walker Roberts

Maya Seiden

Overview

Historic Midterm Trends

Polling Snapshot

House Outlook

Senate Outlook

Governors Outlook

Bipartisan Take

State Advocacy

Health

Commerce

Financial Services

Appropriations

Defense

International

Public Relations

Contact Us



Public Relations

LEGISLATIVE LULL CREATES OPPORTUNITY FOR CONTINUED EDUCATION CAMPAIGNS

After a burst of legislative activity at the end of the summer, Washington has switched mostly into political mode ahead of the midterm elections. But now isn't the time to suspend advocacy activities. In fact, it is an opportunity to redouble efforts and invest in educating lawmakers, staff, and administration officials about key issues. Consistent, strategic messaging today will lay the groundwork for legislative or regulatory action down the road.

As Senator Joe Manchin (D-WV) proved, what was once considered dead can quickly be revived and what was once considered a fait accompli can disappear at least temporarily. But Washington is a process town. Laws or regulations have to start somewhere. Being there at the beginning and remaining vigilant are the best ways to celebrate at the end.

Now is also a time to align legislative and public advocacy efforts. A simple, clear message that can be repeated by lobbyists and communicators is required. Know your objective, know your goal, and work back from there. Combining communications and lobbying means identifying targets, as well as amplifiers, and building a campaign around them.

Frequency and persistence are vital. It takes time - months or years - to ensure that the key points of a public policy campaign break through and become second nature to the policymakers who will ultimately weigh in, for or against a preferred outcome.

“Frequency and persistence are vital. It takes time - months or years - to ensure that the key points of a public policy campaign break through and become second nature to the policymakers who will ultimately weigh in, for or against a preferred outcome.”



Jo Maney
PRINCIPAL

Targeted social media and digital advertising campaigns are popular and effective tools. But old fashioned outreach still matters. Reporters and lawmakers need to hear from your team on a consistent basis. Identifying third party validators and sharing their voices of support are also essential. Less busy legislative periods like the one upcoming are good times to do foundational work.

Electoral politics might be distracting at the moment, but sustained public policy campaigns should continue to progress.

PUBLIC RELATIONS PRACTICE HEAD

[Jeffrey H. Birnbaum](#)

BGR | GROUP

CONTACT US

**601 13TH ST. NW
WASHINGTON, DC 20005
WWW.BGRDC.COM**

Jo Maney, Public Relations Principal

Usman Rahim, Financial Services Policy Analyst

Chelsea Mincheff, Associate General Counsel

Ellen Brown, State and Local Advocacy Policy Analyst

Anna Sullivan, Policy Analyst

Christian Dopico, Researcher

Skylar Rubin, Clerk

Katie McHenry, Executive Assistant

LaVidaCo Communications, Report Design