



2022 Midterm Election Recap Morning Edition

[CONFIDENTIAL]

Memorandum

To: CLIENT DISTRIBUTION
From: Porterfield, Fettig & Sears, LLC
Re: Summary of Election Results – Morning Edition
Date: November 9, 2022

Election Results: A Waiting Game

The much anticipated Red Wave never arrived. At the time of this writing, Republicans look poised to take control of the House by a very narrow margin, while Senate control still hangs in the balance, although Democrats seem to have a slight advantage.

Democrats outperformed expectations last night, despite rising inflation and President Biden's unpopularity. It will take a while to complete a full political autopsy, but it appears that Democrats benefited from the Dobbs decision, weak Republican candidates in certain races, Trump's continued presence on the campaign trail and stronger Democratic enthusiasm than polls indicated. This is shaping up to be the best midterm cycle for an incumbent president's party since George W. Bush in 2002. Meanwhile, it's clear the country remains divided as Republicans won in red states/districts and Democrats won in blue states/districts.

We are now re-entering an era of divided government. As a general theme, we expect the Republican-led House to push back on President Biden's legislative and regulatory agenda and ramp up oversight and investigations of the administration. Moving forward, only legislation with bipartisan support can be enacted into law.

Divided government can present legislative opportunities, including incremental, yet material, changes in policy. Note: the last time there was a Democrat in the White House with a Republican House was between 2011-2016. During that period, President Obama and Speakers Boehner and Ryan struck legislative deals on spending and other matters. Also, at the Banking Committee level, there were agreements on policies including "Johnson-Crapo" housing finance reform, terrorism risk insurance, and Ex-Im Bank reauthorization. Legislative success will require investing significant time and resources in the Senate where negotiation and compromise will be necessary for any final deals.

Policy Implications of the Election

- **Divided Government:** While final House results will not be known for several days, Republicans appear to have eked out a majority in the House, but the Senate remains uncertain. The Republican House will have a small margin that will be challenging to govern on a partisan basis and will force Republicans to seek out Democrats on more legislative initiatives. Regulators are expected to double down on the Biden agenda, as House Republicans will be able to frustrate the Biden legislative agenda.
- **Republicans Win Narrow House Majority:** House Republicans will pursue a three-pronged approach in the majority: oversight, partisan legislation, and politics. Republicans will undertake aggressive oversight of the administration and push legislative priorities that appeal to the Republican base, including energy policy, border security, crime, and the economy.

- **Two Paths Forward in the Senate:**

- Democrats appear to be in a better position to win the Majority. If Democrats maintain control of the Senate, Majority Leader Schumer will continue to move and confirm President Biden's nominees, especially judges.
- If Republicans are able to win the Senate, Majority Leader McConnell will not confirm the more progressive Biden nominees, including nominees to the regulatory agencies like the FDIC, OCC, FCC, DOL, and others.
- In either case, McConnell and Schumer will do their best to forge a working relationship with McCarthy on core governmental functions including the budget process and appropriations, but this will be easier said than done given the increasingly hardline make-up of the House Republican majority.

A Closer Look

Senate: In the outstanding battleground Senate races, Wisconsin and Nevada remain too close to call, with Republicans holding very narrow leads in those states. However, based on outstanding vote totals, it appears that incumbent Senators Johnson and Cortez-Masto may narrowly prevail. Georgia looks headed to a December 6 run-off since neither candidate appears to be on track to meet the necessary 50% threshold. Democrat Raphael Warnock holds a razor-thin lead by approximately 35,000 votes with 98% of the vote reporting. In Arizona, Democrat Mark Kelly is leading his Republican opponent Blake Masters by 5 points with 69% of the vote reporting.

The 2023 Senate GOP class will be more conservative than the past. For instance, outgoing Senators like Portman (R-OH) and Blunt (R-MO) will be replaced with more conservative members.

Interestingly, majority control will ultimately come down to the race outcomes of two Banking Committee members - Senators Cortez Masto (D-NV) and Warnock (D-GA).

House: Overall, it was a good night for incumbents. Only five incumbents have lost their seats so far - Rep. Chabot (R-OH), Rep. Luria (D-VA), Rep. Malinowski (D-NJ), DCCC Chair Sean Patrick Maloney (D-NY), and Rep. Lawson (D-FL). Lawson is a member of the House Financial Services Committee, but he was expected to lose as his district became more Republican after redistricting. Most of the Republican gains so far have been in open seats. The Democratic incumbents who are trailing as of today are: Reps. O'Halleran (D-AZ), Trone (D-MD) and Axne (D-IA). The Republican incumbents behind as of today are: Reps. Schweikert (R-AZ), Boebert (R-CO), Herrell (R-NM) and Calvert (R-CA). Many of these incumbents in both parties may still prevail.

Governor races: Much like the federal races, it was a good night for incumbents. To date, there are only two party flips - in open races in Maryland and Massachusetts. However, there are very tight outstanding races in the following states: Arizona (open seat with outgoing Republican), Alaska (Republican incumbent is running for another term), Kansas (Democratic incumbent is running for another term), Oregon (open seat with outgoing Democrat), and Nevada (Democratic incumbent is running for another term).

Florida Fireworks: Florida was the one bright spot for Republicans as Governor DeSantis and other GOP candidates in the state won in a convincing fashion, while President Trump's hand-picked candidates did not fare well. This only further sets up the DeSantis vs. Trump narrative heading into the 2024 Presidential cycle. All eyes will be on Mar-a-Lago next week, where Trump is rumored to announce his 2024 bid.

Lame Duck Session Schedule

Nov. 14-18 – In session, new member orientation

Nov. 15 – House Republican Leadership Elections (currently scheduled)

Nov. 16 – Senate Republican Leadership Elections (currently scheduled)

Nov. 21-25 – Thanksgiving recess

Nov. 28-Dec. 21 – In session

Week of Nov. 28 – House Republican Committee Leadership Elections (targeted)

Week of Dec. 5 – Senate and possible House Democratic leadership elections

Dec. 6 – Likely Georgia Senate runoff election

Dec. 16 – Current government funding expires; House target adjournment*

Dec. 21 – Senate target adjournment*

*If an appropriations deal is struck by the deadline, we expect Congress to adjourn for the holidays early. If a deal is not reached, we expect a short-term extension to continue negotiations.

Items expected to be considered during the lame duck session include:

- Omnibus Appropriations bill (or a several-month continuing resolution if no agreement can be reached)
- National Defense Authorization Act
- Hurricane Ian disaster relief (likely included as part of any appropriations deal)
- National Flood Insurance Program (NFIP) expires on December 16
- FDA User Fees (current extension expires on December 16) and other health extenders
- Marriage Equality Legislation

Items possibly to be considered during the lame duck session include:

- Tax extenders (may be attached to NDAA or Omnibus)
- SAFE Banking (may be attached to NDAA or Omnibus)
- SECURE 2.0 (may be attached to NDAA or Omnibus)
- Electoral Count Act
- Debt Limit
- Senate Confirmations: FDIC Republican nominees Jonathan McKernan and Travis Hill and the unannounced Democratic nominee for Chair