



The US Midterms : A Simple Guide November 2022



Introduction

The United States Midterms will take place on November 8, 2022. All 435 House seats and 35 out of the 100 Senate seats are up for re-election. The election comes at a critical time for the US and the world. Incessant inflation, the war in Ukraine, tensions with China and the threat of recession have cast great uncertainty on the role of the US in the world, and in particular the US-EU relationship.

Numerous momentum swings have defined the months leading up to this election. The Republican party held the initial advantage, benefitting from the favorable momentum that comes with being part of the opposition party, as well as Biden's low approval ratings. The advantage then shifted towards the Democrats, with the successful adoption of the Inflation Reduction Act (IRA) and the Supreme Court's controversial ruling on abortion rights. However, Republicans have reclaimed their advantage in the polls in the weeks leading to the election, as the fears of Americans over inflation and a potential recession have eclipsed other concerns.



Still, Republicans have made what should have been an easy win more complicated. The shadow of Trump's presidency still looms large, and many candidates are focusing on electoral fraud and immigration instead of economic concerns, which polling shows as the key reason for voters to favor their party. Mitch McConnell, the Republican Senate leader, notably expressed his concern about "candidate quality" on the Republican side.

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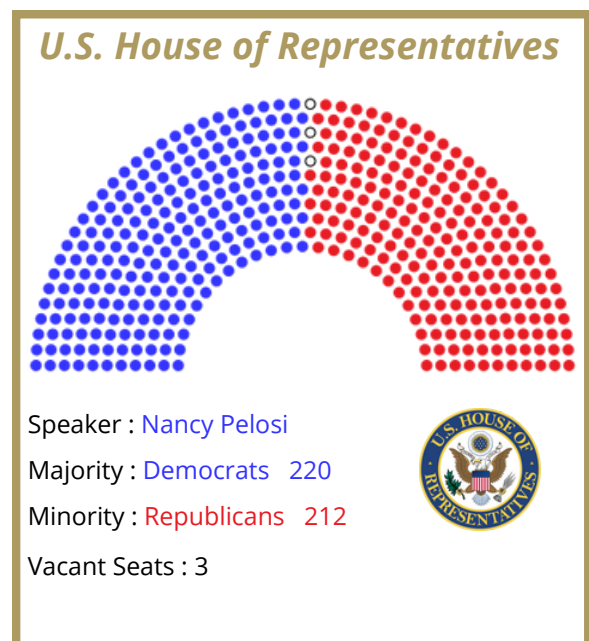
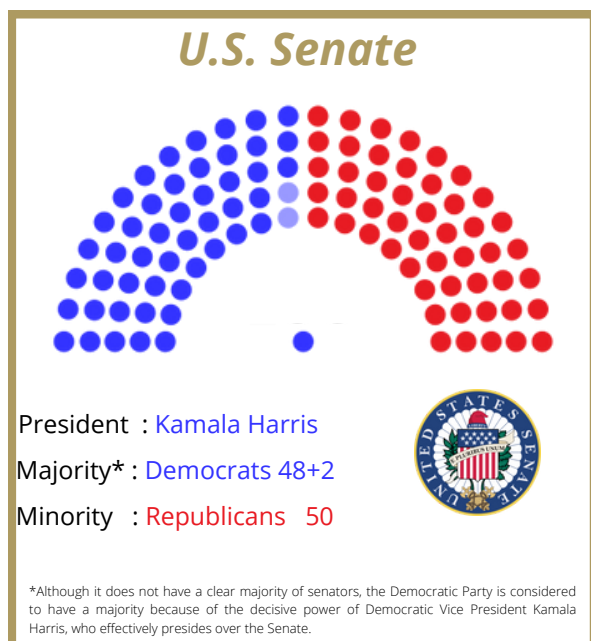
The Midterms

- Midterm elections are elections to both houses of the U.S. Congress held in the middle of the U.S. president's term.
- They set the pace for American domestic politics.
- All 435 seats in the House of Representatives are renewed, as well as one-third of the 100 seats in the Senate.
- Currently the Democrats have a narrow majority in both houses of Congress (221 out of 435 in the House of Representatives and 50 out of 100 in the Senate*).

Congress

- The U.S. Congress is responsible for making, debating and passing laws. It also has authority over the U.S. federal budget, trade and commerce, and the nation's defense.
- Congress can submit amendments to the Constitution. It can also initiate impeachment proceedings to remove the president, a government official or a judge from office.¹
- The House decides which laws are voted on, while the Senate has powers to block laws or confirm Presidential appointments.

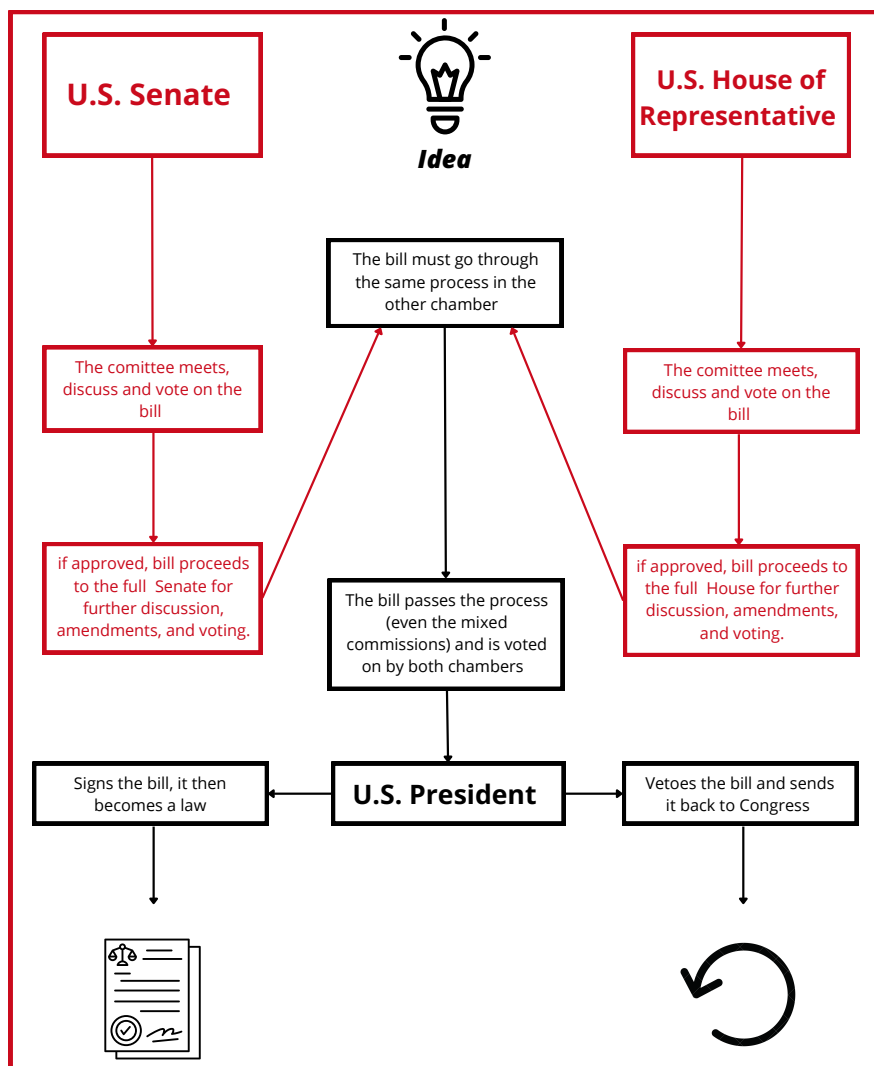
Current situation in Congress



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The American legislative process

- A bill can come from either the upper or lower house of the United States Congress.
- The bill is referred to a committee and then to a subcommittee in each house. The committees then hear from a variety of witnesses, which is where the various advocacy groups formally come in. These sessions are usually public.
- Once the hearings are over, the committees usually meet behind closed doors to work out the text of the bill.
- The bill is then introduced in both houses for a vote. Voting is by relative (not absolute) majority, with only those members present voting. For the law to be passed, the text must be voted on in the same terms in both Houses.
- If this is not the case, the bill is submitted to a Joint Conciliation Commission. The proposals of this commission can only be accepted or rejected by the Chambers.
- Once the text has been accepted by both Houses, it is submitted to the President of the United States for approval, who has 10 days to give his opinion. Once the bill is signed, it officially becomes federal law.



The US Midterms - a simple guide

What is Filibuster ?

Partisan gridlock has moved an obscure parliamentary procedure at the heart of American political discussions - the filibuster. The basic operating principle of the Senate is quite simple: 51 votes out of 100 are required to pass a bill (in case of a tie, the Vice-President casts the tie breaking vote).

However, it takes 60 votes to invoke 'cloture', putting an end to debates on the bill in question. So, as long as the minority decides to carry on debating, the law cannot be passed - Senators can hijack bills by discussing them indefinitely. This means that, in practice, most bills cannot pass the Senate without 60 votes.

Only Budget reconciliation, a parliamentary procedure designed to accelerate the passage of certain budgetary legislation, can override the filibuster.

In France, amendment battles from the minority can delay legislation, but not prevent it from passing entirely. Moreover, these battles deal with the substance of the bill. In the United States, these blockages are often much more questions of larger ideology.



**Biden's 11 January speech (Atlanta, Georgia)
Remarks by President Biden on Protecting the Right to Vote**

"To protect our democracy, I support changing the Senate rules, whichever way they need to be changed to prevent a minority of senators from blocking action on voting rights."

However, the elimination of the filibuster seems difficult to adopt because some Democratic senators (Kristine Sinema and Joe Manchin) have already indicated that they would not vote for it in order to maintain the "spirit of debate".

Biden could then reintroduce the "stand-up" requirement, that requires would-be filibuster enablers to stand up and hold the floor for long periods of time to avoid voting on bills. As of today, just threatening to use the filibuster is enough to hold legislation from passing.

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A highly polarized 2-party Democracy

The United States is a highly polarized two-party democracy, a trend that goes back to the 19th century and has been significantly exacerbated since the 1980s.

Polarization informs much of the American legislative process - most votes are made along party lines and bipartisanship is hard to come by.

Polarization is becoming a bigger and bigger issue in US politics, for a combination of reasons that include increased racial division, the rise of partisan cable news and fundamental changes in the type of candidates put forward by the Democratic and Republican parties.

A study from the Pew Research Center finds that, on average, "Democrats and Republicans are farther apart ideologically today than at any time in the past 50 years".²



2 - Drew DeSilver. "The polarization in today's Congress has roots that go back decades", Pew Research Center

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Historical takeaways from the Midterms

In midterm elections, the opposition party generally has a greater chance of winning than the party in power. There are two historical dynamics at play that may help explain this phenomenon.³

- **Mobilization:** Many voters who participated in the presidential elections do not vote in the midterms, which tends to be bad news for the party in power. A Biden supporter will not necessarily vote in the Midterms because there is no "Biden ballot" while a disgruntled Republican will vote to curb Biden's powers.⁴ While Presidential elections typically generate turnout of 50-60%, only about 40% of eligible voters participate in midterm elections.⁵
- **Presidential approval:** Midterm elections are often referred to as a referendum on the presidency. Indeed, independent voters vote based on the president's record (which is typically a disadvantage, as swing voters are easily discouraged by the actions of sitting presidents) and will often vote for the opposing party.⁴

These dynamics tend to make the outcome of midterms more or less predictable : The ruling president's party almost systematically suffers a contraction in the number of senators and representatives. This often leads to the loss of the House, Senate, or both. Political scientists have argued about this phenomenon for decades.⁶ Some theories focus on lower turnout among the President's supporters. Others emphasize the public's tendency to sour on an incumbent President. They are likely both true.

	Sitting President	President's Party	Net gain/loss of president's party	
			House Seats	Senate Seats
2018	Donald Trump	R	R-38	R+3
2014	Barack Obama	D	D-13	D-9
2010			D-64	D-6
2006	George W. Bush	R	R-30	R-6
2002			R+8	R+2
1998	Bill Clinton	D	D+5	0
1994			D-54	D-8
1990	George H. W. Bush	R	R-8	R-1
1986	Ronald Reagan	R	R-5	R-8
1982			R-26	0
1978	Jimmy Carter	D	D-15	D-3
1974	Gerald Ford	R	R-48	R-4
1970	Richard Nixon	R	R-12	R+1
1966	Lyndon B. Johnson	D	D-48	D-3
1962	John F. Kennedy	D	D-4	D+2
1958	Dwight D. Eisenhower	R	R-48	R-12
1954			R-18	R-2
1950	Harry S Truman	D	D-28	D-5
1946			D-54	D-12
1942	Franklin D. Roosevelt	D	D-45	D-8
1938			D-72	D-7
1934			D+9	D+9
1930	Herbert Hoover	R	R-52	R-8
1926	Calvin Coolidge	R	R-9	R-7
1922	Warren Harding	R	R-77	R-7
1918	Woodrow Wilson	D	D-22	D-7
1914			D-61	D+4

3 - Mathieu Gallard, « Depuis 1860, 37 des 40 "midterms" se sont soldées par une défaite du président américain », le Monde

4 - Andrew Prokop, Why voters so often punish the president in midterm elections., Vox

5 - Desilver, D. (2014) Voter turnout always drops off for midterm elections, but why? Pew Research Center, July 24, 2014.

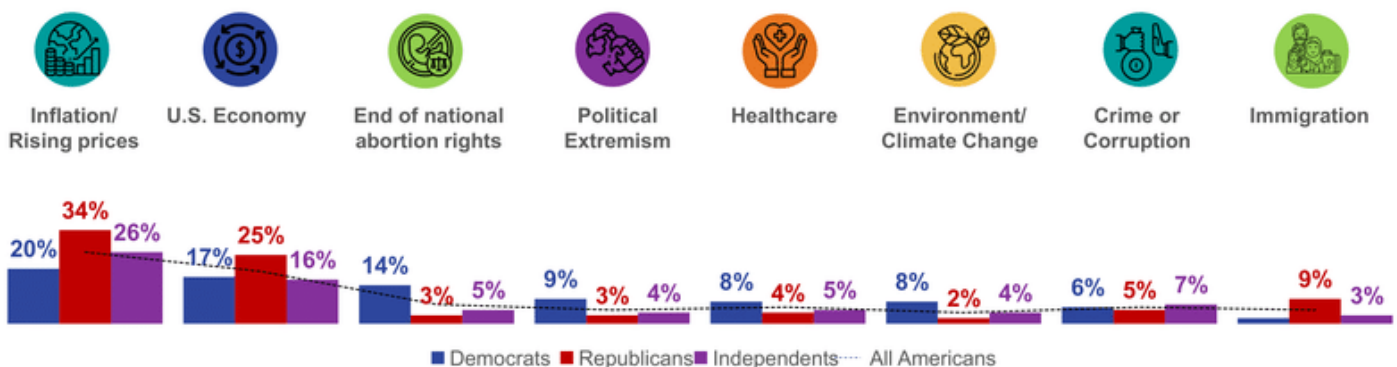
6 - Robert S. Erikson. "The Puzzle of Midterm Loss", pp. 1011-1029, The University of Chicago Press

What's at stake for 2022

Overarching Themes

Candidate performance on inflation and economy will be critical when deciding who to vote for

What is the issue that will most influence your choice of political candidate in the upcoming November midterm elections?



Source: Reuters/Ipsos September 7 – September 12, 2022
 Base: All Americans (N=4,411) Democrats (N=2,116), Republicans (N=1,599), independents (N=520); *DK/Other omitted
 Icons designed by Elmticon
 © Ipsos



The Economy

The economy is the baseline issue in most national elections, and this election cycle is no different. In fact, the poor state of the global economic environment has put the issue far above all other concerns in the minds of voters. Inflationary pressures remain relentless - year-on-year inflation stood 8.2 percent in September, versus 8.3 in October. High gas prices in particular are to blame for relentless inflation.⁷

The latest Ipsos-Forbes Advisor Consumer Confidence Tracker shows that consumer confidence is in a middling but stable position. That's in part because while many people are feeling fairly comfortable with their job security, many are reducing the amount spent on everyday household purchases because of rising prices. Indeed, this decoupling of job security and consumer confidence is one of the curious outcomes of an economic crisis that exists in parallel with a strong job market.

What's at stake for 2022

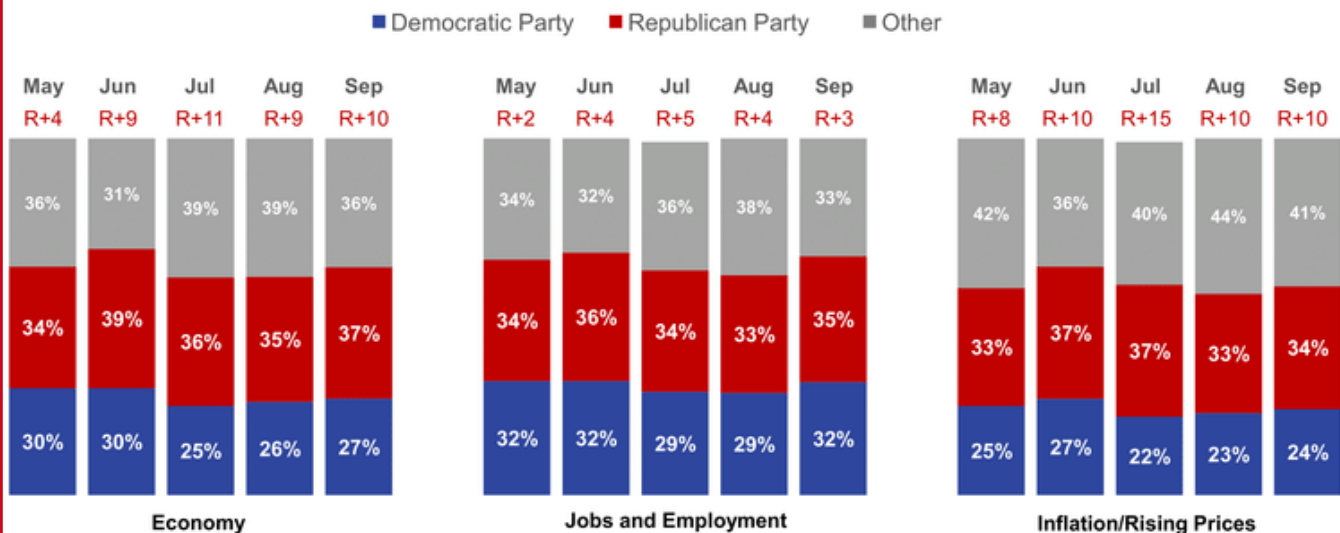
Overarching Themes

As previously mentioned, Republicans tend to have an edge on Democrats when it comes to economic performance. This despite the fact that the wing of the party most concerned with economic orthodoxy has lost ground in the past few years, and that the dominant 'Trump' wing is far more ambivalent: although Trump enacted tax cuts for the rich and was supposedly pro-business, he also imposed tariffs on billions of dollars worth of US goods and was responsible for a historic rise in national debt.⁸

Republicans outperform Democrats on the economy and inflation

In your opinion, which political party has a better plan, policy or approach to each of the following?

All Respondents



© 2022 Ipsos Source: Reuters/ipsos polls, n = 1,005 conducted May 5-6, 2022; n=1,000 conducted June 6-7, 2022; n=1,003 conducted July 6-7, 2022; n=1,004 conducted August 1-2, 2022; n=1,003 conducted September 6-7, 2022



Most worrying topics to Americans

Political
Extremism

30%

Inflation

55%

Crime & Gun
Violence

29%

FiveThirtyEight/Ipsos

What's at stake for 2022

Overarching Themes

Abortion (Roe Vs Wade)

Defending the right of women to terminate a pregnancy is one of the primary issues that Democrats have seized on to attempt to retain control of Congress.

The Federal right to an abortion, which was guaranteed across the United State, was stripped by the U.S. Supreme Court's reversal of it's 1973 ruling which legalized abortion accross the country, dubbed 'Roe v. Wade'. This left U.S. states free to ban the right to abortion, even in the most extreme cases.⁹

The Supreme Court's ruling did not ban abortion, although it had the effect of abortion being banned in a large part of the country (most abortions are banned in at least 13 states, and in others they are severely restricted). Instead, the Court ruled that the question of legalizing abortion should be left to the states. This development has sparked outrage, as most Americans support the right to an abortion. **Democrats have seized on this issue and put Republicans on the back foot, many of whom have had to change their positions on abortion for fear of losing re-election.**

In case of a Democratic victory, Joe Biden has promised that the first law presented to Congress would guarantee the federal right to abortion.¹⁰ Such a law would be difficult to pass in a divided Senate, with 60 votes needed to overcome a filibuster

In the event that Republicans take control of the House and Senate, there have been suggestions that the party would move to place nationwide restrictions on abortion. Indeed, Senator Lindsay Graham of South Carolina has put forward a bill proposing to ban abortion after 15 weeks across the country. This move is thought to have been a way for Republicans to pose a united front on an issue they have not been able to avoid, instead putting the burden on Democrats to determine for how many weeks they think abortion should be legal. This tactic has had limited success, and many Republicans do not back Graham's proposal.

Nevertheless, the attention span of voters tends to be short. The favorable momentum that followed the abortion ruling has begun to recede, replaced by economic anxieties.



9 - "Droit à l'avortement : la Cour suprême des Etats-Unis revient sur l'arrêt Roe vs Wade et laisse les Etats américains libres d'interdire l'IVG", Le Monde, 2022
 10 - "Midterms aux Etats-Unis : en cas de victoire démocrate, la première loi du Congrès garantira le droit à l'avortement, promet Joe Biden", Le Monde, 2022

What's at stake for 2022

Overarching Themes

Healthcare

Access to medical care is all the more important as it is linked to the theme of inflation which, once again, is the number one concern of Americans in the run-up to this election. Joe Biden's legislative success with the Inflation Reduction Act, which contains a number of healthcare provisions, has helped Democrats argue that they are best placed to protect and expand access to medical coverage.

However, savings from other provisions in the bill won't kick in for a few years. For example, efforts to lower drug prices, including caps on their costs for seniors, won't take effect until 2025



The Inflation Reduction Act

- **Allows Medicare to negotiate drug prices and caps out-of-pocket costs to \$2,000**
- **Lowers health care premiums for millions of Americans¹¹**

What's at stake for 2022

Overarching Themes

Climate Change

Climate change is a highly partisan issue which is of high importance to far more Democrats than Republicans. The Democrats have a great asset in their legislative record: the Inflation Reduction Act.

The Inflation Reduction Act of 2022 (IRA) is a US federal law which aims to curb inflation by reducing the deficit, lowering prescription drug prices, and investing into domestic energy production while promoting clean energy. It was passed by the 117th United States Congress and signed into law by President Joe Biden on August 16, 2022. It is a budget reconciliation bill sponsored by Senators Chuck Schumer (D-NY) and Joe Manchin (D-WV). The bill was the result of negotiations on the proposed Build Back Better Act, which was transformed from its initial form following opposition by Manchin.¹² It was introduced as an amendment to the Build Back Better Act and the legislative text was substituted.

The law, as passed, will raise \$738 billion and authorize \$391 billion in spending on energy and climate change, \$238 billion in deficit reduction, three years of Affordable Care Act subsidies, prescription drug reform to lower prices, and tax reform. **The law represents the largest investment into addressing climate change in United States history.** It also includes a large expansion and modernization effort for the Internal Revenue Service (IRS).¹³ According to several independent analyses, the law is projected to reduce 2030 U.S. greenhouse gas emissions to 40% below 2005 levels. The projected impact of the bill on inflation is disputed.¹⁴

Democrats have hailed this bill as a major victory, and when passed it gave their campaign a major boost. It also helped pull up Biden's approval ratings from all-time lows. However, as previously mentioned, issues such as climate change have been eclipsed by economic issues leading up to the midterms.



¹² - Emily Cochrane, Jim Tankersley and Lisa Friedman. "Manchin, in Reversal, Agrees to Quick Action on Climate and Tax Plan", New-York Times, 2022

¹³ - "SUMMARY: THE INFLATION REDUCTION ACT OF 2022", democrats.senate.gov

¹⁴ - Kelly Anne Smith, "The Inflation Reduction Act Is Now Law—Here's What It Means For You", Forbes Advisor, 2022

What's at stake for 2022

Overarching Themes

Safety and Gun Violence

Along with economic concerns, safety questions have helped Republicans edge Democrats in the lead-up to the midterms.¹⁵ The GOP relentlessly ties Democrats to a pandemic-era rise in crime on the campaign trail and in TV ads, with a certain degree of success¹⁶ :

- More than three-quarters of voters said violent crime is a major problem in the United States, according to a POLITICO/Morning Consult poll
- In the poll, 60 percent said crime would play a major role in deciding who they would vote for, exceeded only by economic concerns and abortion access

Campaigning on crime-related anxieties has proved enormously successful for Republicans, who have used this strategy to gain ground in unexpected areas. In New York State, a Democratic stronghold, Republican Lee Zeldin has used tough-on-crime rhetoric to come within striking distance of Governor Kathy Hochul in polls. That the Governorship of New York would come within reach of Republicans would have been unthinkable just months ago.

Having been put on the back foot by this messaging, Democrats have responded by ramping up security-focused messages and criticizing Republicans for their unwillingness to tackle gun violence, but the efficacy of such messaging seems mixed.



15 - Elena Schneider, "Midterm voters key in on crime", Politico, 2022

16 - National Tracking Poll, Politico & Morning Consult, Sept 30 - Oct 2

What's at stake for 2022

Overarching Themes

Immigration

Immigration has also been a key rallying topic for Republicans ahead of the midterm elections. Powerful Republicans, such as Greg Abbott, the governor of Texas, or Ron DeSantis, the Governor of Florida, have sent thousands of immigrants by bus or plane to liberal cities such as New York or Chicago in protest of Joe Biden's immigration policies.¹⁷ These crude and cruel stunts have garnered significant attention, firing up the Republican base but alienating centrist voters.

This strategy has been employed despite the fact that experts and pollsters suggest it is counterproductive for Republicans to focus on social issues such as immigration rather than economic concerns.

Current Dynamics

"Both sides are playing a game of base politics, which makes sense in a midterm election when not as many independents turn out to vote," said Larry Sabato, director of the University of Virginia Center for Politics.¹⁷ In practice, this means that Democrats focus on progressive themes (abortion, ecology, health) while Republicans zero-in on conservative themes (immigration, gun ownership ...) in order to mobilize their respective electoral bases.

The election should therefore play out on two grounds: the more or less strong mobilization of the bases and the conviction of the undecided. The undecided are likely to make their choice on the theme of the economy, which is why Republicans may hold an advantage. Indeed, only when economics are good do voters turn their attention to alternative issues.

Thus, Republicans benefit from a dual dynamic. The historical trend, which favors the opposition during midterms, as well as a negative economic forecast which may convince voters to support their party for its economic record, overlooking disagreements they may have on other issues.

17 - Kiran Stacey, "Republicans try to regain midterm momentum with immigration stunts", Financial Times, 2022

What's at stake in the US and abroad

In the US

Potential outcomes for 2022



One in ten

Narrow Democratic Win (Democrats hold House and Senate)

Continued progressive control of government

- Continue to push federal spending programs
- Proactive regulatory state
- Progressive judges and appointments

Source: Ipsos analysis

© Ipsos



Seven in ten

Narrow Republican win (Republicans take the House by small margins, Senate could go either way)

A House Divided

- Legislative gridlock
- Hobbled administration, significant work through executive order
- Republican Congressional "investigations"
- Relative freedom of maneuver for private sector within existing context



Two in ten

Red Wave

(Republicans win big in the Senate and House)

Divided Government

- Confrontations between Administration and Congress
- Shift focus to 2024 elections
- Republicans leveraging Congress for messaging
- Minimal activity in the private sector



Threats to Democracy

There are deep divisions amongst moderate and more extreme members of the Republican party that threaten it at its core. So called "MAGA Republicans", whose loyalties first and foremost stand with Donald Trump, have become dominant within the party - to the point of heavily influencing its ideological line. One of the key fault lines that separates these two factions is the legitimacy of the 2020 presidential election. Baseless claims of electoral fraud have severely undermined the country's confidence in its own electoral system, and **the presence of many election deniers on the ballot may further threaten the integrity of elections in the US.**

Legislative Gridlock

As in the majority of parliamentary democracies, the risk of legislative gridlock is high when the legislative and executive branches of government are held by different parties. In the likely event of a Republican majority in one or both chambers of Congress, legislative gridlock is all but unavoidable. There remain very few areas of policy with room for bipartisanship, except in some matters relating to foreign policy. This may be viewed favorably in the business world, as companies benefit from a predictably low amount of legislation concerning their activities. In light of this gridlock, the President is often required to govern through **executive orders**.

What's at stake in the US and abroad

In the US

What is an Executive Order ?

- An Executive Order is a written directive from the President of the United States that manages operations of the federal government.
- Like both legislative statutes and the regulations promulgated by government agencies, executive orders are subject to judicial review and may be overturned if the orders lack support by statute or the Constitution.
- Presidential executive orders, once issued, remain in force until they are canceled, revoked, adjudicated unlawful, or expire on their terms. At any time, the President may revoke, modify or make exceptions to any executive order, whether the order was made by himself or a predecessor. New presidents often review all current executive orders in the first few weeks of their terms, and cancel many of those drafted by their predecessors.

Example of Executive Order : *"After a two year absence of a legal framework for transferring personal data from the EU to the U.S., President Biden signed an Executive Order on Enhancing Safeguards for United States Signals Intelligence Activities (the "Order") on October 7, 2022, that will usher in a new EU-U.S. Data Privacy Framework (the "Framework")"*¹⁸

Risk of a Government Shutdown

The Constitution provides that the budget is approved by the House, Senate and President combined. **A government shutdown** occurs when the President and one or both Houses are unable to reach agreement on budget allocations before the end of the current budget cycle.

In the United States, government shutdowns occur when there is a failure to enact funding legislation to finance the government for its next fiscal year. Since the enactment of the US government's current budget and appropriations process in 1976, there have been a total of 22 funding gaps in the federal budget, ten of which have led to federal employees being furloughed. Since 1990 all funding gaps lasting longer than a few hours have led to a full or partial shutdown of federal government operations and agencies

Shutdowns cause the disruption of government services and programs, including the closure of national parks and institutions. They entail major loss of government revenue due to the furloughing of 'non-essential' employees, and the interruption of key services . Shutdowns also cause a significant reduction in economic growth. Standard and Poor's estimates that the 2013 shutdown had "taken \$24 billion out of the economy", and "shaved at least 0.6 percent off annualized fourth-quarter 2013 GDP growth".¹⁹

18 - F. Paul Pittman, Shira Shamir. "Biden Executive Order Seeks to Solidify European Union-U.S. Data Privacy Framework", White & Case

19 - Walshe, Shushannah (October 17, 2013). "The Costs of the Government Shutdown". ABC News.

What's at stake in the US and abroad

In the US

Risk of an other debt-ceiling Crisis

The debt ceiling (or debt limit) is a limit on the amount of national debt that can be incurred by the U.S. Treasury - effectively a limit on how much money the federal government can borrow. Historically, the debt-ceiling was raised without debate, because it does not prescribe spending - it only ensures the government can pay its existing debt. In 2011 and 2013, Republican-controlled Congress broke with this convention, demanding that then-President Obama negotiate over debt-reduction in exchange for an increase in the debt ceiling. Economists estimated that simply delaying Treasury payments would cause GDP to contract by 7%, which is larger than the contraction during the Great Recession.²⁰

There is little reason to expect that if Republicans win control of the House of Representatives, they won't use such a tool as leverage in their dealings with the Biden administration.

Difficulties with Nominations

The Senate, in addition to voting on bills, is tasked with appointing certain senior government officials and federal judges. This is a crucial prerogative, especially in the event of a vacancy in the Supreme Court. In the event of a Republican-controlled Senate, the path for Democratic appointees to be nominated would be narrow.



20 - Yglesias, Matthew (January 16, 2013). "What if Congress Doesn't Raise the Debt Ceiling?". Slate.

What's at stake in the US and abroad

In the World

War in Ukraine

A change in what party controls Congress could have an impact on the trajectory of the war in Ukraine. Kevin McCarthy, the House Minority Leader, has suggested that financial assistance for Ukraine could be reigned in should Republicans take control of the house²¹. Perhaps unsurprisingly, the Trump faction of the Republican party is less supportive of Ukraine in its war with Russia than the rest of the American political spectrum.²²

US support is absolutely critical to Ukraine's war efforts against Russia. Even the slightest sign of this support faltering could have direct consequences on the outcomes of the war, with spillover effects in Europe and throughout the world.



Protectionism

Another rare illustration of bipartisanship has been the willingness of both Democrats and Republicans to engage with protectionism. Indeed, President Biden elected to keep in place many of the various tariffs and import restrictions that were imposed by former President Trump. President Biden's recently completed a 100-day supply chain review orders additional trade enforcement actions and restrictions with the goal of securing U.S. supply chains.

Biden's efforts to bolster domestic manufacturing are coming under diplomatic fire from key allies, with European governments accusing his administration of undercutting the trans-Atlantic alliance with "Made in America" policies that threaten their economies. This is especially the case with subsidies for electric vehicles, which are included in the Inflation Reduction Act. President Emmanuel Macron has even put forward a 'Buy European Act' as a rebuke to the IRA.

Both parties have been guilty of promoting protectionist policies, and the election of more extreme candidates in both parties is likely to lead to an increase in anti free-market sentiment.

21 - Felicia Schwartz. "Top Republicans clash over future of Ukraine aid", Financial Times, 2022

22 - Felicia Schwartz, Kiran Stacey and Roman Olearchyk. "Ukrainian officials 'shocked' as Republicans threaten tougher line on aid", Financial Times, 2022



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