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Client note: Lame Duck and Preparation for 2023 Begins

Topline

More than a week after the election, Republicans have officially clinched control of the House and Democrats have maintained control of the Senate for 2023-24, and Congress is sprinting to accomplish as much as possible before the end of the year.

Election results (as we know them)

While there are a half dozen House races still [uncalled](#), we can expect that Republicans will have a slim majority, holding somewhere around 222 House seats, which would be a net pick up of 10 seats. Democratic Senator Raphael Warnock and Republican Herschel Walker are in a runoff in Georgia that will occur on December 6, which will determine whether Democrats maintain their bare 50-50 majority (with VP Harris as the tie-breaker) or gain a pure 51-49 majority. The value of this additional seat is hard to understate, as it not only gives the majority a 1-seat buffer for key votes (if either Sens. Manchin or Sinema are a no, for example), but also gives them domain over committees and budgets that enable greater command of the chamber. By comparison, with a 50-50 split in the 117th Congress, Senate committees had an equal number of Democrats and Republicans; in the case of a tie vote that blocked legislation from advancing, a vote in the full Senate on a motion to discharge was required, taking up valuable floor time and clogging the calendar for the Majority.

As we mentioned last week right after the election, Republicans underperformed expectations, failing to flip the Senate (and potentially losing ground) and flipping far fewer seats in the House than expected. While New York and Florida proved fertile ground for Republicans, the rest of the country did not follow suit.

Democrats had even more success in state and local races, earning total control of state governments (state House/Senate & Gubernatorial) in Maryland, Minnesota, Massachusetts, and Michigan through flipping three governors (Maryland, Massachusetts, and Arizona) to the Republicans' one (Nevada) and flipping state houses in Michigan and Minnesota. Even where Democrats didn't pick up the trifecta, they still made gains — including earning a supermajority in Vermont (which can override vetoes from Republican Governor Phil Scott). That control at the state level will likely lead to more climate action of all stripes. And some state legislatures are still counting votes — both Pennsylvania's and New Hampshire's state Houses may still flip to Democrats.

Leadership races

Republicans held their leadership races this week, and despite last-minute challengers to both Leader McConnell and Leader McCarthy, both earned the majority of their party's support (McConnell for

Minority Leader, and McCarthy for Speaker of the House). For McCarthy, however, this isn't the end of the road — he only earned 188 Republican votes for Speaker; enough to win the internal GOP nomination but shy of the 218 he'll ultimately need to actually become Speaker early next year. We expect to see extensive horse trading over the next couple months for him to win 30 more votes.

On the Democratic side, we learned this week that Speaker Pelosi and Majority Leader Hoyer would not run for leadership next Congress, but would continue to serve in Congress. This is unusual (most members retire from Congress entirely after leaving leadership), but will give the next generation of House Democrats the opportunity to move up. It's widely speculated that Rep. Hakeem Jeffries will take over for Pelosi; Rep. Katherine Clark for Hoyer; and Rep. Pete Aguilar for current Majority Whip Jim Clyburn. Clyburn is expected to stay in leadership in some capacity (with all three current leaders expected to provide some guidance to the new leadership), and Hoyer announced he'd return to the Appropriations committee. House Democratic leadership elections are planned for after Thanksgiving.

Majority Leader Schumer, having just retained control of the Senate, isn't going anywhere.

Lame duck

Senators hit the ground running this week, with 12 Republicans joining all Democrats to push forward the *Respect for Marriage Act*, which would provide marriage equality for same-sex and interracial couples under federal law. This is on track to become law shortly after the Thanksgiving recess.

Other major priorities include the National Defense Authorization Act (NDAA), which is expected to come together after Thanksgiving, but is proving more difficult to complete than expected. The NDAA is one of those pieces of must-pass legislation that other bills use as a vehicle for passage, and this year is no different: the Water Resources Development Act (WRDA) and authorizations for the State Department, Coast Guard, intelligence agencies are all catching a ride. However, there's also chatter that NDAA might be stapled to the omnibus appropriations bill to fund the government next year, which would make for a very big bill and might aggravate some members.

There had been a lot of lobbying around Senator Manchin's permitting legislation, including speculation it would go in the NDAA or even the end of the year appropriations package (see below), but it seems more likely at this point that Republicans will hold out until they control the House next Congress to try to negotiate reform that aligns closer to their priorities.

Appropriations work is ongoing and there are many, many outstanding issues still to discuss (not the least of which is the topline spending figure), but appropriators currently believe they'll be able to wrap everything up before the December 16 deadline. Additional priorities that could be added to an omnibus appropriations package include tax extenders, funding for Ukraine, and disaster relief. We think the December 16th target is optimistic, and we could see a one-week extension into Christmas week in order to get everything done.

It currently seems less likely that the votes exist to increase the debt limit either through regular order or reconciliation — kicking this to next year will provide an early challenge for nearly everyone in 2023, but particularly for House Republicans who will be split between those who have fidelity to global financial stability, like incoming Financial Services Chair Patrick McHenry, and others in the GOP that delight in holding the debt ceiling hostage under Democratic administrations. Of course, the politics are not as clean for Republicans as they may have been in the past, considering how fragile the economy is and Republicans desperate to avoid heading into 2024 being blamed for driving the country into a recession.

Other items still in the mix are the *Electoral Count Act* and the *SAFE Banking Act* (cannabis banking reform), but time continues to be a challenge to get everything done. Those are also candidates to be tacked on to the omnibus appropriations package.

Next Congress

With a divided Congress, the next two years will look very different than the previous two. House Republicans are expected to focus on investigations into the Biden Administration and programs, conduct intense oversight over the Inflation Reduction Act, and try to gum up the works for President Biden any way they can. Senate Democrats will focus almost solely on processing administration and judicial nominations. And the administration will focus on rolling out and implementing the Infrastructure Investment and Jobs Act and Inflation Reduction Act, while dodging Republican attacks.

In addition to the annual must-pass bills (e.g., appropriations and NDAA), we'd expect there to be bipartisan support for putting together a Farm Bill and FAA Reauthorization bill, both of which expire in 2023. And some Pioneers see a bigger bipartisan tax extenders package in the distance in 2023 — and consider that more likely than it coming together in this lame duck...we'll see if our binoculars deceive us.

Inflation Reduction Act Program Trackers - DOE, EPA & USDA

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