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#### **Client note: Sinema becomes an Independent**

This morning, Sen. Kyrsten Sinema of Arizona unexpectedly announced in an [Arizona Republic](#) op-ed (and [Politico](#) and [CNN](#) interviews) that she's leaving the Democratic party and registering as an Independent. Sinema is expected to still caucus with Democrats, and reports indicate she will keep her committee seats, assigned to her by the Democratic caucus. While this is a big development, it is not expected to effectively alter the new 51-49 Democratic majority.

As all this is happening, it's still not clear how Congress will fund the government next year (with only three weeks before New Year's Day).

#### **Sinema turns (I)**

Though the news is still fresh and there's a lot to learn about how things will actually play out, here's what Sen. Sinema has said about her decision and how it'll impact the Senate. She says:

- She's doing this to more accurately reflect her positions and Arizonans who don't fit in either party.
- She won't vote or act differently than she has in the past (which is mostly siding with Democrats, especially on nominations and procedural votes on legislation, but always seeking to put her own stamp on major legislation).
- She expects to keep her committee seats (and subcommittee chairs) as if she was a Democrat.
- She won't caucus with the Republicans.
- She isn't running for President.
- She declined to say whether she's running for reelection in 2024, but this move will sidestep a primary challenge from Democratic Rep. Ruben Gallego, who has already announced his candidacy for her seat in 2024.

It's hard to say how much of this is true, but the foundation for this decision almost certainly has to do with her cratering Democratic primary voter approval ratings in Arizona. If Sinema's decision only reflects a change in title (which is consistent with her existing brand), then we can expect Democrats to retain relatively strong control in the Senate, since the next two years will largely be about approving administration/judicial nominations and blocking House Republican attacks on Democratic priorities like the bipartisan infrastructure legislation and the Inflation Reduction Act (both of which Sinema voted for). With Republicans controlling the House and the coming Presidential campaign cycle, it's unlikely major legislation will pass other than must-pass bills, such as a debt limit increase and government funding, or bipartisan priorities, such as the Farm Bill. If, on the other hand, this is a signal that Sinema will oppose more Democratic actions, it will make it that much harder to approve nominations and operate the Senate.

If Sinema does follow through on running in 2024 as an Independent, it puts progressives and potentially Senate Majority Leader Schumer in a real bind, as three way race between Senator Sinema and then both a Democrat and Republican is almost certain to lead to a GOP victory. Sinema has been the target of intense progressive ire over the last year, but those same voices may be forced to choose between giving the Republicans an easy Senate win or clearing the field for Sinema to run as an independent without a Democratic candidate on the ballot.

As an aside, it's worth noting that Sinema's home-state colleague Senator Mark Kelly, who is a moderate but sticks with Democrats on key votes, won his reelection by 5 points, a relative rout for a purple state in today's hyper-partisan political environment.

### **Benefits of 51(-ish)**

While it's still unclear exactly how Sen. Sinema will act next Congress, we'll assume she does caucus with Democrats and Leader Schumer operates with a 51-49 majority. One additional seat might not appear particularly impactful, but there are a few big differences.

First, the Senate won't operate under a "power sharing" agreement and committees makeup (and staff) won't be evenly split between Democrats and Republicans anymore. That means it will be easier for committees to send key nominees and legislation to the floor, and Democrats will have more staff resources and bandwidth. For nominees, it means Democrats won't have to rely on time-consuming floor votes on petitions to discharge important nominees from committees so they can receive a floor vote.

Second, a single Democratic Senator won't be able to unilaterally halt progress on legislation or nominees on the floor. It also means that Democrats can afford losing a member's vote or a member not attending votes (e.g., if they're sick, retire, etc.), and still pass legislation with Vice President Harris's tie-breaking vote. All this gives President Biden and Democratic Leader Schumer a little more room to negotiate on nominations and bills.

Third, 51 votes might be pivotal to stopping House resolutions under the Congressional Review Act (CRA) to nullify President Biden's climate and energy rules. The President will surely veto CRA resolutions if they pass, but it's easier and cleaner if Congress shuts down anti-environmental CRA attacks before they get that far.

These benefits might get muted in some cases since Senator Manchin isn't the only moderate Democrat. In particular, eight Democratic Senators (including the now Independent Sinema) will have particularly tough reelections in 2024. Sen. Manchin (WV), Sen. Tester (MT), and Sen. Brown (OH) are all running in states that Trump won by a very significant margin in 2020, and Sen. Sinema (AZ), Sen. Baldwin (WI), Sen. Casey (PA), Sen. Rosen (NV), and Sen. Stabenow (MI) are running in states where Biden won by less than 3 points in 2020. Some may work to prove their independence from the party and polish their bipartisan bona fides.

That said, Senate Democrats performed well in their elections this year after they got an enormous amount done on climate and clean energy the past 2 years, which should give them more confidence going into the next Congress. Watch Leader Schumer and DSCC Chair Gary Peters give their victory-lap [press conference on Tuesday here](#).

### **Lame duck**

There are two pieces of truly must-pass legislation before the new Congress begins on Jan. 3, 2023: the National Defense Authorization Act (NDAA) and the Fiscal Year 2023 appropriations to fund the government. Things are looking good for the NDAA, which the House passed yesterday and the Senate will clear in the coming days. As always, a few other bipartisan priorities got attached (including the

Water Resources Development Act), but even more were left off and remain wildcards for inclusion in the government funding bill (Senator Manchin's permitting deal, election process improvements, legislation to make it easier for cannabis businesses in states with legalized cannabis to bank, etc.).

Bigger questions remain on how that government funding will come together. Negotiations have stalled and the two sides are still very far apart on the topline figures for non-defense spending, in particular. This is particularly problematic since government funding runs out in a week, on December 16th. We expect that next week Congress will pass a one-week continuing resolution (CR) until Dec. 23rd to allow more time for negotiations. Republican Appropriations Ranking Member Shelby also has publicly spoken of the idea that the week between Christmas and New Year's Day may be utilized to pass an omnibus appropriations bill for all of FY2023 and we don't think that's an empty threat. Amidst the CR and back-room negotiations, it's possible that Leader Schumer offers a Democrat-only bill that fully funds the government for next year and forces Republicans to either accept it or vote against a massive defense spending increase.

Democrats are currently threatening a full-year CR as a back-up plan, in part to try to pressure Republicans into agreeing to a deal since the Pentagon has never operated under a full-year CR (something it strongly opposes). The Plan C alternative is a short-term CR to kick the can until late February or early March, when House Republicans have the majority and shared responsibility for avoiding a government shutdown. It's hard to imagine an omnibus deal for FY23 getting done if that happens as a whole host of new political issues could cloud negotiations by then.

Watch the weekly Republican Leadership [press conference here](#).

Watch the weekly Democratic Leadership [press conference here](#).

### **Inflation Reduction Act Program Trackers - DOE, EPA & USDA**

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