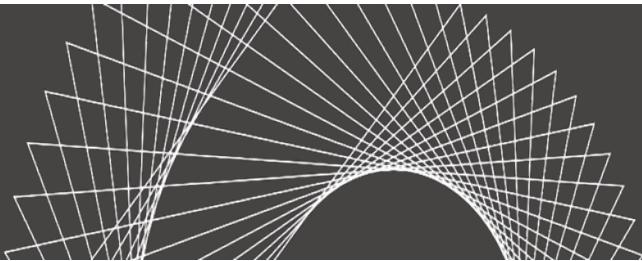


# 2022 Midterm Elections:

## Critical Political and Policy Impacts for the Energy Sector

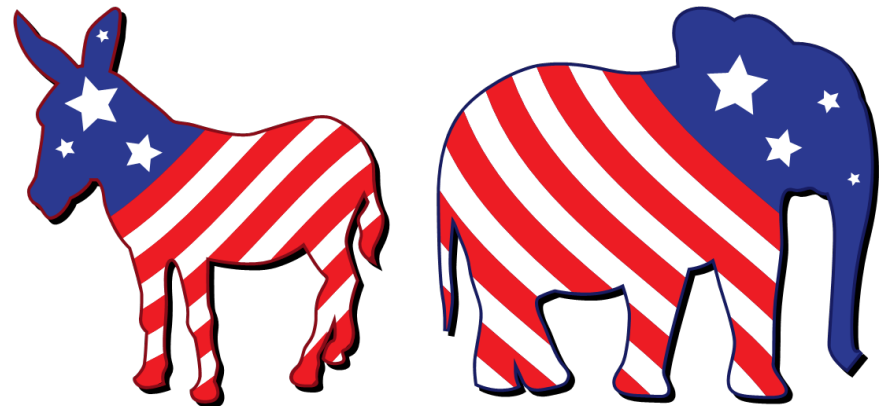


**Akin Gump**  
STRAUSS HAUER & FELD LLP

November 1, 2022

---

Shariff Barakat  
Alison Chen  
Arshi Siddiqui  
Chris Treanor  
Jamie Tucker



# Overview

---

- Midterm Elections Lay of the Land
- U.S. House Outlook
- U.S. Senate Outlook
- Energy & the Midterms
- Questions

# Midterm Elections Lay of the Land



# Historical Trends

- Historical trends, President Biden's approval rating, and the current mood of the country suggest trouble for the party in power.
- The last four presidents have lost Senate and House majorities; seven of those eight chambers were lost in midterm elections.



**President  
Bill Clinton (D)**

**Republican gains** in  
the 1994 midterms:  
**52 seats** in the House  
**8 seats** in the Senate



**President  
George W. Bush (R)**

**Democratic gains** in the  
2006 midterms:  
**30 seats** in the House  
**6 seats** in the Senate



**President  
Barack Obama (D)**

**Republican gains** in  
the 2010 midterms:  
**63 seats** in the House  
**6 seats** in the Senate

**Republican gains** in  
the 2014 midterms:  
**13 seats** in the House  
**9 seats** in the Senate



**President  
Donald Trump (R)**

**Democratic gains** in  
the 2018 midterms:  
**40 seats** in the House  
**-2 seats** in the Senate

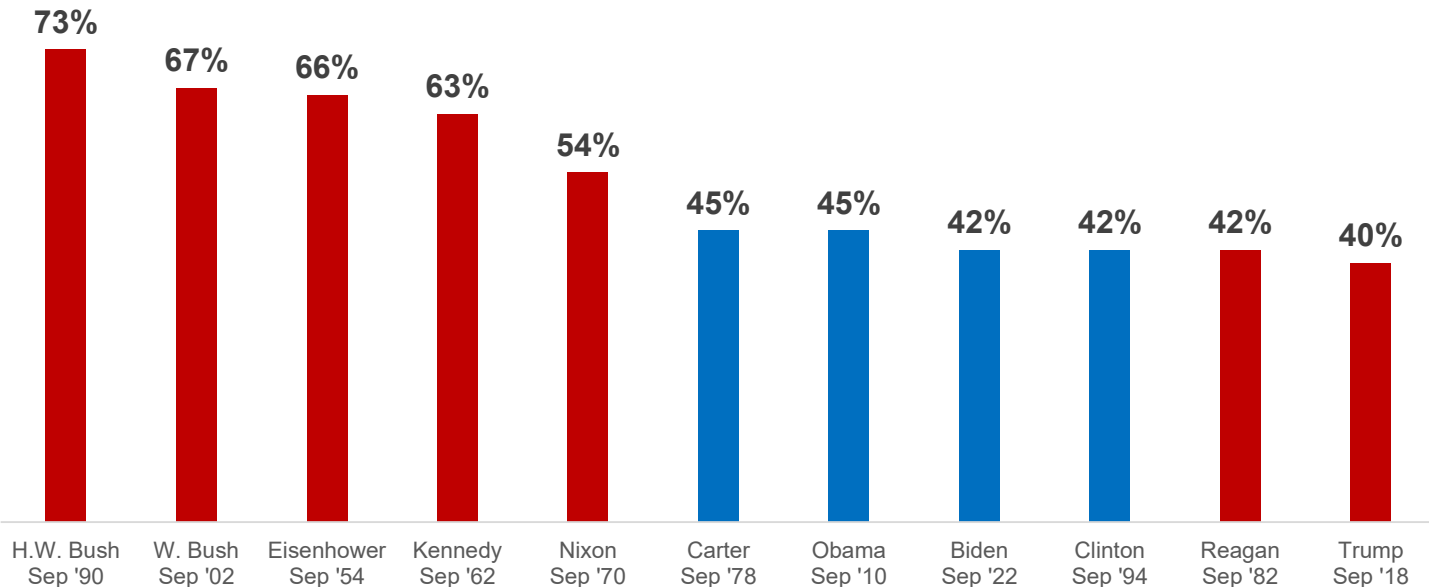
*Trump's Senate loss in  
2016 was the only loss  
of a chamber in the past  
four presidencies to not  
occur during a midterm.*

# Presidential Approval Rating

- President Biden's approval rating has been lower than President Obama's was at the same point in their presidencies, and historically, Presidents with a sub-50% approval rating lose an average of 36 seats in the midterms.

## Comparative presidential approval ratings

*Gallup in September of each President's second year*



# Key Issues for Voters

- Climate change has risen as a priority issue, but remains far behind other priorities, such as inflation and crime.
- While their odds decreased somewhat in the wake of the Supreme Court’s decision to overturn *Roe v. Wade*, key issues including continually increasing inflation, the corresponding rising costs of food and everyday goods, and escalations in crime have resulted in a swing back towards the GOP.
- According to a recent Monmouth University poll, inflation is the top issue of importance to American voters, and an ABC News/Ipsos poll found that voters trust Republicans more than Democrats to address inflation and other top issues.
- The poll found that 36% of Americans trust Republicans to handle the economy and gas prices (i.e. inflation), 12 and 14 points higher than the percentage of people who trust Democrats on these issues, respectively.

America’s Issue Priorities		
Issue	Extremely or Very Important	Approve of Biden’s Handling
Inflation	82%	30%
Crime	72%	32%
Elections & Voting	70%	43%
Jobs & Unemployment	68%	43%
Immigration	67%	31%
Infrastructure	57%	43%
Abortion	56%	31%
Racial Inequality	53%	41%
Gun Control	51%	30%
Climate Change	49%	42%
COVID Pandemic	32%	50%
Student Loan Debt	31%	41%

# Mood of the Country

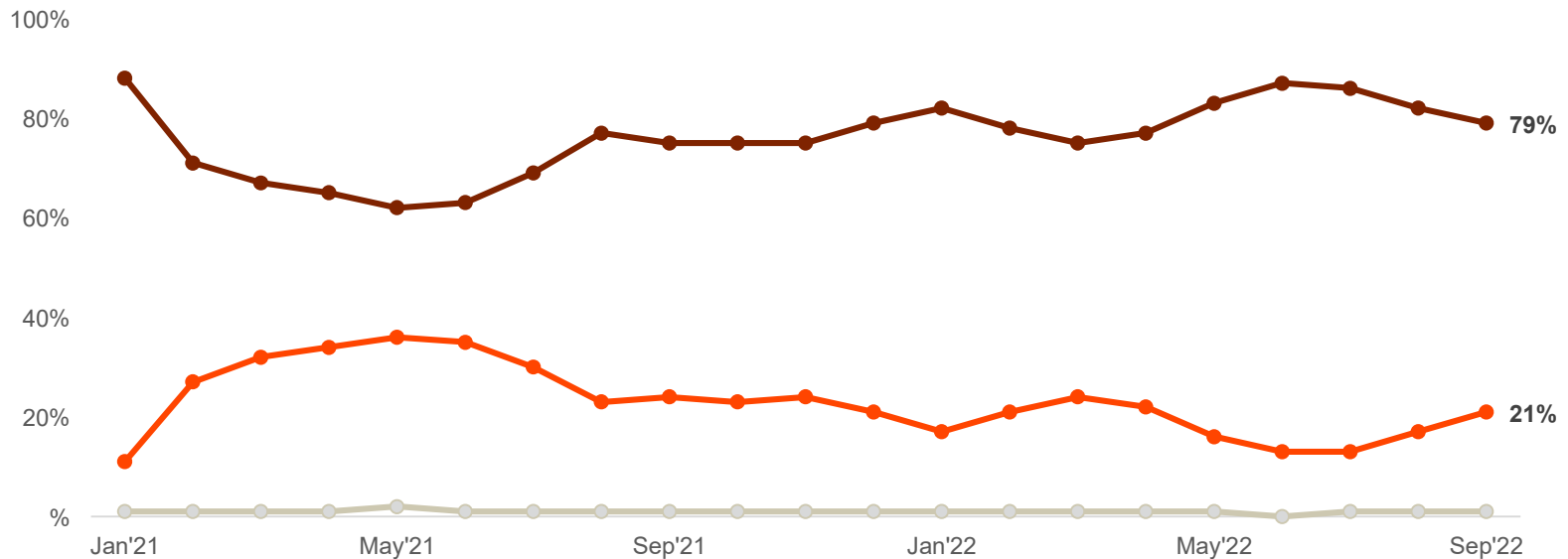
- Most U.S. voters are currently dissatisfied with the way things are going in the country.
- The midterm elections provide an opportunity for voters to take out their frustrations on the party in control of the White House, Senate, and House (i.e. the Democratic Party).

**In general, are you satisfied or dissatisfied with the way things are going in the United States at this time?**

*Gallup Survey Conducted September 1-16, 2022*

■ Dissatisfied ■ Satisfied ■ No Opinion

• Dissatisfied: 79%  
• Satisfied: 21%  
• No opinion: 1%



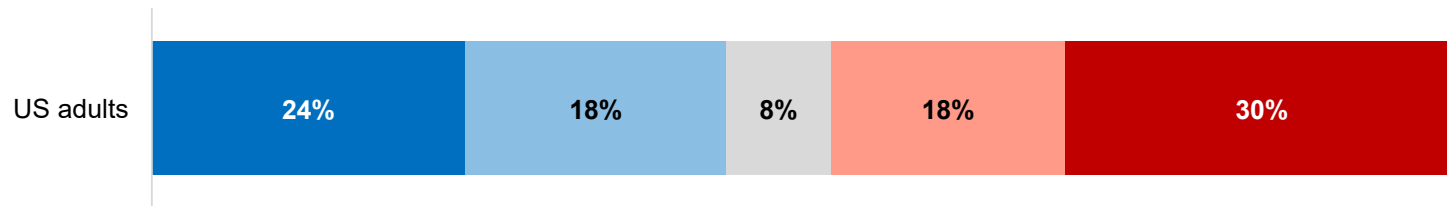
# Increasing Number of Registered Republicans

- 48% of Americans identify with or lean towards the Republican party.

**Do you consider yourself a Republican, a Democrat or an Independent?  
For Independents: as of today, do you lean more to the Democratic or Republican party?**

*Gallup Survey Conducted September 1-16, 2022*

■ Democrat ■ Lean Democrat\* ■ Other ■ Lean Republican ■ Republican



\*percentages may not add to 100 after rounding

## KEY TAKEAWAYS



Republicans currently have a four-point advantage over Democrats in partisan affiliation, but midterm turnout will decide the next Congress



43% of Americans identify as political independents; although 84% of independents lean towards a party



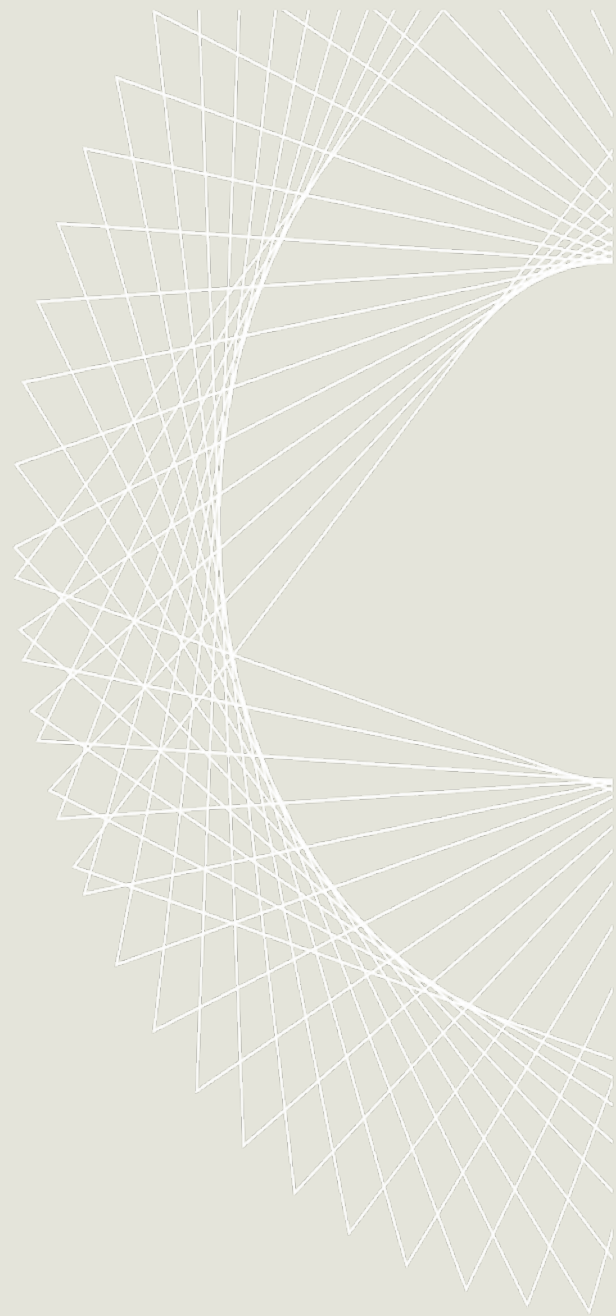
The number of US adults who identify as Republican leaning has increased five points from the beginning of 2021



Democratic affiliation is six points lower than when Biden took office



# U.S. House Outlook

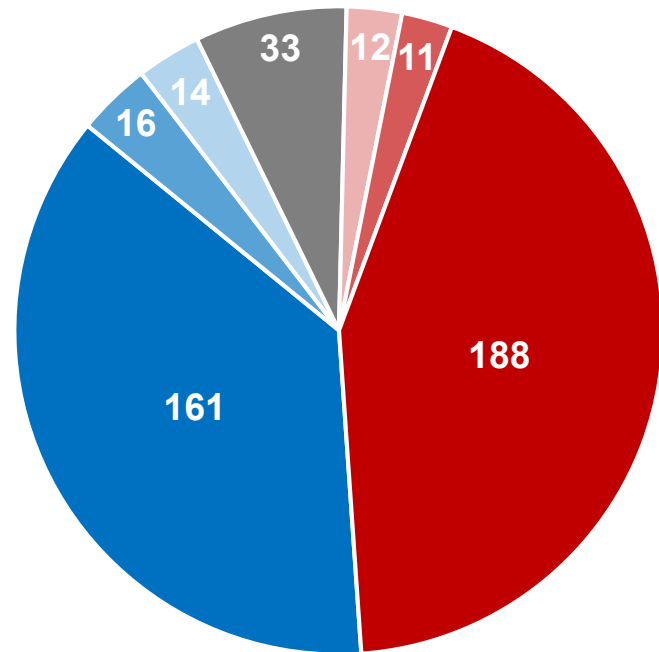


# Breakdown of House Races

Cook Political Report currently rates 86 House races as contested.

- **Likely Democrat: 16 seats**
  - 13 Democrat Incumbents
  - 3 Open Seats
- **Likely Republican: 11 seats**
  - 4 Republican Incumbents
  - 7 Open/Vacant/New Seats
- **Lean Democrat: 14 Seats**
  - 9 Democrat Incumbents
  - 5 Open/New Seats
- **Lean Republican: 12 Seats**
  - 3 Democrat Incumbents
  - 5 Republican Incumbents
  - 4 Open Seats
- **Toss-Up: 33 seats**
  - 15 Democrat Incumbents
  - 7 Republican Incumbents
  - 11 Open/New Seats

Cook Political Report - 2022 House Race Ratings



- Solid Dem
- Likely Dem
- Lean Dem
- Toss Up
- Lean GOP
- Likely GOP
- Solid GOP

Source: Cook Political Report – [2022 House Race Ratings](#)

# Contested House Races

D – Toss-Up (15)	Toss-Up (11)	R – Toss-Up (7)
Mike Levin (CA-49)	Open (CA-13)	David Schweikert (AZ-1)
Jahana Hayes (CT-6)	Open (IL-17)	David Valadao (CA-22)
Frank Mrvan (IN-1)	Open (NY-19)	Mike Garcia (CA-27)
Jared Golden (ME-2)	Open (OH-13)	Don Bacon (NE-2)
Elissa Slotkin (MI-7)	Open (OR-5)	Yvette Herrell (NM-2)
Angie Craig (MN-2)	Open (PA-17)	Steve Chabot (OH-1)
Chris Pappas (NH-1)	Open (RI-2)	Mayra Flores (TX-34)
Dina Titus (NV-1)	New Seat (CO-8)	
Susie Lee (NV-3)	New Seat (OR-6)	
Sean Patrick Maloney (NY-17)	Open (NC-13)	
Susan Wild (PA-7)	Open (NY-22)	
Matt Cartwright (PA-8)		
Elaine Luria (VA-2)		
Abigail Spanberger (VA-7)		
Kim Schrier (WA-8)		

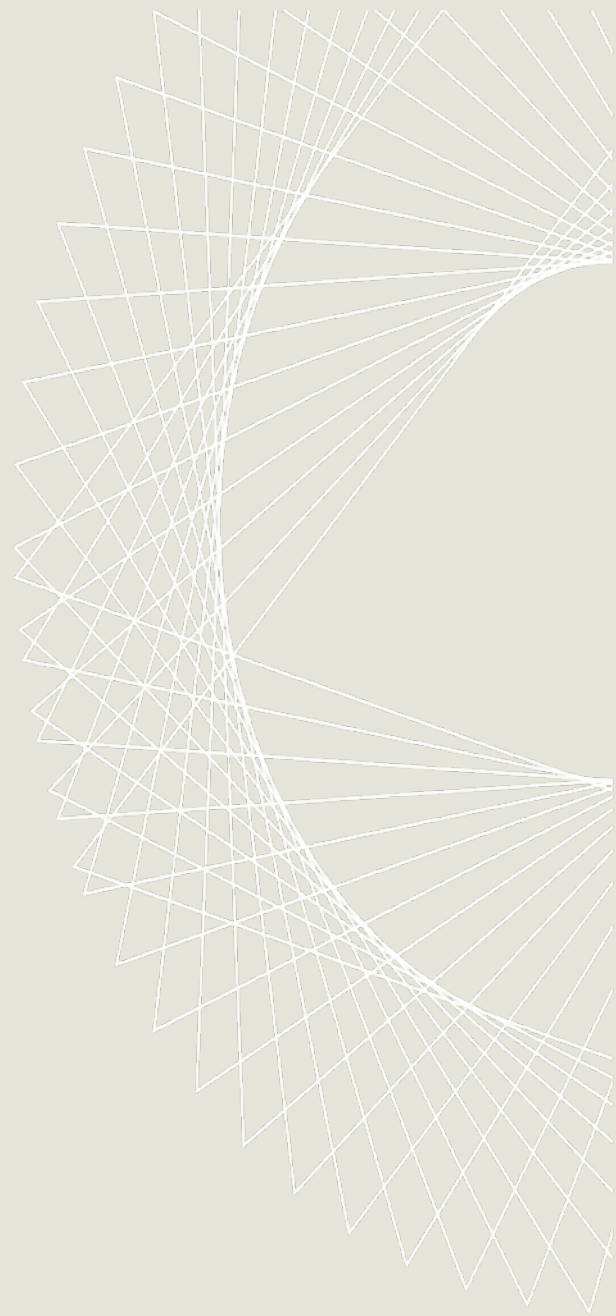
Source: Cook Political Report – [2022 House Race Ratings](#)

# Contested House Races (cont'd)

Likely D (16)	Lean D (14)	Lean R (12)	Likely R (11)
Greg Stanton (AZ-4)	Mary Peltola (AK-AL)	Tom O'Halleran (AZ-2)	Open (CA-3)
Josh Harder (CA-9)	Katie Porter (CA-47)	Open (AZ-6)	Young Kim (CA-40)
Open Seat (CO-7)	Sharice Davids (KS-3)	Ken Calvert (CA-41)	Vacant (FL-13)
Joe Courtney (CT-2)	Open (IL-13)	Michelle Steel (CA-45)	New Seat (FL-15)
Sanford Bishop (GA-2)	Open (MI-3)	Maria Elvira Salazar (FL-27)	Open (MI-10)
Sean Casten (IL-6)	Dan Kildee (MI-8)	Mariannette Miller-Meeks (IA-1)	Brad Finstad (MN-1)
Bill Foster (IL-11)	Annie Kuster (NH-2)	Ashley Hinson (IA-2)	Andrew Garbarino (NY-2)
Lauren Underwood (IL-14)	Steven Horsford (NV-4)	Cindy Axne (IA-3)	Nicole Malliotakis (NY-11)
David Trone (MD-6)	Open (NY-3)	New Seat (MT-1)	Open (TN-5)
Open (NC-1)	Open (NY-4)	Tom Malinowski (NJ-7)	Open (TX-15)
Kathy Manning (NC-6)	Pat Ryan (NY-18)	Open (NY-1)	Open (WI-3)
Andy Kim (NJ-3)	Marcy Kaptur (OH-9)	Open (WA-3)	
Josh Gottheimer (NJ-5)	Open (OR-4)		
Teresa Leger Fernandez (NM-3)	Henry Cuellar (TX-28)		
Open (PA-12)			
Jennifer Wexton (VA-10)			

Source: Cook Political Report – [2022 House Race Ratings](#)

# U.S. Senate Outlook



# Senate Overview

- The Senate is currently enduring the longest 50-50 split in the chamber's history.
- In the battle for the Senate majority, momentum appears to be with Republicans, but control of the chamber remains a toss-up.
- There are 35 Senate seats on the ballot this year, 14 of which are held by Democrats and 21 of which are held by Republicans.
- Cook Political Report has rated six seats held by Democrats and seven seats held by Republicans as Lean, Likely, or Toss-Up. The remaining Senate seats are rated as Solid D (8) and Solid R (14).

## 2022 Most Contested Senate Races – Cook Political Report

Likely D	Lean D	D – Toss-Up	R – Toss-Up	Lean R	Likely R
Patty Murray (WA)	Mark Kelly (AZ)	Raphael Warnock (GA)	Open Seat – Pennsylvania	Open Seat – North Carolina	Marco Rubio (FL)
	Michael Bennet (CO)	Catherine Cortez Masto (NV)	Ron Johnson (WI)	Open Seat – Ohio	Chuck Grassley (IA)
	Maggie Hassan (NH)				Mike Lee (UT)

Source: The Cook Political Report – [2022 Senate Race Ratings](#)

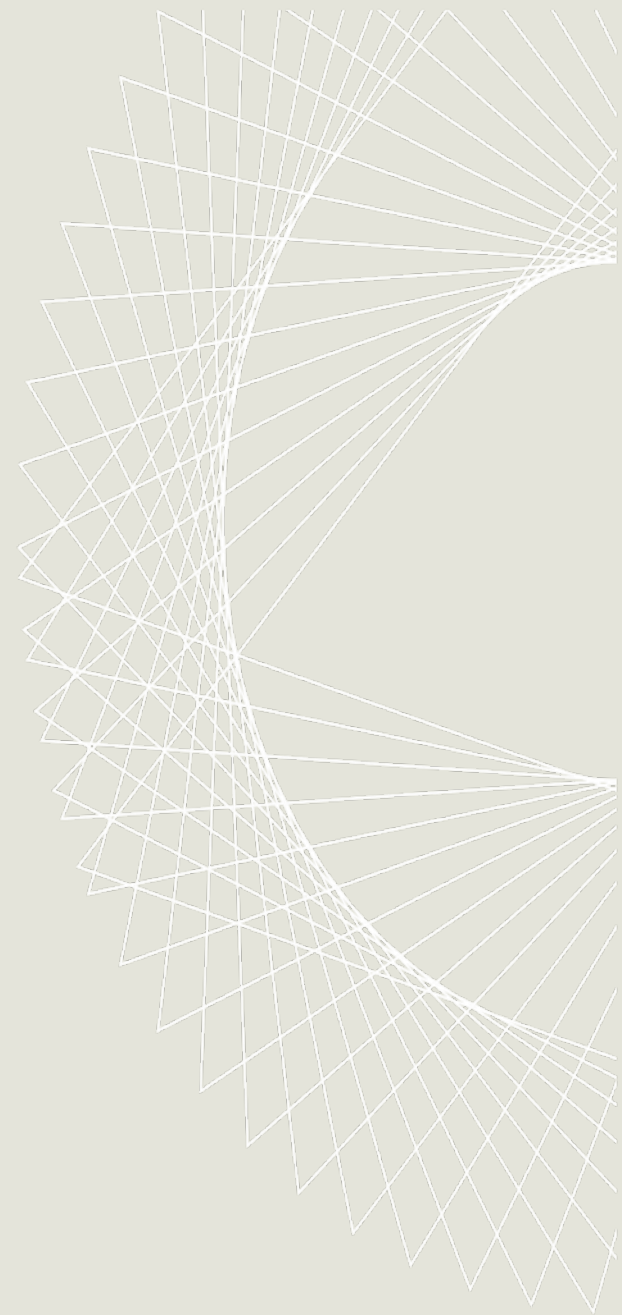
# RealClearPolitics Predictions

- If Republicans win at least three of the four “Toss Up” races – Georgia, Nevada, Pennsylvania and Wisconsin – and avoid any upsets elsewhere, the GOP will gain majority control.
- Currently, polling averages show Republicans leading in Nevada and Wisconsin, and narrowly trailing in Georgia and Pennsylvania.
- According to the most recent projection from RealClearPolitics (RCP), Republicans appear likely to net three seats by winning Arizona, Georgia, and Nevada.
- RCP’s latest polling averages in the 9 closest Senate races – each rated Lean D, Lean R, or Toss Up:

State	RCP Average	RCP Projection	State	RCP Average	RCP Projection
Arizona	Kelly +2.5	GOP Pick Up	North Carolina	Budd +3.7	GOP Hold
Colorado	Bennet +7.5	Dem Hold	Ohio	Vance +2.0	GOP Hold
Georgia	Warnock +1.0	Runoff	Pennsylvania	Fetterman +1.3	GOP Hold
Nevada	Laxalt +0.8	GOP Pick Up	Wisconsin	Johnson + 3.0	GOP Hold
New Hampshire	Hassan +5.4	Dem Hold			

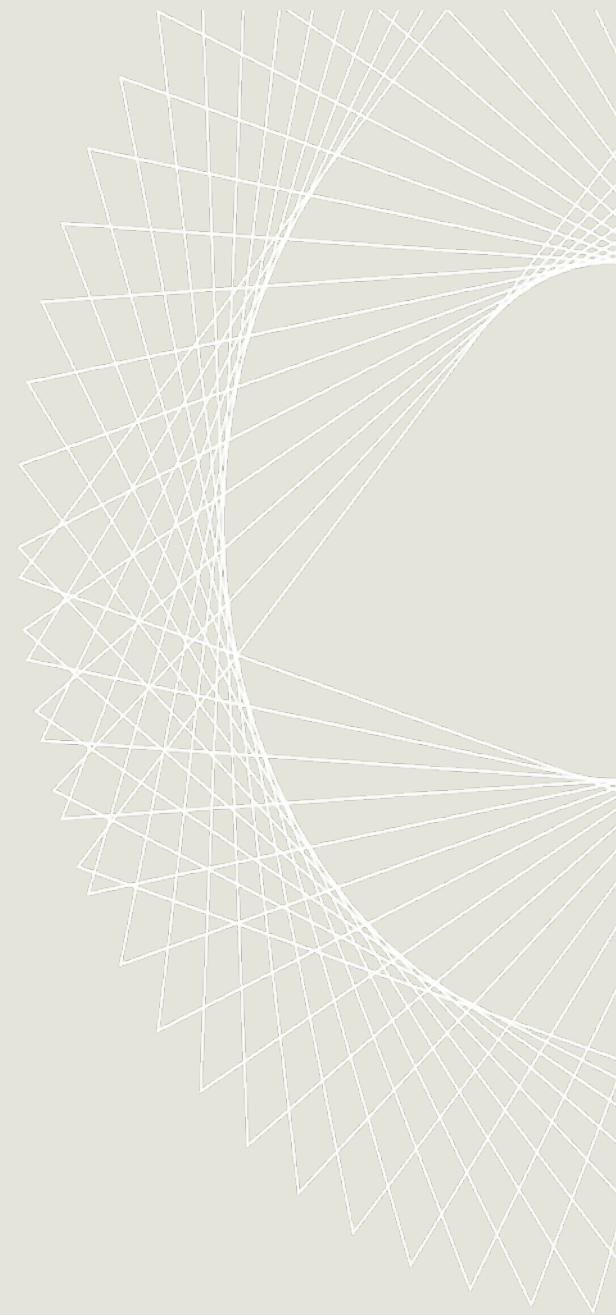
# CLE CODE: AG11122

Email the non-traditional format form with the code word to  
[FirmCLE@akingump.com](mailto:FirmCLE@akingump.com).





# Energy and the Midterms



# Overview of the Inflation Reduction Act (IRA)

## Akin Gump Comprehensive Section-by-section of the Inflation Reduction Act

<https://www.akingump.com/en/news-insights/comprehensive-section-by-section-of-the-inflation-reduction-act.html>

### Topline Estimates within the new Inflation Reduction Act of 2022:

Provision*	Cost estimate in billions (revenue raised)
15% Corporate Minimum Tax	\$313B*
Prescription Drug Pricing Reform	\$288B**
IRS Tax Enforcement	\$124B**
Provision	Cost estimates in billions (investments)
Energy Security & Climate Change	\$369B ***
Affordable Care Act Extension	\$64B**

\* represents Joint Committee on Taxation estimate

\*\* represents Congressional Budget Office estimate (CBO)

\*\*\* represents both agency estimates

- \$300 billion estimated for deficit reduction to fight inflation
- Investments in energy production and plans to reduce carbon emissions by 40% by 2030

### Energy and Environmental Policy Provisions NOT in the IRA:

Carbon Pricing

Carbon border adjustment mechanism

Clean energy standard

Pollution control regulations and authorities



# Energy and climate tax credits

---

- PTC (45)
  - ITC (48)
  - Clean Energy Production Credit (45Y)
  - Clean Electricity Investment Credit (48E)
  - Zero Emission Nuclear Power Production Credit (45U)
  - Carbon Capture Credit (45Q)
  - Clean Hydrogen ITC or PTC (45V)
  - Advanced Manufacturing Production Credit (45X)
  - Advanced Energy Project Credit (48C)
  - Clean Vehicle Credit (30D)
  - Previously-Owned Clean Vehicles Credit (25E)
  - Qualified Commercial Clean Vehicles Credit (45W)
  - Alternative Fuel Refueling Property (30C)
  - Biodiesel and Renewable Diesel (40A, 6426 and 6427)
  - Alternative Fuels and Alternative Fuel Mixtures (6426)
  - Second Generation Biofuel (40)
  - Sustainable Aviation Fuel (40B)
  - Clean Fuel Production Credit (45Z)
  - Home Improvement Credit (25C)
  - Residential Energy Credit (25D)
- Many credits are now subject to reduction unless prevailing wage and apprenticeship requirements are not satisfied.
  - Some credits have “adders” for domestic content, certain locations (“energy communities”) and/or low-income benefit.
  - Many tax credits are now transferrable or subject to “direct pay” options.

# Impact on Energy Policy

---

- **Lame duck legislative priorities**
  - Permitting reform
  - National Defense Authorization Act and Omnibus spending riders
- **Inflation Reduction Act implementation** will move ahead regardless of election outcome
  - Heightened scrutiny with GOP Chairs in Congress
- **Democrats shift from legislative focus to executive actions**
  - A number of major regulations coming over the next year
    - Methane rule
    - SEC Climate disclosure rule

# Republican/Divided Government Priorities

---

- Republicans will be focused on oversight
  - New Chairman in House and possibly the Senate
  - Focus on Administration and IRA/infrastructure spending
- Permitting reform in a divided government
  - Potential for compromise next year
- Potential for carbon border adjustment mechanism; carbon tax proposals from conservative groups
- Traditional energy development
  - This winter's pricing will create significant pressure on the Administration to control prices while maintaining climate priorities

# Our Presenters

---



**Shariff N. Barakat**

Partner  
sbarakat@akingump.com

Washington, D.C.  
+1 202.887.4030



**Alison L. Chen**

Partner  
alchen@akingump.com

Houston  
+1 713.250.2165



**Arshi Siddiqui**

Partner  
asiddiqui@akingump.com

Washington, D.C.  
+1 202.887.4075



**Christopher A. Treanor**

Counsel  
ctreanor@akingump.com

Washington, D.C.  
+1 202.887.4551



**James Romney Tucker Jr.**

Partner  
jtucker@akingump.com

Washington, D.C.  
+1 202.887.4279