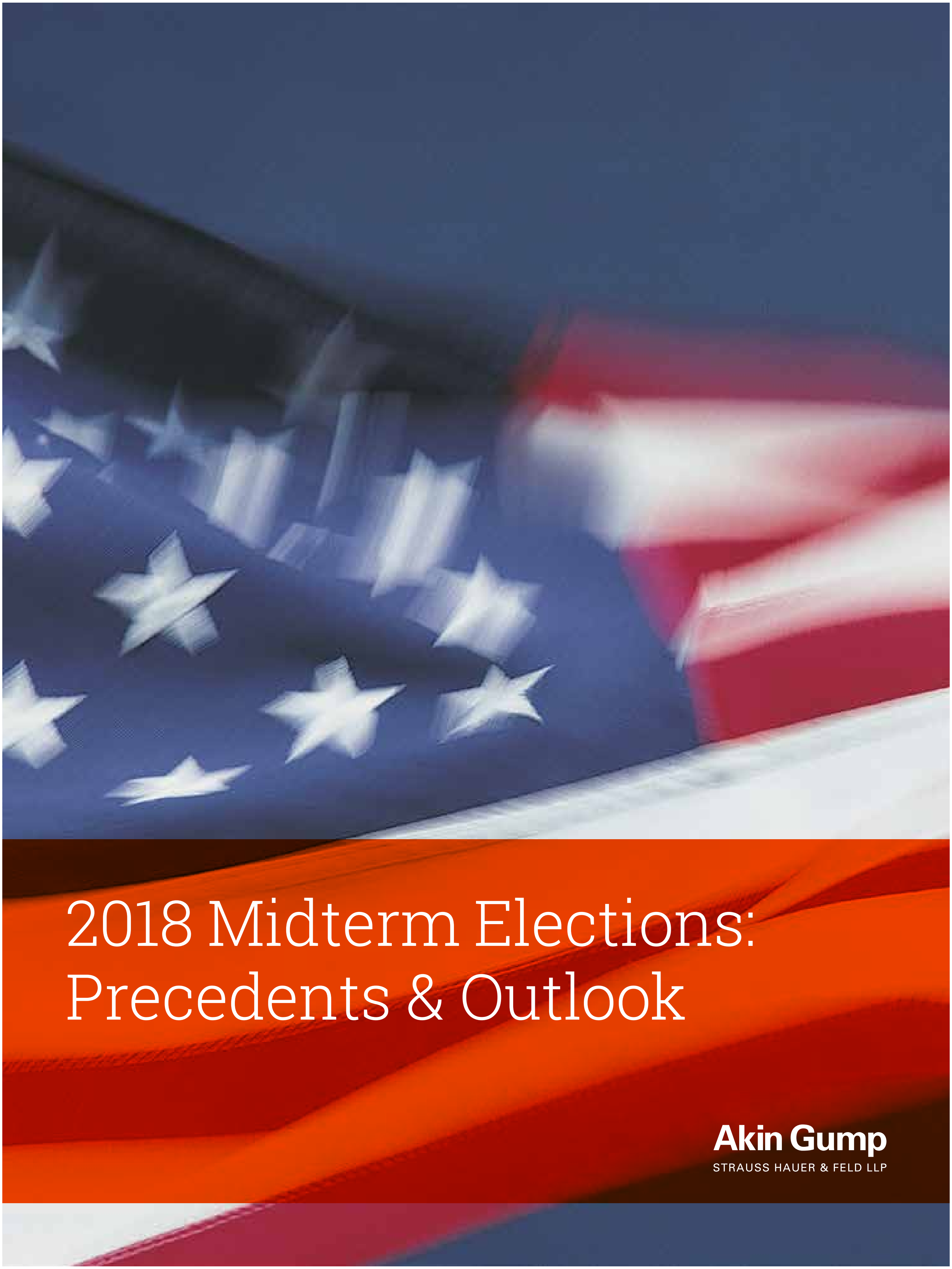


2018 Midterm Elections: Precedents & Outlook

Akin Gump
STRAUSS HAUER & FELD LLP

In less than three months, the public will go to the polls to select representation for the 116th Congress, which begins in January 2019. All 435 seats in the House of Representatives and a third of the seats in the Senate will be up for reelection, giving voters the opportunity potentially to reshape policy-making for the next two years.

President Trump will not be on the ballot this November, but Democrats and Republicans will ensure that the President's policies and controversies receive a public debate before voters cast their ballots.

This report seeks to provide insight into the upcoming 2018 midterm elections by delving into the historical and political patterns that have shaped previous midterm contests. The report will look at how presidential popularity and historical precedent can shape outcomes. It will explore the current state of play of the overall dynamics in the House and Senate races. Finally, the report will look at each party's strategy for success this fall.

Presidential Popularity and Historical Precedent in the Midterm Elections

There are many factors that can shape the outcome of midterm elections, including the state of the economy and foreign affairs developments. However, presidential popularity and historical precedent are known to have a significant effect on the direction and ultimate result of midterm elections.

Presidential Approval at Midterm Elections

The public approval of the incumbent president can have a dramatic impact on midterm elections. As noted in Table 1, President Trump's Gallup approval rating is similar to several of his predecessors' ratings at the same point in their presidencies. Most recently, in 2010, President Obama was fighting the public headwinds against his attempts to reform the health care system. In 1994, health care initiatives led by then-First Lady Hillary Clinton contributed to President Clinton's low popularity, as well as a string of public controversies. In 1982, President Reagan was dealing with high unemployment rates, and in 1978 President Carter's upside-down approval rating was heavily influenced by rising inflation and the burgeoning energy crisis.

Presidential Approval—Historic Comparison

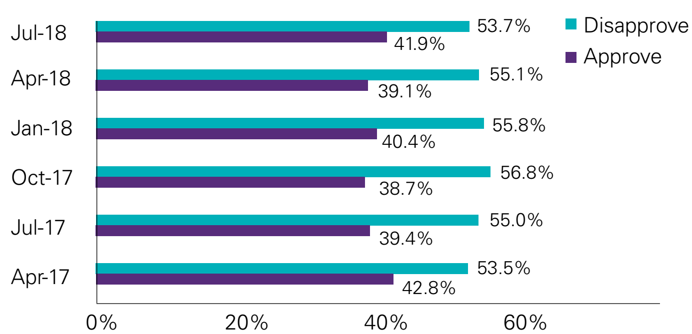
PRESIDENT	DATE	APPROVAL RATING
Trump	**August 12, 2018**	**39%**
Obama (D)	August 15, 2010	44%
Bush 43 (R)	August 8, 2002	68%
Clinton (D)	August 16, 1994	39%
Bush 41 (R)	August 19, 1990	75%
Reagan (R)	August 16, 1982	41%
Carter (D)	August 14, 1978	40%

Source: Gallup *Table 1*

The chart shows two exceptions to the general low popularity experienced by presidents at this point in their presidencies. Both President George H.W. Bush and President George W. Bush experienced high levels of popularity a year and a half into their tenures. President George H.W. Bush was still benefiting from a strong economy and a well-fought war in the Persian Gulf. His son, President George W. Bush, similarly was enjoying high levels of support for his leadership following the terrorist attacks of September 11, 2001.

As mentioned above, President Trump's approval numbers presently are low, though they are higher than the RealClearPolitics (RCP) average of 37 percent that he registered in December 2017. Indeed, President Trump has never had an RCP average approval rating above 46 percent during the first year and a half of his presidency, though, as seen in Graph 1 the President's approval numbers have steadily risen over the past two quarters, with the RCP average plateauing around 42 percent for the past month.

Presidential Approval—Trump's Trends



Source: RealClearPolitics *Graph 1*
Data points taken at end of the listed month

Like his predecessors, several factors could be contributing to the President's lower approval rating. On the policy side, his actions on immigration, trade and a host of other issues, including his recent meetings in Helsinki with Russian President Vladimir Putin, could be affecting his standing among the public. On the personal side, the numbers could reflect displeasure with the President's unconventional communication style, including his off-the-cuff remarks and controversial public-policy pronouncements.

Historical Precedent

Presidential approval ratings are one of the factors in the outcome of midterm elections, and, historically, the party in power in the White House tends to fare poorly at the midterm ballot box. The good news for President Trump is that his approval numbers are similar to those of Presidents Clinton and Obama at this point in their presidencies. The bad news for the President and Republicans is that Democrats experienced historic losses, including the loss of the House, during the first midterm elections of Presidents Clinton and Obama. Table 2 shows the Gallup approval ratings of the past six presidents on election day during their first, and in some cases only, midterm elections. (President Trump's current Gallup rating is used for comparison purposes.)

Understandably, when presidents' approval ratings were below 50 percent, as in the case of Presidents Obama, Clinton and Reagan, their party lost seats. Surprisingly, though, even when presidents' ratings were more than 50 percent—Presidents Carter and George H.W. Bush—their parties still lost seats. Only President George W. Bush, with a solid 63 percent approval rating, escaped the fate of his presidential colleagues and saw his party actually gain seats in his first midterm election, though he would go on to experience massive congressional losses in his second.

Currently, President Trump is trending in dangerous territory. His current Gallup approval rating of 39 percent is well below President Obama's approval rating of 45 percent on election day 2010, when the Democrats saw historic losses in the House and a half dozen losses in the Senate. If President Trump's approval rating continues to drag, it could portend massive losses for the Republican contingent.

The risks that President Trump and the Republicans face are partially based on historical precedent. Since the end of the Second World War, the incumbent president's party has seen an average loss of 25 seats in the House, the exact amount needed for Democrats to take the majority for the 116th Congress.

Part of the issue that incumbent presidents face is that the public often treats a midterm election as a referendum on the president's tenure in the White House, with the president's party in Congress bearing the brunt of displeasure or, in rare instances, receiving support from an approving public. President Trump faces an energized opposition that may continue this historic precedent and deliver defeat to congressional Republicans.

Presidential Approval—Midterm Election Day

PRESIDENT	MIDTERM ELECTION	APPROVAL RATING ON ELECTION DAY	NET HOUSE	NET SENATE
Carter (D)	1978	52%	-15 Dem	-3 Dem
Reagan (R)	1982	43%	-26 GOP	-1 GOP
Bush 41 (R)	1990	58%	-8 GOP	-1 GOP
Clinton (D)	1994	46%	-52 Dem	-8 Dem
Bush 43 (R)	2002	63%	+8 GOP	+2 GOP
Obama (D)	2010	45%	-63 Dem	-6 Dem
Trump (R)	2018	39% (August 12, 2018)	TBD	

Source: Gallup

Table 2

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House Outlook

As indicated by Graph 2, Republicans are in control of the House with 236 seats, 18 more than a majority. Democrats hold 193 seats. There are currently six vacancies (though, once results are certified in an Ohio special election, there will be only five vacancies). Democrats will need a net gain of 25 seats in order to take the majority. As the following tables and graphs show, that is a plausible outcome.

Current House

Graph 2

Generic Ballot–Advantage Democrats

Because all 435 seats in the House are up for reelection, the generic ballot—or asking voters whether they prefer to vote for a generic Republican or Democrat—is a good tool used by political prognosticators to forecast the possibility of a wave election in the House. Table 3 illustrates this phenomenon.

Generic Ballot—Historical Comparison

ELECTION	GENERIC BALLOT, DAY OF ELECTION	OUTCOME IN THE HOUSE
2006	+11.5 Dem	Democratic Takeover
2008	+9.0 Dem	Democratic Hold
2010	+9.4 Rep	Republican Takeover
2012	+0.2 Rep	Republican Hold
2014	+2.4 Rep	Republican Hold
2016	+0.6 Dem	Republican Hold
2018	+4.8 Dem (August 14, 2018)	TBD

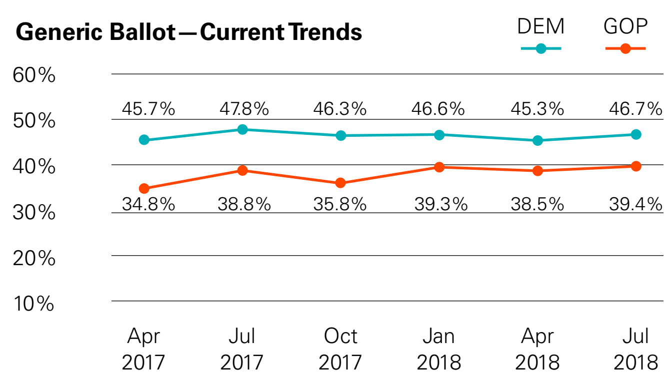
Source: RealClearPolitics *Table 3*

When the generic ballot margin is heavily tilted to the minority party, it can mean success for that party on election day. For example, on election day 2006, the RCP generic ballot average had the minority party, congressional Democrats, holding a double-digit lead. The party subsequently took control of both chambers.

Conversely, when the generic ballot margin is heavily tilted in favor of the majority party, it can result in a status quo election, as was the case when the Democrats maintained their majority in 2008 with an RCP generic ballot average of +9 percent. Similarly, status quo elections are also possible when the average margin is small. For example, as Table 3 shows, even though House Democrats held a small lead on election day 2016, Republicans still retained control of the chamber.

Democrats are buoyed by the fact that they have led the generic ballot since April 2017, when RCP began recording the average for the 2018 cycle. However, as seen in Graph 3 Republicans have narrowed the gap over the past year and a half. The current RCP average has Democrats with at +4.8 edge, a number that is close to the low of +4 percent the Party registered in May. If Republicans continue to narrow the generic ballot gap and keep margins low, it may aid the GOP in possibly thwarting attempts by Democrats to ride a "blue wave" to the House majority.

Generic Ballot—Current Trends



Source: RealClearPolitics *Graph 3*
Data points taken at end of the listed month

Flipping the House

As indicated by Table 4, control of the House has flipped three times in the last six midterm elections. Two commanders-in-chief, Presidents Clinton and Obama, saw their party lose control of the House following their first midterm elections. President Bush's Republican party lost the House majority in his second midterm election.

Changes in House Majority

ELECTION	INCUMBENT PRESIDENT	OUTCOME IN THE HOUSE
1994	Clinton (D)	Republican Takeover
2006	Bush 43 (R)	Democratic Takeover
2010	Obama (D)	Republican Takeover

Table 4

Race Ratings

While there are many different institutions and individuals that spend considerable amounts of time attempting to forecast the outcome of individual races, *The Cook Political Report* ("*Cook Report*") is one trusted standard when it comes to determining the state of play on House and Senate races.

As it stands, the *Cook Report* predicts that 181 Democratic seats and 153 Republican seats are safe and uncompetitive at this time. However, as seen in Table 5, the *Cook Report* maintains that 101 seats have varying levels of competitiveness. Under the current rankings, Republicans are far more vulnerable than Democrats, with 87 seats considered in play for 2018. Indeed, the *Cook Report* suggests that 10 currently Republican seats are trending blue, while only one Democratic seat is trending red.

***Cook Report*—House Ratings**

Likely Dem	9 Dem; 3 GOP
Lean Dem	2 Dem; 7 GOP
Tossup	2 Dem; 27 GOP
Lean GOP	25 GOP
Likely GOP	1 Dem; 25 GOP

Source: Cook Report *Table 5*

153 Republican seats and 181 Democratic seats are considered uncompetitive at this time and not included in these rankings

Though the *Cook Report* ratings, as reflected in Table 5, run from "Likely Dem" to "Likely GOP," the real battleground races are in the "Toss-up" category. Table 6 shows that, currently, Democrats have 2 toss-up seats, while Republicans hold 27 seats that are considered the most vulnerable to take over.

Table 6 shows that, for Republicans, their most competitive seats are scattered across the country from New York to California in mostly suburban districts. Moreover, both parties could see additional seats move into the tossup category as the election draws nearer.

***Cook Report*—Tossup Contests**

DEMOCRATIC TOSS-UP (2)	REPUBLICAN TOSS-UP (27)
MN-01 Open	CA-10 Denham
MN-08 Open	CA-25 Knight
	CA-38 Open
	CA-45 Walters
	CA-48 Rohrabacher
	CO-06 Coffman
	IA-01 Blum
	IA-03 Young
	IL-06 Roskam
	IL-12 Bost
	KS-02 Open
	KS-03 Yoder
	KY-06 Barr
	ME-02 Poliquin
	MI-08 Bishop
	MI-11 Open
	MN-02 Lewis
	MN-03 Paulsen
	NC-09 Open
	NJ-03 MacArthur
	NJ-07 Lance
	NY-19 Faso
	NY-22 Tenney
	TX-07 Culberson
	TX-32 Sessions
	VA-07 Brat
	WA-08 Open

Source: Cook Report *Table 6*

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Senate Outlook

Control of the Senate currently rests with Republicans, who hold 51 seats in the 100-seat chamber. Democrats hold 49 seats, including two Independents who caucus with their Democratic colleagues. Graph 4 displays the current party breakdown in the Senate. Democrats will need a net gain of two seats on election day to take the Senate majority.

Current Senate

Graph 4

Senate Map—Advantage Republicans

While Democrats have a geographic and numerical advantage in the House, the opposite is true in the Senate, where a map of open seats favorable to Republicans may prevent a Democratic takeover. Unlike in the House, where all 435 seats are up for reelection, the Senate only has 35 seats in play, including two special elections. Of those, only 9 are Republican-held, while Democrats are defending 26 seats when the two Independent Senators are counted.

It is not just the number of seats that Democrats have to defend that will pose a challenge, but also where those seats are located. Ten Democrats are up for reelection in states that President Trump won in the 2016 presidential election. As seen in Table 7, in some states, including Michigan, Pennsylvania and Wisconsin, the President's margin of victory was small. However, in five states—Indiana, Missouri, Montana, North Dakota and West Virginia—President Trump won with margins of 18 percent or more. Republicans are optimistic about their chances of knocking off Democrats in Trump states, but they are particularly focused on the five where President Trump did exceptionally well, plus Florida, where a well-funded Gov. Rick Scott (R) is seeking to knock off Sen. Bill Nelson (D) in a state that President Trump narrowly won in 2016.

For their part, Democrats are working tirelessly to defend these 10 seats, while also looking for opportunities to pick up seats and possibly take over the chamber. Their main targets as of now are Arizona, Nevada and Tennessee. President Trump won both Arizona and Tennessee (the latter by a significant margin), but former Secretary of State Hillary Clinton captured Nevada by a relatively thin margin, making that seat particularly ripe for a competitive race.

Senate Map—2018 Incumbents and 2016 Results

STATE	2018 INCUMBENT	2016 MARGIN
Arizona	Open (GOP Incumbent)	Trump +3.5%
Florida	Bill Nelson (D)	Trump +1.2%
Indiana	Joe Donnelly (D)	Trump +19.1%
Michigan	Debbie Stabenow (D)	Trump +0.2%
Missouri	Claire McCaskill (D)	Trump +18.6%
Montana	Jon Tester (D)	Trump +20.4%
Nevada	Dean Heller (R)	Clinton +2.4%
North Dakota	Heidi Heitkamp (D)	Trump +35.7%
Ohio	Sherrod Brown (D)	Trump +8.1%
Pennsylvania	Bob Casey (D)	Trump +0.7%
Tennessee	Open (GOP Incumbent)	Trump +26%
West Virginia	Joe Manchin (D)	Trump +42%
Wisconsin	Tammy Baldwin (D)	Trump +0.7%

Table 7

Flipping the Senate

Table 8 shows that, counting only the changes in control of the Senate chamber as a result of elections (excluding party switches during a Congress), Senate control has flipped three times in the last six midterm elections, but only once during a president's first midterm election (President Clinton). Democrats took control of the upper chamber following President George W. Bush's second midterm election in 2006, and Republicans took back control of the Senate following President Obama's second midterm in 2014.

Changes in Senate Majority

ELECTION	INCUMBENT PRESIDENT	OUTCOME IN THE SENATE
1994	Clinton (D)	Republican Takeover
2006	Bush 43 (R)	Democratic Takeover
2014	Obama (D)	Republican Takeover

Table 8

Race Ratings

According to the *Cook Report*, 14 Democratic Senate seats and 3 Republican seats are considered safe, as shown in Table 9. While 7 Democratic seats and 6 Republican seats could become more competitive, a total of 8 seats are considered pure toss-ups. Of the 8 toss-ups, 5 are currently held by Democrats (Florida, Indiana, Missouri, North Dakota and West Virginia), but Republicans also currently hold seats that the Cook Report considers toss-ups, including Arizona, Nevada and Tennessee. Arizona and Tennessee's toss-up status can be attributed in part to the fact that they are open contests with no incumbent running for reelection. The full list of toss-up seats can be found in Table 10.

***Cook Report*—Senate Ratings**

Solid Dem	14 Dem
Likely Dem	6 Dem
Lean Dem	1 Dem
Tossup	5 Dem; 3 GOP
Lean GOP	1 GOP
Likely GOP	2 GOP
Solid GOP	3 GOP

Source: Cook Report *Table 9*

***Cook Report*—Tossup Contests**

TOSS-UP (8)	
AZ-Open	ND-Heitkamp (D)
FL-Nelson (D)	NV-Heller (R)
IN-Donnelly (D)	TN-Open
MO-McCaskill (D)	WV-Manchin (D)

Source: Cook Report *Table 10*

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Party Electoral Strategies

In order to come out on top in November, each of the two major political parties are developing and deploying electoral strategies that they believe will give them the edge headed into election day.

Democratic Strategy

Locked out of the White House and in the minority in both the House and the Senate, Democrats will be aggressively playing offense in an attempt to take back control of one or both chambers. Democrats are pushing hard to form an energized coalition of young, minority, female and progressive voters to fuel success at the ballot box.

To win, Democrats are looking toward myriad issues on which to run. President Trump's controversial statements and policies have given Democrats plenty of material on which to campaign. They are expected to zero in on several of the most controversial issues pushed by the administration, including immigration and relations toward Russia. Democrats are also expected to direct attacks at their congressional Republican counterparts, including criticisms over attempts to dismantle the Affordable Care Act (ACA), tax cuts that Democrats say benefit the rich and their general perception that Republicans refuse to investigate the controversies surrounding the President.

Thus far, Democrats are far more optimistic about their chance of success in the House than Republicans, in large part due to the previously discussed historical precedents regarding presidential approval ratings and generic ballot advantages. Democrats are hoping that history repeats itself with the party in the White House—the Republicans—suffering heavy losses on election day. Republicans, for their part, have not given up hope on the House and are bullish on holding onto the Senate majority.

Republican Strategy

With full control of the federal government going into a presidential midterm election, the GOP will mostly be playing defense, although major opportunities present themselves in the Senate, as discussed. Republicans will largely rely on a coalition that looks similar to the one that propelled Donald Trump into the White House two years ago: white, male and older. Republicans will also rely on blue-collar Trump voters who delivered the President historic victories across the Rust Belt and other states with large manufacturing bases. The GOP is relying on the historic advantage that, typically, Republican voters turn out in higher numbers than Democrats during midterm elections. However, Democrats are seeking to blunt that traditional advantage by energizing their base.

On the issues, Republican lawmakers will point to a host of legislative accomplishments as proof that the current GOP majority can govern and deliver on policy priorities. In particular, Republicans will campaign on their 2017 tax reform law that slashed income tax rates and reformed both the individual and business sides of the tax code. Though they failed fully to repeal the ACA, Republicans will point to the inclusion in the tax reform law of a provision that repeals the individual mandate to purchase insurance, as well as other efforts to reshape health care markets, including repealing the medical device tax, delaying the employer mandate and expanding health savings accounts. The GOP also will be running on successfully repealing 15 of President Obama's major regulations and reshaping the federal judiciary, including the confirmation of Neil Gorsuch, and possibly Brett Kavanaugh, to the Supreme Court.

Republicans also continue the drumbeat on the positive direction of the U.S. economy under President Trump's tenure. For proof, they point to historically low levels of unemployment, large gains in the stock markets and the overall growth of the national economy. Economic prosperity is, and will continue to be, a central plank in Republicans' arguments on why they should retain control of Congress.

Conclusion

Midterm elections are the most powerful avenue through which the voting public can register their dissatisfaction or approval of the incumbent president and his party in Congress. Historical precedent, presidential popularity and a host of other factors discussed in this report can shape, and have shaped, outcomes in midterm elections. These forces will likely be at work again come election day 2018. Then again, the unconventional election of Donald Trump to the presidency may have ushered in a new political order in which the conventional factors are less potent. The voters will get to make that decision on November 6.

We would like to acknowledge and thank Chase Hieneman, policy advisor at Akin Gump, for his significant contributions in drafting this report.

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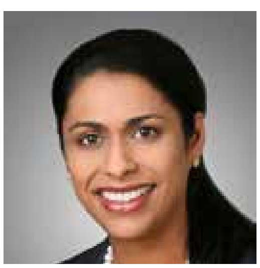

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