

Cozen Currents: The Most Likely Election Outcomes

The Cozen Lens

- If Vice President Harris wins, she will most likely preside over a divided government, limiting her ambitious agenda and setting the stage for a lengthy bipartisan negotiation over tax reform.
- A Republican sweep would set the stage for the realization of a partisan legislative agenda by unlocking access to budget reconciliation.
- These two base cases may be the likeliest ones but they aren't guarantees — other splits could result given how close the margins are in both chambers of Congress.

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Most Likely Election Outcome Option A: Harris and Divided Congress

Harris' Road to the White House. The route to a divided government likely begins with a victory for Vice President Harris.

- The clearest case for a Harris victory and the reason the presidential race remains a toss-up is simply that Trump is unpopular. Trump's favorability rating is negative 8.6 points, roughly seven points worse than Harris' own favorability rating of negative 1.6 points. The more popular candidate has won 16 of the last 17 presidential elections dating back to 1956.
- Another factor in Harris' favor could well be the composition of the electorate. While Trump has made gains among Black and Hispanic voters in polls this cycle, Harris has made her own gains among older, white, college-educated voters. Those voters are more likely to show up on Election Day, a crucial factor behind Democrats' overperformance in the 2022 midterm elections and the 2023 special elections. With Harris' coalition likely to show up at the ballot box, failure by Trump to turn out lower-propensity voters could spell doom for his campaign.
- The easiest path to a Harris victory is through the Rust Belt states of Michigan, Wisconsin, and Pennsylvania. Winning all three would give her an Electoral College victory even without wins in any of the other four swing states. Harris leads by about a point in 538's polling averages of Michigan and Wisconsin while Pennsylvania is a dead heat. According to Nate Silver's election forecast, the three "Blue Wall" states are expected to vote the same direction about 66 percent of the time, so a Harris lead in any of the three states could portend good news across the board for her.

The Outlook for Congress. A victory by Harris is unlikely to boost Democrats down the ballot enough to overcome a Senate map that favors the GOP, suggesting that Harris would likely preside over a divided government no matter the outcome in the House.

- Democrats entered the election cycle with 51 Senate seats and a map that required the party to play defense in competitive races across seven Republican-leaning or battleground states. While Democratic incumbents consistently outperformed the top of the ticket in summer polls, the gravity of partisanship in GOP states will likely be too much for Democratic candidates to overcome. Analysts widely expect the GOP to win the open race for West Virginia's Senate seat, leveling the playing field at 50 seats apiece. If



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the GOP picks up one more seat, as polls suggest they will in Montana, the Senate majority will flip no matter the outcome at the presidential level.

- Unlike their counterparts in the upper chamber, House Democrats have multiple paths to the majority. 12 of the 40 seats deemed competitive by the Cook Political Report are in Democrats' home territory of California and New York, giving the party an opportunity to flip a number of the seats that gave the GOP a razor thin majority in the 2022 midterm elections. Polling also suggests that Democratic House candidates are holding their own in competitive races across the Midwest. Given the low levels of split-ticket voting in presidential elections and the slim nature of the GOP's House majority, a Harris victory could easily give Democrats the boost they need to flip the lower chamber.

Divided We Fall. Under a divided government, Harris will be forced to moderate her policy positions and priorities if she hopes to advance any meaningful legislation.

- Next year is the Super Bowl of tax reform, an issue that will be the top priority for Congress no matter its makeup. Under a divided government, Harris and House Democrats would be unable to implement the revenue raising changes to tax law, such as an increase to the corporate tax rate that they otherwise hope to use to offset the cost of domestic spending priorities. Instead, the two parties would be forced to find a compromise on the parts of the Tax Cuts and Jobs Act they can agree on extending.

- Beyond legislation, Harris' use of administrative power to shape her agenda would also be limited by the whims of a GOP Senate majority. Senate-confirmed positions such as cabinet secretaries and other agency leadership roles would be limited to nominees who are moderate enough to receive bipartisan support during their confirmation. The dynamic would also encourage Harris to keep aboard many Biden appointees, most notably Federal Trade Commission Chair Lina Khan and Consumer Financial Protection Bureau Director Rohit Chopra.

Most Likely Election Outcome Option B: GOP Sweep

Trump's Road to the White House. The route to a Republican sweep starts with a victory in the presidential race in what remains an effective toss-up.

- Traditional electoral fundamentals favor former President Trump and Republicans. There is a strong anti-incumbent sentiment in the US and globally, which has seen many incumbent parties defeated in this year's elections. Additionally, the top two issues in the race, the economy and immigration, are issues Republicans have often been perceived as best positioned to handle in poll results.

- Another factor that will remain unknown until the votes have been tallied is what, if any, polling error is there in Trump's favor, like in 2016 and 2020. While the error may be small, with the tight nature of the race, even just a small step in Trump's favor could make the results look like a landslide. In the Washington Post's polling, if there is an error the size of 2016, Trump would win all seven swing states, and one the size of 2020 would see him carry all but Nevada.

- Trump's best path likely starts with North Carolina and Georgia. With these two wins, the most straightforward path is to win Pennsylvania, which would put him at exactly 270. However, he can still lose Pennsylvania and find other routes, such as winning Nevada, Arizona, and any one of the other two Blue Wall states (Wisconsin and Michigan). But, since 1980, the Blue Wall states have only once not voted the same way, which could mean that Trump's bid is at risk if he loses Pennsylvania and suggests a Trump landslide may be more likely than a narrow Trump victory.

The Outlook for Congress. The easiest part of a Republican sweep is securing the Senate, and while control of the House remains up in the air, a Trump triumph should be enough to also secure Congress' lower chamber.

- In the Senate, beyond expected GOP pick-ups in West Virginia and Montana, a Trump win could boost Bernie Moreno in Ohio, giving Republicans a 52-48 majority with the possibility of a bigger majority with potential wins in the Blue Wall states, limiting moderates' power in an otherwise slim majority.

- While more uncertain than the Senate, a Trump victory likely provides sufficient coattails for Republicans to remain in control of the House. The GOP is defending 22 of the 40 races the Cook Political Report has deemed *competitive*. However, the lack of ticket-splitting should mean that a strong performance by Trump protects Republicans' House majority with the potential to expand by flipping some Democratically-controlled seats.

To the Victor Goes the Spoils. The biggest prize of a Republican sweep is winning the ability to use budget reconciliation, enabling Congress to pass legislation on federal revenue, debt, and spending with a simple majority in both chambers.

- The expected top focus for budget reconciliation will be extending most of the Tax Cuts and Jobs Act's expiring provisions, passed when Trump last had a unified Republican government through budget reconciliation. There is also a chance that this could come with a reduction in the corporate tax rate, with talk of it lowering to 15 percent.

- Republicans have indicated that extending tax cuts would not be the only aspect of the partisan legislation, focusing on immigration-related measures and efforts to support the oil and gas industry. Offsetting the tax bill and these other proposals would likely be rollbacks of the Inflation Reduction Act, potential changes to the Affordable Care Act, and other spending cuts, some of which were *outlined* by House Republicans earlier this year.

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Other Scenarios of Note

If the Two Houses Disagree. The likeliest discontinuity is a situation where control of the White House and the House of Representatives don't go the same way.

- The rule of thumb is that a victory at the top of the ticket generally powers enough momentum for downballot candidates of the same party to ride to success on their coattails. This has become more the case with the rise of polarization and the decline of split-ticket voting. Every new president since Bill Clinton has entered the White House with the lower chamber also in tow.

- While a good pointer, it's hardly a guarantee. There aren't many competitive House races and a majority are happening outside of the presidential swing states; this decorrelation could set up a mixed decision.

- If Vice President Harris wins without the lower chamber, she will almost certainly face a totally opposed Congress. If Democrats *did* control the House it would bring more leverage and the ability to limit negotiations to Senate Republicans, who are closer to their positions on fiscal and foreign policy. Having neither means also having to work out deals with the House GOP (and through the Freedom Caucus), more congressional investigations, and the threat of impeachment.

- A Democratic House coincident with a victory by former President Trump would mean continued divided government. While Trump would have more ease getting his nominees and judges confirmed, the option of using budget reconciliation to pass major legislation along party lines would be off the table: addressing expiring tax cuts and passing budgets would require a bipartisan deal and GOP hopes of repealing the Inflation Reduction Act (IRA) would be quashed. While a legislative repeal would be off the table, Trump would still have the power to significantly throttle the IRA by rewriting rules governing the tax credits. A divided government would also not preclude Trump from pursuing bold executive actions, such as his much-hyped tariffs.

The Dark Horse of the Senate. Odds-makers are revising up the chances Independent Senate candidate Dan Osborn wins in Nebraska, and with it, the shock to the upper chamber it could bring.

- Osborn is a former union leader turned political maverick who hopes to do the (seemingly) impossible — snatching the first statewide win from Republicans in 18 years in a solidly red state during a presidential cycle. While he certainly faces an uphill battle, Osborn only narrowly trails Senator Deb Fischer (R-NE) in [polling](#), is roughly equal in [fundraising](#), and political analysts like the Cook Political Report have moved the race to “Leans Republican” over the past two weeks. Harris’ strong [polling](#) in Nebraska’s 2nd congressional district and simultaneous state ballot measures on abortion, medical marijuana, and sick leave are more reasons for the GOP to be nervous.

- Osborn is running as his own man and says he [won't](#) caucus with either party should he win. Realistically, he'll have to pick a side if he wants a chance of representing his state on committees; every Independent in the upper chamber in the last 65 years has ultimately decided to caucus with one of the two major parties (minus Dean Barkeley's two-month stint in 2002). Many of his priorities [line up](#) with those of the Democratic Party and he'll have a full six-year term to make it up to voters if he reverses course.

The prospect of a Senator Osborn win is both more unlikely and of less consequence should Trump come out on top. If Harris becomes president and Democrats hold onto vulnerable seats beyond West Virginia and Montana, the result would be 50 Republicans to 49 Democrats and Osborn. In this unlikely but consequential scenario, if Osborn decides to caucus with the Democrats, it could produce a unified government but he could also set limitations, like not necessarily facilitating the use of budget reconciliation by the Democrats. After all, he would still be representing ruby red Nebraska.
