

Cozen Currents: Are Republicans Able to Have Trumpism Without Trump?

The Cozen Lens

- Governor Ron DeSantis (R-FL) is running for reelection this year. But all eyes are on what he does two years later, as DeSantis presents the most formidable challenge to a third presidential election cycle with Donald Trump atop the GOP ticket.
- The race for the Senate is heating up. The national political environment gives Republicans an edge in their bid to retake control of the upper chamber, but poor-quality candidates risk blowing winnable races. The impact of the Supreme Court's decision to overturn *Roe v. Wade* last week is a wild card in the run up to the midterms.
- The regulatory agenda released by the Biden administration earlier this month is a reminder of the amount of progressive goals that President Biden will aim, and be able, to achieve while lacking a majority in Congress.

Can DeSantis Reach Escape Velocity?

Ron DeSantis Ascendant?: The Florida governor has been called "Donald Trump without the baggage," "competent Trumpism," and "Trump with a brain." But who is DeSantis beyond Trump?

- DeSantis fits the typical political pedigree. The 43-year old was captain of the Yale baseball team just like George H.W. Bush. He went to Harvard Law just like Barack Obama. He served in the military as a judge advocate general. He was elected to Congress at 34 and as governor six years later. He has a telegenic family and is a frequent Fox News guest. All conventional checks for a traditional politico.
- DeSantis has largely legislated and governed as a means to higher office. He has preferred the theatrics to the substance. Entering Congress at the height of the Tea Party, DeSantis embraced its libertarian and anti-authoritarian ethos and helped form the House Freedom Caucus. He then shifted gears to embrace the strong-arming of Trump, employing his playbook (and even hand gestures) in fighting the culture wars.
- DeSantis wants to succeed Trump but he's not a Trump showman. He's notoriously aloof and does not schmooze. He's not interested in "kissing the ring" of any patrons, including Trump, once that support is no longer needed.

Donald Trump Descendant?: The Florida resident is feeling unprotected and unheard as the January 6th select committee hearings unfold, as a Twitter-less showman without the keys to the Oval Office struggles to remain the king of the GOP.

- The January 6th hearings are creating a weariness among Trump voters. Per one focus group of Trump voters, no one wants him to run again. This is less about how the select committee is operating and more a "growing weary" of Trump and all that he encompasses.
- Trump's Midas touch has rusted in midterm endorsements this year. Several of his endorsements have flopped. Most notable of all was his public challenge to Georgia Governor Brian Kemp. Similar to DeSantis, he was once a Trump accolade and patron who showed insufficient fealty to the president and received his ire. But Kemp, like DeSantis, grew beyond Trump. This year, DeSantis isn't seeking Trump's endorsement for reelection and is aiming to win his race by a larger margin than Trump's 2020 victory in Florida.
- Trump wants to announce his presidential election early. He is asking about announcing another run for the White House as early as this summer. Whether or not he follows through, his position comes from a sense of weakness and impatience.



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DeSantis vs. Trump?: Either would be the favorites if the other did not run, but a DeSantis vs. Trump race is Trump the movement vs. Trump the man.

- A recent New Hampshire primary poll showed DeSantis ahead of Trump among likely GOP voters, 39 percent to 37 percent. That lead was biggest among Fox News and conservative radio listeners, an indication of DeSantis catching fire with movement Republicans. The poll also showed DeSantis edging out President Biden in a hypothetical matchup while Trump handily losing to the current president in the Granite State.
- But is DeSantis a flop or a hit on the campaign trail? There have been several Republican white knights who didn't reach escape velocity, like Rick Perry in 2012 and Scott Walker in 2016. Running for president is a different beast, especially when facing the direct bombast of Trump.
- Would Trump burn the Republican Party down? More importantly, could he? It's this fear that has kept the Republican elite tethered to him for so long and may continue to do so if he runs again. But such a threat could ring hollow if he's losing to a Trump conservative and tribal politics leaves little room for Republicans to abandon their own party for the sake of one man.
- There isn't room for an anti-Trump Republican. Even in a Trump vs. Trumpian race, there's not a large enough lane for a non- or anti-Trump Republican. The Ohio Senate primary had a crowded field of Trump Republicans. The one avowed non-Trump candidate, state Senator Matt Dolan, was only able to garner 23 percent of the vote.

The State of the Senate Midterms

The National Political Environment. The Republican Party has been dealt a strong hand going into this year's midterm elections, but the overruling of *Roe v. Wade* could potentially shift this dynamic.

- Democrats face a challenging political climate this year. Recent polling indicates GOP advantages in key barometers of public opinion. According to the latest [FiveThirtyEight average](#), Biden's approval rating is down to 39.6 percent with 55.6 percent disapproval. This is below where former President Trump stood in the polls at the same point in his presidency with 41.9 percent approval on day 523. Biden's lagging popularity risks dragging down the Democrats who will be on the ballot this year. The GOP also has a 2.8 percentage point lead on the latest [RealClearPolitics generic congressional ballot](#). High inflation and particularly surging gasoline prices are creating political headwinds for the party in power. It's not a good time to be running for US Senate with a D next to your name.
- On the other hand, a potential backlash to the Supreme Court's decision last week to overturn *Roe v. Wade* could erode Republicans' edge going into the midterm elections. While abortion is a controversial political issue, most Americans do not support a ban. According to [Gallup polling](#), 85 percent of Americans want abortion to be legal under "any" or "certain" circumstances, versus 13 percent who want the procedure to be illegal in "all" circumstances. This high percentage doesn't hold when survey respondents are asked about details, however. Support for legal abortion falls the farther a woman is into pregnancy. The [Pew Research Center](#) found that 51 percent of Americans supported legal abortion during the first six weeks of pregnancy, compared to 41 percent at 14 weeks of pregnancy and 29 percent at 24 weeks. A significant percentage were of the view that "it depends." When Gallup asked specifically about whether survey respondents supported the overturning of *Roe* last month, 58 percent said no and 35 percent said yes.
- Within a month of the Supreme Court decision, abortion will be banned in 15 states, and 5 more are expected to follow soon after – including Georgia, which has a highly competitive US Senate race. If abortion becomes a major issue for voters this fall (particularly among the suburban women whose votes delivered the House of Representatives to Democrats in the 2018 midterms), this could give a boost to Democratic Senate candidates promising to codify protections for abortion rights in federal law. The [New York Times](#) reported last week that Trump has privately said to those near him that the Court's decision will be "bad for Republicans." Nevertheless, it's possible that inflation will be a higher concern than abortion for many voters, and there is no guarantee that a backlash at the polls would be strong enough to overcome a national political environment that's unfavorable for Democratic candidates.

Republican Candidates. Candidate selection could very well be the Republican Party's Achilles

heel (again) this campaign cycle, and poor-quality candidates risk squandering the GOP's advantages and losing winnable races.

- Several GOP Senate candidates appear weaker than party leaders had hoped. If the national mood sours on Biden enough, that could be sufficient to deliver victory for flawed Republican candidates. On the other hand, there's a chance that these less than ideal GOP candidates could underperform expectations enough to let Democrats squeak to victory.
- In Pennsylvania, a USA Today/Suffolk poll conducted earlier this month found Lt. Governor John Fetterman (D) leading Mehmet Oz by nine percentage points. Oz was endorsed by Trump but as a Senate candidate has multiple vulnerabilities. He's a longtime resident of the state of New Jersey, opening him to accusations of carpetbagging. Oz, who would be the first Muslim US senator, has also been attacked for holding Turkish citizenship (he has said he would renounce it if elected). Fetterman, known for his "everyman" persona, may be a challenging opponent for the wealthy celebrity doctor.
- In Georgia, the candidacy of Trump-backed candidate Herschel Walker has been rocked by reporting that he has three children, previously unknown to the public, with different women. Walker also has a history of making false statements about his employment history and education, including lying about working for law enforcement and the FBI and graduating from college. The latest RealClearPolitics polling average has Walker up by just 0.6 percentage points over incumbent Senator Raphael Warnock (D-GA), and missteps by the embattled Republican candidate could cost him in a neck-and-neck race.
- There are also several candidates competing for Republican US Senate nominations who could ultimately fare poorly in a general election. In Arizona, the deeply conservative Trump-endorsed candidate Blake Masters, said at an event this week that "maybe we should privatize Social Security" and previously stated on his campaign website that *Griswold v. Connecticut*, the Supreme Court case that protected the right to access contraception, was "wrongly decided." Comments such as these could benefit endangered incumbent Senator Mark Kelly (D-AZ).
- In Missouri, former Governor Eric Greitens is making a bid for the seat left open by retiring Senator Roy Blunt (R-MO). He attracted attention last week for a campaign ad in which he holds a gun and calls for "RINO hunting." RINO is an acronym for "Republican in name only." Greitens resigned from office in 2018 amid allegations of blackmailing a woman with whom he had an affair and committing campaign finance misdeeds. His ex-wife has accused him of physical abuse against family members, which Greitens has denied. The latest RealClearPolitics polling average shows Greitens leading the GOP primary field by 3.5 percentage points. Party leaders in Missouri are beginning to unite against him. Last week, a new Republican super PAC called Show Me Values kicked off an ad campaign attacking Greitens. Though Missouri is a solidly Republican state, a Greitens nomination could potentially put the seat in play for Democrats.

Democratic Candidates. Despite the GOP's missteps, President Biden's party has an uphill battle to retain control of the Senate in this year's midterm elections.

- Arizona, Georgia, New Hampshire, and Nevada are currently the four best shots for Republicans to flip a Democratic US Senate seat. President Biden and Vice President Harris won all four states in 2020, but some by razor-thin margins. In a national environment favorable to Republicans, GOP candidates could stand a strong chance of winning some or all of these seats.
- As of yesterday, RealClearPolitics' aggregate tracker has Biden's approval at 38.9 percent. It has the Democrats' 2022 generic congressional vote at 42.0 percent (the GOP's vote share of 44.8 percent doesn't match Biden's disapproval rating of 56.9 percent). That Republican +2.8 ballot is a shift of 5.9 percentage points from the 2020 generic vote Democrats won by 3.1 points. That shift covers the spread over Democrats' 2020 margins of victory in Arizona (Biden +0.3, Kelly +2.4), Georgia (Biden +0.2, Warnock +2.0), and Nevada (Biden +2.4). It doesn't cover the spread in New Hampshire (Biden +7.5) but the Granite State is the most elastic in the nation, meaning it's the state most sensitive to national swings.
- Though Kelly and Warnock have a history of outperforming Biden, that may not be enough to be reelected this year. After only being in office since early 2021, it's questionable whether they've built a sufficiently strong brand to win when the political dynamics favor the GOP. It will be a challenge for Democratic Senate candidates to distinguish themselves from the party's

brand to win and maintain Biden's 2020 numbers, let alone outperform the president. Republicans winning any one of these four races while maintaining control of their seats in Florida, Missouri, North Carolina, Ohio, Pennsylvania, and Wisconsin means that McConnell will start packing his bags to move back into the majority leader's office.

Biden Administration Updates Its Regulatory Roadmap

A Regulatory Smorgasbord. This month's release of the semi-annual Unified Agenda of Regulatory and Deregulatory Actions (UA) has made clear that President Biden will fully embrace his regulatory agenda without a majority in Congress.

- This document is intended to provide an overview of the regulations that executive branch agencies are pursuing. It also includes estimated timelines for the various new rules that are under consideration, but these should not be viewed as binding by any stretch of the imagination. In most cases, agencies will take longer than the listed timeline to complete the regulation under consideration, sometimes by several months.
- What makes this edition particularly pertinent is the growing importance of Biden's regulatory agenda. With Democrats expected to lose their majorities in the House and Senate as a result of this fall's midterm elections, Biden's opportunity to pass partisan legislation faces a quickly closing window ahead of the August recess. This then leaves the president's primary tool to effect change for the remainder of his term as through regulatory means.
- One factor that will play a role in how successful agencies are at achieving these agenda items is successful confirmation of nominees in the Senate. Biden has not had the easiest time getting all of his nominees into office with several high-profile positions still waiting for Senate confirmation votes, including the third Democratic commissioner at the Federal Communications Commission and the vice chair for supervision at the Federal Reserve Board of Governors. These are two positions important to Biden if he is to realize his regulatory goals for the telecommunications and banking industries.

What's Mine is Mine. The Federal Trade Commission (FTC) is poised to begin a rulemaking that would aim to address data privacy issues, filling a void that is vacant without federal legislation.

- The regulation from the agency is described as aiming to address "commercial surveillance." The description says that the agency intends to use this rulemaking "to curb lax security practices, limit privacy abuses, and ensure that algorithmic decision-making does not result in unlawful discrimination." The timeline provided has the FTC issuing an advance notice of proposed rulemaking (ANPRM) as soon as this month with a comment period extending until sometime in August. This is a pre-rule stage and often used as a means for the agency to gather industry input before drafting a regulation.
- The inclusion of this rule is not surprising given that it was clear this was FTC Chair Lina Khan's top regulatory agenda item, at least in the near term, from her press tour earlier this month. In those interviews, Khan repeatedly said that it was important for her agency to address data practices and create rules that can regulate how companies use, store, and collect personal information. Completion of this rule will be important given that federal privacy legislation seems unlikely to pass despite the current momentum in the House. Khan will also have the backing of the White House on this rule as it was one of the action items included in Biden's competition policy executive order from last July.
- While Khan has worked to make some changes to how the FTC writes rules affecting data privacy, this will still not likely be a quick process to complete. From whenever the agency ends up releasing its ANPRM, it will be several months, if not over a year, until the rule is finalized, and then a few more months until it is implemented. What this timeline does not consider is that it also will likely be subject to litigation if businesses feel the FTC overstepped its authority or violated the procedures to write the regulation. This would delay the rule from being implemented further and could prevent Khan from being the head of the FTC when the rule is completed. If there is a Republican in office, it is more than probable that an eventual GOP majority at the FTC would like to revise, if not scrap, the rule entirely as they swing the regulatory pendulum in the other direction.

Going Green and Getting Healthy. The UA includes a wide range of rules covering all areas that the government touches, but some of particular note are those impacting environmental and

healthcare issues.

- One of the most notable rules related to environmental issues under consideration is the Securities and Exchange Commission's plans to issue its final rule requiring climate disclosures from public companies as early as this October. The public comment period just closed and from that it was clear that many stakeholders have changes they wish to be made. It is too soon to know which, if any, of these the agency may incorporate into its final rule. However the final rule looks, it is likely to face litigation which could delay its implementation and end up narrowing its scope or scrapping it all together.
 - Another rulemaking to follow is one under consideration at the Environmental Protection Agency to regulate emissions at power plants. This would be a broad replacement to the Obama administration's Clean Power Plan (CPP) and the Trump administration's Affordable Clean Energy Rule. The rule was originally expected this year, but is now expected no earlier than March 2023. The final shape of the regulation could be heavily influenced by the imminent Supreme Court decision in *West Virginia v. EPA*, which is centered on the CPP and could hinder federal agencies' authorities to write rules where Congress has not provided specific guidance. To account for this, EPA officials have made clear that they have different versions of the rule in progress.
 - Perhaps the most far-reaching, but nebulous, healthcare regulation is entitled "Alternative Payment Model" and its summary says that the Centers for Medicare and Medicaid Services intend to propose a "new mandatory Medicare payment model under section 1115A of the Social Security Act. This model would test ways to further our goals of reducing Medicare expenditures while preserving or enhancing the quality of care furnished to beneficiaries." The agenda item does not say what topic such a model would cover but it could include prescription drugs, value-based payments, or one of the several sub sectors paid by Medicare, including skilled nursing facilities, home health, hospitals, etc. The timeframe for this rule is listed as December 2022, so it could presumably come by year end, or in early 2023. Also included is a prescription drug reform rule entitled "Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024" and it is to be proposed as early as October 2022. Further description is that the proposal will "strengthen" and "improve" Medicare Advantage (Part C) and Medicare's drug program, (Part D).
 - Another healthcare policy previewed in the agenda is related to Medicaid managed care. The description given says the following, "What this aims to address is that while states run each Medicaid program, CMS has determined that it needs to tighten up the parameters within which each program operates and exert more federal top-down control over the program to ensure that states are following the Biden administration's interpretation of law, particularly regarding racial equity." The date for this proposal is listed as February 2023.
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