

Cozen Currents: The Bipartisan Impact of Partisan Legislation



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The Cozen Lens

- Republicans have been talking a big game about repealing the Inflation Reduction Act in its entirety but actually going through with it will be more difficult.
- Non-defense spending is poised to be hit harder than the Pentagon budget in the event of a FY24 sequester, resulting in shifting political dynamics around the FY24 appropriations fight.
- The debate last week between Governors Ron DeSantis (R-FL) and Gavin Newsom (D-CA) underscored the red versus blue divide. Recent trends suggest this gap could still grow even larger in coming years as more states come under single-party rule.

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Is the IRA the Next Obamacare?

Universal Disapproval. Not a single Republican voted for the Inflation Reduction Act (IRA) in 2022, and they have repeatedly promised to repeal the bill if given the chance.

- The very first bill of the new GOP-led House of Representatives this session was to overturn the IRS portion of the IRA. Both House Republicans' debt limit proposal and their marquee energy bill would have axed significant portions. One bill would repeal the IRA in its entirety.
- First things first. The fate of the IRA is election dependent. Existential risk to the law could only come from Republicans winning unified control of the House, Senate, and White House in 2024.
- The Senate is already favored to flip in the GOP's favor, and the coattails of a victory by former President Trump would likely be enough to drag control of the House of Representatives with it. Furthermore, repeal of some segments of the IRA is almost a requirement to fund the offsets Republicans need to extend and potentially deepen the Trump tax cuts, the individual side of which expire at the end of 2025.

Different Law, Different Time. While Obamacare and the Inflation Reduction Act represent two presidents' defining legislative accomplishments, the content and context of the two widely differ.

- Perhaps the biggest distinction between the Affordable Care Act (ACA) and the IRA is name recognition. The GOP made the ACA a big part of the 2010 midterms and by 2017 most people had heard of it. Voters remain largely in the dark about the IRA, having heard little about the law.
- The ACA only became barely more popular than not as repeal efforts were actively underway. Voters may not know much about the IRA, but when asked about the individual provisions, they respond very favorably to its climate and drug pricing policies.
- By the time Republicans had the ability to do anything substantial to Obamacare, seven years had passed, allowing the law to become an entrenched part of the health care system. By 2017 when serious repeal attempts went forward, over 12 million people had selected a marketplace plan and 36 states had chosen to expand Medicaid. In contrast, a GOP-controlled federal government in 2025 could gut the IRA just two and a half years after passage and before much of its implementation has taken place.

A To-Go List. A repeal attempt would not be all-or-nothing, but a spectrum of probabilities where some parts are more vulnerable than others.

- Strict interpretations for tax credit eligibility would be imposed across-the-board (this is

notably also something a Republican administration could do even under divided government), echoing a common GOP complaint that funds could end up in foreign hands. The new \$70 billion in IRS funding would be cut down as much as possible, though this will be difficult for budgeting purposes (funding the IRS is considered revenue-positive on an accounting basis since it enhances revenue collection).

- Other provisions in jeopardy would include the Medicare Part D drug pricing negotiations and the \$400 billion funding for the Department of Energy's Loan Programs Office. Electric vehicle tax credits and a methane emissions fine are similarly threatened.
- Despite the peril, some sections of the IRA are less likely to be touched. Red districts and states have reaped *most* of the *rewards* of the bills, both in absolute and per capita terms, making taking away some of these benefits difficult. For example, credits for biodiesel and alternative fuels support critical farming constituencies within the Republican caucus.

The Shifting Fiscal and Political Dynamics of FY24 Spending

New Fiscal Dynamics. Non-defense spending is poised to be hit harder than the Pentagon if the Fiscal Responsibility Act's (FRA) sequester becomes reality in FY24.

- If Congress has not passed full-year FY24 appropriations by April 30th, one percent across-the-board cuts relative to FY23 spending will kick in under the FRA. The sequester will use the static Congressional Budget Office (CBO) score for FY23 top-lines as baselines rather than CBO's more recent adjusted scores, which better reflect the reality of FY23 spending.
- The FRA deal used the CBO's December 2022 scores for the FY23 omnibus package, which included \$858.4 billion for defense and \$743.9 billion for non-defense. The CBO's most recent FY23 scores have changed based on updated accounting. Under the sequester, the FY24 defense topline would be \$849.8 billion, and the non-defense topline would be \$736.4 billion. This would cut \$40.5 billion from non-defense versus only \$10 billion from the Pentagon relative to actual FY23 spending, a 4:1 ratio of non-defense to defense cuts.
- The FRA also includes spending caps for defense and non-defense spending, which are even more disadvantageous for the latter than the sequester. These FY24 top-lines explicitly laid out in the law were \$886.3 billion for defense and only \$703.7 billion for non-defense. Non-defense was even lower than the December 2022 score for FY23 spending due to a side deal between Senate Democrats and then-Speaker Kevin McCarthy (R-CA) to reallocate an additional \$54 billion in non-defense spending through accounting measures.

New Political Dynamics. The updated accounting has reset the political dynamics of FY24 spending.

- The incentives for GOP defense hawks have shifted. If the Pentagon budget was hit hard by the sequester, defense hawks would be incentivized to avoid it, much like Democrats seeking to avert cuts to non-defense. In a world where the sequester hits non-defense harder than defense, GOP defense hawks and Democrats do not have the same degree of interest in avoiding it. This gives conservatives greater leverage to demand cuts to non-defense spending in FY24.
- Moreover, additional dollars for the Pentagon in a national security supplemental funding package could mitigate the sequester's defense cuts and thus help defense hawks warm to the idea. The latest signs give some reasons for pessimism about the prospects for the supplemental bill, though. A group of 11 Senate Democrats *have come out against* proposed changes to asylum policy. House Speaker Johnson (R-LA) also reportedly *told* Republican senators behind closed doors that he wants as much of the House's conservative immigration bill, HR 2, to be included as possible. HR 2 is a no-go for Democrats and breaking up the package could endanger it.
- In a *Washington Examiner* op-ed published last week, Rep. Chip Roy (R-TX), a major voice in the House Freedom Caucus (HFC), called on Johnson to ignore the \$54 billion side deal and not exceed the FRA's explicit spending caps. If Democrats oppose it, he argued, Johnson should back the sequester. Sticking with the FRA toplines and excluding the side deal would cut non-defense funding well below actual FY23 spending levels – by \$73.2 billion, to be precise. HFC Chair Rep. Scott Perry (R-PA) also *said* he would back the FRA toplines without

the side deal. These statements should not be seen as a compromise on the part of the HFC but rather an attempt to extract non-defense spending cuts below the FRA sequester level.

The Path Forward. Regardless of the approach taken, fiscal hawks appear set to secure spending cuts.

- By accepting the sequester, Johnson and fiscal hawks can achieve significantly more non-defense spending cuts relative to defense cuts by at least a 4:1 ratio. And they would get these cuts by April 30th simply by doing nothing. A total of \$50.5 billion in spending cuts for FY24 and border policy reforms in a supplemental deal would be a major win for House Republicans.
- Johnson would need to bridge the gap between the expiration of stopgap government funding on January 19th and February 2nd and the April 30th sequester date. He reportedly told Senate Republicans in a closed-door meeting last week that in the absence of an appropriations deal by February 2nd, the House would pass a full-year continuing resolution (CR) at current levels. There's been some disagreement among lawmakers over whether a year-long CR would trigger the sequester. Either at a CR set at the December 2022 FY23 omnibus levels or under a sequester, non-defense spending would still take a bigger hit than defense.

Blue State v. Red State Governance Up for Debate (Literally)

A 2028 Preview? The debate last week between Governor Ron DeSantis (R-FL) and Governor Gavin Newsom (D-CA) was pitched as "The Great Red vs. Blue State Debate." However, both governors' remarks showed the degree to which politics has become nationalized.

- DeSantis made repeated efforts to tie Newsom to Biden. He argued that a second term for President Biden would bring "the California model" to the rest of the nation. Newsom meanwhile pressed DeSantis on his social policy positions and contended that the Florida governor would bring these policies to the White House, including a six-week abortion ban.
- DeSantis' 2024 presidential primary campaign has been a slow-moving train wreck while Newsom is not running in the Democratic primary. However, the debate offered a preview of a potential 2028 match-up when neither Trump nor Biden would be expected to run.

Trifectas Everywhere You Look. Polarization is making the red versus blue divides more pronounced by driving states toward one party or the other.

- After this fall's elections, 40 states had "trifectas" where parties hold the governorship and a majority in both state legislative chambers. This is more than any other time between 1992 and 2022, and the number of divided state governments has fallen from 31 in 1992 to just ten now. Many of these trifectas have formed recently, with only nine existing before 2010.
- Nationally, this trend has been reflected in the decline of split ticket voting and more states being considered safely blue or red for the Senate and presidential elections. The House's district-based nature offers a slightly different dynamic, as just being a blue state does not mean that swing seats will be blue. In 2022 and likely again in 2024, the seats that determine the House majority will probably be in some of the country's most populous states but are not locks for the Democrats despite their dominance in these states.
- There is a feedback loop that exists with this trend toward trifectas that could further erode the number of swing seats in the House with the increasing possibility of gerrymandered electoral maps. In North Carolina, the Republican-controlled legislature is considering two potential maps that could reshape the state's delegation from being split evenly seven-to-seven to being as lopsided as an eleven-to-three split, favoring the GOP. While not a trifecta, the state's Democratic governor does not have veto power over redistricting maps. Legal challenges are possible, but the viability of such a shift shows how influential control of the state governments, and by extension, the redistricting process, can be in House races.