

Cozen Currents: The Narrowing Legislative Window

The Cozen Lens

- Democrats all share the same goal of trying to maintain as many seats in Congress as possible, but how they should go about doing so depends on who you ask.
- Meanwhile, Republicans are poised to retake power and are focusing on laying blame on the Biden administration while seeking to minimize their own unforced errors.
- Amidst high inflation, the House and Senate Armed Services Committees have both voted to increase authorized military spending beyond the level President Biden requested, a sign that rising prices may lead to a bigger boost in appropriations.

What Do Democrats Want to Get Done Before Year End?

Leadership's Woes. Democratic leadership, consisting of Senate Majority Leader Chuck Schumer (D-NY), Speaker of the House Nancy Pelosi (D-CA), and President Biden, are looking to build a platform that can stem Republican gains in Congress in this fall's midterm elections.

- One way that this group is looking to build a Democratic platform is passing major legislation. With reconciliation efforts renewed, whatever ends up being included in the package, if any ultimately comes to fruition, will be one of the important achievements that the party will point to. So far, this bill will include drug-pricing reform, but neither Schumer nor Senator Joe Manchin (D-WV) have said what else could be added. Other possible inclusions are tax reforms, modest climate-related provisions, and possibly extending Affordable Care Act subsidies.
- If reconciliation gets done, the next question will be whether there is also political bandwidth to pass the Bipartisan Innovation Act (BIA), a measure that is aimed at improving competitiveness with China and is currently being finalized by a bicameral and bipartisan conference committee. Schumer has been particularly closely involved in this bill since its introduction last year. However, Republicans are signaling that if reconciliation goes forward, they are uninterested in the bipartisan effort, which could kill Democratic dreams of getting BIA done before the midterms.
- The other part of the platform that this leadership group has been trying to cultivate is focused on the party's image. The efforts to do so have fallen primarily into two categories: trying to deflect blame for problems plaguing the country (e.g., casting high gas prices as "Putin's price hike"), and turning MAGA Republicans into a villain.

The Message from the Frontlines. For battleground Democrats like Senator Mark Kelly (D-AZ) and Rep. Abigail Spanberger (D-VA), there is one objective motivating them over the next several months: win re-election.

- In order to do this, they tend to focus on issues that Americans are most concerned about, such as inflation, in an effort to show that they understand voters' challenges rather than focusing on the culture wars or other MAGA-driven issues. In some cases, such as with immigration, this has forced members of this group to distance themselves from unpopular policies pushed by the White House and the rest of the Democratic Party.
- In an effort to bolster their platforms, this group has focused on backing legislative efforts that are popular among voters or address voters' concern. There is little to no desire to take politically risky votes or advance bills that are just for messaging. Things like direct drug pricing negotiations and semiconductors subsidies are among those items that make the cut, but these frontliners have tended to show little appetite to stray further to issues like antitrust reform. What constitutes an "acceptable" vote will predictably narrow the closer we draw to



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the November elections.

- As important as this group is to leadership and maintaining legislative majorities, they are not the only constituency that matters. What this means is that just because these battleground Democrats are coalescing behind a certain issue, it is not a guarantee to get addressed. An example of this is the federal gas tax holiday, which is widely supported among this group and has been endorsed by Biden, but remains improbable to be passed not just due to GOP opposition, but also some Democratic ambivalence as well.

Progressives' Dreams. For progressive Democrats, most are not worried about re-election as their only real threat was surviving any primary challenges, allowing them to focus their effort on the issues that they see energizing the base, like climate change and protecting abortion rights.

- As important as generating change is for progressives, it is just as important to be seen as fighting for what matters and pushing for change where it seems possible. This has translated into pressuring leadership to bring bills to the floor to address these issues even if they are expected to fail as they view the symbolism to be important for messaging purposes.
- The big question for progressives over the rest of the year is what their support of a new budget reconciliation package looks like. While they are expected to vote for even a substantially slimmed-down measure given that it is their last chance to pass any significant legislation, it is unclear how they will frame this backing. On the one hand, progressives could take a more divisive tact and complain that the new legislation does not go far enough or they could praise the bill for being a first step, but point to more work to be done, a much less divisive message. Leadership will hope that they choose the latter tactic and so far, the group has been quietly supportive of the renewed reconciliation effort.
- Where progressives have not been quiet of late is in their criticism of Biden. There have been several recent articles where they have been quoted questioning whether the president can meet the challenges of the moment, both in terms of his leadership and his use of executive power. The latter has been a point of tension previously and will likely be exacerbated in the years ahead if Democrats do suffer the expected losses in the midterm elections. For as progressive as Biden has been, and is expected to continue to be, he still has fallen short of the left-wing's expectations.

What Do Republicans Want to Get Done Before Year End?

McConnell's Long Game. Senate Minority Leader Mitch McConnell (R-KY) has his eyes on November and his heart set on promoting the narrative of Democrats in disarray.

- McConnell has a stake in preventing Democratic successes in the remaining weeks before November 8. His worst fears realized would be being the guy who greenlit the bipartisan Infrastructure Investment and Jobs Act, bipartisan gun control, bipartisan China competitiveness, was helpless to defeat Democratic reconciliation, and failed to win back the Senate majority.
- This explains the recent obstructionism towards the China competitiveness bill now referred to as the Bipartisan Investment Act. Earlier this month, McConnell tweeted out a threat to not pass a bipartisan China competitiveness bill if Democrats move ahead with budget reconciliation. But recent headlines about President Biden's intention to nominate an anti-abortion judge to a lifetime position in Kentucky, likely in exchange with McConnell for something, shows that McConnell is still interested in striking some deals, especially on judicial appointments that is arguably his top issue.
- While appearing anti-Democrat, McConnell is still focused on walking a softer line on some Republican Party issues. As he lauded the Supreme Court's Dobbs decision, McConnell recently lightened his tone for suburban voters, noting that any federal legislation on abortion requires 60 votes and "neither side of this issue has come anywhere close to having 60 votes." This is in line with McConnell's desire to tamp down the extreme elements of his party. On a personal level, he abhorred January 6 but will likely play to Trumpian elements to the extent that they serve to rally the base before the midterms while also trying to hold extremist elements at bay where he can.
- There Are Republican Frontliners, Too. Despite the greater likelihood of a red wave than a blue one, some Republicans up for re-election this year must decide whether to campaign on culture war issues or stay mum.

- Vulnerable Republicans are interested in culture war elements only if they serve them as these incumbents are looking to stay in office when their party likely gains considerable power. There are fewer at-risk Republican candidates than Democrats, but two notable races include the reelection campaigns of Rep. Young Kim (R-CA) and Rep. Michelle Steel (R-CA), both representing parts of Orange County, CA. The OC is a political battleground where voters flip between parties, making running towards the center beneficial.
- Another at-risk California Republican is Rep. Mike Garcia (D-CA), whose race is labeled as a toss-up by the Cook Political Report. Garcia's district has trended purple and he entered office after the resignation of former Rep. Katie Hill (D-CA). Some voters in his district are put off by Garcia's refusal to vote to certify the presidential election and his opposition to Trump's second impeachment. The result will likely come down to turnout.
- In Wisconsin, Senator Ron Johnson (R-WI) is facing an uphill battle for reelection in another Cook-rated toss-up. Democrats are looking to make Johnson's campaign a referendum on abortion in hopes of stirring up enough Democratic furor to generate turnout for Johnson's opponent who has not yet been selected. The state has been particularly affected by the Supreme Court's ruling on abortion rights. The decision allowed an 1849 law banning almost all abortions to come back into effect. This is not beneficial to Johnson, who would prefer that the spotlight stay on the state of the economy under Democratic control.

Running Away with the House. House Minority Leader Kevin McCarthy (R-CA) is biding his time until he can finally wield the speaker's gavel

- McCarthy has a singular focus leading up to November 8. His main motivation is ensuring that Republicans win the House and preventing any incidents that could undermine Republican support. To this end, McCarthy has sought to minimize controversy and avoid engagement over January 6 and the House Select Committee investigation. But this has not played out perfectly and he has been criticized for blocking a Republican defense from participating in the investigation.
- On a policy level, McCarthy has no interest in cooperating with Democrats to pass legislation before the midterms. He is more concerned with pointing out his disagreements with Biden's policy decisions and making the case for Biden worsening inflation and energy prices. Also in the background, McCarthy is laying the groundwork to craft a Republican House agenda called "Commitment to America." This will likely take the form of a Gingrich-era "Contract with America."

What is the Impact of Inflation on Government Spending?

Inflation and Appropriations. Inflation is not only a political headache for President Biden and Democrats' congressional majorities. It also makes finalizing FY23 appropriations trickier.

- Inflation presents a challenge for federal appropriators. Rising prices mean that spending won't go as far, so greater spending is needed to offset the impact of inflation. This dynamic is especially salient in the case of the Pentagon budget. Russia's war in Ukraine has underscored the need for robust national defense, while inflation risks eroding defense spending.
- In his FY23 budget request to Congress, President Biden proposed a \$813 billion defense budget, including \$773 billion in Pentagon spending. This is a nominal increase of 4.0 percent over the total FY22 enacted defense appropriations of \$782 billion. If current inflation numbers continue for this fiscal year, Biden's defense budget is likely to amount to a spending cut in real terms. According to the Bureau of Labor Statistics (BLS), annual inflation as measured by the Consumer Product Index from May 2021 to May 2022 was 8.6 percent.
- The BLS is scheduled to release June's inflation numbers this Wednesday, July 13. If the data are still high, that could strengthen the hand of lawmakers pushing for a greater boost in government spending, particularly on defense.
- Inflation and Defense Spending. Inflation is factoring into discussions on funding levels included in the annual defense policy bill, the National Defense Authorization Act (NDAA).
- Both the Senate and House Armed Services Committees voted in June to give defense spending a bigger boost than the president requested. Inflation appears to be top of mind for lawmakers in both chambers. Members of the Senate Armed Services Committee voted to add an additional \$45 billion increase in authorized spending on top of Biden's request. The Senate

version of the NDAA clocks in at around \$847 billion (about \$10 billion of Biden's defense budget is not included in the committee's purview so the figures don't exactly line up). Politico quoted Senate Armed Services Committee Chair Jack Reed (D-RI) as saying that inflation was "the first consideration" in passing the higher number.

- The House version of the NDAA originally did not include a spending bump above Biden's request, according to Roll Call, and it initially hovered around \$802.4 billion. The House Armed Services Committee approved by a vote of 42-17 an amendment from Reps. Jared Golden (D-ME) and Elaine Luria (D-VA) to boost the NDAA topline by \$37 billion. "The bipartisan Golden-Luria amendment passed today will increase purchasing power and counter inflationary pressures on the military," Luria said in a press release. Of the \$37 billion, \$7.4 billion is indicated to be used to offset and account for inflation. Both Golden and Luria face competitive re-election races this fall.
- Air Force Magazine reported that the House Armed Services Committee's additional spending tees up a conflict with the House Appropriations Committee Subcommittee on Defense, which did not boost Pentagon spending beyond the president's request. House progressives are likely to oppose large increases to defense spending, raising the likelihood that Democrats may have to rely on GOP votes to pass a bigger Pentagon budget. Inflation could put more pressure on lawmakers to strike a deal on appropriations. Defense hawks have an incentive to avoid or minimize reliance on a continuing resolution, as operating under a flat nominal defense budget past the start of the next fiscal year would amount to a budget cut in real terms.

FY23 Appropriations. The inflation-boosted NDAA provides a hint of what appropriations watchers may expect as the FY23 appropriations process plays out over the next several months.

- The numbers in the NDAA are likely to influence defense appropriations, which in turn is likely to shape nondefense appropriations. Appropriators will likely continue to observe the tradition of parity in spending increases for both defense and nondefense. This means that once lawmakers settle on a final topline for the defense budget, it will be possible to estimate a potential topline for nondefense spending as well. Of course, parity can mean different things to different people, and Democrats and Republicans may diverge in defining parity as dollar-for-dollar or equal percentages.
 - Ultimately, as defense spending is likely to get a boost for inflation, Democrats are likely to seek a boost for nondefense spending as well. But it remains for now an open question of how much that would be. Fiscal hawks may cite high levels of government spending as a root cause of inflation and argue for lowering appropriations.
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