



ML Strategies Legislative Update

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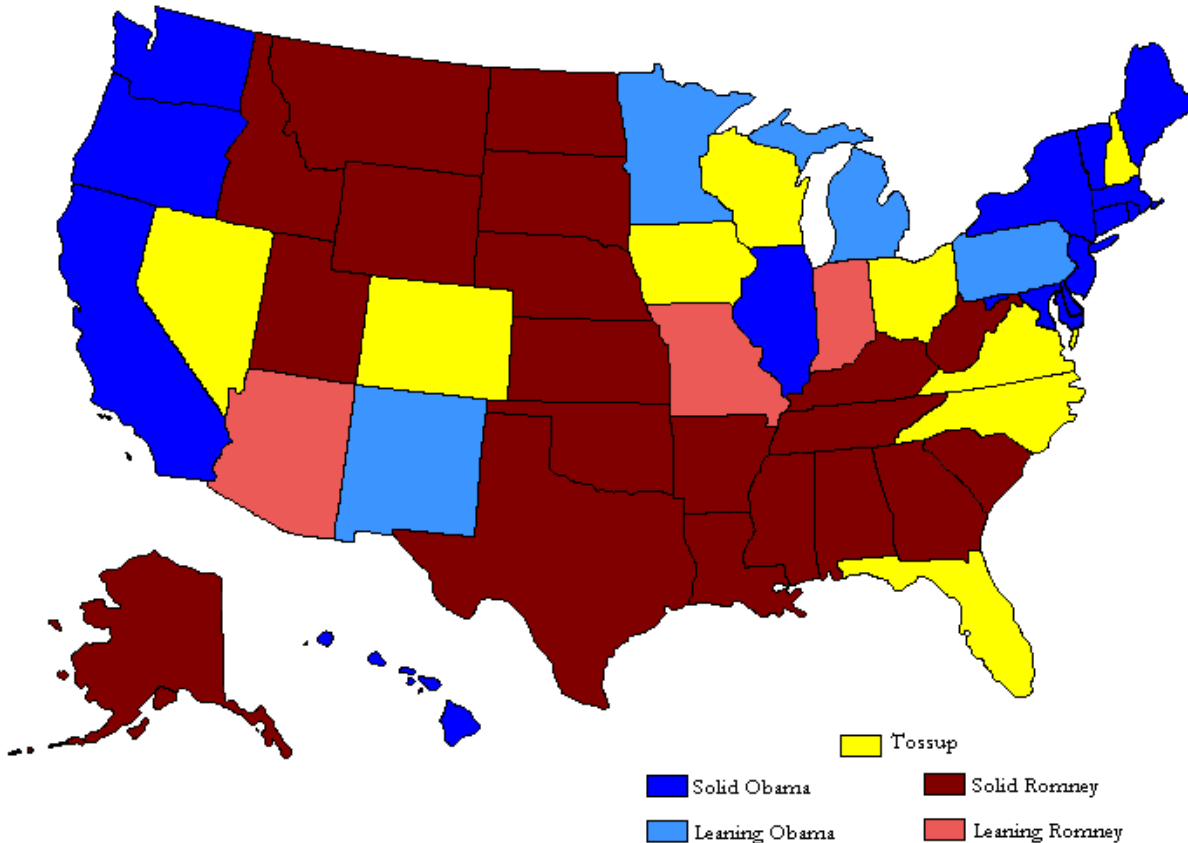
NOVEMBER 1, 2012

Countdown to the Election

November 6th is just around the corner, and the campaign season is dying down. ML Strategies has compiled recent polling and punditry on the 2012 Presidential, Senate, and House races. The race to the White House grows closer as Election Day approaches. In the past week of polling, roughly half have shown a slight Obama lead while the other half has Romney slightly leading. The control of the Senate remains uncertain: with eight races remaining pure tossups, it is not clear which party will be the majority in the 113th Congress. The House will likely remain in Republican control with anywhere 226 and 228 seats already solid, likely, or leaning Republican seats; 218 are needed for a majority.

Presidential Election 2012

President Barack Obama (*incumbent*) vs. Former Governor Mitt Romney
270 Electoral Votes Needed to Win



Safe Obama: CA, CT, DC, DE, IL, MA, MD, ME, NJ, NY, OR, RI, WA, VT (185 EV)

Leaning Obama but still too close to call: MI, MN, NM, PA (52 EV)

Tossup: CO, FL, IA, NC, NH, NV, OH, VA, WI (110 EV)

Leaning Romney but still too close to call: AZ, IN, MO (33 EV)

Safe Romney: AK, AL, AR, GA, ID, KS, KY, LA, MS, MT, ND, NE, OK, SC, SD, TN, TX, UT, WV, WY (158 EV)

Recent Polls and Predictions:

- *New York Times* (October 31):
 - Electoral Vote: Obama 300.4, Romney 237.6
 - Chance of Winning: Obama 79%, Romney 21%
 - Popular Vote: Obama 50.5%, Romney 48.6%
- *Real Clear Politics* Recent Polling Average (November 1): Obama 47.4%, Romney 47.4%
- *Ipsos/Reuters* (October 31): Obama 47%, Romney 46%
- *Rasmussen Reports* (October 31): Obama 47%, Romney 49%
- *ABC News/Washington Post* (October 30): Obama 49%, Romney 49%
- *Fox News* (October 30): Obama 46%, Romney 46%
- *PPP* (October 29): Obama 48%, Romney 49%
- *Gallup* (October 28): Obama 46%, Romney 50%

- *Pew Research* (October 28): Obama 47%, Romney 47%
- *Investor's Business Daily/TIPP* (October 27): Obama 45%, Romney 44%
- *Politico* (October 25): Obama 49%, Romney 48%
- *The Economist* (October 24): Obama 47%, Romney 45%
- *Washington Times* (October 22): Obama 49.7%, Romney 47.3%
- *NBC/Wall Street Journal* (October 20): Obama 47%, Romney 47%

Swing States:

- *New York Times*: CO, FL, IA, NH, OH, VA, WI (89 EV)
 - Solid/Leaning Obama: 243 EV, Solid/Leaning Romney: 180 EV
- *Washington Post*: CO, FL, IA, NV, NH, OH, VA, WI (95 EV)
 - Solid/Leaning Obama: 237 EV, Solid/Leaning Romney: 206 EV
- *Politico*: CO, FL, IA, NC, NH, NV, OH, VA, WI (110 EV)
 - Solid/Leaning Obama: 237 EV, Solid/Leaning Romney: 191 EV
- *Real Clear Politics*: CO, FL, IA, MI, NC, NH, NV, OH, PA, VA, WI (146 EV)
 - Solid/Leaning Obama: 201 EV, Solid/Leaning Romney: 191 EV
- *Cook Political Report*: CO, FL, IA, NC, NH, VA (94 EV)
 - Solid/Leaning Obama: 253 EV, Solid/Leaning Romney: 191 EV
- *Rothenberg Political Report*: CO, FL, IA, NH, NV, OH, VA (95 EV)
 - Solid/Leaning Obama: 237 EV, Solid/Leaning Romney: 206 EV

President Obama and Governor Romney have remained neck-and-neck in the polls in the past few weeks. Obama maintained a good lead in the polls until around the October 13th mark when Romney experienced a surge. The two have been within points of each other since then. Gallup has Romney leading the President anywhere between 2 and 7 points since mid-October; Rasmussen has a 2 to 4 point Romney lead in the past two weeks. ABC News/Washington Post polls have had anywhere from a tie to a 3 point Romney lead in the past week. Ipsos/Reuters has gone back and forth between Obama and Romney wins; Obama has been in the lead in that poll for the past week. Obama has been leading in the New York Times predictions throughout the entire campaign. This lead peaked in late September and early October only to shrink to a practical dead heat around mid-October. Since then, Obama has been climbing in those predictions.

Colorado, Florida, Iowa, Michigan, Nevada, New Hampshire, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin are all states being considered tossups by pundits. Some have North Carolina leaning in favor of Romney and Michigan, Nevada, Ohio, Pennsylvania, and Wisconsin leaning for Obama.

Since this election has been exceptionally close in polling, many have speculated that the outcome will be an oddity. The speculation includes an Electoral College-popular vote split, an unexpected landslide victory, and an Electoral College tie. In the case of the last example, the 113th House (expected to be Republican) will pick the President and the new Senate (currently leaning Democrat) will pick the Vice President.

The most feasible example is an Electoral College and popular vote split. There have been

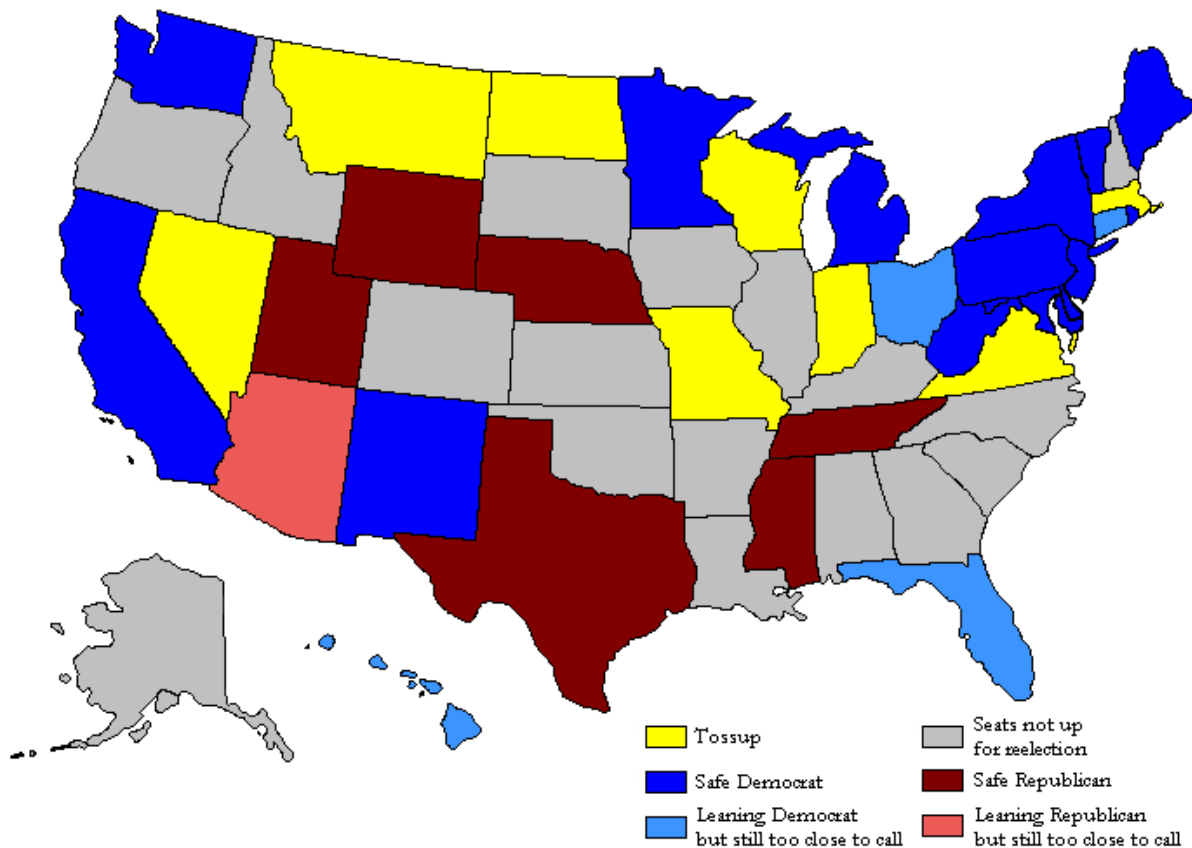
four instances where the popular vote and the Electoral College outcomes have differed: the 1824 election, the 1876 election, the 1888 election, and the 2000 election. In 1824, Andrew Jackson won the popular vote against three candidates (John Quincy Adams, William Crawford, and Henry Clay), but the House ended up deciding the winner, choosing Adams. Republican Rutherford B. Hayes beat Democrat Samuel Tilden in 1876 by a margin of 185 electoral votes to 184 despite the fact that Tilden had 51% of the popular vote. Florida, Louisiana, South Carolina, and Oregon were the disputed states in this election. In 1888, Republican Benjamin Harrison had 233 electoral votes compared to incumbent Grover Cleveland with 168; Cleveland had 48.6% of the popular vote compared to Harrison's 47.8%. Connecticut, Virginia, and West Virginia were the states that decided the election. Cleveland went back to win in 1892 against Harrison. The most recent example was the 2000 election: George Bush had 271 electoral votes and 47.9% of the popular vote against Al Gore's 266 electoral votes and 48.4% of the popular vote. Florida was the deciding state of that election. For the three most recent examples, none of the winners of these elections were incumbent Presidents. In these instances, the Republicans won the Electoral College and the Democrats won the popular vote.

Senate Elections 2012

Current Senate: 53 Democrats, 47 Republicans

33 Seats Up for Election (23 Democrats, 10 Republicans)

30 Democrats, 37 Republicans not up for election



Safe Democrats: CA, DE, MD, ME, MI, MN, NJ, NM, NY, PA, RI, VT, WA, WV (14)

Leaning Democrat but still too close to call: CT, FL, HI, OH (4)

Tossup: IN, MA, MO, MT, ND, NV, VA, WI (8)

Leaning Republican but still too close to call: AZ (1)

Safe Republicans: MS, NE, TN, TX, UT, WY (6)

Blue: Democrat (14)

Light Blue: Lean Democrat but still too close to call (4)

Red: Republican (6)

Light Red: Lean Republican but still too close to call (1)

Yellow: Tossups (8)

Arizona

Democrat: Richard Carmona

Republican: Jeff Flake

- *New York Times:* Leaning Republican
- *Real Clear Politics:* Tossup
- *Rothenberg Political Report:* Tossup/Tilt Republican
- *Cook Political Report:* Tossup
- *The Hill:* Lean Republican

California

Democrat: Dianne Feinstein (incumbent)

Republican: Elizabeth Emken

- *New York Times:* Solid Democratic
- *Real Clear Politics:* Safe Democrat
- *Rothenberg Political Report:* Currently Safe Democrat
- *Cook Political Report:* Solid Democrat

Connecticut

Democrat: Chris Murphy

Republican: Linda McMahon

- *New York Times:* Leaning Democratic
- *Real Clear Politics:* Tossup
- *Rothenberg Political Report:* Tossup/Tilt Democrat
- *Cook Political Report:* Tossup
- *The Hill:* Likely Democratic

Delaware

Democrat: Tom Carper (incumbent)

Republican: Kevin Wade

- *New York Times:* Solid Democratic
- *Real Clear Politics:* Safe Democrat
- *Rothenberg Political Report:* Currently Safe Democrat
- *Cook Political Report:* Solid Democrat

Florida

Democrat: Bill Nelson (incumbent)

Republican: Connie Mack

- *New York Times:* Leaning Democratic
- *Real Clear Politics:* Leans Democrat
- *Rothenberg Political Report:* Lean Democrat
- *Cook Political Report:* Lean Democrat
- *The Hill:* Lean Democratic

Hawaii

Democrat: Mazie Hirono

Republican: Linda Lingle

- *New York Times:* Leaning Democratic
- *Real Clear Politics:* Likely Democrat
- *Rothenberg Political Report:* Democrat Favored
- *Cook Political Report:* Lean Democrat
- *The Hill:* Lean Democratic

Indiana

Democrat: Joe Donnelly

Republican: Richard Mourdock

- *New York Times:* Tossup
- *Real Clear Politics:* Tossup
- *Rothenberg Political Report:* Pure Tossup
- *Cook Political Report:* Tossup
- *The Hill:* Tossup

Maine

Democrat: Cynthia Dill

Republican: Charlie Summers

Independent: Angus King

- *New York Times:* Tossup
- *Real Clear Politics:* Likely Democrat, Democrat Pick-up
- *Rothenberg Political Report:* Lean Democrat
- *Cook Political Report:* Tossup
- *The Hill:* Lean Democratic (switch parties)

Maryland

Democrat: Ben Cardin (incumbent)

Republican: Dan Bongino

- *New York Times:* Solid Democratic
- *Real Clear Politics:* Safe Democrat
- *Rothenberg Political Report:* Currently Safe Democrat

- *Cook Political Report*: Solid Democrat

Massachusetts

Democrat: Elizabeth Warren

Republican: Scott Brown (incumbent)

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Tossup/Tilt Democrat
- *Cook Political Report*: Tossup
- *The Hill*: Tossup

Michigan

Democrat: Debbie Stabenow (incumbent)

Republican: Pete Hoekstra

- *New York Times*: Leaning Democratic
- *Real Clear Politics*: Likely Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Likely Democrat
- *The Hill*: Lean Democratic

Minnesota

Democrat: Amy Klobuchar (incumbent)

Republican: Kurt Bills

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Safe Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Solid Democrat
- *The Hill*: Likely Democratic

Mississippi

Democrat: Albert Gore

Republican: Roger Wicker (incumbent)

- *New York Times*: Solid Republican
- *Real Clear Politics*: Safe Republican
- *Rothenberg Political Report*: Currently Safe Republican
- *Cook Political Report*: Solid Republican

Missouri

Democrat: Claire McCaskill (incumbent)

Republican: Todd Akin

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Democrat Favored

- *Cook Political Report*: Likely Democrat
- *The Hill*: Tossup

Montana

Democrat: Jon Tester (incumbent)

Republican: Denny Rehberg

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Pure Tossup
- *Cook Political Report*: Tossup
- *The Hill*: Tossup

Nebraska

Democrat: Bob Kerrey

Republican: Deb Fischer

- *New York Times*: Leaning Republican
- *Real Clear Politics*: Leans Republican, Republican Pick-up
- *Rothenberg Political Report*: Republican Favored
- *Cook Political Report*: Likely Republican
- *The Hill*: Likely Republican

Nevada

Democrat: Shelley Berkley

Republican: Dean Heller (incumbent)

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Tossup/Tilt Republican
- *Cook Political Report*: Tossup
- *The Hill*: Tossup

New Jersey

Democrat: Bob Menendez (incumbent)

Republican: Joseph Kyrillos

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Likely Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Likely Democrat
- *The Hill*: Likely Democratic

New Mexico

Democrat: Martin Heinrich

Republican: Heather Wilson

- *New York Times*: Leaning Democratic

- *Real Clear Politics*: Likely Democrat
- *Rothenberg Political Report*: Democrat Favored
- *Cook Political Report*: Lean Democrat
- *The Hill*: Lean Democratic

New York

Democrat: Kirsten Gillibrand (incumbent)

Republican: Wendy Long

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Safe Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Solid Democrat

North Dakota

Democrat: Heidi Heitkamp

Republican: Rick Berg

- *New York Times*: Leaning Republican
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Pure Tossup
- *Cook Political Report*: Tossup
- *The Hill*: Tossup

Ohio

Democrat: Sherrod Brown (incumbent)

Republican: Josh Mandel

- *New York Times*: Leaning Democratic
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Lean Democrat
- *Cook Political Report*: Lean Democrat
- *The Hill*: Lean Democratic

Pennsylvania

Democrat: Bob Casey Jr. (incumbent)

Republican: Tom Smith

- *New York Times*: Leaning Democratic
- *Real Clear Politics*: Leans Democrat
- *Rothenberg Political Report*: Democrat Favored
- *Cook Political Report*: Lean Democrat
- *The Hill*: Likely Democratic

Rhode Island

Democrat: Sheldon Whitehouse (incumbent)

Republican: Barry Hinckley

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Safe Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Solid Democrat

Tennessee

Democrat: Mark Clayton

Republican: Bob Corker (incumbent)

- *New York Times*: Solid Republican
- *Real Clear Politics*: Safe Republican
- *Rothenberg Political Report*: Currently Safe Republican
- *Cook Political Report*: Solid Republican

Texas

Democrat: Paul Sadler

Republican: Ted Cruz

- *New York Times*: Solid Republican
- *Real Clear Politics*: Safe Republican
- *Rothenberg Political Report*: Currently Safe Republican
- *Cook Political Report*: Solid Republican

Utah

Democrat: Scott Howell

Republican: Orrin Hatch (incumbent)

- *New York Times*: Solid Republican
- *Real Clear Politics*: Safe Republican
- *Rothenberg Political Report*: Currently Safe Republican
- *Cook Political Report*: Solid Republican

Vermont

Independent: Bernie Sanders (incumbent)

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Safe Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Solid Democrat

Virginia

Democrat: Tim Kaine

Republican: George Allen

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Pure Tossup
- *Cook Political Report*: Tossup

- *The Hill*: Tossup

Washington

Democrat: Maria Cantwell (incumbent)

Republican: Michael Baumgartner

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Likely Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Solid Democrat

West Virginia

Democrat: Joe Manchin (incumbent)

Republican: John Raese

- *New York Times*: Solid Democratic
- *Real Clear Politics*: Likely Democrat
- *Rothenberg Political Report*: Currently Safe Democrat
- *Cook Political Report*: Likely Democrat
- *The Hill*: Likely Democratic

Wisconsin

Democrat: Tammy Baldwin

Republican: Tommy Thompson

- *New York Times*: Tossup
- *Real Clear Politics*: Tossup
- *Rothenberg Political Report*: Pure Tossup
- *Cook Political Report*: Tossup
- *The Hill*: Tossup

Wyoming

Democrat: Tim Chesnut

Republican: John Barrasso (incumbent)

- *New York Times*: Solid Republican
- *Real Clear Politics*: Safe Republican
- *Rothenberg Political Report*: Currently Safe Republican
- *Cook Political Report*: Solid Republican

During the 112th Congress, the Democrats had a slight majority in the Senate with 51 seats to the 47 Republican seats; two independents—Senator Sanders of Vermont and Senator Lieberman of Connecticut—caucused with the Democrats, bringing the total to 53-47. 33 seats are up for reelection: 21 Democrats, 10 Republicans, and 2 independents. Republicans are expected to pickup retiring Senator Ben Nelson's (D-NE) seat. Angus King, an independent who will caucus with the Democrats, is expected to win in Maine, replacing retiring Senator Olympia Snowe (R-ME).

Throughout the election, several seats have consistently been seen as tossups: Indiana, Massachusetts, Missouri, Montana, Nevada, North Dakota, Virginia, and Wisconsin. Of these eight states, 5 are currently held by Democrats and 3 are held by Republicans. Missouri is believed by some to be a Democratic hold, and Nevada and North Dakota are seen by some to be leaning Republican. Indiana and Wisconsin have in the past leaned Republican, but now are both complete tossups. Massachusetts, Montana, and Virginia have always remained pure tossups.

Five states are seen as solid Republican holds: Mississippi, Tennessee, Texas, Utah, and Wyoming. With Arizona leaning Republican and Nebraska as a pickup, Republicans are guaranteed at least seven seats. Democrats have 12 solid seats: California, Delaware, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Washington, and West Virginia. Connecticut, Florida, Hawaii, and Ohio are leaning Democrat. Adding the pickup of Maine and Senator Sanders winning reelection in Vermont, the Democrats are expected to have at least 18 seats.

House Elections 2012

Current House: 241 Republicans, 194 Democrats

At least 218 seats needed for majority

Recent Polls and Estimates:

- *New York Times* (November 1)
 - 25 Tossup
 - 183 Democrats: 158 Solid, 25 Leaning
 - 227 Republicans: 196 Solid, 31 Leaning
- *Washington Post* (November 1):
 - 27 Tossup
 - 182 Democrats: 153 Solid, 14 Likely, 15 Lean
 - 226 Republicans: 186 Solid, 21 Likely, 19 Lean
- *Real Clear Politics* (October 31): 26 Tossups, 183 Democrats, 226 Republicans
 - Real Clear Politics Average (October 28): Democrats 44.8%, Republicans 45.3%
- *Rasmussen Reports* (October 28): Democrats 43%, Republicans 46%
- *CBS/New York Times* (October 28): Democrats 48%, Republicans 46%
- *Politico/GWU/Battleground* (October 25): Democrats 45%, Republicans 46%
- *NPR* (October 25): Democrats 43%, Republicans 43%
- *Politico* - Charlie Mahtesian predicted in July that Romney will help Northeastern Republicans gain seats and redistricted Republican incumbents and that the Democrats will not take back the House.
 - Kyle Kondix, House Editor, Larry Sabato's Crystal Ball – "Democratic gain of somewhere between five and 10 seats... specific guess of Democrats plus six."
- *Rothenberg Political Report*: "modest Democratic gains... +1 gain for Republicans and a +6 gain for Democrats."
- *Cook Political Report*: predicts +2 for Republicans, +8 for Democrats

Races to Watch

FL-18: Patrick Murphy (D) vs. Allen West (R-incumbent)
FL-26: Joe Garcia (D) vs. David Rivera (R-incumbent)
GA-12: John Barrow (D-incumbent) vs. Lee Anderson (R)
IA-3: Leonard Boswell (D-incumbent) vs. Tom Latham (R-incumbent)
IL-8: Tammy Duckworth (D) vs. Joe Walsh (R-incumbent)
IL-10: Brad Schneider (D) vs. Robert Dold (R-incumbent)
IL-17: Cheri Bustos (D) vs. Bobby Schilling (R-incumbent)
MA-6: John Tierney (D-incumbent) vs. Richard Tisei (R)
MI-1: Gary McDowell (D) vs. Dan Benishek (R-incumbent)
MD-6: John Delaney (D) vs. Roscoe Bartlett (R-incumbent)
NC-8: Larry Kissell (D-incumbent) vs. Richard Hudson (R)
NH-2: Ann McLane Kuster (D) vs. Charles Bass (R-incumbent)
NY-18: Sean Maloney (D) vs. Nan Hayworth (R-incumbent)
NY-24: Dan Maffei (D) vs. Ann Marie Buerkle (R-incumbent)
NY-27: Kathy Hochul (D-incumbent) vs. Chris Collins (R)
OH-16: Betty Sutton (D-incumbent) vs. Jim Renacci (R-incumbent)
PA-12: Mark Critz (D-incumbent) vs. Keith Rothfus (R)
RI-1: David Cicilline (D-incumbent) vs. Brendan Doherty (R)
UT-4: Jim Matheson (D-incumbent) vs. Mia Love (R)

The House, meanwhile, is expected to remain under Republican control. 218 seats are needed for a majority. In the 112th Congress, Republicans hold 241 seats. The Republicans are predicted to win at least 226 seats. Two House races feature an incumbent Democrat facing off with a Republican incumbent because of redistricting: Democrat Leonard Boswell and Republican Tom Latham are running against each other in the Iowa 3rd District while Democrat Betty Sutton is facing Republican Jim Renacci in the Ohio 16th District. Other states have general elections where incumbents of the same party are running against each other. California's election system has the top two candidates from the primaries, regardless of party, run against each other in the general election. Louisiana, which does not hold primaries, has one race where two Republican incumbents are facing each other. In these instances, the incumbent party is expected to maintain control of the seat.

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