



Midwest Energy Policy Series

Economic Development

Economic Development
December 12, 2024
St. Louis

CHEVRON RULING & ENERGY

Panel



**John Coyle,
Duncan & Allen LLP**



**Roger Walker,
RAWalker & Associates LLC**



Life After *Chevron* Deference: A Short Primer

Missouri Energy Initiative

2024 Midwest Energy Policy Series on Economic Development

December 12, 2024

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Focus

- Judicial “deference” to administrative agency statutory interpretation involves a level of potential conflict between Executive Branch (Constitution Article II) and Judicial Branch (Constitution Article III).
- And that’s just the beginning

Outline

- Evolution of Judicial Deference to Agency Readings of Enabling Laws (1904-1984)
- The *Chevron* Two-Step (1984)
- Reformulation and “Pruning” *Chevron* (1994-2022)
 - *United States v. Mead Corp.* (notice-and-comment rulemaking)
 - “Major Questions Doctrine” Exceptions to *Chevron*
- *Loper Bright Enterprises v. Raimondo* Overrules *Chevron* (2024)

Evolution of Judicial Deference to Agency Statutory Construction

- *Bates & Guild Co. v. Payne*, 194 U.S. 106, 109 (1904) (treatment of magazine as second class mail):
“ . . . [W]here Congress has committed to the head of a department certain duties requiring the exercise of judgment and discretion, his action thereon, whether it involve questions of law or fact, will not be reviewed by the courts, unless he has exceeded his authority or this court should be of opinion that his action was clearly wrong.”
- *Skidmore v. Swift & Co.*, 323 U.S. 124, 140 (1944) (Fair Labor Standards Act) (Justice Jackson): . . .
“[T]he rulings, interpretations and opinions of the Administrator under this Act . . . constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.”

Evolution of Judicial Deference to Agency Statutory Construction (2)

- *United States v. Shimer*, 367 U.S. 374, 382-383 (1961) (Veterans Readjustment Act):
“This admonition of [*Bates & Guild Co. v. Payne*] has been consistently followed by this Court whenever decision as to the meaning or reach of a statute has involved reconciling conflicting policies, and a full understanding of the force of the statutory policy in the given situation has depended upon more than ordinary knowledge respecting the matters subjected to agency regulations.”

The Chevron Two-Step

Chevron USA v. Natural Resources Defense Council, 467 U.S. 837, 842-843 (1984)

- Clean Air Act § 111, definition of “stationary source”) (Justice Stevens):

“When a court reviews an agency’s construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”

Discomfort on the Bench: Reformulations and “Pruning” *Chevron*

Smiley v. Citibank (S.D.), N.A., 517 U.S. 735, 740-741 (1996) (Justice Scalia) (whether the term “interest” in § 85 of the National Bank Act encompasses late-payment fees). Reformulates review by articulating a *presumption* underlying *Chevron*:

“We accord deference to agencies under *Chevron*, not because of a presumption that they drafted the provisions in question, or were present at the hearings, or spoke to the principal sponsors; but rather because of a presumption that Congress, when it left ambiguity in a statute meant for implementation by an agency, understood that the ambiguity would be resolved, first and foremost, by the agency, and desired the agency (rather than the courts) to possess whatever degree of discretion the ambiguity allows.”

- The *presumption* articulated in *Smiley* becomes problematic – arguable legislative mis-delegation of judicial power (statutory construction) to executive agencies.

Limiting Applicability of *Chevron* Deference

- *Chevron* deference limited to notice-and-comment rulemakings. *United States v. Mead Corp.*, 533 U. S. 218, 230 (2001) (“where it is in doubt that Congress actually intended to delegate particular interpretive authority to an agency, *Chevron* is ‘inapplicable’”)
- Later case law limited *Chevron* deference to notice and comment rulemakings where agency follow the correct procedures in issuing the regulation. *Encino Motorcars, LLC v. Navarro*, 579 U. S. 211, 220 (2016).
- “Major Questions Doctrine” Holding *Chevron* Inapplicable to Issues of “deep economic and political significance.”

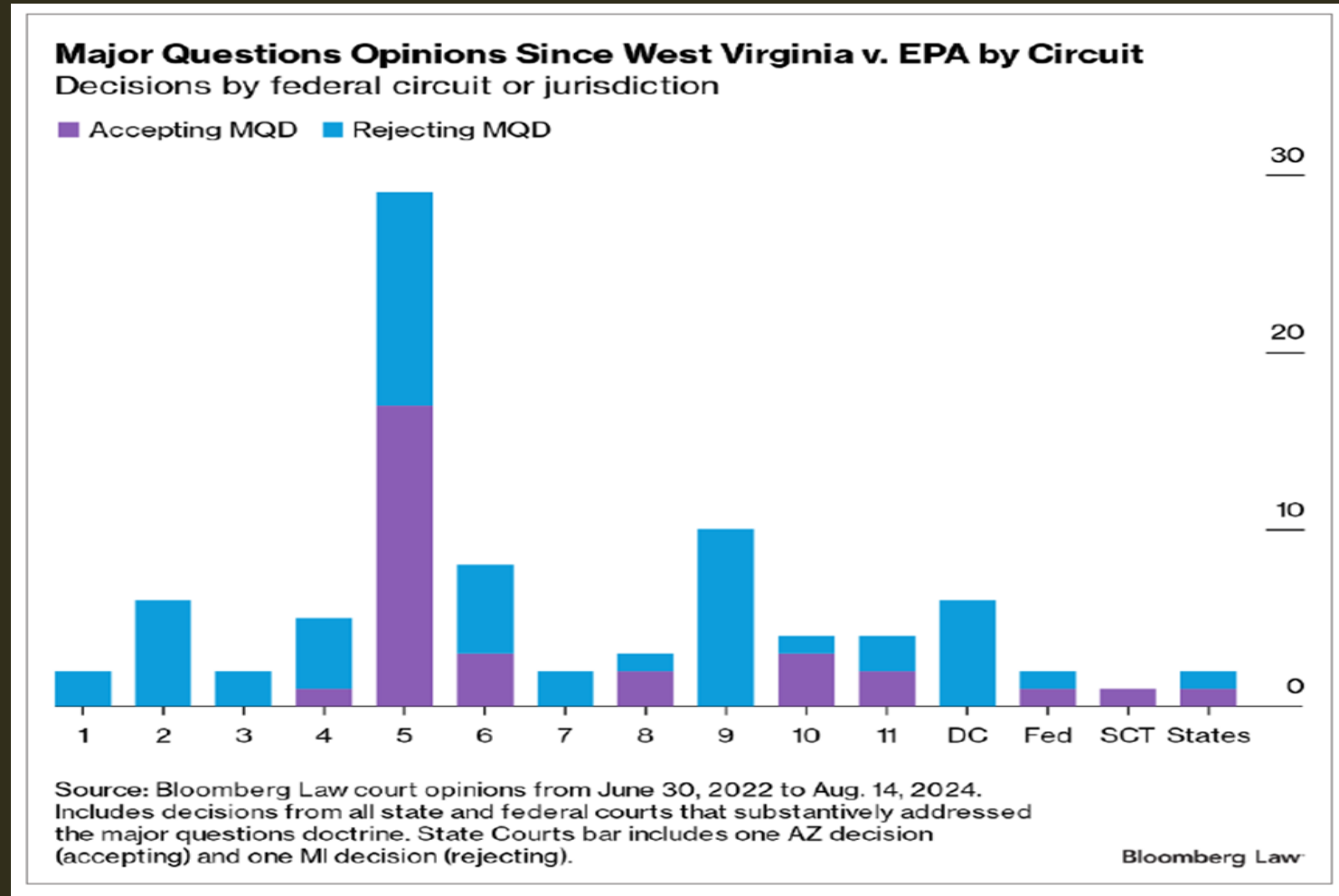
Major Questions Doctrine Cases

- *MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218 (1994) (Justice Scalia), *Chevron* does not apply if the question at issue is one of “deep ‘economic and political significance.’”
- *FDA v. Brown & Williamson Tobacco*, 529 U.S. 120, 160 (2000) (Justice O’Connor) (whether tobacco-borne nicotine is a “drug” subject to FDA regulation under the Food, Drug, and Cosmetics Act 21 U.S.C. § 321(g)-(h)) (“Deference under *Chevron* . . . is premised on the theory that a statute’s ambiguity constitutes an implicit delegation from Congress to the agency to fill in the statutory gaps. . . . In extraordinary cases, however, there may be reason to hesitate before concluding that Congress has intended such an implicit delegation.
- *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 324 (2014) (Justice Scalia) (“When an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy . . . we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance”) (internal quotations and citations omitted)

Major Questions Doctrine Cases (2)

- *King v. Burwell*, 576 U. S. 473, 485-486 (2015) (Chief Justice Roberts) (availability of Affordable Care Act tax credits) (“Whether those credits are available on Federal Exchanges is thus a question of deep economic and political significance that is central to this [Affordable Care Act] statutory scheme; had Congress wished to assign that question to an agency, it surely would have done so expressly. It is especially unlikely that Congress would have delegated this decision to the *IRS*, which has no expertise in crafting health insurance policy of this sort.”)
- *West Virginia v. EPA*, 597 U. S. 697, 723 (2022) (Chief Justice Roberts) “[e]xtraordinary grants of regulatory authority are rarely accomplished through ‘modest words,’ ‘vague terms,’ or ‘subtle device[s]’”

Cases Considering Major Questions Doctrine: 2022-2024



R.I.P. *Chevron*:

Loper Bright Enterprises v. Raimondo, ___ U.S. ___, 144 S.Ct. 2244 (2024)
(Chief Justice Roberts)

- “Our attempts to [clarify *Chevron*] have only added to *Chevron*’s unworkability, transforming the original two-step into a dizzying breakdance.” 144 S. Ct. at 2271. To which Justice Kagan rejoins in her dissent: “For the most part, the exceptions that so upset the majority require merely a rote, check-the-box inquiry. If that is the majority’s idea of a ‘dizzying breakdance,’ . . . the majority needs to get out more.” 144 S. Ct. at 2309.
- *Chevron* overruled as inconsistent with Administrative Procedure Act (5 U.S.C. § 706), enacted in 1946, which states in relevant part that “To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.” 144 S. Ct. at 2261-2270

What's Left After *Loper Bright*?

- Two primary corollaries to overruling *Chevron*:

1. “[W]e do not call into question prior cases that relied on the *Chevron* framework. The holdings of those cases that specific agency actions are lawful—including the Clean Air Act holding of *Chevron* itself—are still subject to statutory *stare decisis* despite our change in interpretive methodology.” 144 S. Ct. at 2273
2. *Skidmore v. Swift & Co.*, 323 U.S. 124 (1944) remains good law – agency interpretation of statute is persuasive authority if reasonable.

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AI AND LARGE ENERGY USERS: SHAPING THE FUTURE OF THE GRID

FIRESIDE CHAT



**Frank Caro,
Polsineli**



**Nekabari L. Goka,
Google**



**Steve Wills,
Ameren Missouri**



**Rob Dixon,
Ameren Missouri**

Large Electricity Users/AI Impact Panel

- Frank Caro (Moderator)
 - Polsinelli PC – Shareholder
- Nekabari Goka
 - Google – Lead, Energy Markets & Policy, Americas
- Rob Dixon
 - Ameren Missouri – Senior Director of Economic, Community, and Business Development
- Steve Wills
 - Ameren Missouri – Senior Director of Regulatory Affairs



What a law firm
should be.[™]

Large Users & AI Impact

KEY TERMS

- Data Center – physical facility that houses critical computing and storage resources for an organization that enables delivery of shared applications and data. Key components include routers, switches, firewalls, storage systems, servers, and application-delivery controllers.
- IRP – Integrated Resource Plan – an assessment from a utility of future electric needs and its plan to meet those needs.
- CTT – Clean Transition Tariff – Rate design mechanism pioneered by Google to compensate utility for clean power used by large industrial consumer(s).
- Demand Response – tool used to encourage consumers to reduce or shift electricity usage during peak periods



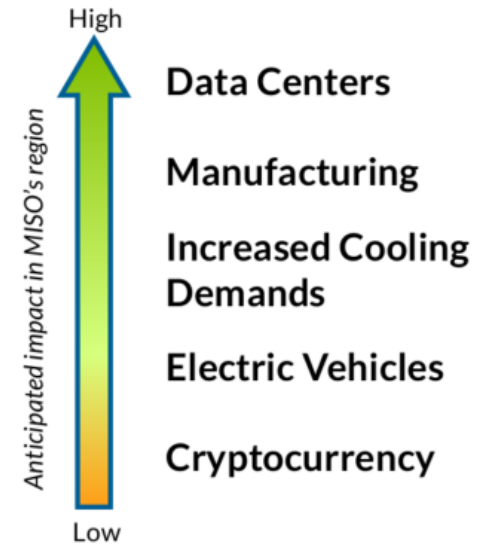
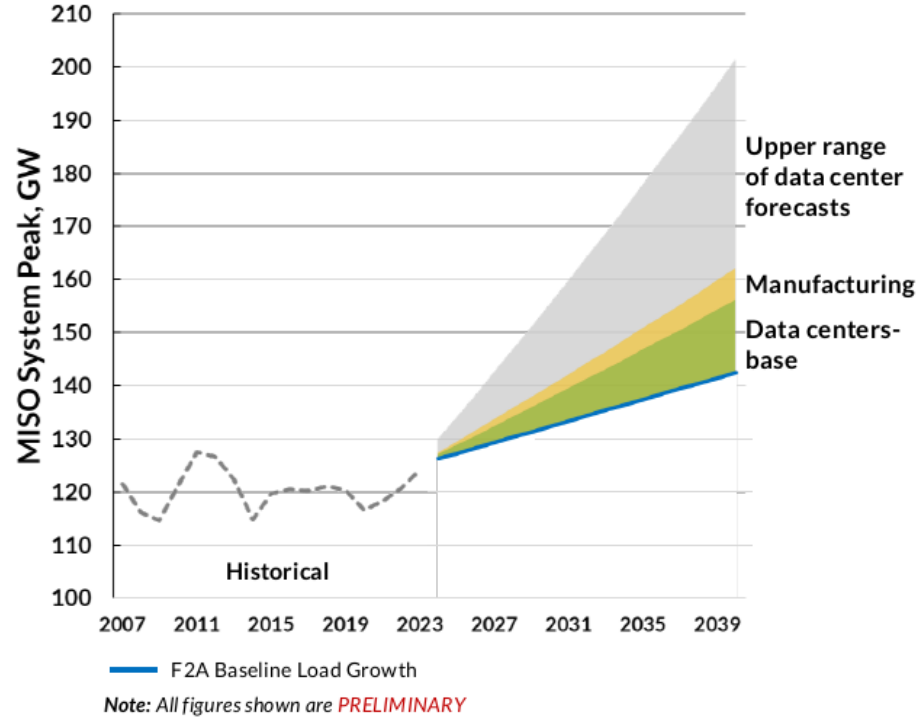
Demand Growth – Data Centers & Electrification

- The impact of data centers on power demand will be significant. Estimates vary:
 - Goldman Sachs – 47 gigawatts (GW) by 2030
 - Brattle Group – 16 GW by 2030
 - Grid Strategies – 9-13 GW by 2027
- Onshoring of manufacturing and industrial electrification (hydrogen, carbon capture, etc.) are estimated to grow demand 36 GW by 2030, according to the Brattle Group.

Demand Forecasting in MISO

5-year peak load growth forecasts from grid planners have almost doubled since last year, driven mostly by data centers and manufacturing

EPRI and Grid Strategies¹ anticipate manufacturing growth to favor MISO's service area



Source: MISO / OMS Survey (2024)



Data Center Announcements in Missouri

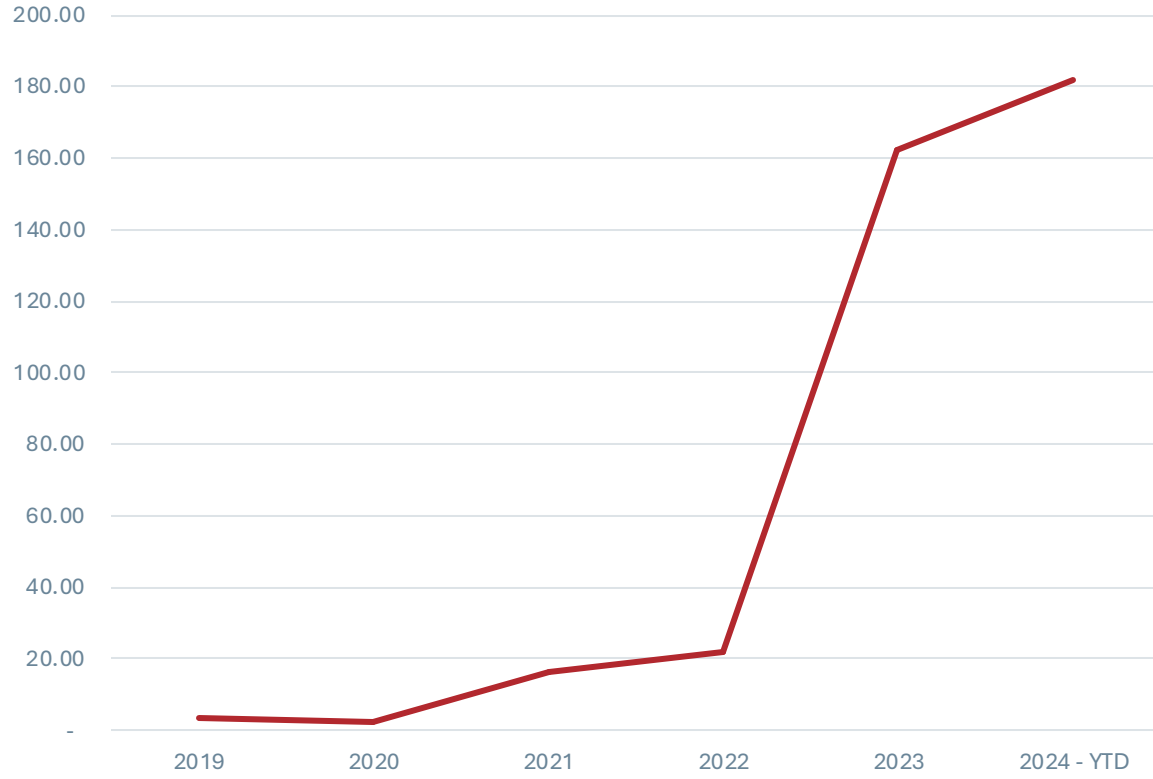
- Kansas City
 - Google – 400 MW data center (\$1 billion)
 - Meta - \$800 million data center
 - Patmos – 100 MW data center (Kansas City Star building)
- St. Louis
 - Tierpoint – 20 MW facility (NSI Building) in addition to three other facilities
 - Netrality – 16 MW facility

Demand Increasing for Economic Development Projects

2019 – Average project size was 3.2 MW

Today – Average project size is 181.2 MW

Average Demand (MW) of New Economic Development Projects Evaluating a Location in Ameren Missouri Service Territory



Source: Ameren Missouri



Key Issues with Large Industrial Users and Data Centers

- Business considerations when siting data centers or large industrial projects
- Economic development opportunities with data centers and large industrial end users
- Resource Adequacy
- Benefits & challenges from a utility perspective of large power users

Contact Us

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- Steve Wills
 - Ameren Missouri – Senior Director of Regulatory Affairs
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RESOURCE ADEQUACY REGULATOR PERSPECTIVE

FIRESIDE CHAT



**Kayla Hahn,
Missouri Public Service
Commission**



**Justin Grady,
Kansas Corporation
Commission**



**Daniel Scripps,
Michigan Public Service
Commission**



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RESOURCE ADEQUACY UTILITY PERSPECTIVE


PANEL



**Christina Hajj,
DTE Energy**



**Kevin Gunn,
Energy**



Missouri Energy Initiative Resource Adequacy: Utility Perspective

Kevin Gunn, VP

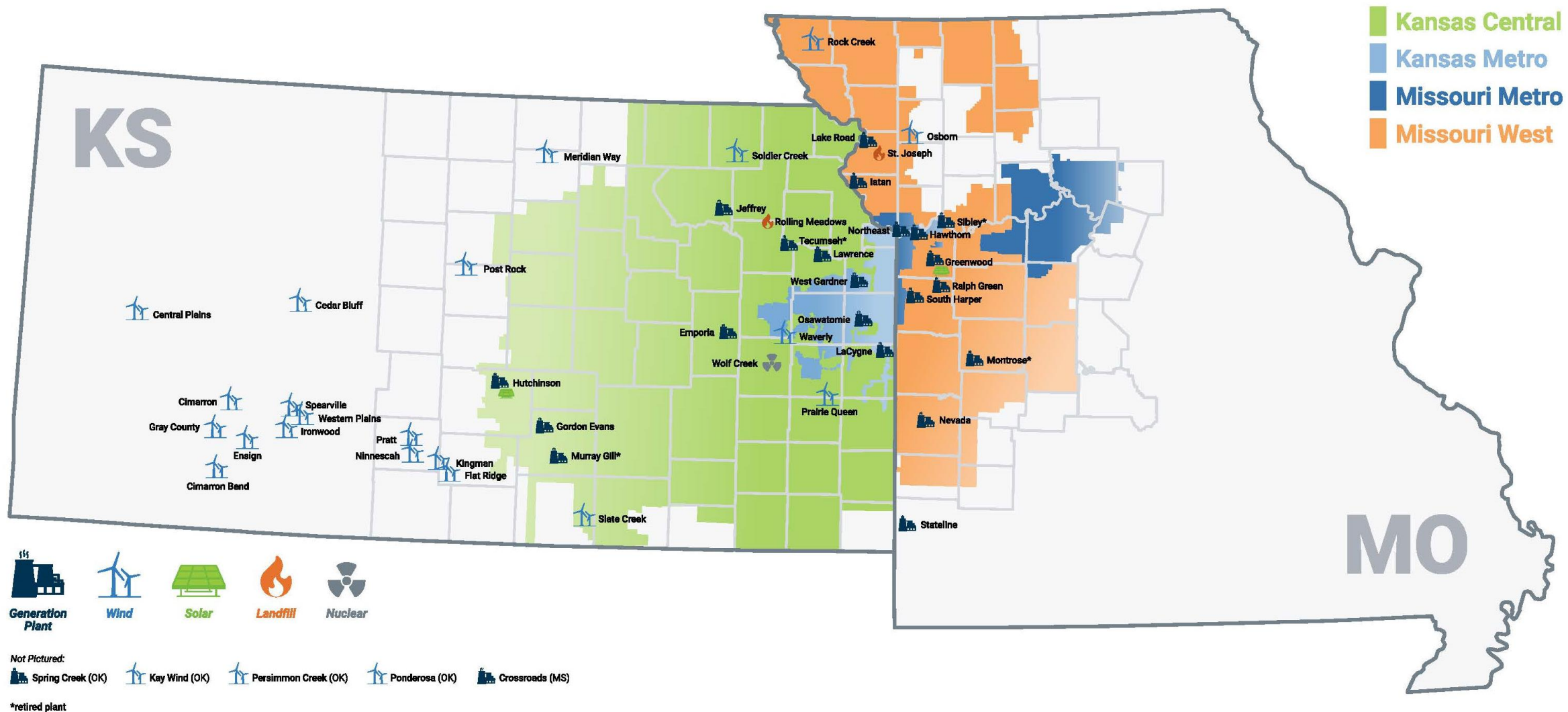
State and Federal Regulatory Policy

December 12, 2024



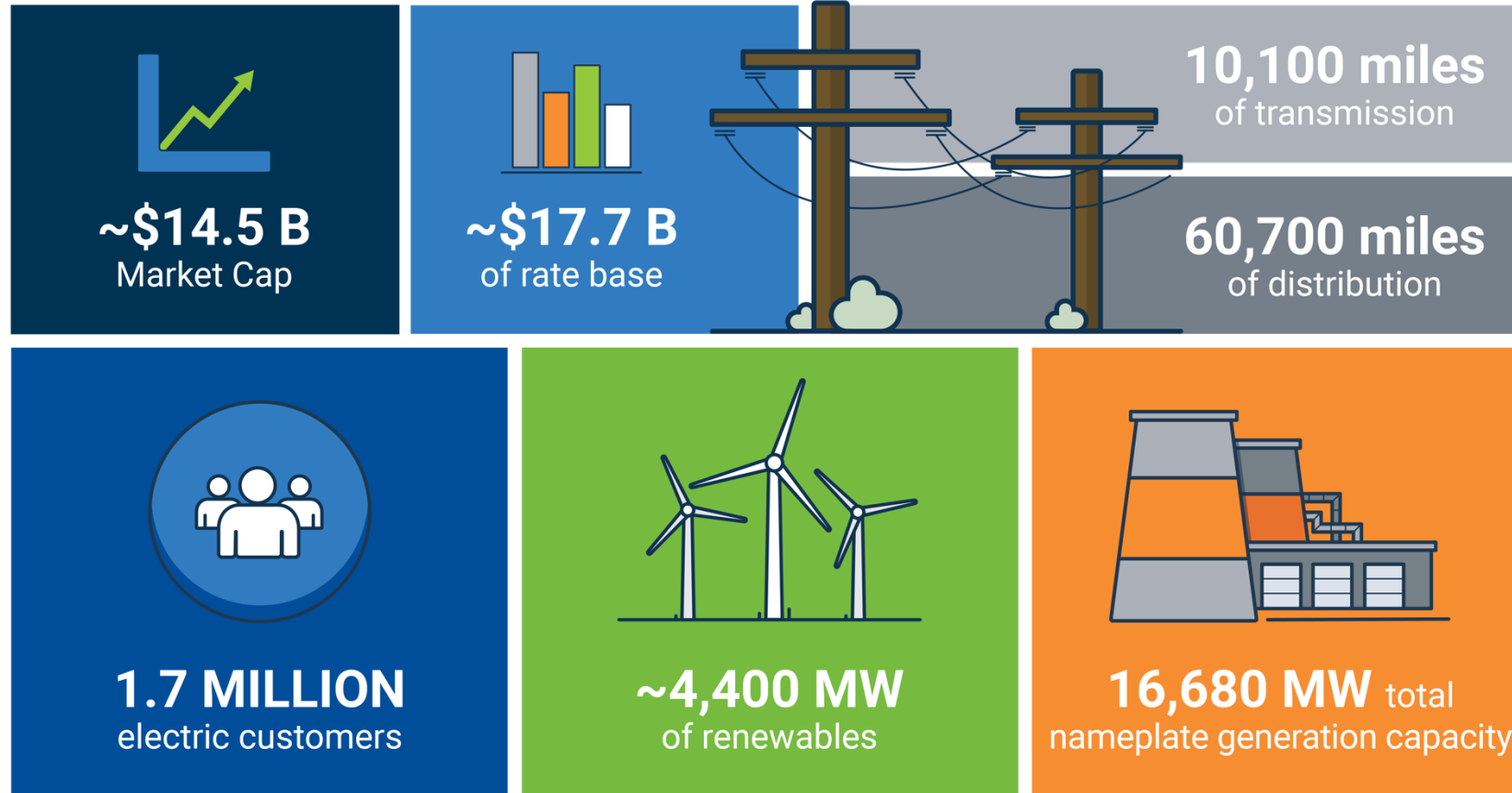


Combined Service Area





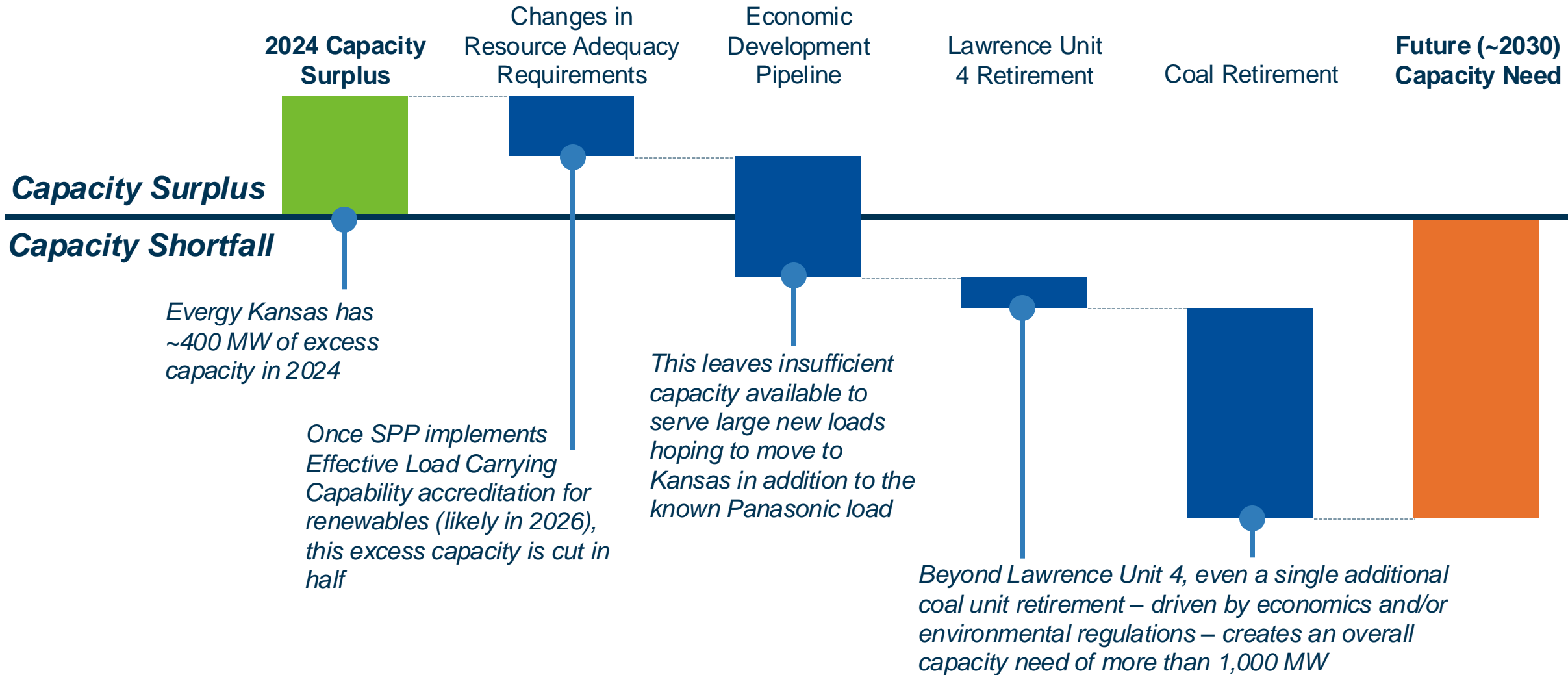
Evergy By the Numbers



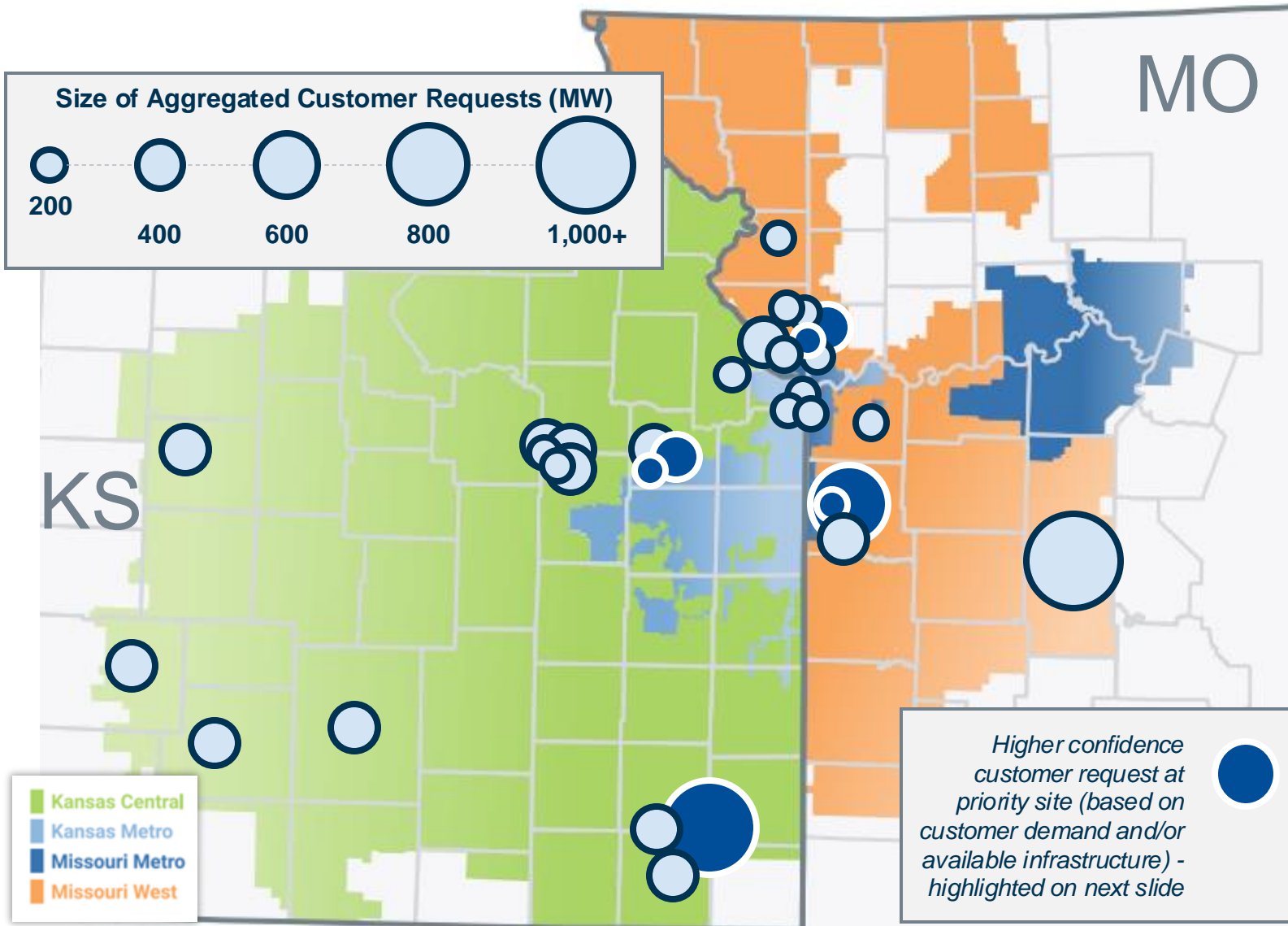
All as of YE 2022.



Kansas: Future Capacity Needs



Evergy's 200+ MW Customer Pipeline (2022-Present)



- Since 2022, Evergy has studied nearly 40 site requests for 16 customers with an aggregated ~9 GW of demand under max load scenarios
- Some customers have already moved on from considering Evergy, while others have asked for additional studies at multiple Evergy sites
- Evergy's main considerations when evaluating data center prospects:
 - Transmission availability
 - Generation capacity
 - Rate design
 - Other corporate risks

Economic Development & Demand Growth Outlook

Economic Development Wins¹



- Data Center
- ~\$1B investment



- EV battery manufacturing plant
- ~\$4B investment
- ~4,000 new jobs



- Data Center
- ~\$800M investment

Demand Growth Outlook

Evergy's current economic development pipeline exceeds more than **\$13.5 billion capital investment** and more than **6 Gigawatts** of potential projects.

Opportunities in health science, mobility, refining, advanced manufacturing, logistics and technology/data.

Kansas City benefits from its geographic location in the center of the country and rail network.

Current customers seeking to expand.

Economic development pipeline remains robust, with projects representing more than 6 gigawatts of incremental demand actively considering our service territories

Key Components of HB 2527



House Bill 2527 Unlocked Opportunity And Value For Kansas

1) Increases investment in the electrical grid in high-growth areas

- Work with the KCC, local and state economic development entities, developers and municipalities to identify areas of high growth and build additional capacity ahead of demand
- Reduce the time it takes to extend electrical service to companies considering locating in Kansas

2) Ensures enough power generation to supply economic development and growth in Kansas

- Build a hydrogen compatible, combined-cycle natural gas plant in Kansas (*announced later in 2024*)
- Enable continued investment in Kansas wind and solar

3) Lowers the overall cost of building large power plants

- Reduce the overall amount of interest on large multi-year power plant construction projects

4) Competitive economic development pricing on electricity with neighboring states

- Enhance economic development rates to have parity with Missouri for large electrical customers

5) Electric rate stability in Kansas

- The Legislature's London Economics International 2019 study on retail rates and electric utilities in Kansas noted that economic development and growth is one of the best ways to stabilize and lower rates over the long-term



1) **Plant-in-service Accounting (PISA)**

- Similar to a provision in Missouri, it allows full recovery of capital invested in utility infrastructure in KS.
- PISA is an accounting procedure to allow full recovery of a utility's investments to prevent losing depreciation on electrical grid, generation and IT investments.

2) **Construction Work in Progress (CWIP)**

- Allows interest on multi-year power plant investments to be paid as the project is built, reducing the overall cost of the investment.
- The interest / carrying costs are recovered through a bill adjustment / rider as a facility is being built, reducing overall interest / carrying costs on the project, which ultimately saves customers money.

3) **Economic Development Rider (EDR) Enhancements**

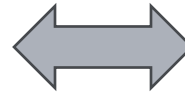
- Changes large customer economic development rate to be competitive and consistent with Missouri.
- Adds a 10-year EDR for projects 25 MW or larger, which matches Missouri incentives.
- Maintains the current Kansas Standard and Limited Large EDRs.



HB 2527: Economic Development Rider Modification

Current KS EDRs

- Must have state and local incentives to qualify.
- **Standard Rider:** 20% discount annually for 5 years. Minimum load- 200 kW and 55% load factor.
- **Limited Large:** 40% discount annually for 5 years. Minimum load- 300 kW and 55% load factor.
- Defers discount amount to next rate case to be collected.



New Modification

- Keep the Standard and Limited Large for projects that size.
- Adds a new **10-year EDR** for projects 25 MW or larger.
- Average 40% discount in years 1 to 5; Average 20% discount in years 6 to 10.
- **Changes all 3 EDRs so that the discounted revenue is simply not collected.**
- Matches Missouri's 10-year EDR.

The bill keeps the current Kansas EDRs and adds a large one to match Missouri. EDRs help attract load and Kansas was at a disadvantage to Missouri. It also matches the Missouri language for not reallocating the discount to other customers.



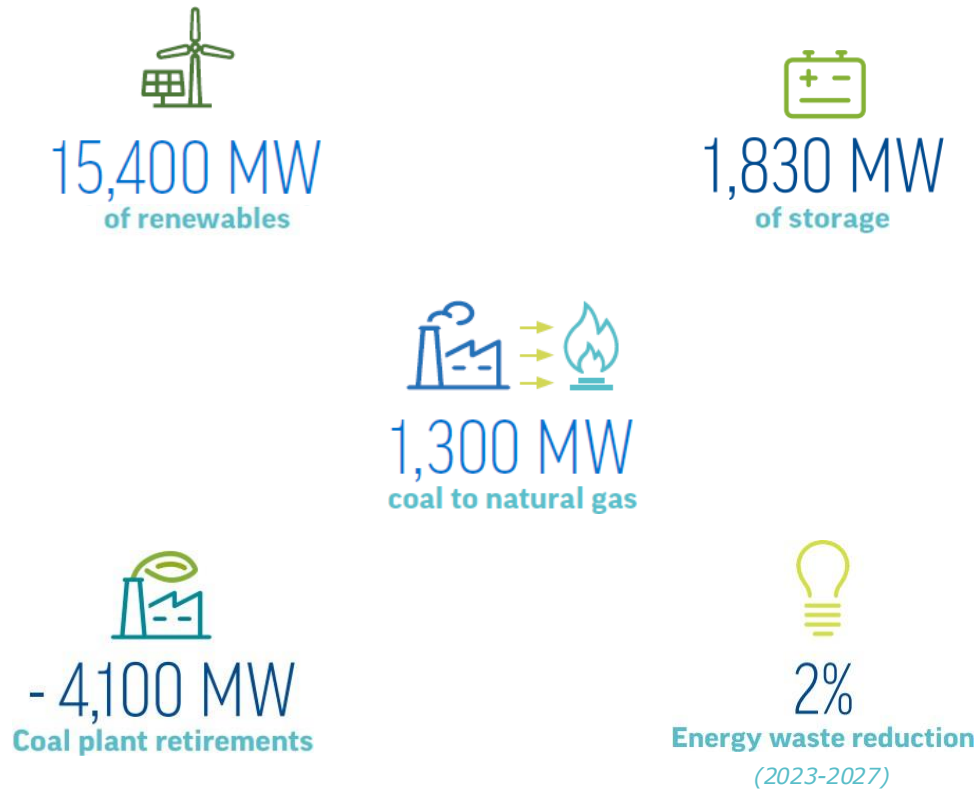
2024 Midwest Energy Policy Series on Economic Development

Resource Adequacy from the Utility Perspective

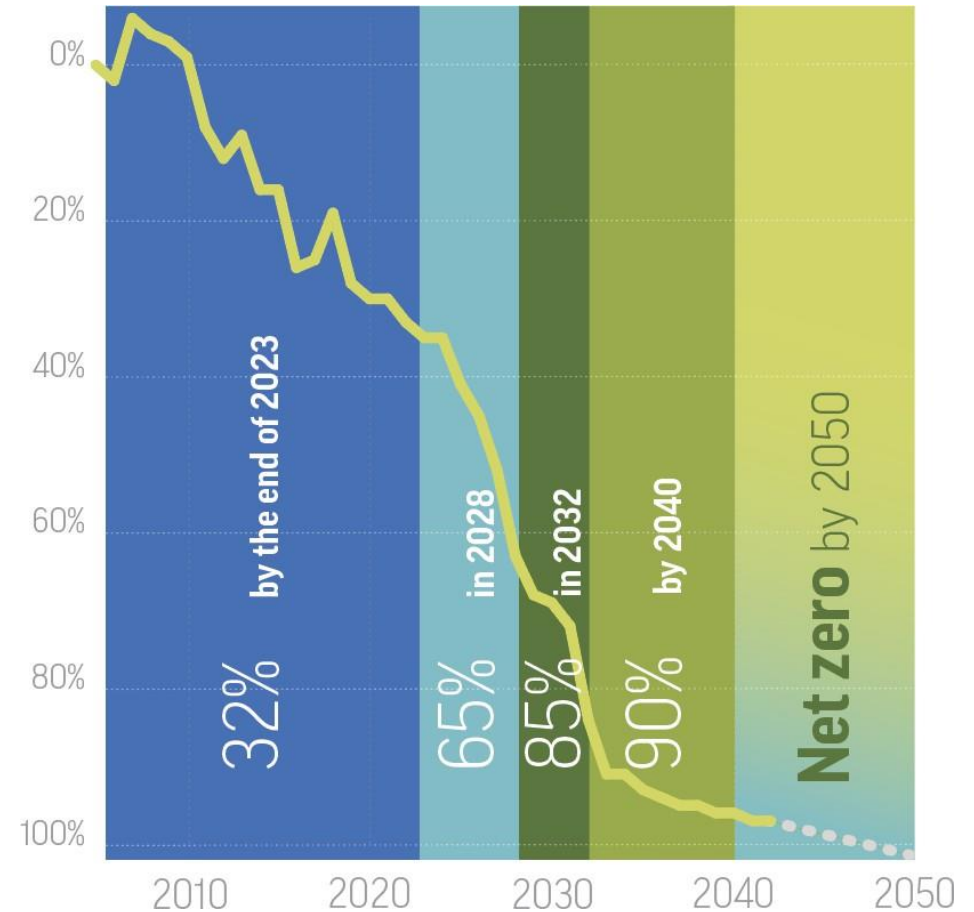
December 12th, 2024

In 2023, DTE reached a historic settlement agreement on the 2022 Integrated Resource Plan (IRP) which put DTE on a path to transform its generation portfolio over the next 20 years.

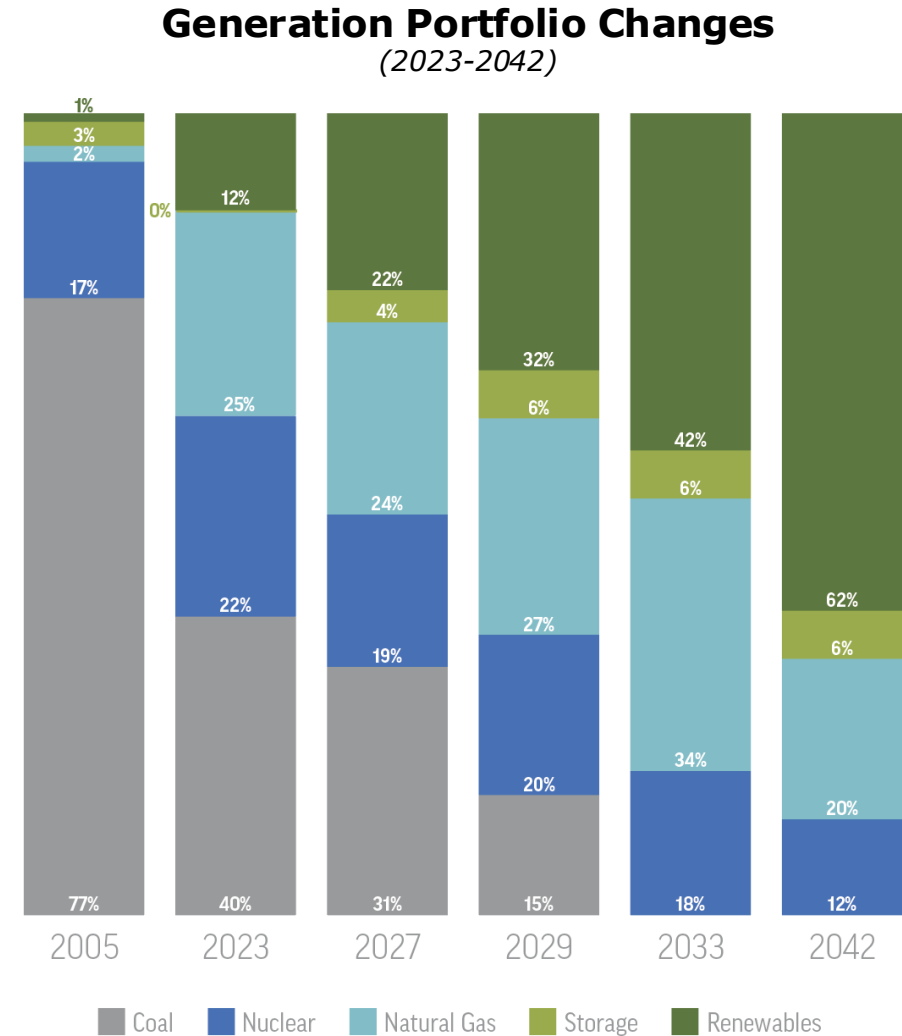
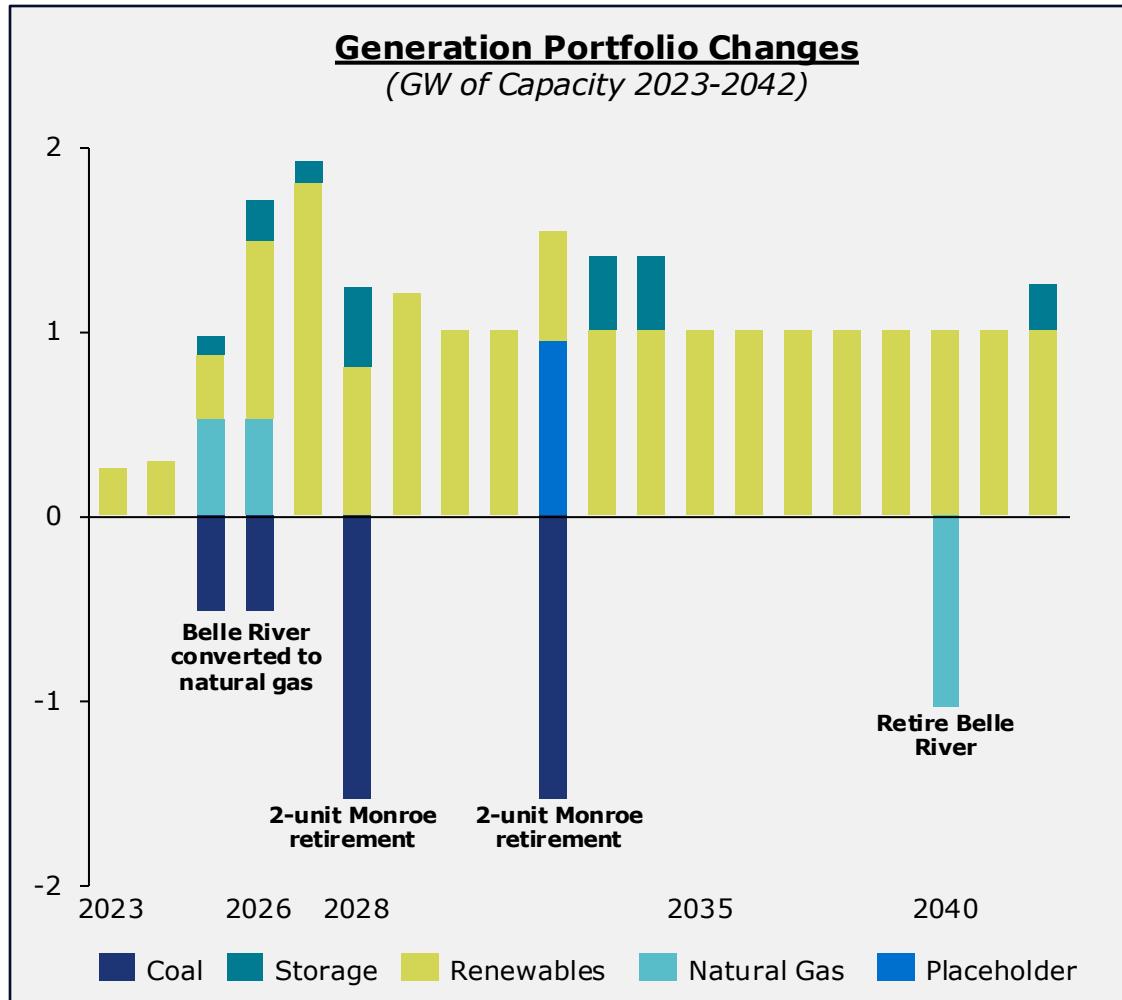
DTE CleanVision IRP Plan Summary (2023-2042)



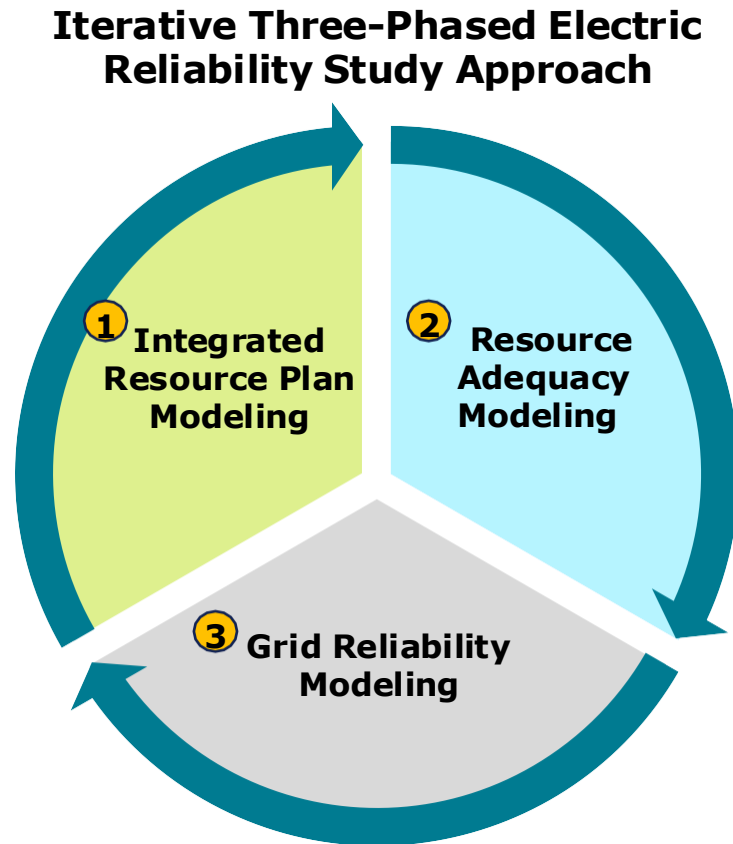
DTE Electric CO₂ Reduction



Over the next two decades, DTE's plan will diversify its generation mix and transition its generation fleet from traditional fossil fuels to cleaner sources of energy.



Resource adequacy modeling is a key component of an IRP which uses an iterative reliability study approach to determine the best path forward.



1 Integrated Resource Plan Modeling

- Conduct capacity expansion modeling to optimize customer affordability given emission reduction targets and industry impacts.

2 Resource Adequacy Modeling

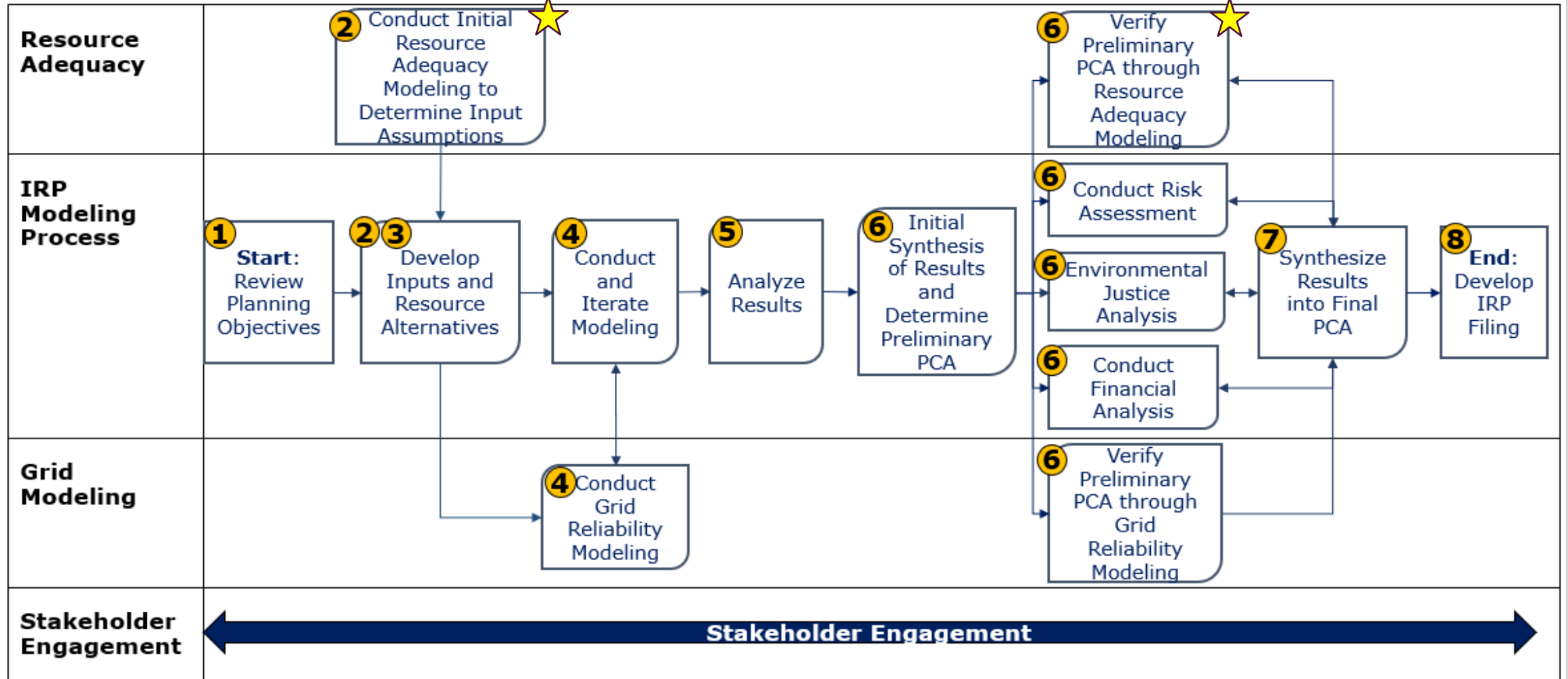
- Study the electric supply to determine the effective load carrying capabilities (ELCC) and loss of load expectations (LOLE) consistent with Midcontinent Independent System Operator (MISO) approach within a planning region at all hours of the year.

3 Grid Reliability Modeling

- Study the transmission and distribution power flow (steady state- thermal and voltage analysis) reliability at the local and regional level.

An IRP outlines a utility's future resource strategy and details how it will provide reliable, affordable service to its customers over a long-term period.

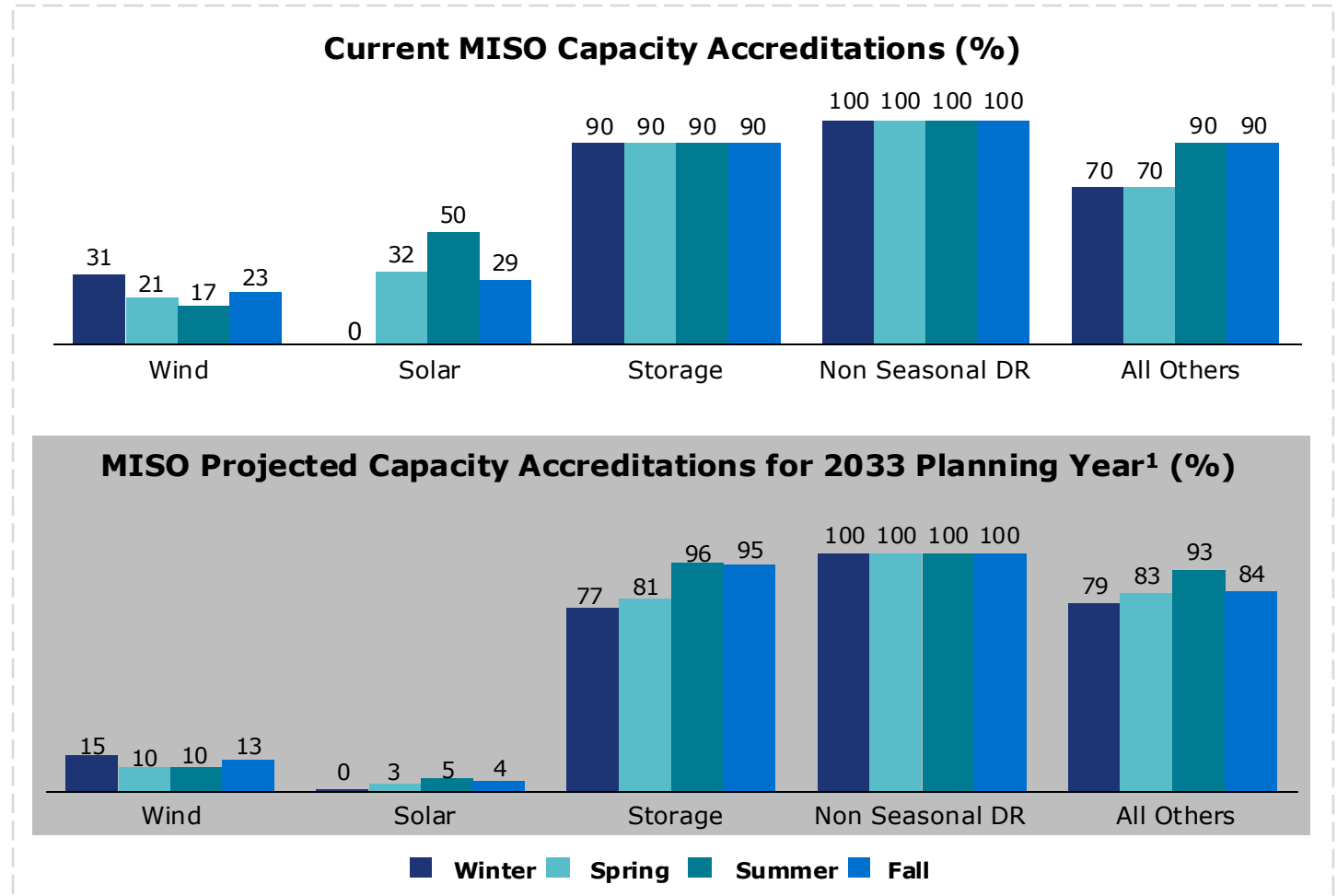
Integrated Resource Plan Approach



There are two key components to resource adequacy modeling which include determining the loss of load expectation and effective load carrying capabilities of a plan.

1 The LOLE represents the expected number of days per year when the available generation capacity is insufficient to meet the demand. The MISO standard is 1 day in 10 years.

2 The ELCC of a generating resource is a measurement of that resource's ability to produce energy when the grid is most likely to experience electricity shortfalls





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POST-ELECTION INSIGHTS

KEYNOTE



**John Ashford,
The Hawthorn Group**

An American flag is shown in the bottom-left corner, waving and partially covering the text. The flag features the stars and stripes of the United States flag.

Post-Election Politics and Energy

A Hawthorn Group

Visit with

The Missouri Energy Initiative

December 12, 2024

37 Days Since the Election

39 Days Until January 20th

The All-Consuming Questions

I. What We Know?

II. What We Don't Know?

III. What it Means?

– **Government**

– **Policy**

– **Politics**

IV. Discussion



I. What We Know



Politics Matters

***“... a riddle
wrapped in a mystery
inside an enigma.”***

**Winston Churchill (1874 – 1965)
October, 1939**

Trump Won – A VICTORY or a MANDATE?

- **Electoral Vote:** 312 out of 538
 - Carried all Seven Swing States
- **Popular Vote:** 49.9% to 48.3%
 - First Republican to win the popular vote in 20 years, Second in 36 years
 - Trump improved his vote share in every state
 - Trump improved his margin in 92.3% of counties; carried 85.2% of counties
- **Significant Gains**
 - **Latino Men +19**
 - ~~Black Men~~ **+2**
 - **Young/First Time Voters +6**
 - **White Evangelicals +6**
 - **Women +4**
 - **Urban and Suburban Areas +3**

226

Kamala Harris

2024 Electoral College Results

312

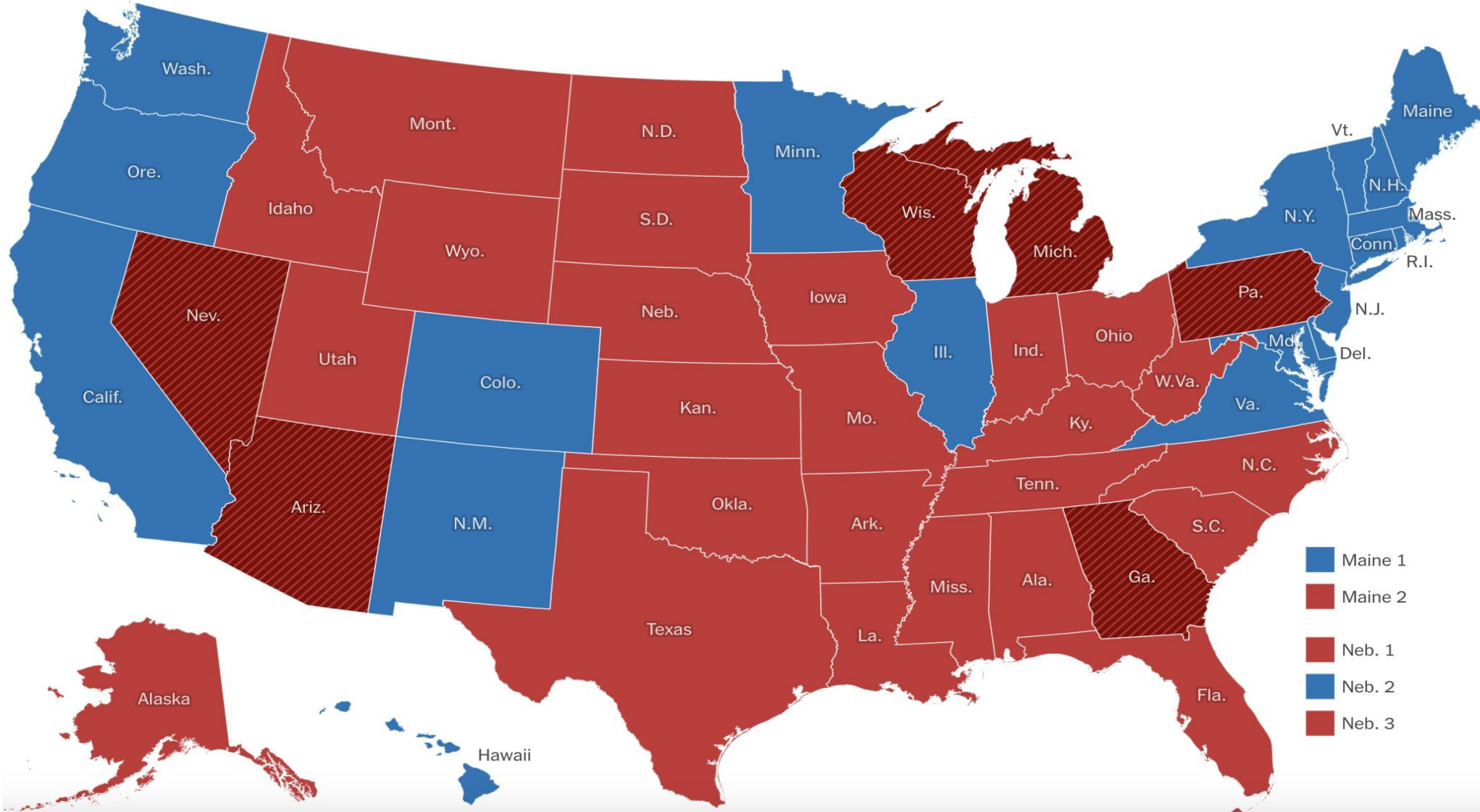
Donald J. Trump

270
TO WIN

74,441,608 votes (48.33%)

154.0 million votes so far (Estimated >99% counted)

76,917,139 votes (49.94%)



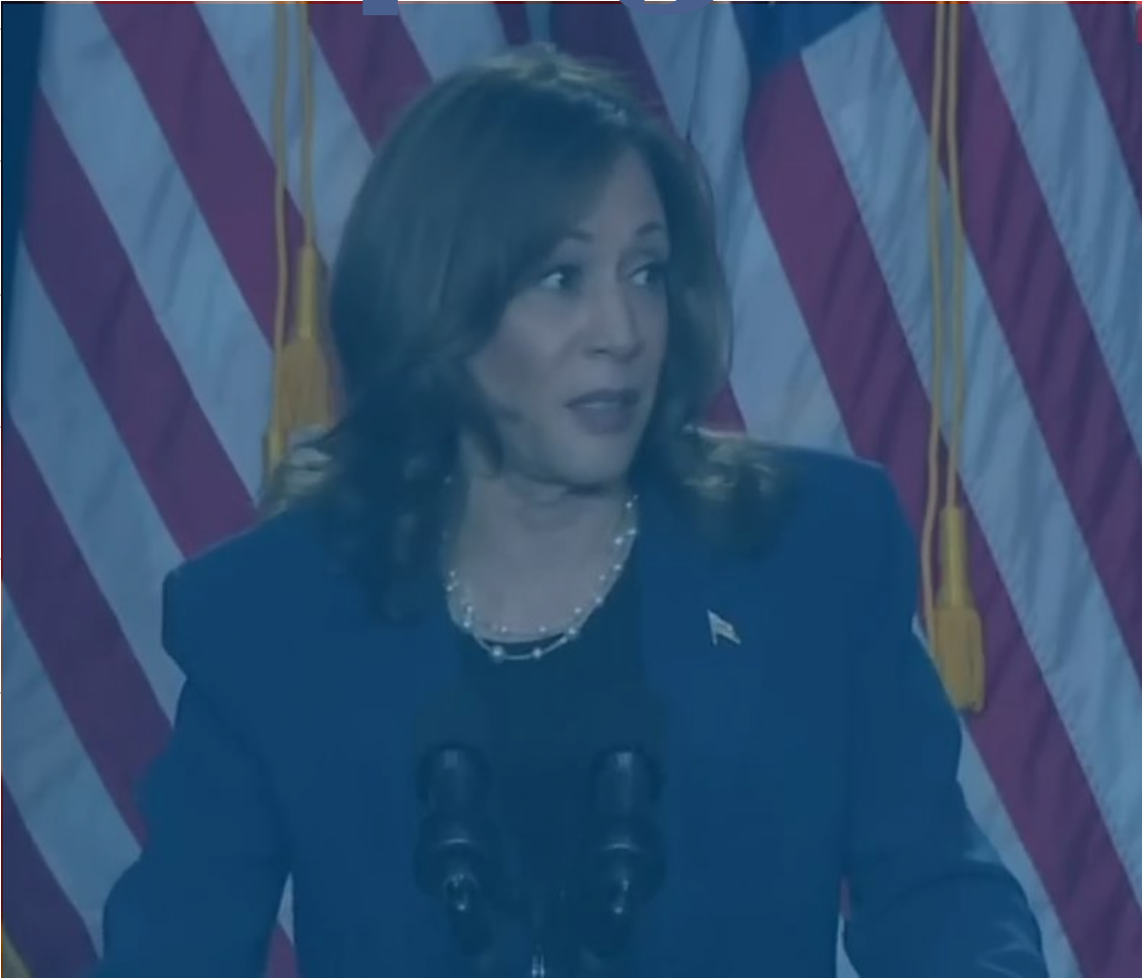
Harris Vs. Trump – Popular vote

77,025,505 votes

74,609,796 votes

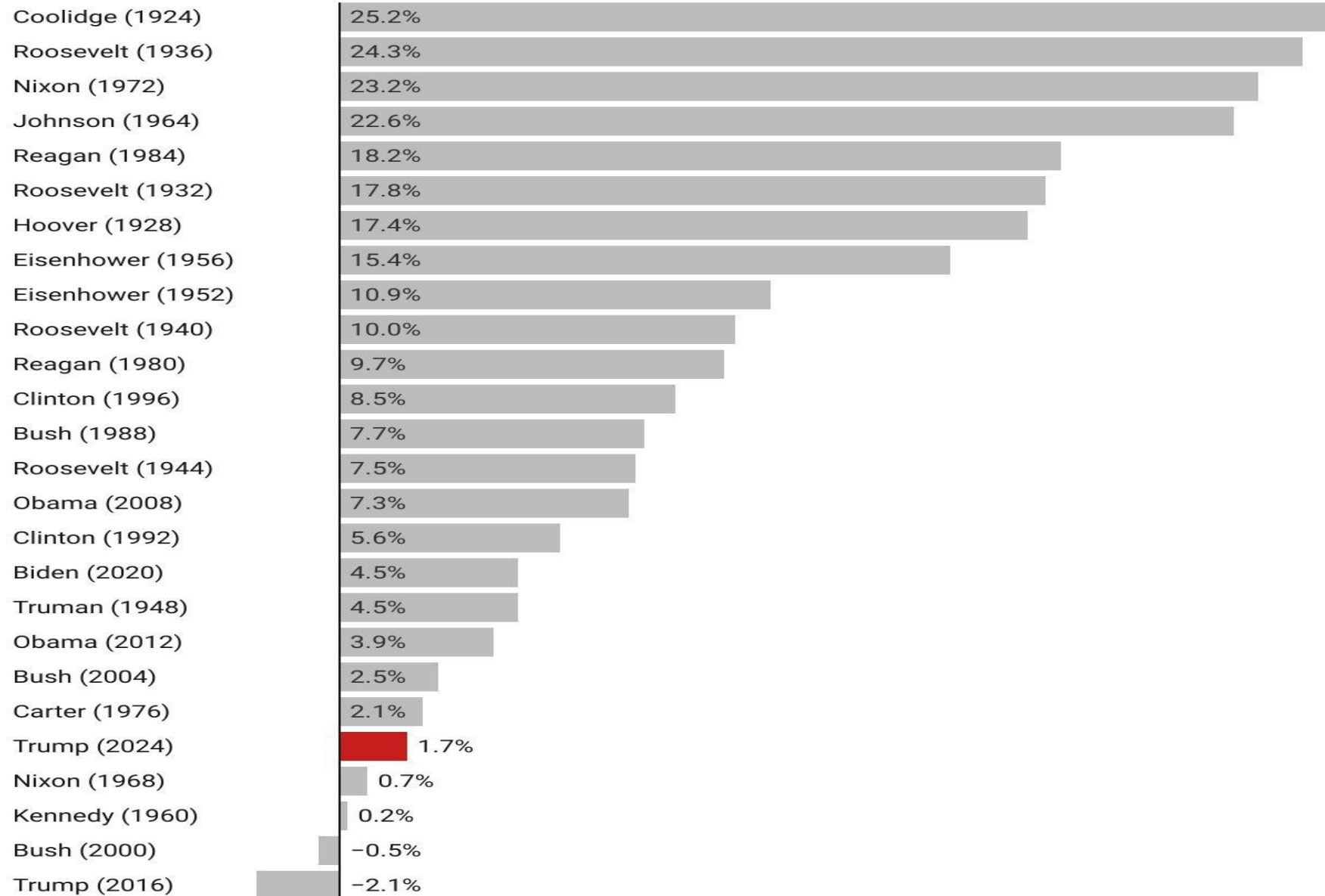
48.3%

49.9%

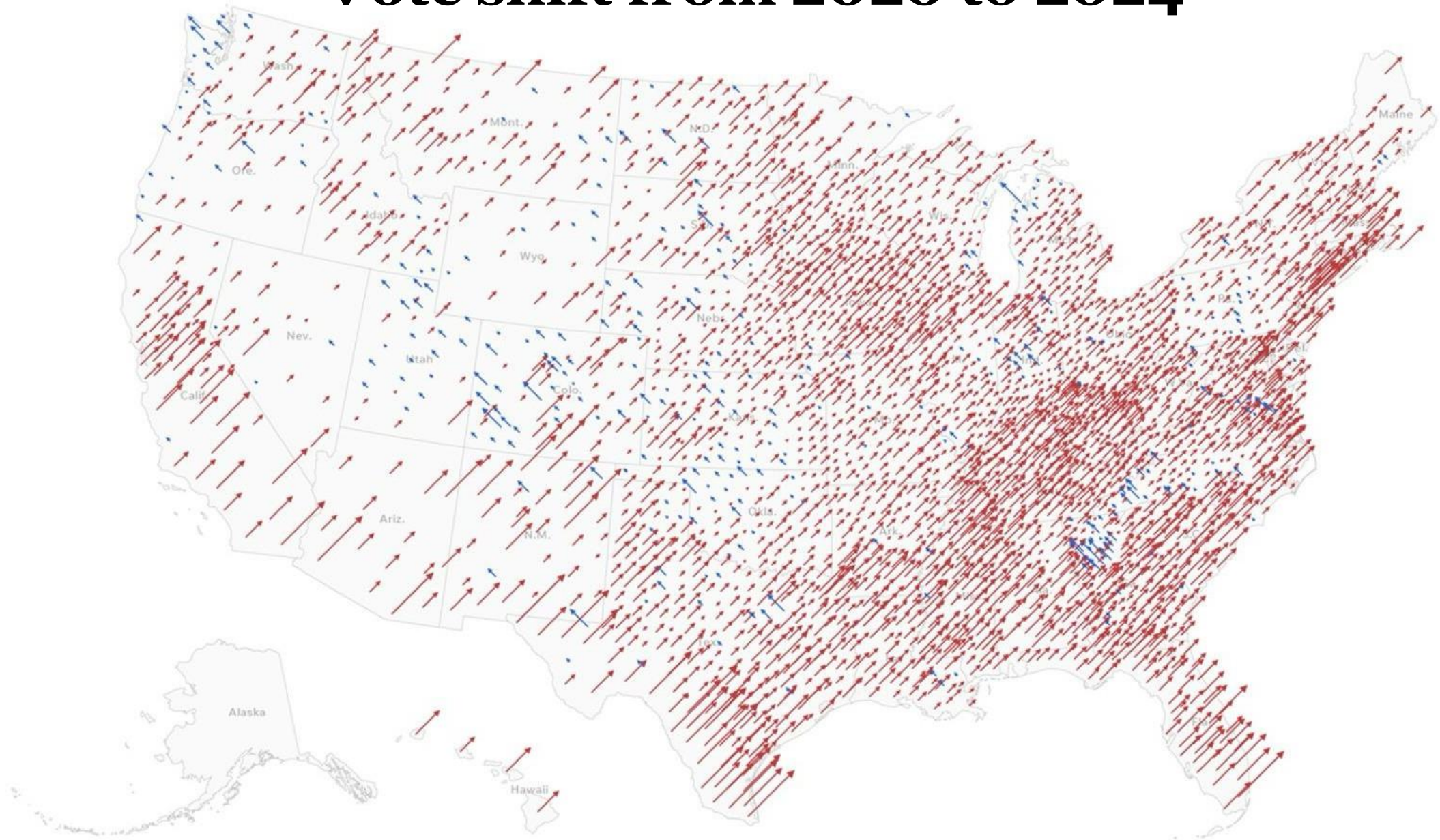


Trump's win in 2024 was no landslide

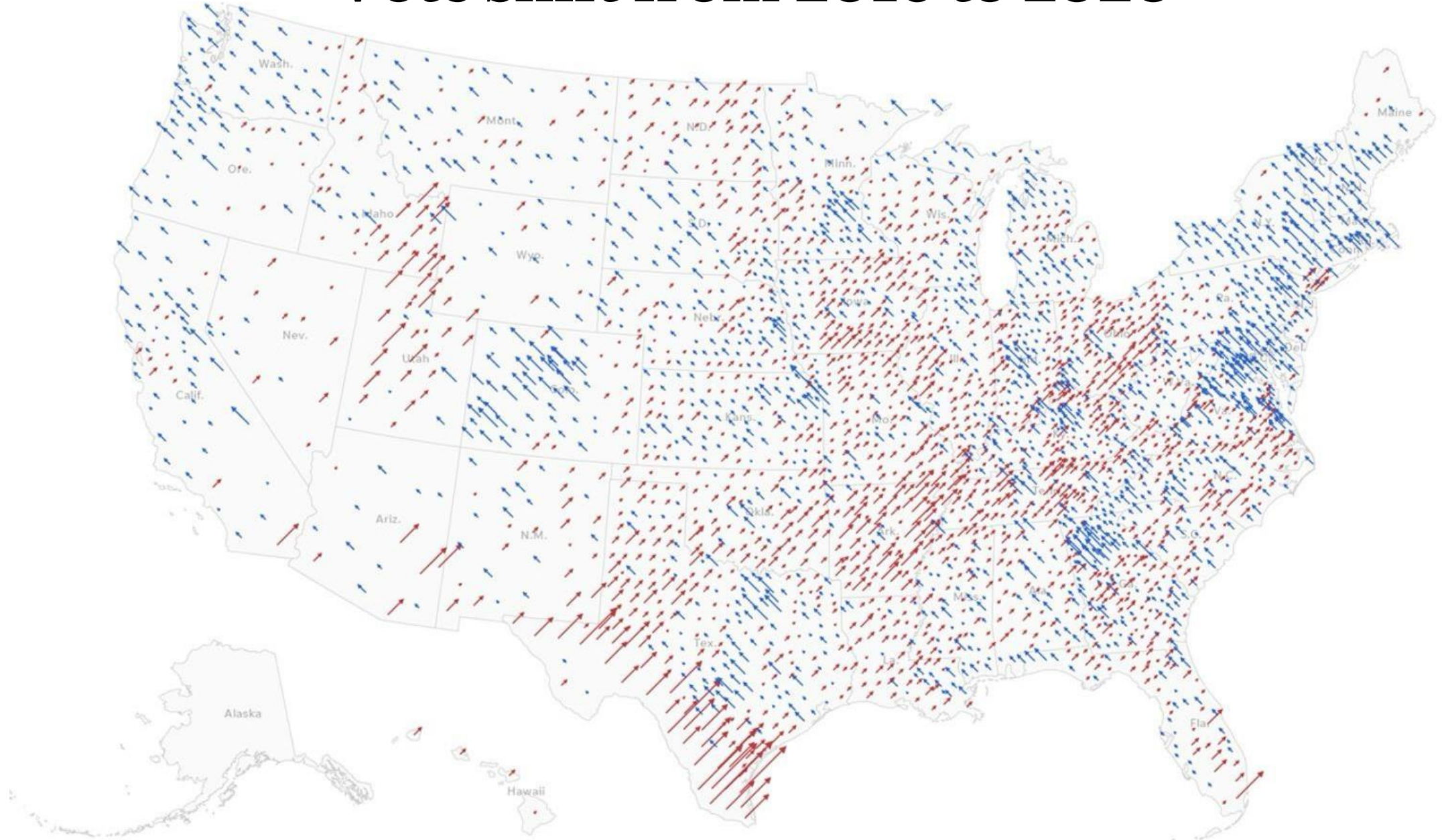
Trump won the popular vote by the smallest amount since 2000. His margin of victory was one of the smallest in the last 100 years.



Vote shift from 2020 to 2024



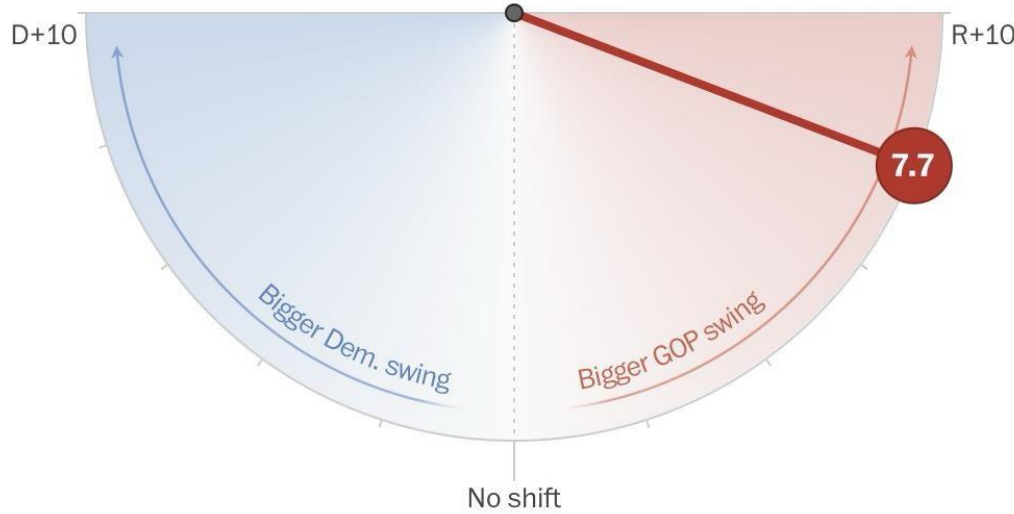
Vote shift from 2016 to 2020



Vote shift from 2020 to 2024

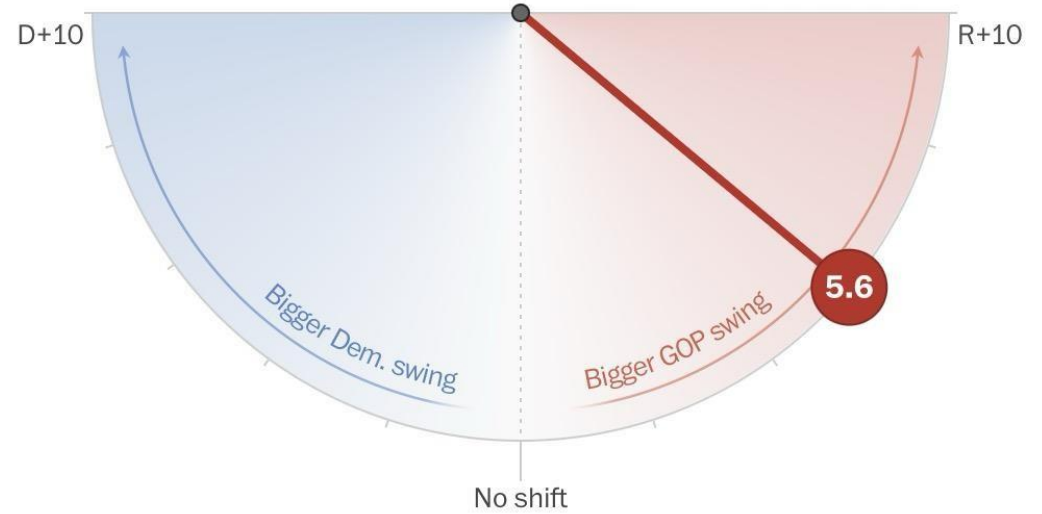
Urban core counties

66 out of 68 counties so far



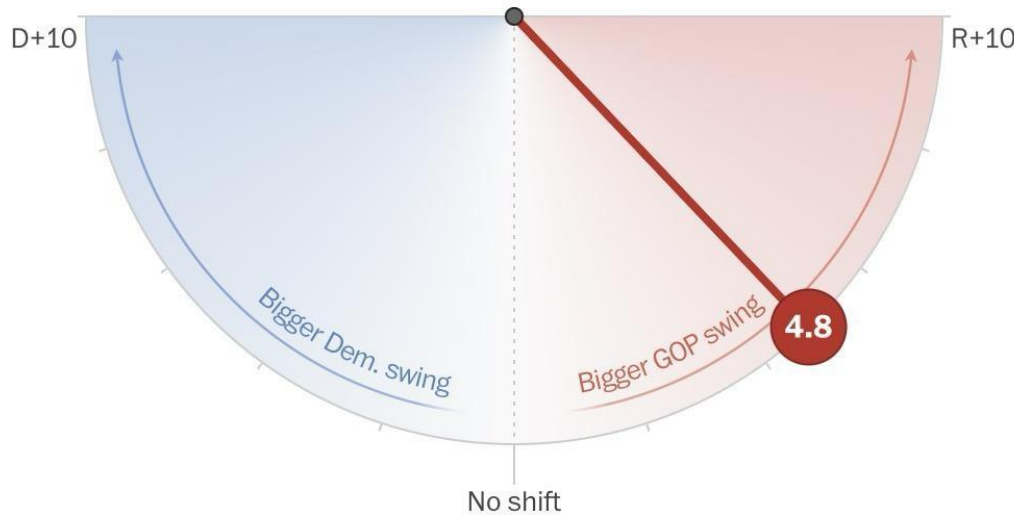
Major suburbs

364 out of 367



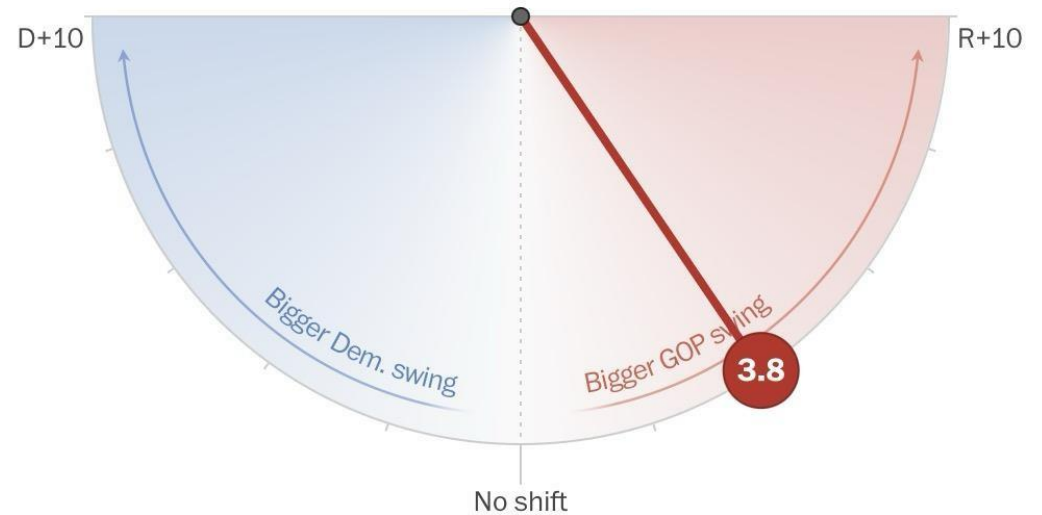
Medium metros

367 out of 372



Small cities and rural areas

2,289 out of 2,306



GOP Wins U.S. Senate – 53-47

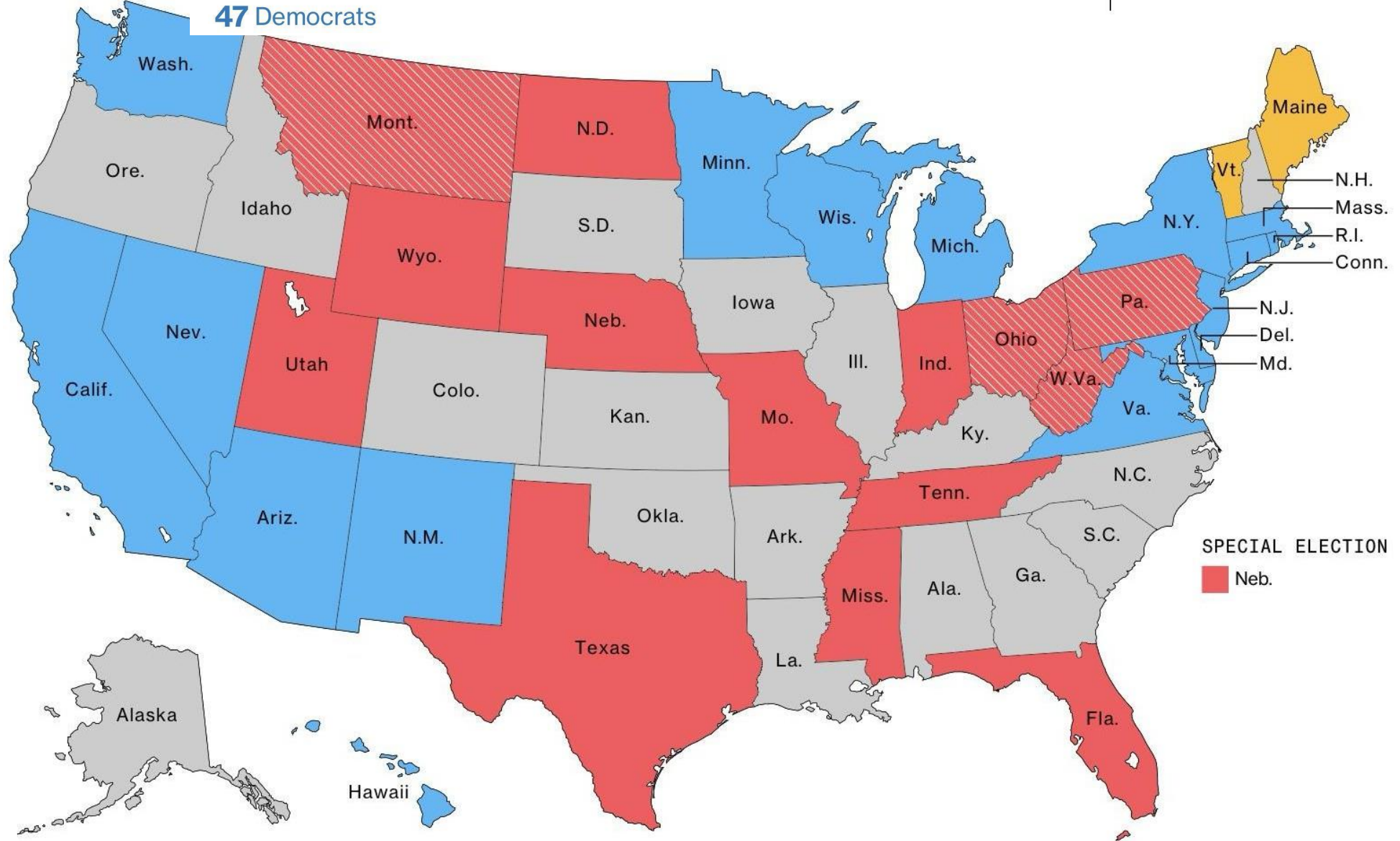
- **GOP Picks Up West Virginia, Montana, Ohio, and Pennsylvania**
- **GOP Withstood Challenges in Nebraska, Texas, and Florida . . . But Failed to Win in Maryland and New Mexico**
- **Dems held on in Michigan, Wisconsin, Nevada, and Arizona despite Trump's carrying the states.**

2024 Senate Results

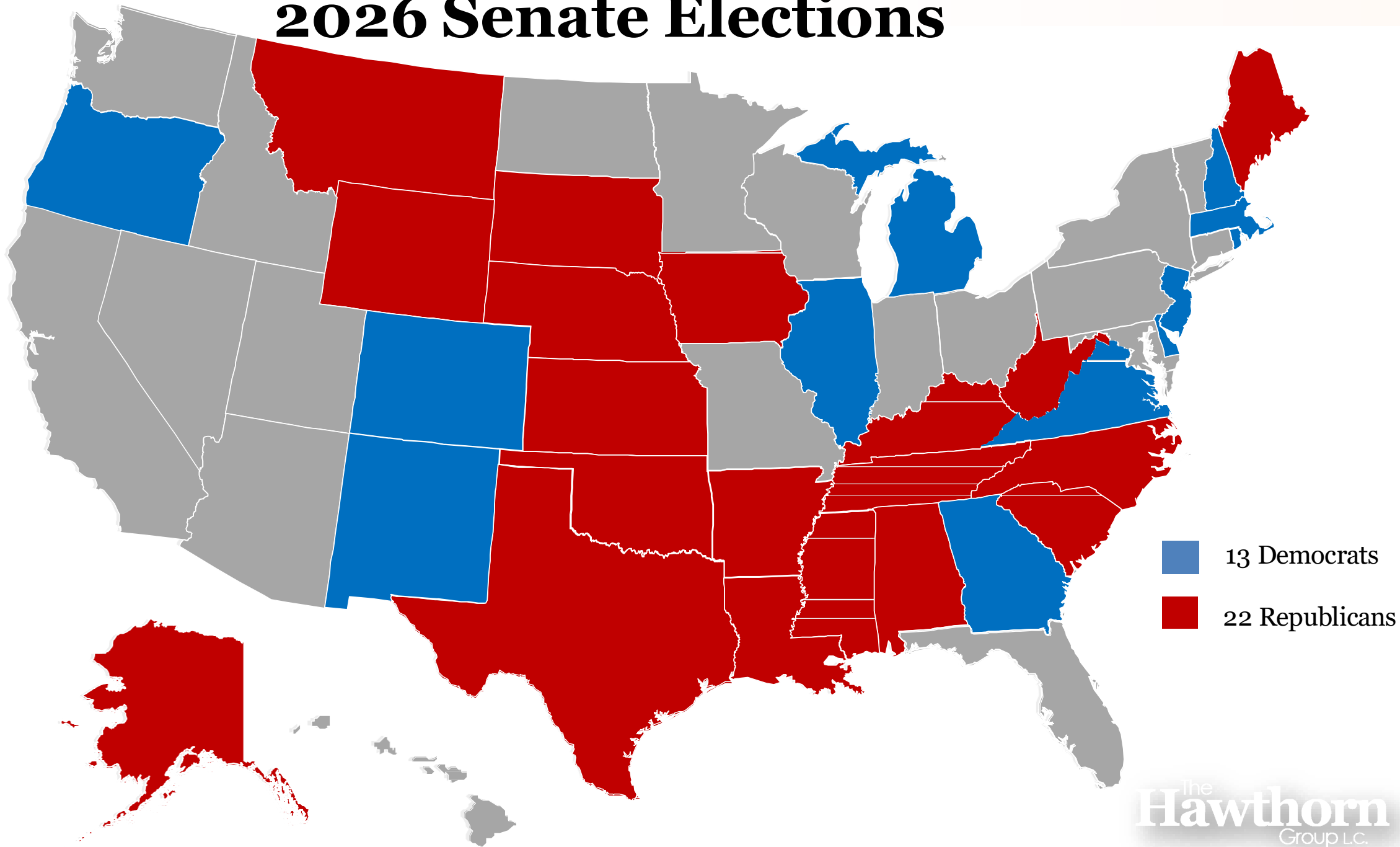
53 Republicans ✓

47 Democrats

50 SEATS



2026 Senate Elections



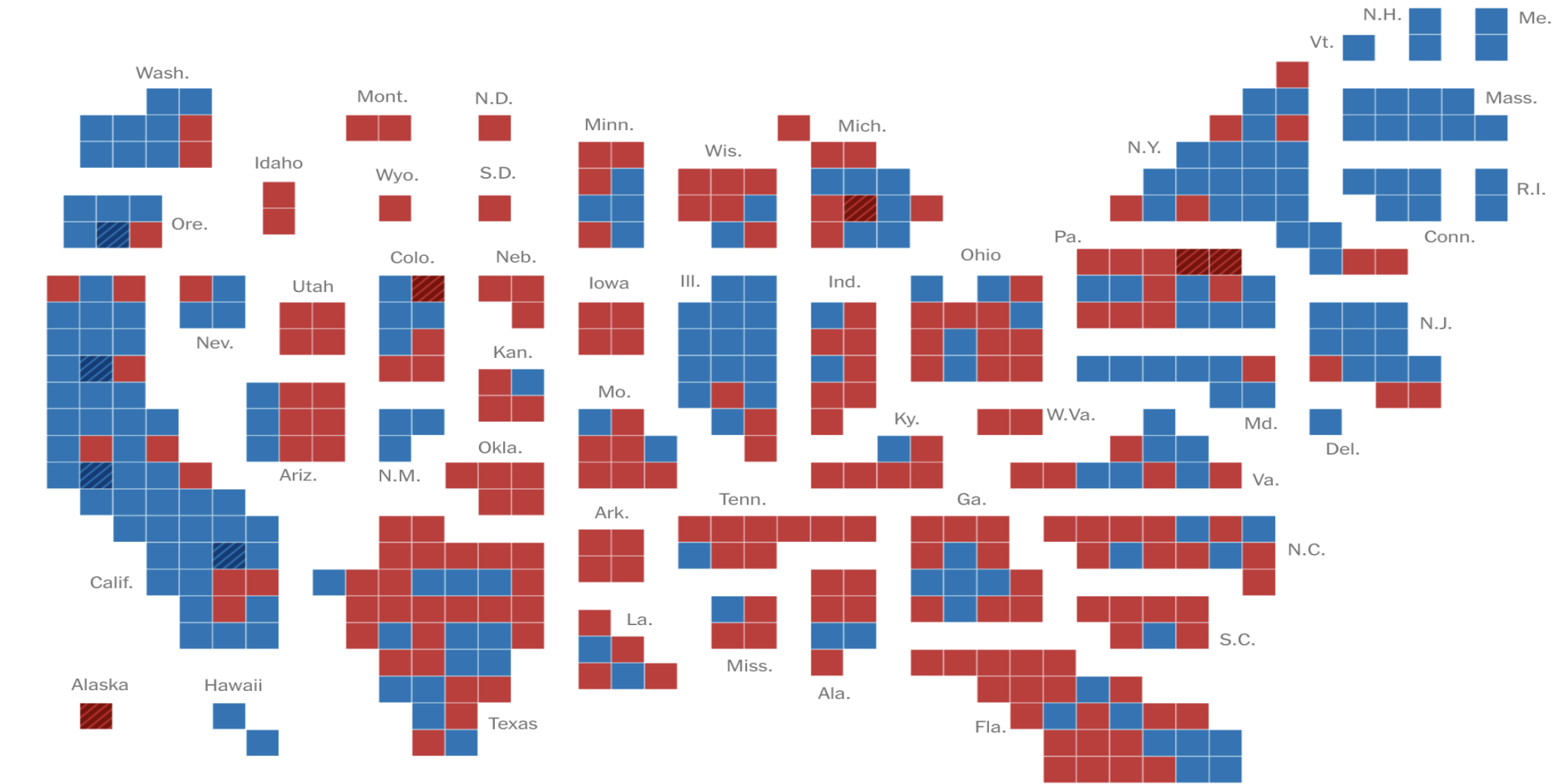
House Barely Red

215
Democrats

220
🗳️ Republicans

+2 net

218



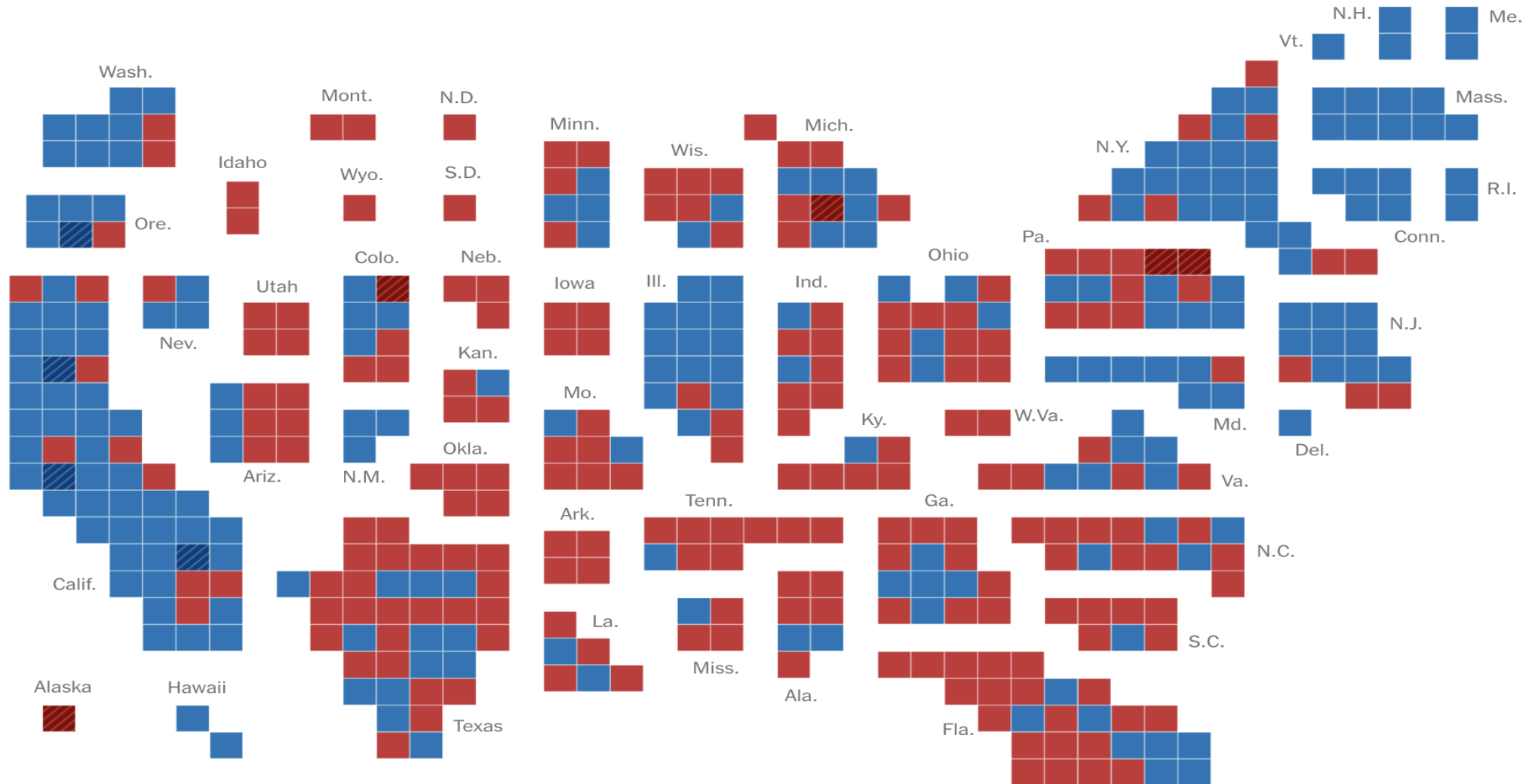
215
Democrats

House Barely Red

217 ~~220~~^{*}
✓ Republicans

+2 net gain

218
FOR CONTROL

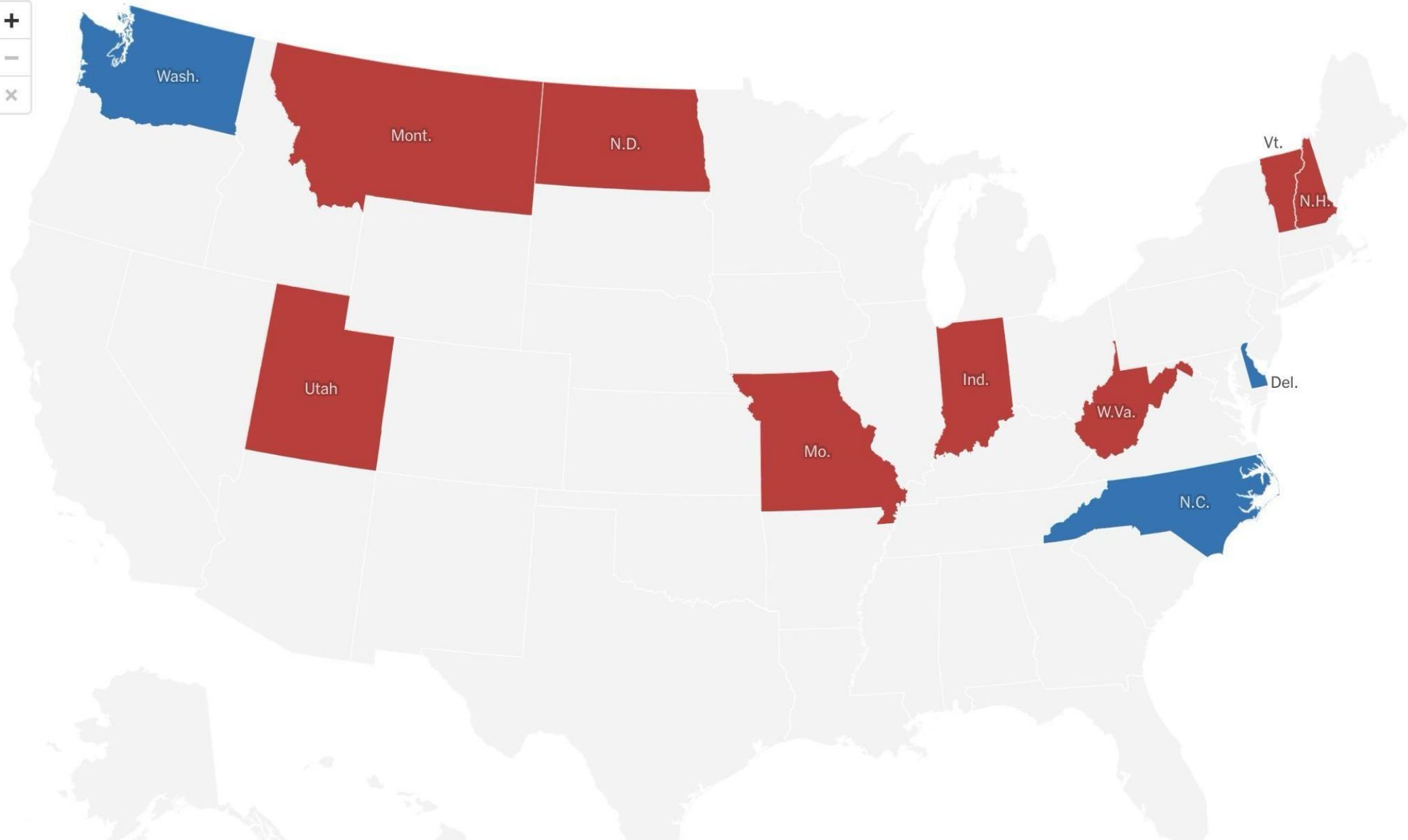


State Legislature changes

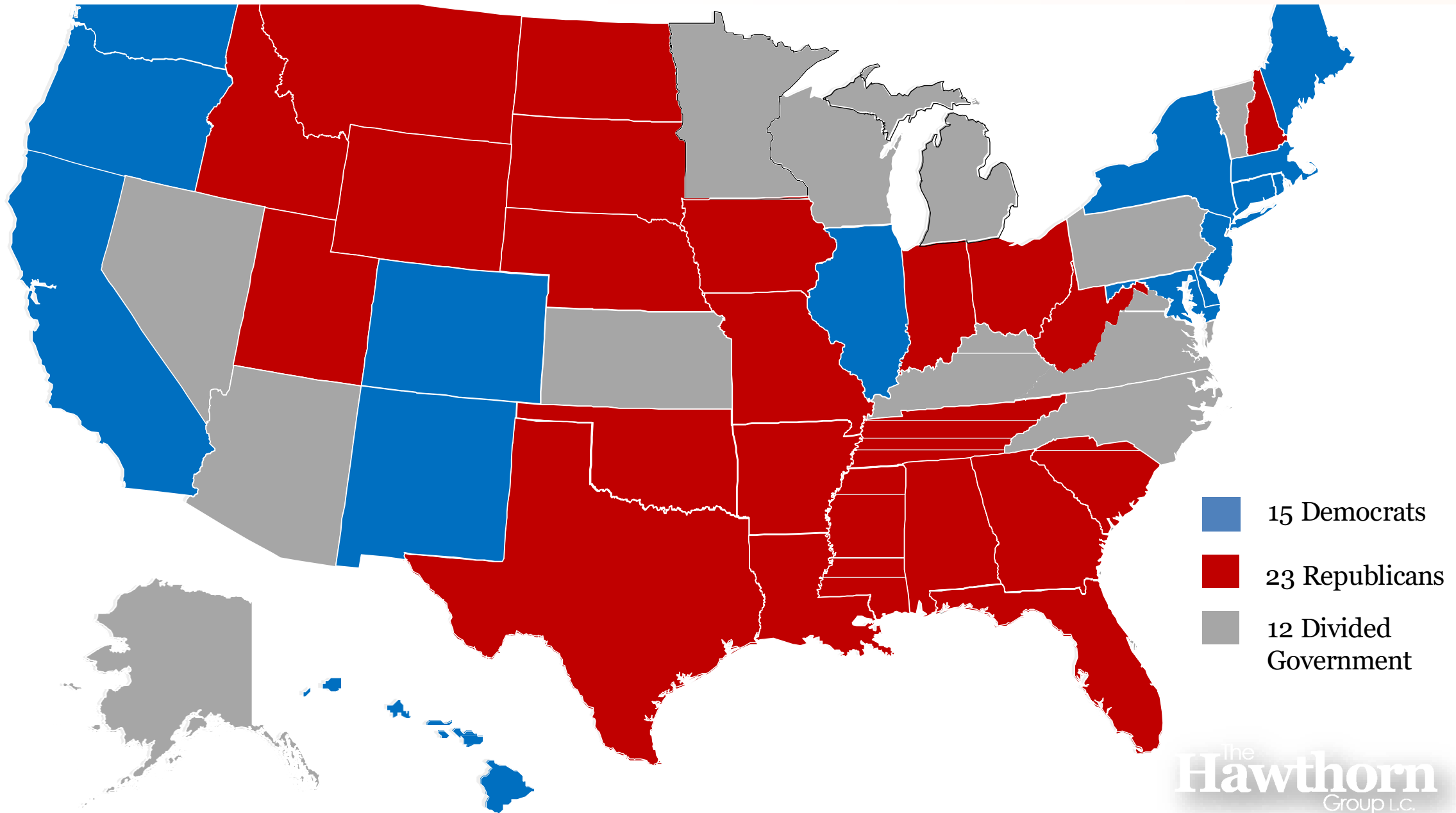
(with races still being called)

- **Dems broke GOP Super Majorities in Wisconsin Senate and North Carolina House**
- **GOP took Michigan House and will be at least tied in the Minnesota House with two races in recounts**
- **Before the election there were 23 Republican trifectas, 17 Democratic trifectas, and 10 states with divided governments. Only PA had split control in the Legislature**
- **After the election there are 23 Republican trifectas, 15 Democratic trifectas, and 12 states with divided governments. PA, MI, and MN have split control in the Legislature**
- **No party change in 11 Governors' offices**

Incumbent Governor Parties Win



2025 State Trifectas



Ballot Issues

- **Abortion**
 - Florida at 57% Failed to Reach 60%
 - Failed in Nebraska and South Dakota
 - Passed in Arizona, Colorado, Maryland, Missouri, Montana, and Nevada
- **Marijuana**
 - Florida at 56% Failed to Reach 60%
 - Massachusetts, North Dakota, and South Dakota Failed
 - Nebraska Passed Medical
- **Corporate Tax/Resident Grant Slammed in Oregon**
- **Paid Sick Leave**
 - Alaska passed with 58% of the vote
 - Missouri with 58%
 - Nebraska Passed passed with 74.56%
- **\$15 Minimum Wage**
 - Missouri passed with 58% of the vote
 - Alaska passed with 58% of the vote
- **Voter Eligibility**
 - U.S. Citizenship Passed in all Seven States

State elections in 2025/2026

- In 2025 only two governorships and 180 state legislative seats will be up for election
 - Governor: **New Jersey** and **Virginia**
 - Legislatures: New Jersey General Assembly and Virginia House of Delegates
- In 2026, elections will be held for 36 governorships and 6,680 state legislative seats

MOST Major Presidential Appointments

- **DOGE (Department of Government Efficiency)**
- **State, Treasury, Defense (?), Justice (x2), Interior, Commerce, Labor, HHS, Energy**
- **National Intelligence, FBI, CMS, CDC, NASA, IRS, SEC, EPA, National Security, DEA**
- **White House COS, OMB**
- **Ambassadors: Israel, UK, France, Canada, UN, China Middle East, Russia/Ukraine**

Missing: Robert Lighthizer, Ric Grenell



II. What we don't know

What We Don't Know

- **Appointment Vetting/Confirmations**
- **Role of DOGE**
- **Funding Continuing Resolution/Taxes**
- **Tariffs**
- **Deportation**
- **Retribution/Pardons**
- **Foreign Policy/Actions**



III. What it Means

[October 25]

What Will This Mean Post-Election?

(Post-Chevron)

• The Economy

- On-Shoring/Bilateral Trade**
- Consumer Protection**
- Housing**
- Raise Taxes**

- Tariffs**
- Federal Deficit**
- Interest Rates**
- Cut Taxes**

• The Environment

- More Regulation/Spending**
- Weather Response**

- Less Regulation**
- Spending cuts**
- Weather Response**

What Will This Mean Post-Election?

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- **Tariffs**
- **Federal Deficit**
- **Interest Rates**
- **Cut Taxes**

- **Less Regulation**
- **Spending cuts**
- **Weather Response**

What Will This Mean Post-Election?

- The Economy
- The Environment
- The World Crisis(es)
 - Ukraine
 - Gaza . . . and Iran
 - Taiwan
 - North Korea
 - Russia/China
 - (Africa/Latin America/Asia)

What It Means – Government

- **Executive**
 - **White House and Inter-Agency Groups**
 - **Bureaucracy**
- **U.S. Congress**
 - **Senate**
 - **House**
- **Federal Judiciary**

- **State Governments**
- **Local Governments**

What It Means – Federal Policy

- **Commerce**
 - Tariffs/FTC/Technology
- **Treasury**
 - Taxes/Interest Rates/Crypto
- **State**
 - China/Russia/North Korea/Middle East
- **Justice (and Defense / National Guard)**
 - Immigration/Political Revenge
- **Energy and Interior**
 - Independence & Exports/Natural Resources/Production/Regulation/
Public Land/Funding/ EVs/State Revenue
- **Healthcare**
- **Education**



Elon Musk and DOGE (Department of Government Efficiency)

Risks

- Risks to competitors of businesses run or invested by Musk; **Open AI and “Swindly Sam”**
- Legal and fiscal attacks on regulations government program spending.
- Promises to send “shockwaves” through the system.
- Biases against the UK and Labour Government; Musk dubs them a “tyrannical police state.”
- Biases against the UK and Labour Government; Musk dubs them a “tyrannical police state.”
- Could act as an amplifier of conservative echo-chamber.

Opportunities

- The Department may not be a formal department and could be limited in its ability to enact actual change.
- The Department cannot make cuts without Congress, given it wasn’t created by Congress.
- Opportunity to take advantage of popular opinion when it falls on the side of changes desired by businesses.
- Ability to work with the conservative echo-chamber; the influencers are clear

What It Could Mean – Cuts

- **\$516B in programs on the chopping block including:**
 1. **Veterans Healthcare: \$119.1B**
 2. **Drug development and opioid addiction treatment: \$48.2B**
 3. **State Department: \$38.4B**
 4. **Housing Assistance: \$37.2B**
 5. **Justice Department: \$35.5B**
 6. **Education Spending: \$29B**
 7. **NASA: \$24.9B**
 8. **Student Loan Programs: \$22.5B**
 9. **International Security Programs: \$13.5B**
 10. **Early Childhood Care (Head Start): \$12.3B**



Scott Bessent as Treasury Secretary

Risks

A “Grand Global Economic Reordering” with tax cuts and maintaining the dollar’s reserve currency status

A financial commitment to tariffs to strengthen the dollar and negotiate with other countries

Ideological commitment to “America first” that could give a strong policy background to Trump populism

Strong support in the Administration for Crypto currency versus traditional funds of his background

Opportunities

- A traditional businessman who has supported both parties in the past, and is less likely swayed by partisan politics.
- A potential counter-voice on more extreme changes to the fed or tariffs.
- Chance to turn the attention and negative ire away from Europe and toward China.
- Tariffs as a negotiating tool rather than a broad policy solution.



Gov. Doug Burgum, Secretary of Interior and National Energy Council Director

Risks



“Drill, baby, drill.” Chance for Trump and Burgum to slash regulations that help promote efficiency and targeted green energy technologies.



Increased scrutiny and changing of environmental regulations for businesses, forcing business to reanalyze and change.



Public lands could be tapped into for energy production, risking industries that utilize environmental tourism or other extraction from the areas.

Opportunities

- Burgum utilized an “all of the above” energy approach in North Dakota and could act as a counter-voice to Trump administration officials with undue focus on fossil fuels.
- Burgum is an experienced leader of an energy-producing state that could work to increase baseload production and lower electricity prices for industrial customers.



Howard Lutnick and the Department of Commerce

Opportunities

- Lutnick owns hundreds-of-millions in chip stocks and electric vehicle stocks, which could soften his harsher tariff or trade stances for the tech industry.
- Is an well known and outspoken business advocate that could fall onto the business conservative side as opposed to the social conservative side, lessening "MAGA" and "anti-woke" pressures on international businesses.

Risks



The National National Oceanic and Atmospheric Administration is a target of Project 2025, and could be dismantled or downsized. This could impact fisheries, marine commerce, and shipping by perhaps leading private companies to take larger roles in storm management and monitoring.



Lutnick is a major tariff advocate and has dubbed the early 1900s as the ideal American economy, which saw no income tax and high tariffs.



Could have an outsized role with the US Trade Representative, a role that reports to the President but Trump has said Lutnick will oversee.



Robert Kennedy Jr. and the Department of Health and Human Services

Opportunities

- Potential to slow-track or stop changes opposed by industry through building of broad health coalitions
- Larger companies can use connections and broad-deals with allies to take advantage of new regulations and squeeze competition
- Opportunities for “natural” products deemed better by the administration
- Opportunities for those studying and combatting chronic diseases

Risks

Research and development for large corporations, and particularly for the pharmaceutical industry at risk

Increased regulation on food ingredients widely-used in the United States, including colored dyes, flourides, and artificial sweeteners

Significant agency turnover and new panels of “experts,” slowing down vital agency work and timelines for product approvals, such as through the FDA

Promotion of misinformation and disinformation, confusing consumers in key health industry segments

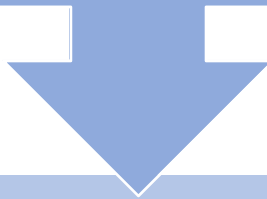


Rep. Elise Stefanik and the UN Ambassador

Risks

High level of scrutiny of U.S. government funding of international institutions, including many UN Agencies:

World Health Organization (WHO)	UN Development Program (UNDP)	UN Educational, Scientific and Cultural Org. (UNESCO)	United Nations Environment Program (UNEP)
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- Cuts to agencies criticized by Trump or critical of Trump allies
- Support or funding for organizations in support of Palestine jeopardized, including international educational institutions

Opportunities

- Diverted funding from international institutions to different private or public entities in support of Trump agenda; opportunity to build good will with the administration through creation of new or alternative proposals groups with that agenda
- Former GOP conference chair who will moderate a “burn-it-down” approach for the sake of saving the party, including perhaps her colleagues in the House for the 2026 election

What It Means – Politics

- **Polling – “Never Ignore the Fundamentals”**
 - **“Outliers Are Outliers”**
 - **Betting Markets are the New Predictors**
- **Money – “He Who Has the Gold, Doesn’t Always Rule”**
 - **“Smart Spending Beats Dumb Spending”**
- **Legacy Media – Replaced by Podcasts**
- **GOTV – An Outsourcable Task for GOP, A Lost Art for Democrats**
 - **GOTV Works Only When Messages Work**
- **Third Parties – Irrelevant (except for RFK Jr.)**
- **Split Tickets – Awaits Analysis, But Apparently Critical in Some Races**
- **For BOTH Parties**
 - **The Old Coalitions Are Dead**
 - **New Leadership HAS to Emerge**

How can businesses Navigate and Prepare for these changes

Paths Forward:

- **Risk assessments:**
 - **Political and Policy**
 - **Supply Chain**
- **Creative Lobbying**
 - **Knowing and utilizing the conservative voices**
- **State and Local Advocacy**
- **Targeted Messaging**
- **Build a network of connections and advocates**



IV. Discussion

An American flag is shown in the bottom-left corner, waving and partially visible. The rest of the background is a plain, light blue color.

Post-Election Politics and Energy

A Hawthorn Group

Visit with

The Missouri Energy Council

December 12, 2024

37 Days Since the Election

39 Days Until January 20th

Trump will Decide the Top Roles in Government – And He’s Ahead of Schedule

- Most of the major appointments need the “advice and consent” of the Senate, meaning the Senate will vote to approve or disapprove or many**
- Appointments have ranged from sensible and balanced to extremely controversial, such as Sen. Marco Rubio vs. Rep. Matt Gaetz**
- Trump has set a record with his pace of appointments and nominations, “about four times faster” than recent administrations**
- He’s pushed for using recess appointments for quick nomination, despite holding a Senate majority and some Democratic Senators expressing support for his picks**
- Trump’s team has not agreed to background checks for his picks nor has his team attended transition briefings**

Key GOP Supporter Segments in 2020

- **White voters, No-College Degree**
(35% of electorate; Trump carried 67% in 2020)
- **White Evangelicals**
(28% of electorate; Trump carried 76%)
- **White MEN, no-college degree**
(18%; carried 70%)
- **Married voters** (56% of electorate; carried 53%)
- **Rural voters** (19% of the electorate; carried 57%)

Key GOP Supporter Segments in 2024

- **White voters, No-College Degree**
(39% of electorate; Trump carried 66% in 2024) -1
- **White Evangelicals**
(22% of electorate; Trump carried 82%) +6
- **White MEN, no-college degree**
(18%; carried 69%) -1
- **Married voters** (54% of electorate; carried 56%) +3
- **Rural voters** (19% of the electorate; carried 64%) +7

Key Dem Supporter Segments in 2020

- **People of color, college educated**
(10% of electorate; carried 70%)
- **White women, college degree**
(14% of electorate; carried 54%)
- **LGBT voters** (7% of electorate; carried 64%)
- ***Union households***
(20% of electorate; carried 56%)
- **Black voters** (13% of electorate; carried 87%)
- **Latino voters** (13% of electorate; carried 65%)
- **Voters 18-29** (17% of electorate: carried 60%)

Key Dem Supporter Segments in 2024

- **People of color, college educated** (10% of electorate; carried 65%) -5
- **White women, college degree** (17% of electorate; carried 57%) +3
- **LGBT voters** (8% of electorate; carried 86%) +12
- **Union households** (19% of electorate; carried 53%) -3
- **Black voters** (11% of electorate; carried 85%) -2
- **Latino voters** (12% of electorate; carried 52%) -13
- **Voters 18-29** (14% of electorate; carried 54%) -6

Split Ticket Voting

- **Highest since 2012**
- **4 states elected Trump and a Democratic Senator in 2024**
- **In 2020 only one state (Maine) elected a Presidential Candidate and a Senate Candidate from different parties**
- **In 2016, no state elected a Presidential Candidate and a Senate Candidate from different parties**
- **About 1.9 percentage points worth of people voted for President did not vote for ANY down ballot races**

Split Ticket Voting

- **Michigan**
 - **Slotkin won 48.6%-48.3%** while **Trump won 49.7%-48.3%** (1.7-point gap)
 - **Dem won another State Supreme Court seat**, expanding their majority from **4-3** to **5-2**
- **North Carolina**
 - **Dems won Governor, LT. Governor, AG**, and broke **R Super Majority** in State House while **Trump won the state 51%-48%**
- **Pennsylvania**
 - **Dave McCormick currently leads 48.8%-48.6%** while **Trump won 50.4%-48.6%** (2-point gap)
- **Wisconsin**
 - **Baldwin Won 49.4%-48.5%** while **Trump won 49.7%-48.8%** (1.8-point gap)
- **Nevada**
 - **Rosen won 47.9%-46.2%** while **Trump won 51%-47%** (5.7-point gap)
- **Arizona**
 - **Gallego won 50%-48%** while **Trump won 52%-47%** (7-point gap)

State Insurance Commissioner Elections

- **Five of the eleven states that elect Insurance Commissioner were up in 2024**
- **No State flipped from the incumbent party**
- **Republicans held in MT, NC, and ND**
- **Democrats held in DE and WA**

What It Means – Insurance Commissioners

- **Climate Change**

- **Uninsurable areas might be hard pressed to get federal funds.**

- **Open Projects**

- **CA Insurance Commissioner Ricardo Lara to wrap up new rules meant to bring property insurers back to fire-prone areas California before 2025.**

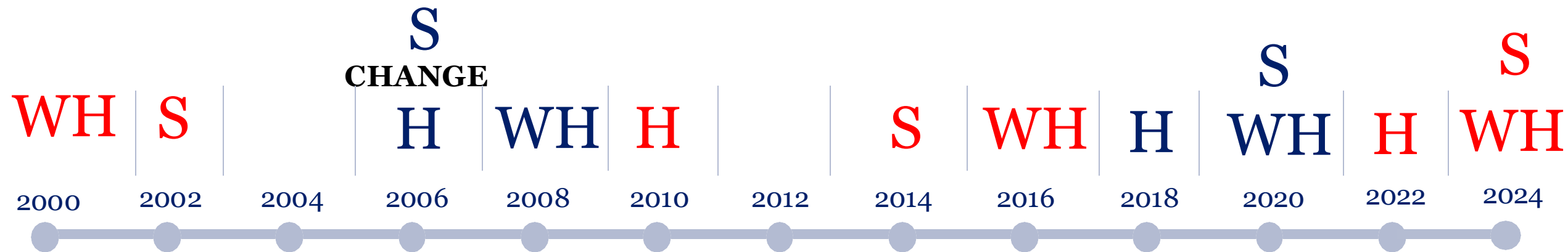
- **Preparation**

- **FL Insurance Commissioner Michael Yaworsky may need to extend emergency cancellation prohibitions.**

The MOST Likely Thing is CHANGE

In 10 of the last 12 U.S. elections, there has been a change in control of the House, Senate and/or White House

The last five presidents have lost control of at least one branch of Congress



KEY

WH: Republican gain control of White House

S: Democrats gain control of Senate

H: Republicans gain control of House

Close Presidential Elections

	Popular Vote	Electoral College 270 to Win
1960	Kennedy: 49.7% + 0.1 Nixon: 49.6%	Kennedy: 303 (22 states) +84 Nixon: 219 (26 states)
1968	Nixon: 43.4% +0.7 Humphrey: 42.7% Wallace: 13.5%	Nixon: 301 (32 states) +110 Humphrey: 191 (13 states) Wallace: 46 (5 states)
1976	Carter: 50.1% +2.1 Ford: 48.0%	Carter: 297 (23 states) +57 Ford: 240 (27 states)
2000	Gore: 48.4% +0.5 Bush: 47.9%	Bush: 271 (30 states) +5 Gore: 266 (20 states)
2016	Clinton: 48.2% +2.1 Trump: 46.1%	Trump: 304 (30 states) +77 Clinton: 227 (20 states)
2020	Biden: 51.3% +4.5 Trump: 46.8%	Biden: 306 (25 states +NE02) +74 Trump: 232 (25 states + ME02)

Close Presidential Elections

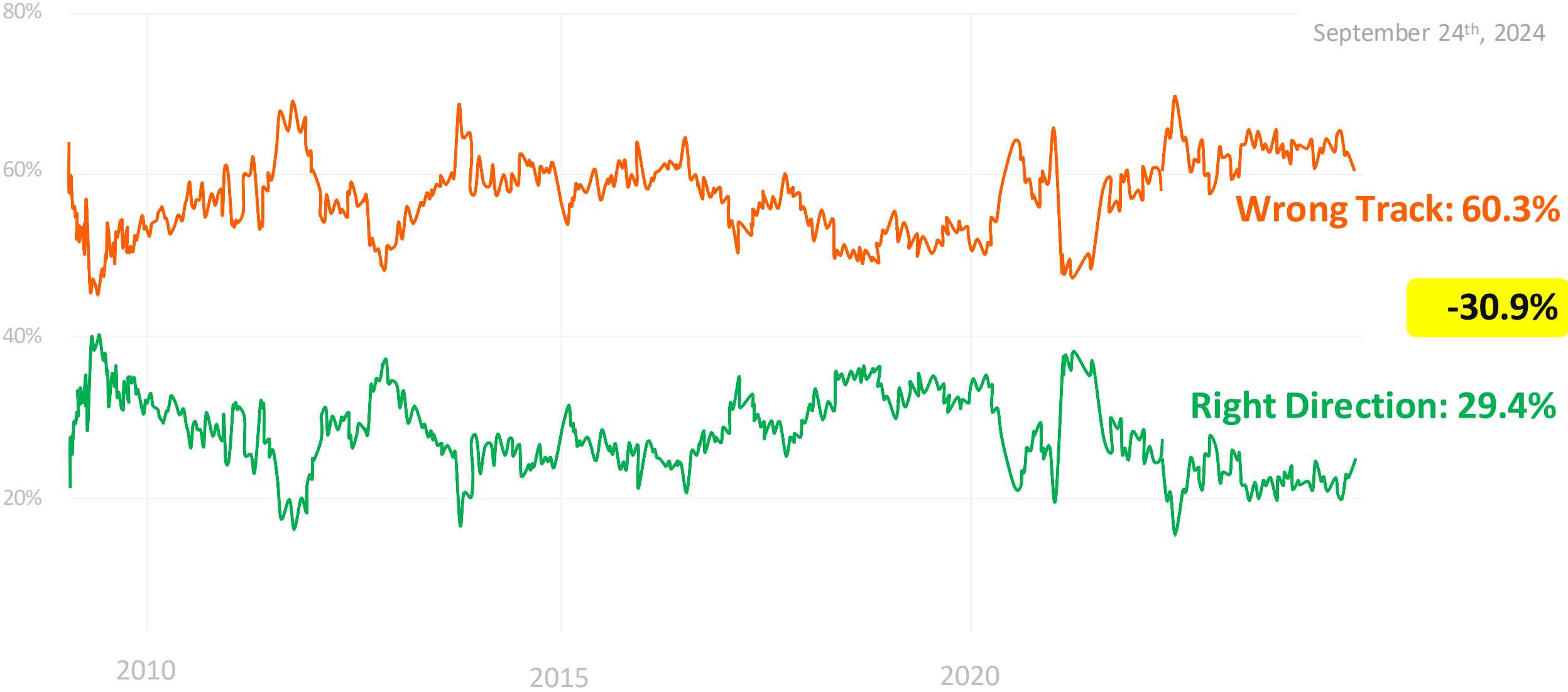
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2020	Biden: 51.3% +4.5 Trump: 46.8%	Biden: 306 (25 states + NE02) +74 Trump: 232 (25 states + ME02)
2024	Trump: 50% +1.7 Harris: 48.3%	Trump: 312 (31 states + ME02) +86 Harris: 226 (19 + NE02)

Too Close to Call Polling

State	Tipp SIM 10/22 & 13	NYT 10/21	WaPo 10/21	RCP AVG 10/20	538/ABC AVG 10/19	Atlas 10/12	WSJ/NBC 10/11
National	Even	Harris +1.0	Even	Harris +1.0	Harris +2.0	N/A	Trump +2.0
PA	Trump +0.2	Even	Harris +2.0	Trump +0.8	Trump +0.3	Trump +2.5	Trump +1.0
MI	Trump +1.0	Even	Harris +2.0	Trump +1.2	Harris +0.2	Trump +2.9	Harris +2.0
WI	Harris +0.2	Harris +1.0	Harris +3.0	Trump +0.2	Harris +0.3	Harris +0.6	Harris +1.0
NC	Trump +0.6	Even	Trump +3.0	Trump +0.5	Trump +0.8	Harris + 1.7	Trump +1.0
GA	Trump +0.4	Trump +1.0	Harris +4.0	Trump +1.8	Trump +1.8	Trump 1.7	Harris +1.0
AZ	Trump +1.0	Trump +2.0	Trump +3.0	Trump +1.6	Trump +2.0	Harris +0.1	Harris +2.0
NV	Trump +0.4	Even	Even	Trump +0.8	Harris +0.5	Harris +0.1	Trump +5.0

Is the United States heading in the right direction?

September 24th, 2024

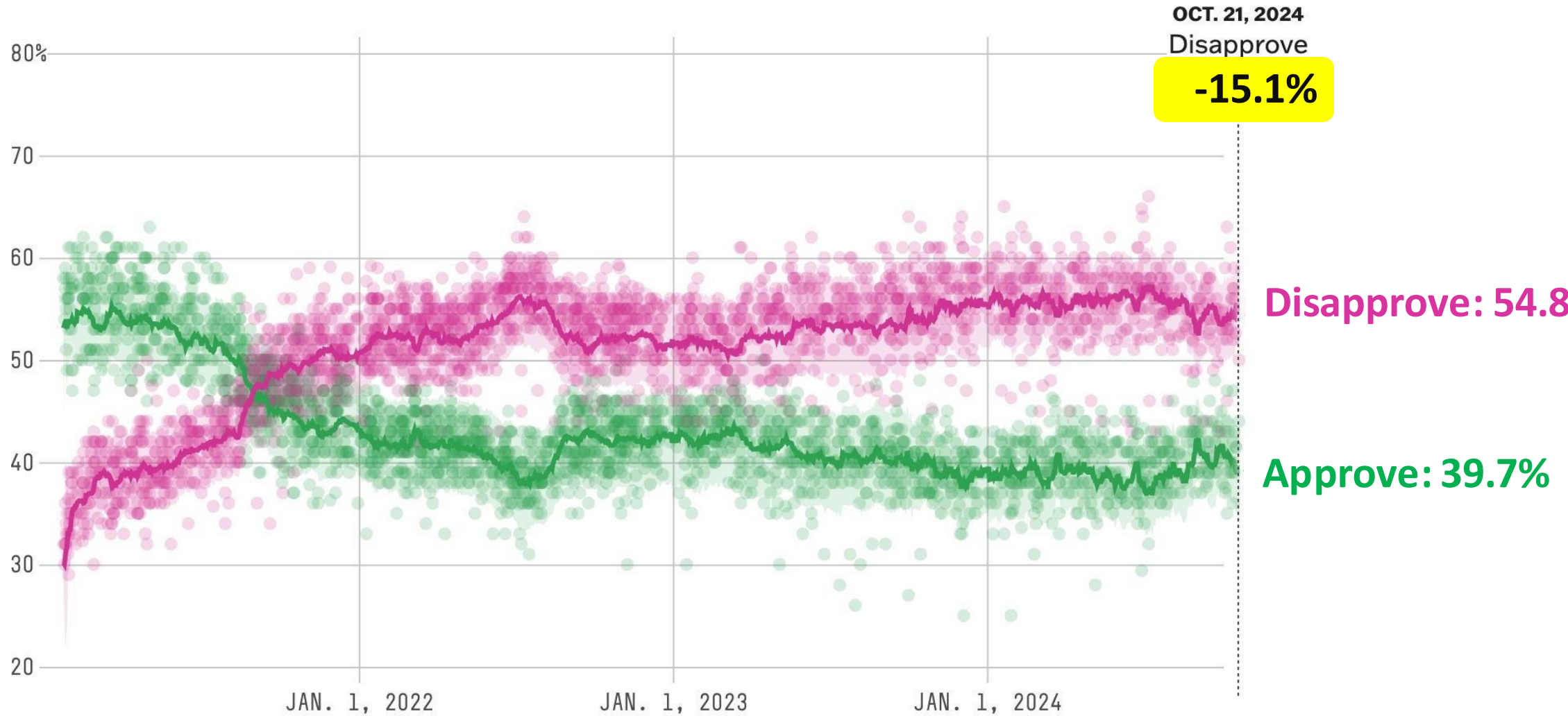


Wrong Track: 60.3%

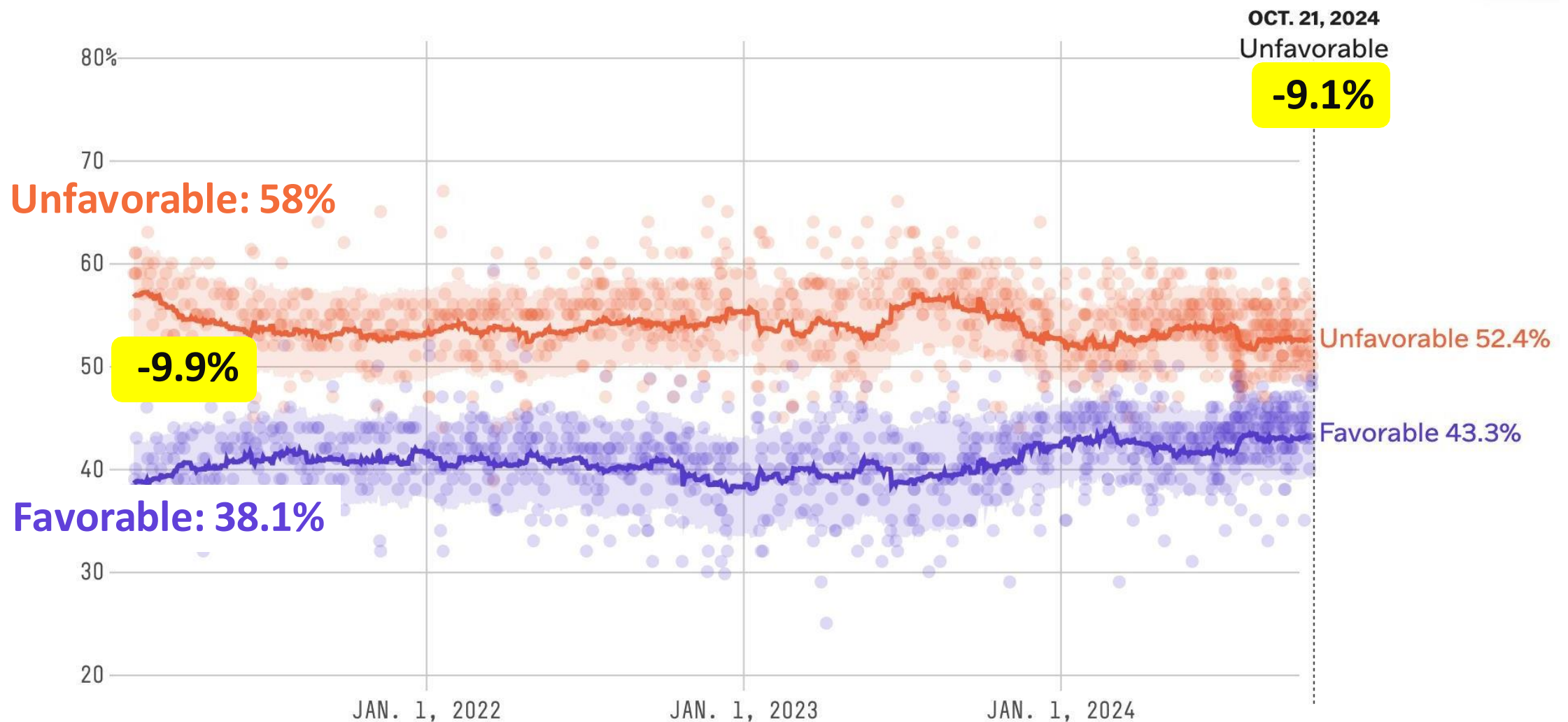
-30.9%

Right Direction: 29.4%

Biden Job Approval Since Inauguration

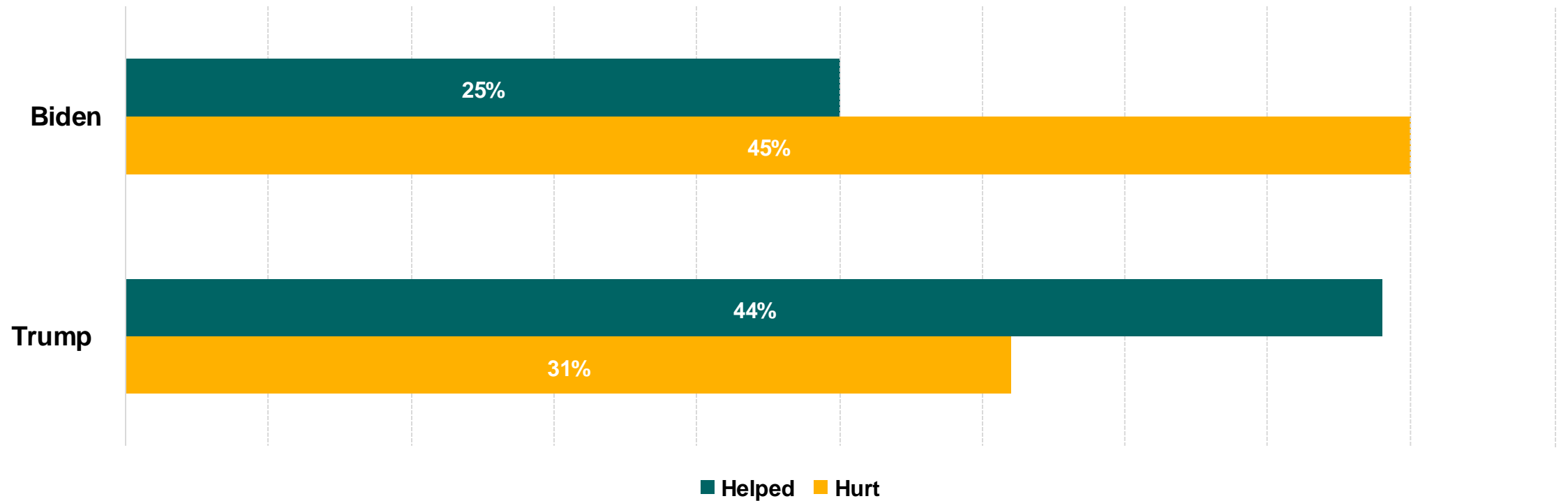


Trump Favorability Since 2021



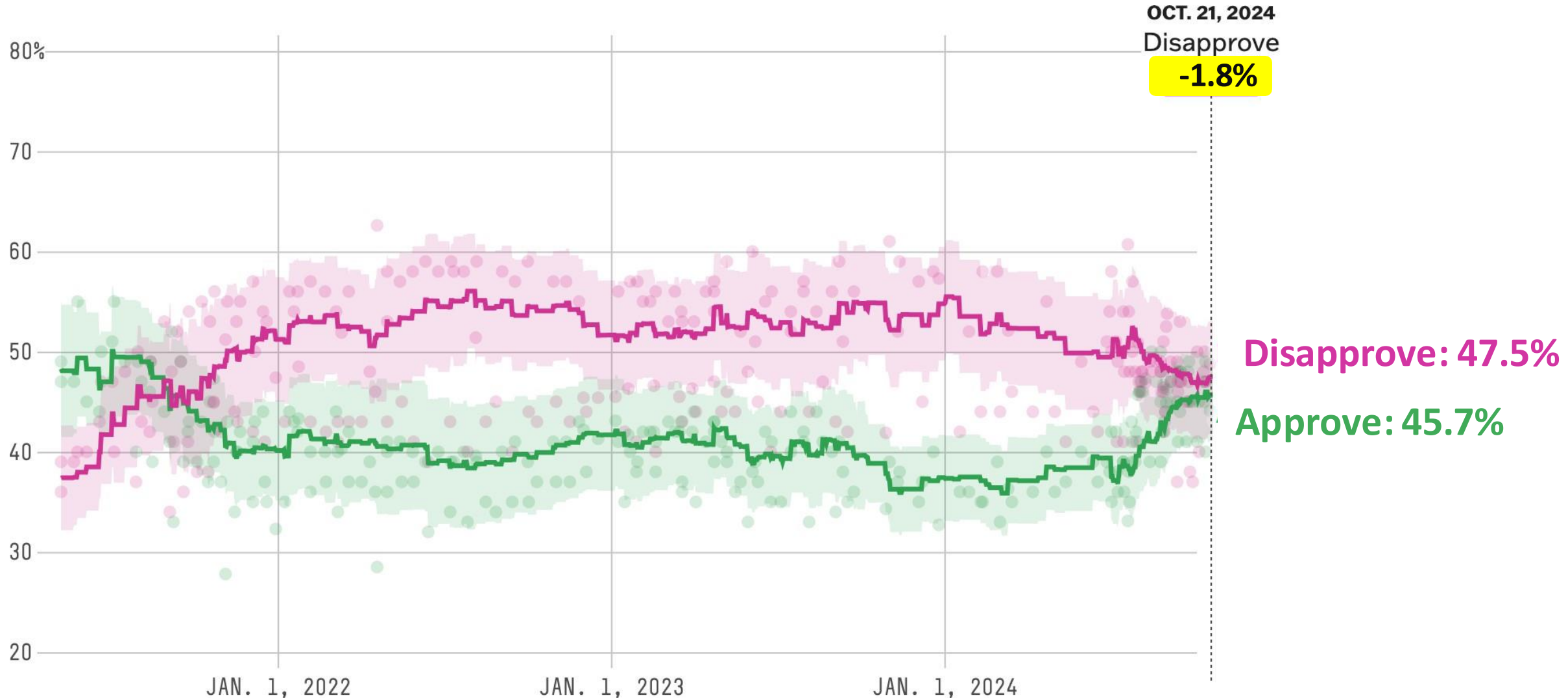
Perceptions of Trump's presidency are much more positive than those of Biden's

Did the "administration's policies help you and your family, hurt you and your family, or did they not make much of a difference either way?"



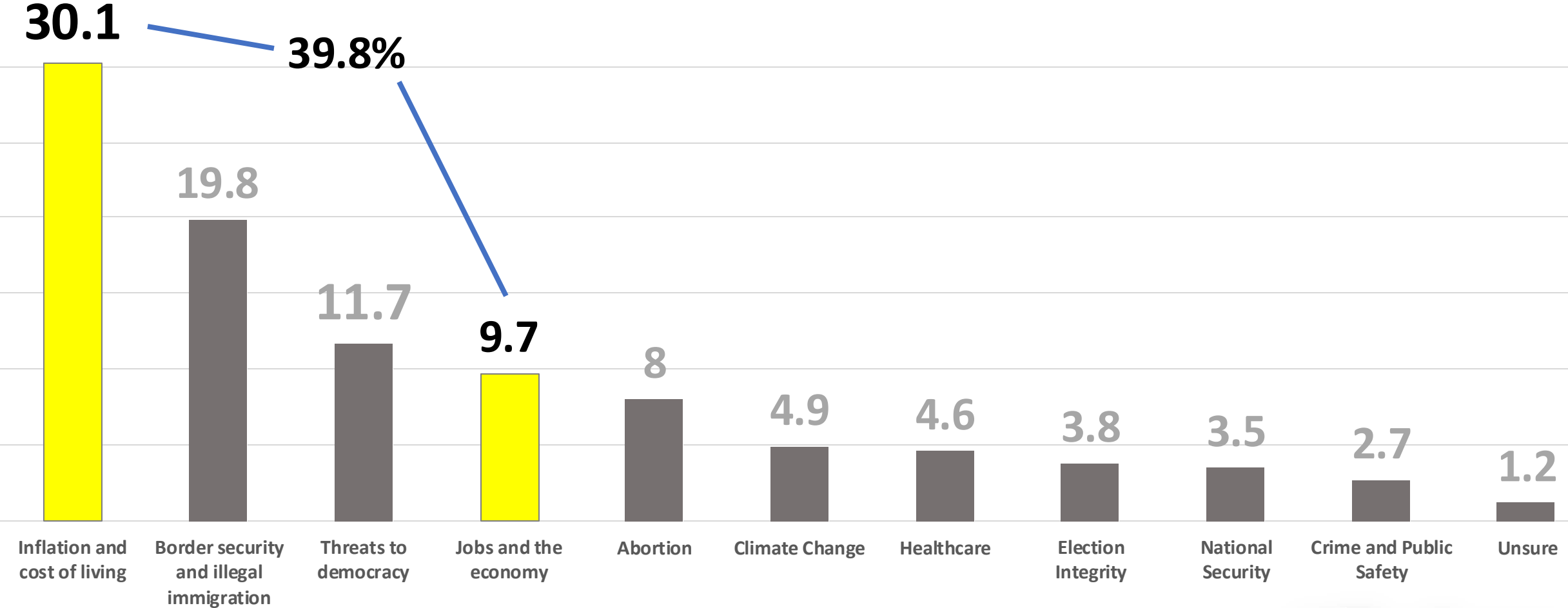
Sources: NBC News, Oct. 4-8, 2024

Harris Approval Since 2021



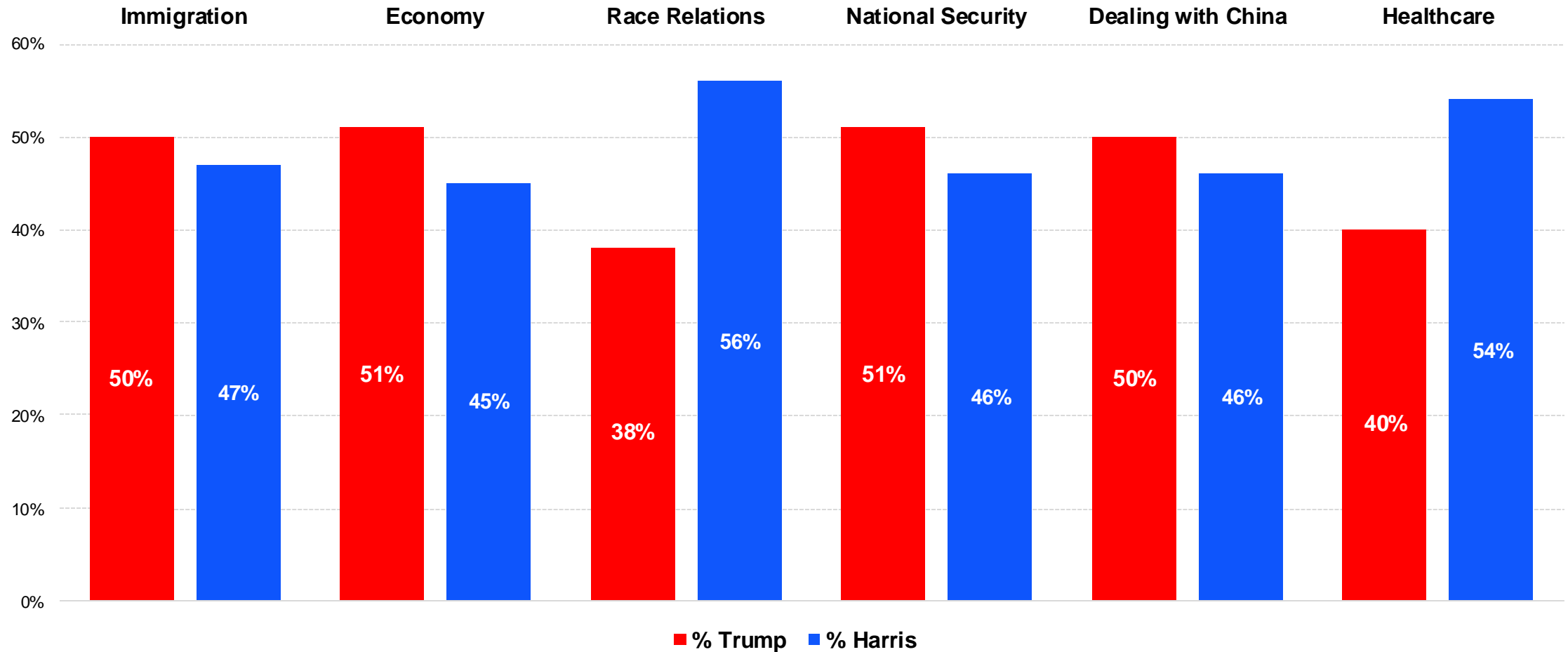
Voter's Top Priority

Which one of the following issues do you believe should be the top priority for Congress?



Cygnal National Poll | September 11-15 | n=1,503 likely general election voters.

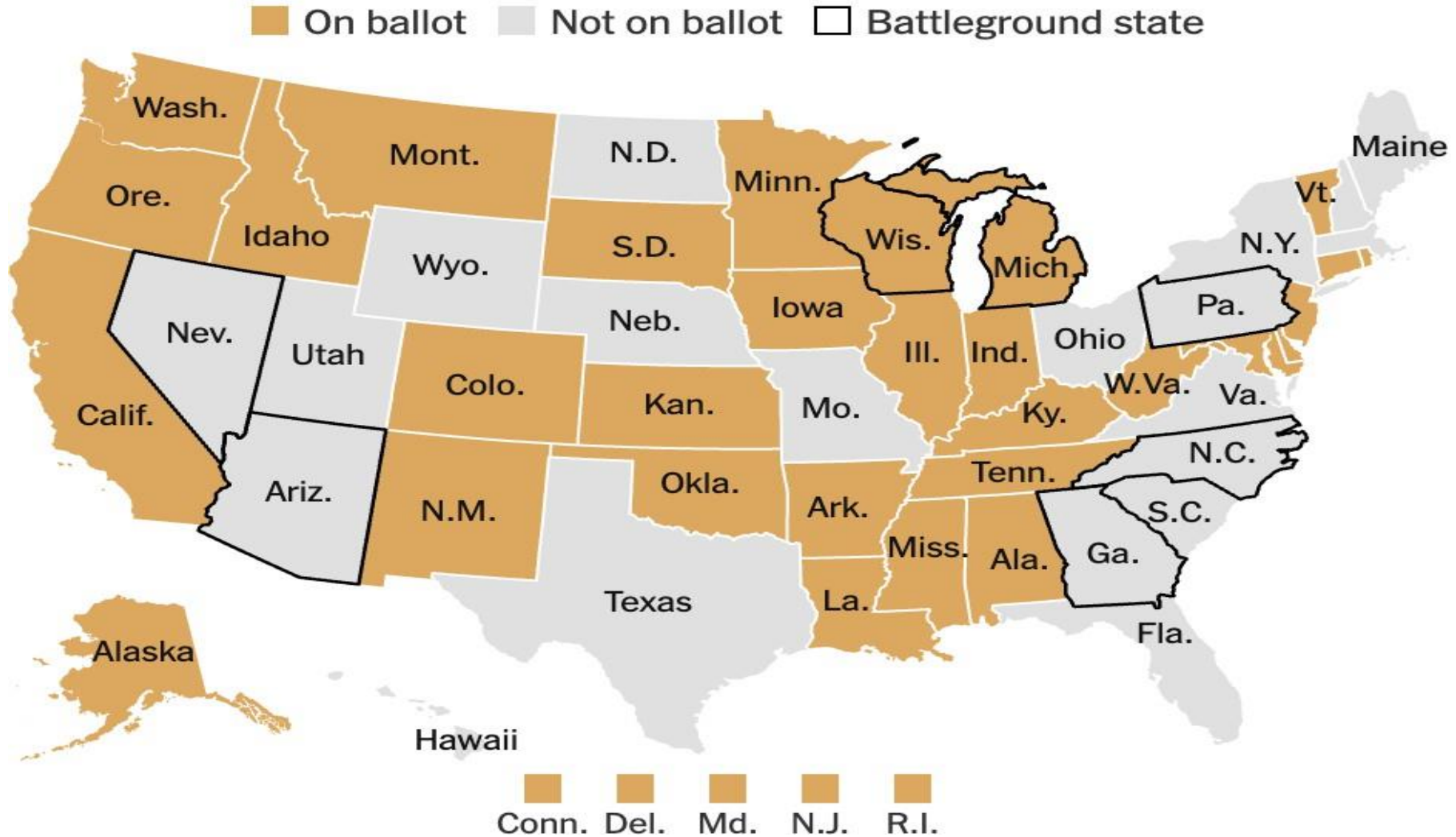
While Trump still leads on most key issues to voters, Harris has closed the gap since Biden was on the ticket in July



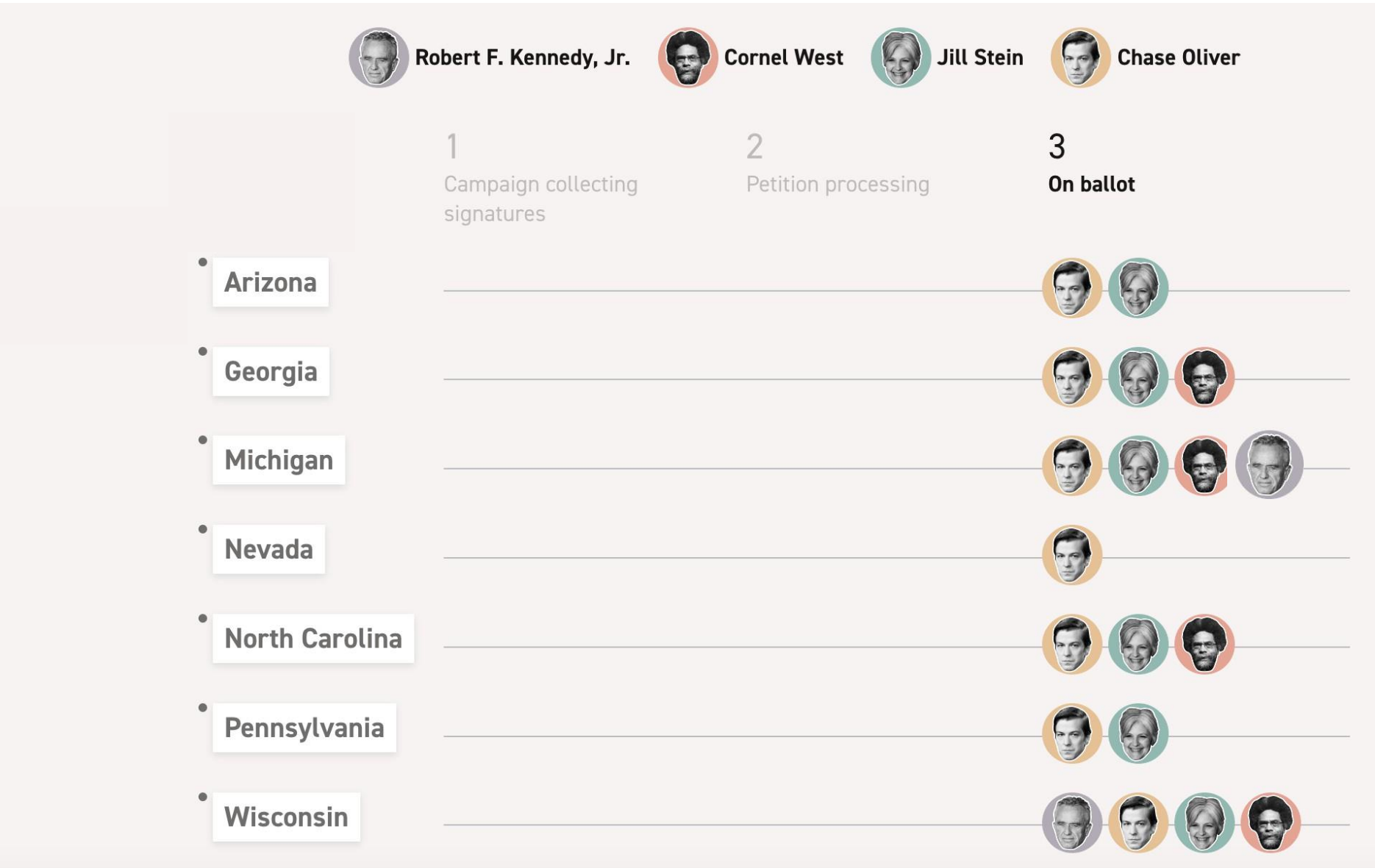
Source: USA Today / Suffolk University, Jul.8, 2024 & Sep. 3, 2024

RFK remains on the ballot in several swing states, where he could bleed support from Trump

Robert F. Kennedy Jr.



But RFK is not the only third-party on the ballot... in ALL Seven Swing States



There is a stark gender divide among swing state voters' choice for president

State	Women	Men	Net Gap
Arizona	Harris + 3	Trump + 14	17 pts.
Georgia	Harris + 10	Trump + 10	20 pts.
Michigan	Harris + 16	Trump + 8	24 pts.
Nevada	Harris + 16	Trump + 18	34 pts.
Pennsylvania	Harris + 11	Trump + 15	26 pts
Wisconsin	Harris + 17	Trump + 9	26 pts.

Source: CNN, Aug. 23-29, 2024

Key Democrat Supporter Segments in 2020



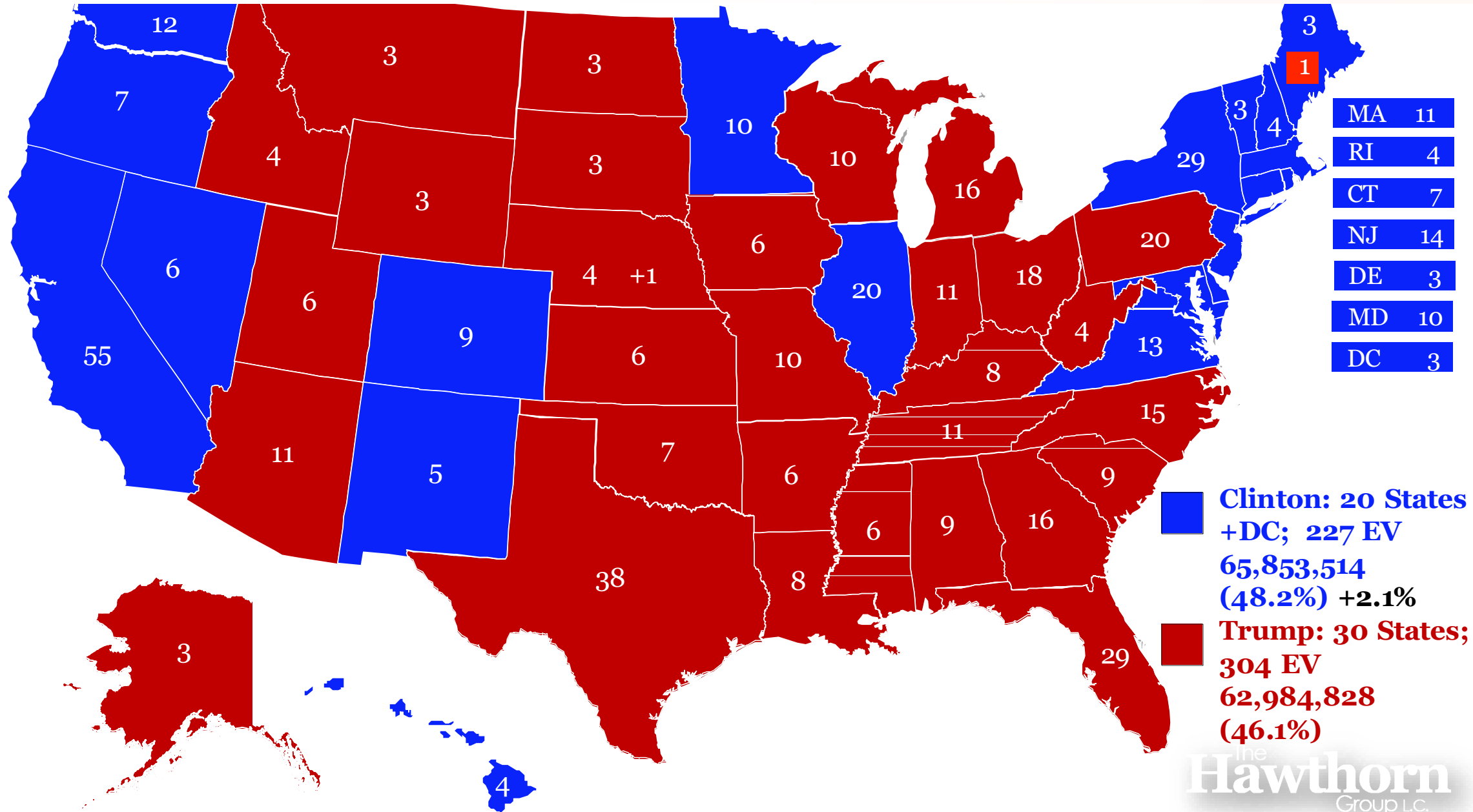
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- **Black voters** (**13%** of electorate; carried 87%)
- **Latino voters** (**13%** of electorate; carried 65%)
- **Voters 18-29** (**17%** of electorate: carried 60%)

Key GOP Supporter Segments in 2020

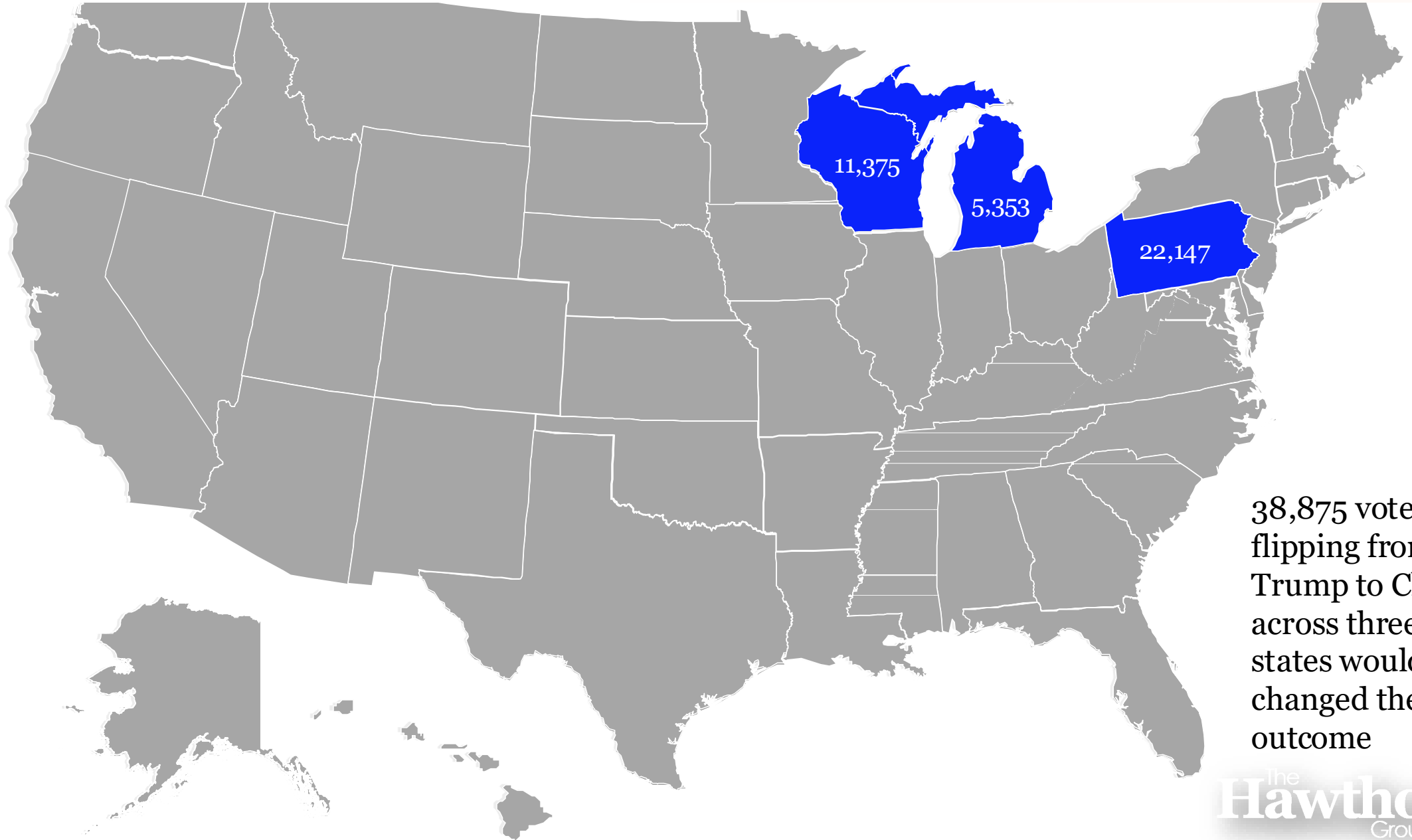
- **White voters, No-College Degree**
(**35%** of electorate; Trump carried 67% in 2020)
- **White Evangelicals**
(**28%** of electorate; Trump carried 76%)
- **White MEN, no-college degree**
(**18%**; carried 70%)
- **Gun-owning households** (**53%**; carried 66%)
- **Attends religious service weekly or more**
(**31%** of electorate: carried 66%)
- **Married voters** (**56%** of electorate; carried 53%)
- **Rural voters** (**19%** of the electorate; carried 57%)



2016 Presidential Results

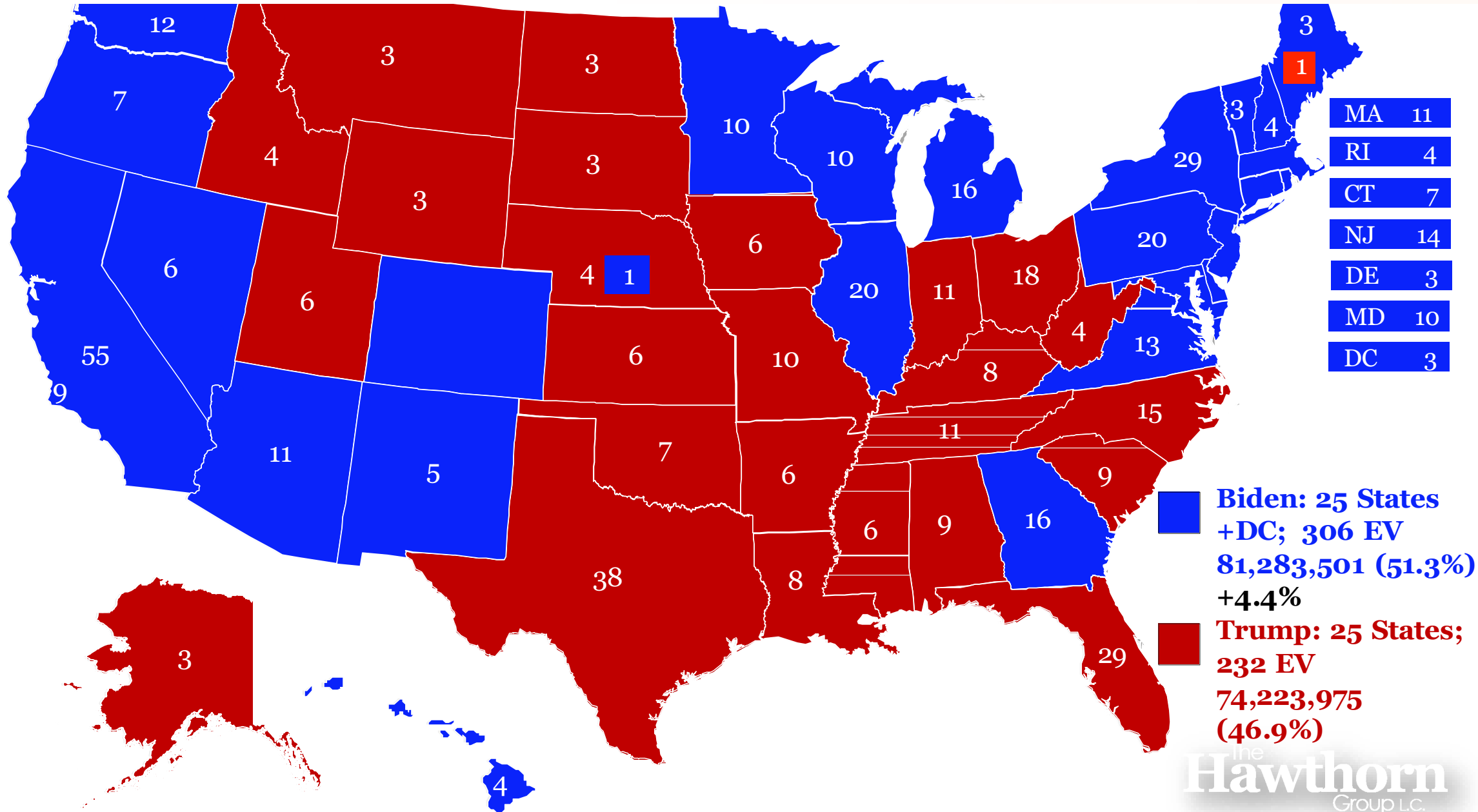


2016 Clinton Win Scenario

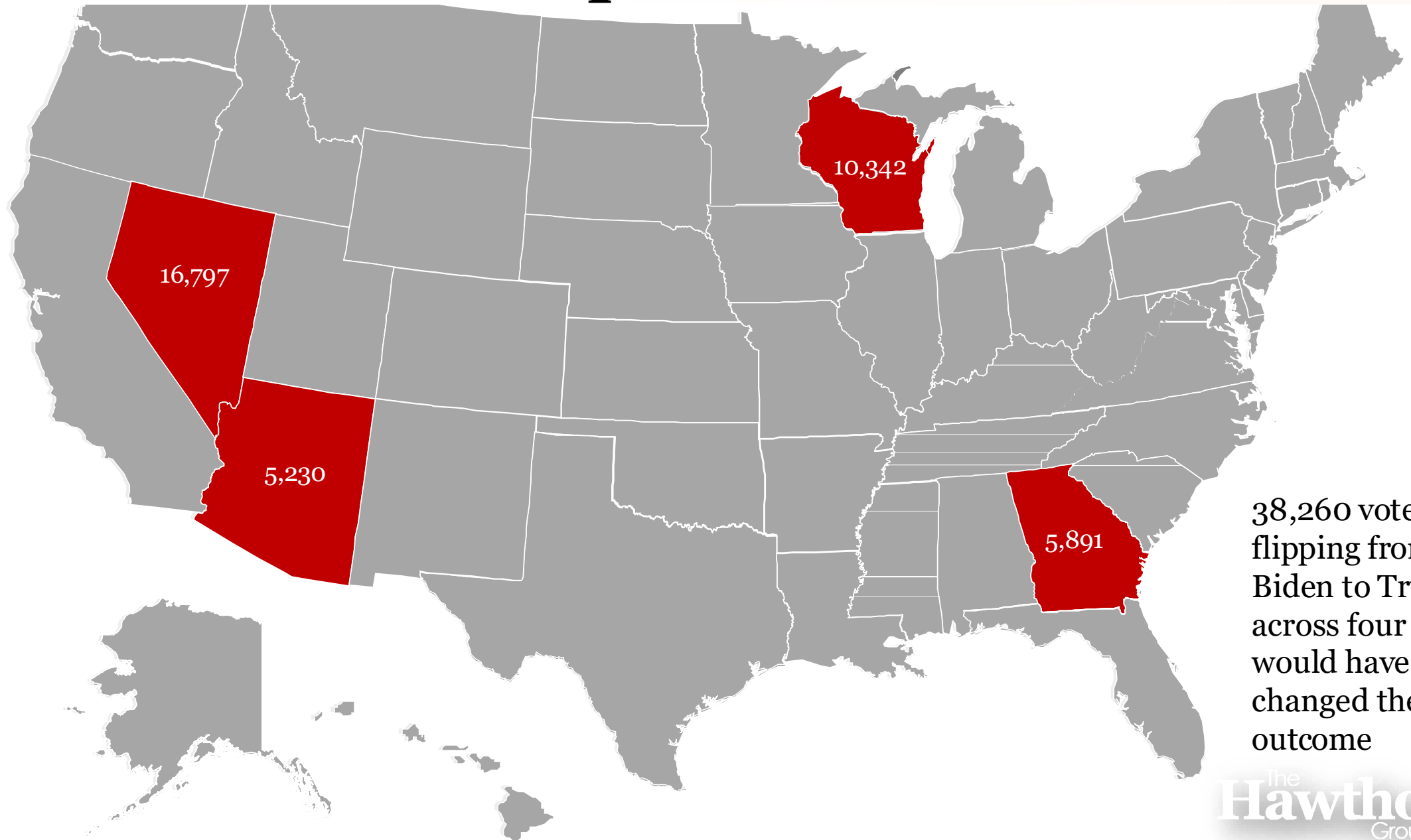


38,875 votes
flipping from
Trump to Clinton
across three
states would have
changed the
outcome

2020 Presidential Results



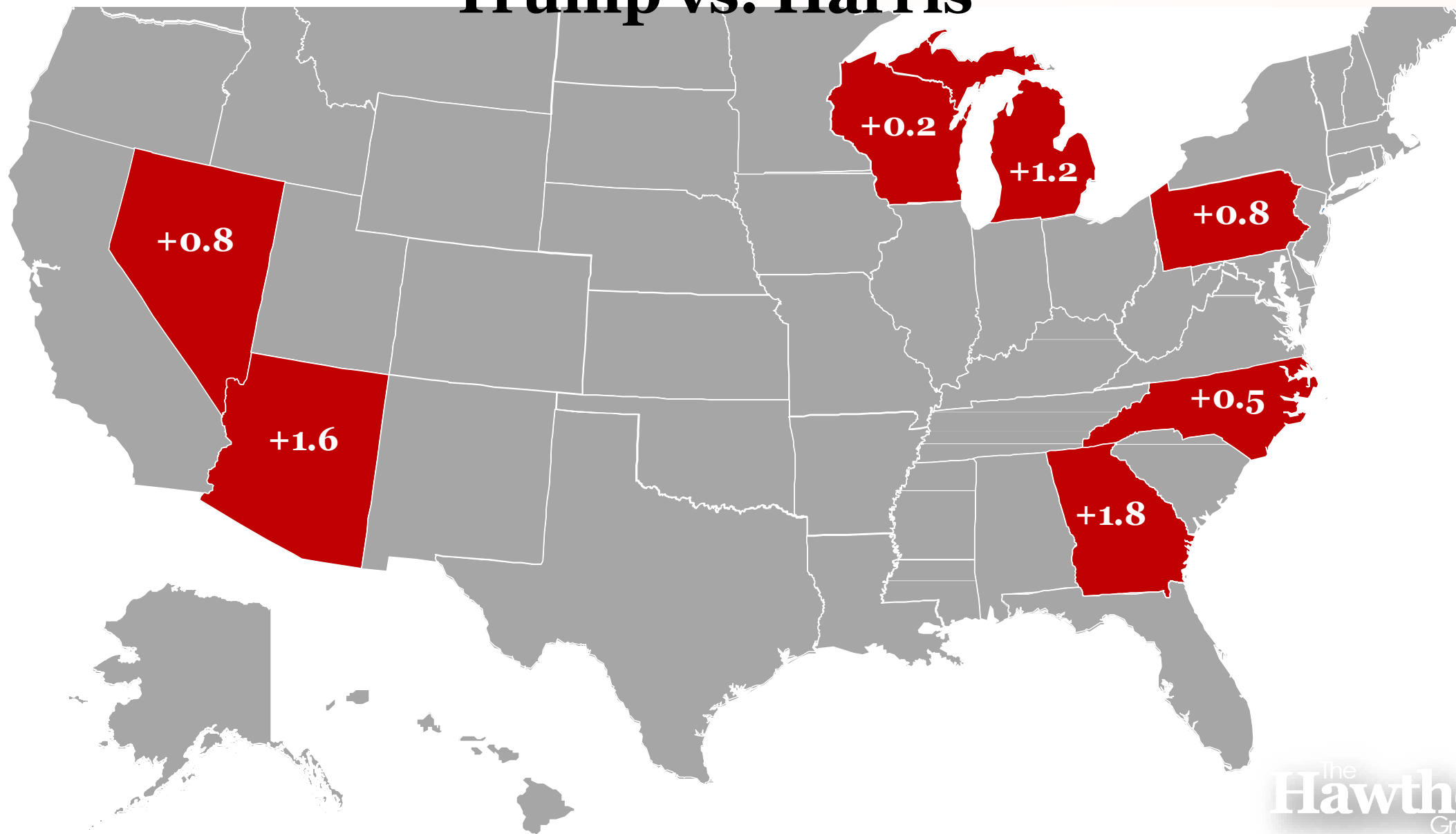
2020 Trump Win Scenario



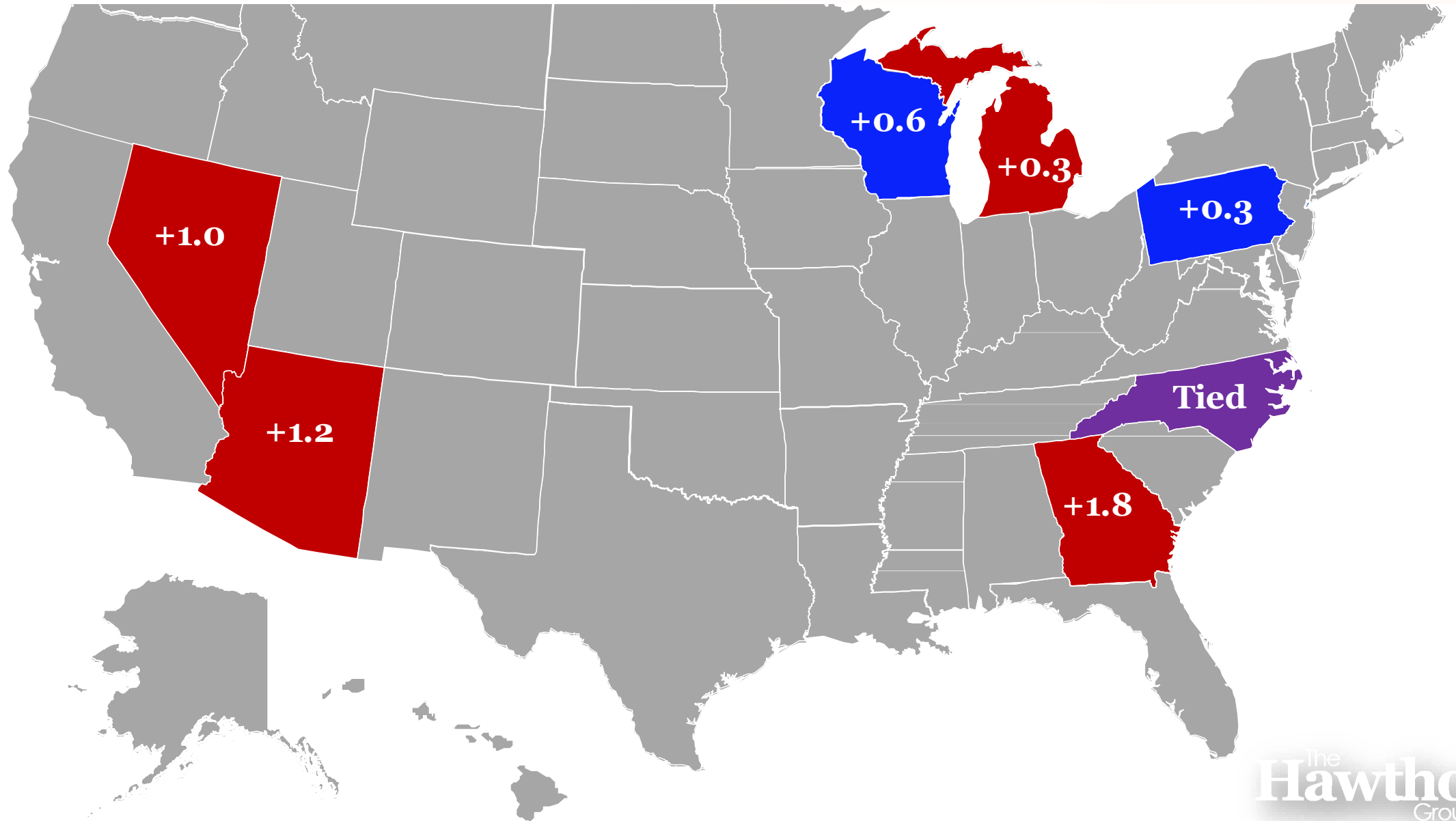
38,260 votes
flipping from
Biden to Trump
across four states
would have
changed the
outcome

Seven 2024 Swing States – RCP Average 10/21

Trump vs. Harris



Seven 2024 Swing States – RCP Multi-Candidate Average 10/17



The Money

- **PACs included, since July 1st Harris has raised \$1,022,097,870 to Trump's \$513,602,315**
- **In September the Harris Campaign raised \$221.8 million to the Trump Campaign's \$62.7 million**
- **40% of Harris' donors are NEW donors to Biden/Harris**
- **As of 10/20 Harris has \$188M Cash on Hand to Trump's \$120M**

NEXT EVENT



Midwest Energy Policy Series

Renewables & Efficiency

Columbia, MO | April 2025

In-person or Virtual



Midwest Energy Policy Series

Economic Development

Economic Development
December 12, 2024
St. Louis