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# Midterm Election Results in Divided Government for the 120th Congress

NOVEMBER 4, 2026

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Voters have spoken, and the result is that Washington is entering a two-year period of divided government that will be marked by a new congressional policy agenda. Energy, environment and natural resources will be at the center of policymaking debates as the new Democratic majority in the U.S. House of Representatives and U.S. Senate confront constituent demands to address energy affordability, strengthen domestic supply chains, accelerate the clean energy transition, protect resources, address tariffs, and reign in data center development. It will clash with the Administration through aggressive congressional oversight, dynamic budget and appropriations negotiations, slower confirmation of executive nominations and competing efforts to set the national policy agenda.

With control of both chambers, Democrats will have an easier path to pass legislation through Congress, but enactment still requires presidential approval or veto-proof majorities. Unless Senate rules change, major legislation is likely to face Senate procedural constraints. The most consequential results are expected to come through annual appropriations, targeted bipartisan bills, nominations, oversight, and the interaction among Congress, agencies, states, and the courts rather than through legislation passed by Congress and enacted by the President.

## What Changes Immediately

On January 3rd the new Congress will be sworn in. At that time, the Democratic Majority in the Senate and House will have:

- **Congressional agenda control.** Democratic leaders will set hearing calendars, committee priorities, floor schedules, and investigative agendas in both chambers.
- **Oversight intensity.** Committees will scrutinize regulatory rollbacks, grants and loans, staffing and scientific integrity, enforcement, leasing and permitting, and compliance with enacted spending directives. Congressional oversight can proceed through hearings, document requests, subpoenas, reporting requirements, support-agency reviews, authorizations, and appropriations.
- **Appropriations leverage.** Annual funding measures are expected to become the principal forum for negotiation over agency budgets, program direction, policy riders, and implementation deadlines. The President retains veto power, creating pressure for cross-party agreements.
- **Senate advice and consent.** The Democratic Senate can slow, condition, or reject nominees for departments, independent commissions, and the federal judiciary, while using confirmation hearings to press for policy commitments.

- **Greater policy uncertainty, but also openings for deals.** Conflict is likely to be substantial, yet growing electricity demand, grid reliability, infrastructure needs, permitting backlogs, domestic manufacturing, community impacts of data centers and large loads, wildfire and disaster risks, and conservation funding also can create opportunities for those stakeholders engaging in bipartisan negotiations.

**Implications**

Organizations should plan for simultaneous legislative, regulatory, oversight, and litigation tracks. A position that succeeds with one branch may be challenged by another. Effective engagement will require credible relationships across parties; a clear factual record; an understanding of committee, agency, and state processes; and policy solutions that can survive changes in political control.

**The Congress-Administration Relationship**

The central dynamic among federal branches of government will be institutional competition, not legislative paralysis. Congress is expected to seek to redirect, constrain, or expose Administration policy. While the White House is likely to exercise veto authority, executive management, rulemaking, enforcement discretion, and public messaging to preserve its agenda, courts will continue to review agency actions and disputes over statutory authority, procedure, funding, and access to information.

**Oversight and investigations**

Likely targets include executive orders and agency directives affecting energy development and environmental protections; the use, withholding, rescission, or redirection of appropriated funds; permitting and leasing decisions; enforcement priorities; advisory committees and scientific processes; and the implementation of statutes governing air, water, public lands, wildlife, and energy markets. Such oversight is fundamental to determining whether laws are working as intended and are administered effectively, efficiently, and economically.

For regulated entities and funding recipients, oversight can create both risk and opportunity. Companies, trade associations, project sponsors, states, tribes, local governments, and non-governmental organizations may be asked to provide information, testify, or help committees understand real-world consequences. Preparation should include document discipline, consistent messaging, privilege and confidentiality analysis, and coordination among legal, policy, technical, and communications teams.

**Funding, shutdown risk, and negotiated outcomes**

Democratic appropriators are expected to propose stronger funding for environmental review, enforcement, conservation, climate and resilience programs, clean energy deployment, and agency science, while seeking limitations on selected Administration initiatives. The White House is likely to press for its own spending priorities and policy conditions. Continuing resolutions, omnibus or minibus packages, rescission disputes, and shutdown deadlines will dominate the calendar.

Because annual appropriations recur and must ultimately become law, they may also provide the most reliable venue for negotiated outcomes. Those seeking to engage should distinguish between symbolic provisions, one-year directives, report language, and durable statutory changes. They should also monitor whether implementation instructions are matched with adequate funding and realistic timelines.

**Nominations and independent agencies**

Senate control gives Democrats substantial influence over the composition and policy direction of executive departments, independent commissions, and the judiciary. Vacancies or delayed confirmations may affect agencies such as the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, Environmental Protection Agency, Department of the Interior, Department of Energy, and related boards and councils. The practical effects will vary by agency structure, quorum requirements, existing terms, and the nominations the President chooses to submit.

**Where bipartisan action remains possible**

- Permitting improvements that preserve meaningful review while improving coordination, schedules, data quality, and certainty.
- Electric reliability, transmission, interregional planning, grid security, and supply-chain resilience.
- Advanced nuclear, geothermal, hydropower, carbon management, hydrogen, critical minerals, and other technologies with regional or industrial constituencies.
- Wildfire risk reduction, forest and watershed restoration, drought response, coastal resilience, abandoned mine remediation, and disaster recovery.
- Federal support for infrastructure, research, demonstration projects, and domestic manufacturing, especially where projects create local benefits across party lines.

Bipartisan negotiations are most likely to be specific, implementation-focused, and supported by diverse regional and sectoral interests. Broad packages may still emerge, but they will require careful design with strong and diverse stakeholder support, with trade offs extending beyond traditional partisan positions.

## Anticipated Policy Issues in the 120th Congress

Highlighted below are public policy matters likely to be discussed, debated, and pursued during the next Congress, on which Van Ness Feldman has demonstrated experience supporting client objectives.

**Energy affordability, reliability, and infrastructure**

Electricity demand and system adequacy will remain a defining issue. The U.S. Energy Information Administration's 2026 outlook identifies data-center server use

as a major factor in projected electricity-consumption growth and emphasizes that capacity decisions depend on policy, regulation, resource availability, and market conditions. Congress is likely to examine generation adequacy, transmission build-out, interconnection, utility and customer costs, and the federal role in siting and permitting.

Democrat-led committees are positioned to seek to protect or restore clean-energy incentives and federal support that the Administration has narrowed, delayed, or redirected, while increasing scrutiny of fossil-fuel leasing, LNG policy, pipeline approvals, and emissions. The Administration likely will emphasize production, exports, affordability, reliability, and deregulation. Nuclear energy, hydropower, geothermal, carbon capture, storage, and certain critical-mineral initiatives are expected to attract cross-party support, though program design and funding will remain contested.

**Environmental regulation and enforcement**

Expect sustained conflict over Clean Air Act (CAA), Clean Water Act (CWA), Endangered Species Act (ESA), and National Environmental Policy Act (NEPA) implementation, greenhouse-gas standards, environmental justice, chemical and waste regulation, methane, vehicle policy, and the scope of federal enforcement. Democratic leaders are expected to use hearings and the appropriations process to test whether agencies followed statutory procedures, considered scientific evidence, and implemented congressional directives. The Administration is likely to defend its interpretation of governing statutes and its regulatory priorities. Stakeholders should anticipate overlapping rulemakings, legislative proposals, state actions, and judicial review.

**Permitting and project delivery**

Both parties are likely to face pressure to accelerate infrastructure and resource projects, but they will differ over standards, judicial review, community engagement, mitigation, and the allocation of federal and state authority. Negotiations are expected to encompass NEPA processes, federal land authorizations, water permits, species consultation, transmission siting, pipeline and export infrastructure, and coordination among agencies. The most viable reforms will pair speed and accountability with clearer decision points, better interagency coordination, early stakeholder engagement, and predictable mitigation obligations.

**Public lands, offshore resources, and critical minerals**

The Democratic led 120th Congress is expected to challenge expanded leasing or reduced protections on federal lands and waters, while promoting conservation, recreation, habitat restoration, and tribal consultation. The Administration will continue to prioritize domestic resource production and streamlined approvals.

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Critical minerals may bridge the divide where proposals combine domestic supply, processing, recycling, community safeguards, and strategic security objectives.

**Wildlife, species, forests, and water**

ESA implementation is likely to become a major oversight and appropriations issue, including listing and critical-habitat decisions, consultation, recovery planning, mitigation, and agency resources. Forest management debates are expected to focus on wildfire, hazardous fuels, timber, restoration, and community protection. Water policy will continue to focus on drought, western infrastructure, drinking water, wastewater, watershed restoration, flood resilience, and the federal role in project finance and technical assistance.

**Strategic considerations for stakeholders**

- **Build a two-branch strategy.** Treat Congress and the Administration as separate decision centers, with courts, states, and communities as additional centers of influence.
- **Lead with implementation facts.** Quantify effects on reliability, cost, jobs, timelines, emissions, conservation outcomes, and local communities. Identify workable statutory or administrative language
- **Prepare for oversight before receiving an inquiry.** Align records, witnesses, technical experts, and public statements. Understand committee jurisdiction and the legislative purpose of requests.
- **Pursue bipartisan durability.** Policies supported only by one party are more vulnerable to reversal. Regional alliances and unusual coalitions can create staying power.
- **Engage early.** Committee agendas, appropriations requests, nominations, and rulemaking records take shape well before public votes or final agency action.

## Why Van Ness Feldman

For those preparing to navigate an era of divided government, the challenge is not choosing between Congress and the Administration or between Democratic and Republican decisionmakers. It is developing an integrated strategy that can operate credibly across institutions, parties, and policy cycles.

Van Ness Feldman enters its 50th year in 2027 as a nationally recognized law and lobbying firm focused on energy, environment, natural resources, and infrastructure, among other areas of expertise. The firm's government advocacy and public policy practice is expressly bipartisan and combines substantive knowledge, strategic guidance, and legislative advocacy on complex matters that will be at the forefront of debates during the next Congress and during the next two years of the Administration.

Nearly five decades of experience enables the firm to help clients translate technical, commercial, legal, and operational realities into solutions that policymakers can use. Van Ness Feldman's model integrates legal analysis,

congressional strategy, agency engagement, project and permitting experience, coalition development, and strategic communications. That combination is particularly valuable during divided government, when objectives may move through several forums at once and when durable outcomes depend on trust with officials holding different perspectives.

**How we help**

- **Congressional strategy and advocacy.** Develop and advance legislative, appropriations, oversight, and confirmation strategies; prepare witnesses and materials; and engage relevant committees and leadership offices.
- **Executive branch and regulatory engagement.** Navigate rulemakings, permits, grants, enforcement, policy directives, and interagency processes with a clear understanding of statutory authority and administrative procedure.
- **Integrated energy and infrastructure counsel.** Address power markets and regulation, generation and transmission, fuels and pipelines, nuclear energy, emerging technologies, federal funding, and major-project development.
- **Environmental and natural resources policy strategy.** Advise on air, water, species, public lands, forests, minerals, offshore resources, environmental review, mitigation, and related litigation risk.
- **Coalitions and communications.** Build bipartisan or nonpartisan alliances, align diverse stakeholders, develop credible messages, and communicate effectively with policymakers, communities, and the public.

**Positioning for the 120th Congress**

The transition period between the 2026 midterm elections and the start of the 120th Congress is decisive. Organizations should identify priority outcomes, map decision-makers in both chambers and the Administration, assess exposure to investigations or funding disruption, and develop strategies that can command support beyond a single party. They should also preserve flexibility, as the same issue may require a legislative solution, an agency record, a state partnership, and a litigation strategy.

Van Ness Feldman is positioned to help clients anticipate these intersections and act with discipline. Our bipartisan approach does not depend on a particular election result. It reflects a longstanding commitment to substantive credibility, practical problem-solving, and representation that remains effective as political control changes.

**Prepare now**

We stand ready to assist organizations with planning for the new environment in Washington. We equip our clients with the strategic insight, policy intelligence, and advocacy expertise to operate on simultaneous legislative, regulatory, oversight, and litigation tracks. In the coming weeks, we will share more insider insights on the legislative landscape for the remainder of the year and how to approach the 120th Congress. In the meantime, reach out to our team to get a head start on your strategy for 2027.

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## For More Information

For further details or assistance with assessing the impact of the midterm elections on your policy agenda with the 120th Congress and the Administration, please contact Shannon Angielski, Nancy Macan McNally, Jordan Smith, or any member of VNF's public policy team.

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