

2004 Election Summary

PRESIDENTIAL ELECTION

- President Bush won 51% of the popular vote and 286 electoral votes.
- Highest voter turnout since 1968 with 60% of eligible voters casting ballots and a record 120 million voters.
- 22% of voters felt that moral values were the most important reason they voted—of this 22%, 80% voted for President Bush.
- The 2004 electoral map mirrors the 2000 map with Republicans controlling the South, Midwest and Southwest, and Democrats controlling the Northeast, upper Midwest and Pacific Coast.

Potential Cabinet Changes:

- Secretary of Defense
- Secretary of Health And Human Services
- Secretary of Homeland Security
- Secretary of State
- Attorney General
- National Security Advisor

Key Issues for 109th Congress:

- Tax Reform
- Social Security Reform
- Energy Bill
- Tort Reform
- Asbestos Litigation Reform
- Medical Malpractice Reform
- There are now fewer Democrats in Congress than at any time since 1928.
- Republicans increased their Senate Majority to 55-44-1 by sweeping the five southern Democratic seats in North Carolina, South Carolina, Georgia, Louisiana, and Florida and holding seats in Alaska, Oklahoma, and Kentucky.
- John Thune unseated Senate Minority Leader Tom Daschle in South Dakota—the first time since 1952 that a party Leader in the Senate has been defeated in a re-election bid.
- Democrats picked up Senate seats in Illinois and Colorado.
- Republicans extended their decade long dominance in the House by defeating four Democratic incumbents in Texas.

TABLE OF CONTENTS:

<i>2004 Election Summary</i>	1
<i>Election Analysis</i>	2
<i>Senate</i>	3
<i>House of Representatives</i>	5
<i>Legislation & Going Forward</i>	6
<i>The Cabinet</i>	6
<i>The Supreme Court</i>	7

CONGRESSIONAL ELECTIONS

U.S. Senate Election Results		
Party	108th Congress	109th Congress
Republican	51	55
Democrat	48	44
Independent	1	1

U.S. House Election Results		
Party	108th Congress	109th Congress
Republican	228	231
Democrat	206	200
Independent	1	1

Changes in Senate Committee Leadership

Committee	Republican Chairman	Ranking Democrat
Agriculture	Saxby Chambliss (GA) or Pat Roberts (KS)	Tom Harkin (IA)
Appropriations	Thad Cochran (MS)	Robert Byrd (WV)
Budget	Judd Gregg (NH) or Wayne Allard (CO)	Kent Conrad (ND)
Commerce	Ted Stevens (AK)	Daniel Inouye (HI)
Environment	James Inhofe (OK)	James Jeffords (I-VT) or Barbara Boxer (CA)
Intelligence	Pat Roberts (KS) or Orrin Hatch (UT)	John Rockefeller (WV)
Judiciary	Arlen Specter (PA)	Patrick Leahy (VT)

Changes in House Committee Leadership

Committee	Republican Chairman	Ranking Democrat
Appropriations	Ralph Regula (OH) or Jerry Lewis (CA) or Harold Rogers (KY)	Dave Obey (WI)
Agriculture	Bob Goodlatte (VA)	Collin Peterson (MN)
Homeland Security	Chris Cox (CA)	Bennie Thompson (MS)
Rules	David Drier (CA)	Louise Slaughter (NY)

ELECTION ANALYSIS

Election Overview

President George W. Bush won a close yet decisive victory over Senator John Kerry in the 2004 presidential election by capturing 51% of the popular vote and 286

electoral votes. President Bush became the first presidential candidate since 1988 to win a majority of the popular vote, and his 59 million votes were more than any other candidate in history. President Bush won by riding the support of conservative Republicans and like-minded independents on the issues of security against terrorism and cultural issues, including opposition to same-sex marriage. Exit polling showed “moral values” as the single most important issue in the election, with 22 percent of voters saying it was the top reason they voted; President Bush received 80 percent of these votes. “Moral values” appears to be a significant factor in the success of the President’s get out the vote effort led by Karl Rove and Ken Mehlman. The number of conservative rural voters that turned out exceeded even their own expectations.

President Bush’s dominance in rural and culturally conservative areas is evident in the electoral map. The President easily carried the South, rural Midwest and Southwest, while Senator Kerry carried the more urban and liberal Northeast, upper Midwest, and Pacific Coast. The President’s dominance in the South helped the Republicans increase their majority in both houses of Congress, making President Bush the first President since 1936 to be reelected while his party gained seats in both houses of Congress. There are now fewer Democrats in Congress than at any point since 1928. The increased Republican control of Congress, combined with President Bush’s decisive popular vote

victory, appears to provide the President the opportunity to pursue some of his more ambitious legislative goals, such as tax reform, social security reform and tort reform.

Congress

Senate: Election Results

U.S. Senate Election Results		
Party	108 th Congress	109 th Congress
Republican	51	55
Democrat	48	44
Independent	1	1

The Republicans expanded their majority in the Senate to 55 seats with a net pickup of four seats in the 2004 elections. The GOP achieved these gains by sweeping the five open Democratic seats in the South and defeating Senate Minority Leader Tom Daschle in South Dakota. The Democrats had recruited a field of top-tier candidates to defend their five open seats in the Republican-trending South, but President Bush's dominance in the region proved too much to overcome. In Louisiana, Rep. David Vitter avoided a December runoff by claiming a 51 percent majority and becoming the first Republican Senator from Louisiana since reconstruction. Former Housing and Urban Development Secretary Mel Martinez won a close victory of less than 100,000 votes over former state education commissioner Betty Castor in Florida. In the Carolinas, Reps. Richard Burr of North Carolina and Jim DeMint of South Carolina won victories after extremely tough campaigns, and Republican Rep. Johnny Isakson easily won the open Georgia Senate seat vacated by Zell Miller. In the most publicized Senate race, former Rep. Jim Thune defeated Senate Minority Leader Tom Daschle by 7,000 votes, a surprisingly large margin for South Dakota. Senator Daschle's defeat marks the first time since 1952 that a party leader in the Senate has lost reelection.

Democrats were able to pick up seats in Illinois, where rising star Barack Obama eas-

ily defeated Alan Keyes, and in Colorado where state Attorney General Ken Salazar defeated Peter Coors. The Democrats were unable to capitalize on two vulnerable Republican incumbents, as Senators Jim Bunning of Kentucky and Lisa Murkowski of Alaska both won narrow victories. The Republicans also held on to their open seat in Oklahoma where former Rep. Tom Coburn defeated Democratic Rep. Brad Carson.

Senate: Committees

Likely Changes in Senate Committee Leadership¹

Committee	Republican Chairman	Ranking Democrat
Agriculture	Pat Roberts (KS) or Saxby Chambliss (GA)	Tom Harkin (IA)
Appropriations	Thad Cochran (MS)	Robert Byrd (WV)
Budget	Judd Gregg (NH) or Wayne Allard (CO)	Kent Conrad (ND)
Commerce	Ted Stevens (AK)	Daniel Inouye (HI)
Intelligence	Orrin Hatch (UT)	John Rockefeller (WV)
Judiciary	Arlen Specter (PA)	Patrick Leahy (VT)

The Republicans' increased majority in the Senate means that the committee ratios are likely to change. In the current Congress, with 51 Republicans, 48 Democrats and one independent, the Republicans have a one seat majority on every committee. In light of these gains, the Republicans are likely to push to increase this advantage to at least two seats per committee in the new Congress. In the 106th Congress, when the Republicans also had a

¹ The only change among Ranking Democrats on these Committees is Dan Inouye (HI) taking over for Senator Ernest Hollings (SC).

55-45 majority, the GOP had a two member majority per committee. It is likely that the committee ratios will follow this past precedent, though it is possible Republicans might push for non uniform ratios, with some committees having a three member majority and some having two.

The Senate's six year term limit on committee chairmanships requires five committee chairmen to step down, which will cause a ripple effect through a number of other committees. Senator Ted Stevens (R-AK) is term limited as Chairman of the Appropriations Committee, therefore, Senator Thad Cochran (R-MS) will move over from the Agriculture Committee to assume the Chairmanship of Appropriations. With Senator Cochran leaving Agriculture, Senator Pat Roberts (R-KS) would most likely give up the chairmanship of the Intelligence Committee to take the helm at Agriculture. Senator Stevens will move from Appropriations to the Commerce Committee where he will succeed Senator John McCain (R-AZ) as Chairman. The retirement of Senator Fritz Hollings (D-SC) means that Sen. Daniel Inouye (D-HI) will most likely become ranking member on the Commerce Committee. It is unclear exactly where Senator McCain will end up, though it's possible that he could take over the Chairmanship of the Indian Affairs Committee from the retiring Senator Ben Campbell (R-CO). The retirement of Senator Don Nickles (R-OK) opens up the chairmanship of the Budget Committee where Senator Judd Gregg (R-NH) is in line to assume the chairmanship, if he relinquishes his current role as Chairman of the Health, Education, Labor and Pensions (HELP) Committee. If Senator Gregg moves over to Budget (which is almost certain to happen), Senator Mike Enzi (R-WY) would take over the HELP Committee. If Senator Gregg surprises everyone by keeping his current chairmanship, however, Senator Wayne Allard (R-CO) would take

the chairmanship of the Budget Committee. Finally, Senator Arlen Specter (R-PA) is in line to succeed Senator Orin Hatch (R-UT) as Chairman of the Judiciary Committee. It is not clear where Senator Hatch would end up, though one possibility is that he would take over as Chairman of Intelligence if Senator Roberts moves to Agriculture.

Senate: Leadership

With the defeat of Senator Tom Daschle, Senate Minority Whip Harry Reid (D-NV) has emerged as the new Democratic leader in the Senate. It appears that Senator Richard Durbin (D-IL) will replace Senator Reid as Minority Whip.

As new Minority Leader, Senator Reid will face significant challenges in trying to oppose Republican legislation. The increased Republican majority means the Democrats have significantly less leverage and the Republicans will be less likely to look for compromise on important legislation, preferring instead to push legislation by picking up a handful of vulnerable, conservative Democrats in order to get to the 60 votes necessary to stop a filibuster. Judicial appointments may be a significant exception to this style because, as discussed below, Senator Specter, a moderate, will be Chairman of the Judiciary Committee and has already warned the White House not to send "right wing" judges to him for confirmation.

On the Republican side, Senator Bill Frist (RTN) returns as Senate Majority Leader in what could be his last term before retiring. Senator Frist is buoyed by an increased Republican majority and the defeat of his political nemesis, Senator Daschle. Despite these gains, however, the new Congress presents some potential problems for Senator Frist. He still does not possess a filibuster proof majority of 60. If he cannot consistently pick up conservative Democrats, he will run into the

same problems implementing the Republican agenda in the 109th Congress as he did in the 108th Congress. In addition, the strong desire by many people within the Republican Party to implement an extremely conservative agenda could cause friction with Republican moderates such as Senators Susan Collins (R-ME), Olympia Snowe (R-ME), and Lincoln Chafee (R-RI). Nonetheless, Senator Frist and the Republicans have a much better chance of making Republican priorities a reality in the next two years than they have in many years.

House of Representatives: Election Results

U.S. House Election Results		
Party	108 th Congress	109 th Congress*
Republican	228	231
Democrat	206	200
Independent	1	1

*3 races yet to be determined

The 2004 election is the 6th straight election in which the people have elected a Republican majority in the House of Representatives. Extending this decadelong control, Republicans in the House added at least two and possibly five seats to their majority.² Substantial gains in Texas bolstered the Republican lead, where, due to House Majority Leader Tom Delay’s (R-TX) redistricting efforts, four out of the five incumbent Texas Democrats, Rep. Max Sandlin, Rep. Nick Lampson, Rep. Charles Stenholm, and Rep. Martin Frost, lost their reelection bids to Republican

²The race for New York’s 17th District is still undecided. Republican County Comptroller Nancy Naples is contesting her 50.8%-49.2% loss to Democratic Assemblyman Brian Higgins. Additionally, two runoff for seats in the House will be held in Louisiana. On December 4th, Republican Billy Tauzin III (son of the retiring Republican former Chairman of the House Energy and Commerce Committee) and Democrat Charlie Melancon will be on the ballot in the 3rd District and Democrat Willie Mount will face Republican Charles Boustany for the 7th District seat.

incumbents. Only Rep. Chet Edwards, Democrat from Texas’ 11th district, held his seat. Despite strong Democratic candidates, Republican incumbents Rep. Christopher Shays (R-CT), Rep. Rob Simmons (R-CT), Rep. Rick Renzi (R-AZ), and Rep. Bob Beauprez (R-CO) all successfully defended their seats. Outside of Texas, the only incumbent Democrat to lose was Rep. Barron Hill (D-IN).

Two Republican incumbents lost their bids for re-election. Democratic businesswoman Melissa Bean defeated Republican incumbent Phillip Crane (R-IL) and Jim Barrow defeated Rep. Max Burns (R-GA).

It is significant to note that Tuesday’s election resulted in the loss of many members of the House Blue Dog Caucus, which consists of Democrats who are generally centrist and pro-business. All of the Democratic incumbents who lost (the Texas four and Rep. Baron Hill) were Blue Dogs. Only one new Democrat elected to the House is likely to join the Blue Dog caucus. Dan Boren, son of former Senator David Boren, was elected to represent Oklahoma’s 2nd District.

House of Representatives: Committees

The House Committee leadership in the 109th Congress will not see many changes. While Republicans may try to adjust some House Committee assignments, the Committee ratio is also unlikely to change in any significant way. The House Appropriations Committee is the only House Committee affected by term limits. Rep. Ralph Regula (R-OH), Rep. Jerry Lewis (R-CA), or Rep. Harold (“Hal”) Rogers (R-KY) will likely succeed the Appropriations Committee’s current Chairman, Rep. Bill Young (R-CA). Rep. David Obey (D-WI) will remain Ranking Member on the Committee. Rep. Amo Houghton’s (R-NY) retirement and Rep. Phillip Crane’s (R-IL) defeat open Chairmanships of both the Trade and Oversight Subcommittees of the Ways and Means Committee. Rep. Dave Camp

(R-MI), a member of the Trade Subcommittee, has expressed interest in these Chairmanships. In addition, several Republican seats on the House Ways and Means Committee have opened due to the retirement of several Members. Reps. Tom Reynolds (R-NY), Bob Beauprez (R-CO), Marsha Blackburn (R-TN), Phil Gingrey (R-GA), and Chris Chocola (R-IN) recently announced their interest in filling these vacant seats.

Ranking members on House Committees may change due to several Election Day defeats – principally those of the Texas incumbents. With Rep. Charles Stenholm's (D-TX) defeat, Rep. Collin Peterson, a Blue Dog Democrat from Minnesota, could take over as ranking member of the Agriculture Committee. Rep. Bennie Thompson (D-MS) will most likely take over as ranking member of the Homeland Security Committee due to Rep. Turner's loss, and Rep. Louise Slaughter (D-NY) will likely take Rep. Martin Frost's (D-TX) place as ranking member on the Rules Committee.

House of Representatives: Leadership

House Republican and Democratic leadership in the 109th Congress will likely remain the same. Despite recent controversy, Majority Leader Tom Delay (R-TX) will return in his prominent role, as will Speaker of the House Rep. Dennis Hastert (R-IL). Rep. Roy Blunt (R-MO), in addition to celebrating his son Matt's victory as Governor of Missouri, will return as House Majority Whip. On the other side of the aisle, Rep. Nancy Pelosi (D-CA) returns as House Minority Leader, accompanied by the current Minority Whip Rep. Steny Hoyer (D-MD).

LEGISLATION & GOING FORWARD

New legislative initiatives in the wake of the President's re-election are likely to include Social Security reform and tax reform.

One of the major provisions of Social Security reform will be to allow younger Americans to privately invest some of the money that currently goes to the Social Security trust fund. Tax reform may include a significant simplification of the tax code and, potentially, a flattening of tax rates. The Administration is also likely to push several issues that were considered in the 108th Congress including: asbestos litigation reform, medical malpractice reform, and energy legislation (including drilling in the Arctic National Wildlife Refuge).

The Administration will submit its budget proposal to Congress in early 2005. The budget will most likely focus on themes reiterated throughout the President's campaign such as homeland security and defense. The President is very likely to request supplemental appropriations for the war in Iraq. Other topics for the 109th Congress are likely to include the 1996 Telecommunications Act, the Transportation Reauthorization Act, and Higher Education Reauthorization.

Democrats will re-evaluate legislative priorities in the wake of their electoral losses, but they may continue to work toward some issues that were contentious during the 108th Congress including a repeal of the Department of Labor's controversial overtime regulations and revisions to the Medicare Act. Two other Democratic issues predicted for the 109th Congress are health care reform and stem cell research, which got a boost with the passage of a referendum in California to finance such research.

THE CABINET

Recent speculation and historical trends point to significant changes in the President's Cabinet. It has been speculated that as many as three-quarters of President Bush's twenty-person Cabinet could leave in the near future. Potential changes may include:

Attorney General – Attorney General John

Ashcroft could be one of the first Cabinet members to depart. A possible replacement for Ashcroft is his former Deputy Attorney General, Larry Thompson, who, if selected, would become the first African American Attorney General. If Thompson does not get the post, another potential replacement is White House Counsel Alberto Gonzales.

Secretary of Defense - There are rumors that Donald Rumsfeld will be leaving his position as Secretary of Defense in the second Bush Administration. One potential replacement for Secretary Rumsfeld could be National Security Adviser, Condoleezza Rice. Should Ms. Rice be selected to Defense, she would become the first woman in that job.

Secretary of State - Given Secretary Colin Powell's lack of success in several internal Administration debates, it is unlikely that he will stay for a second term. Potential replacements for Powell include Rice, former Missouri Senator and current ambassador to the U.N. Jack Danforth, and Senator Richard Lugar (R-IN).

National Security Advisor - Should Ms. Rice leave her current position, potential replacements include Deputy Secretary of Defense Paul Wolfowitz, Vice President Cheney's Chief of Staff Lewis "Scooter" Libby, or Deputy National Security Advisor Steven Hadley.

Homeland Security - Secretary Tom Ridge could be replaced by current White House Chief of Staff Andrew Card or former Montana Governor Marc Racicot.

Health and Human Services Secretary - Centers for Medicare and Medicaid Services Administrator Dr. Mark McClellan is the most frequently mentioned potential replacement for current Health and Human Services Secretary Tommy Thompson.

THE SUPREME COURT

It is likely that President Bush will now have the opportunity to nominate at least one, and quite possibly as many as three, Supreme Court Justices during his second term. Chief Justice William Rehnquist's battle with cancer and his failure to return to the bench before the election has fueled speculation that his retirement from the Court may be imminent. Justice John Paul Stevens, who is 84 years old, and Justice Sandra Day O'Connor, who is 74 and has had health problems in the recent past, may leave the bench in the next few years. While the President may be inclined to appoint ideological conservatives to the bench, the likelihood that Senator Arlen Specter will assume the chairmanship of the Judiciary Committee may make this more difficult for the President. Senator Specter has already said publicly that President Bush should not apply a litmus test to nominees and that, if he does, confirmation could be very difficult.

It has been long speculated that Justice Antonin Scalia, a conservative Reagan nominee, could become the next Chief Justice. Justice Scalia, however, would likely face an intense confirmation battle from Democrats. A recent exploratory shortlist of possible Bush nominees for Supreme Court Justice include:

- **Alberto R. Gonzales**, 49 - White House counsel and former Texas Supreme Court justice;
- **Emilio M. Garza**, 57 - U.S. Court of Appeals for the 5th Circuit;
- **J. Harvie Wilkinson III**, 60 - U.S. Court of Appeals for the 4th Circuit;
- **J. Michael Luttig**, 50 - U.S. Court of Appeals for the 4th Circuit;
- **Theodore B. Olson**, 64 - former solicitor general;
- **Larry Thompson**, 59 - former deputy

attorney general;

- **Janice Rogers Brown**, 55 - California Supreme Court Justice;
- **Samuel A. Alito Jr.**, 54 - U.S. Court of Appeals for the 3rd Circuit; and
- **Miguel A. Estrada**, 43 - Washington lawyer. The nomination of Estrada, however, seems highly unlikely because of the bitter fight that blocked his nomination to the U.S. Circuit Court of Appeals for the District of Columbia.

CONTACT US

For more information, please contact:

Dustin Painter, Attorney, Government Relations and Public Policy Practice, at (202) 342-8875 or dpainter@kelleydrye.com.