

Arnold & Porter

Innovative. Integrated. Industry-Focused.

Capital Snapshot: A Monthly Overview of the Issues, Events, Timelines and Polling Data Driving Federal Policy Decisions

April 2023

This Month's Capital Snapshot Deck Includes

- An overview of the upcoming congressional schedule, including key dates in April.
- An overview of the state of play for the 2024 congressional elections.
- An update on developments, outlook, and priorities for key policy and legislative areas.
- A look at current trends and factors that could impact the 2023 political and legislative landscape.

Congressional Schedule for April 2023



2023 House Calendar

- There are 8 legislative days scheduled in the House for April.
- The House will take its Easter/Passover recess during the weeks of April 3 and April 10.
- There are 80 legislative days left in the House in 2023.

STEVE SCALISE
MAJORITY LEADER

JANUARY
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

FEBRUARY
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28

MARCH
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

APRIL
1
2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30

MAY
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30 31

JUNE
1 2 3
4 5 6 7 8 9 10
11 12 13 14 15 16 17
18 19 20 21 22 23 24
25 26 27 28 29 30

JULY
1
2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30 31

AUGUST
1 2 3 4 5
6 7 8 9 10 11 12
13 14 15 16 17 18 19
20 21 22 23 24 25 26
27 28 29 30 31

SEPTEMBER
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30

OCTOBER
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

NOVEMBER
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30

DECEMBER
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

House Calendar // 118th Congress // First Session

2023 Senate Calendar

- There are 9 legislative days scheduled in the Senate for April.
- The Senate will take its Easter/Passover recess during the weeks of April 3 and April 10.
- There are 113 legislative days left in the Senate in 2023.

DICK DURBIN
Majority Whip

JOHN THUNE
Republican Whip

UNITED STATES SENATE
118th Congress, 1st Session
2023

TENTATIVE SCHEDULE

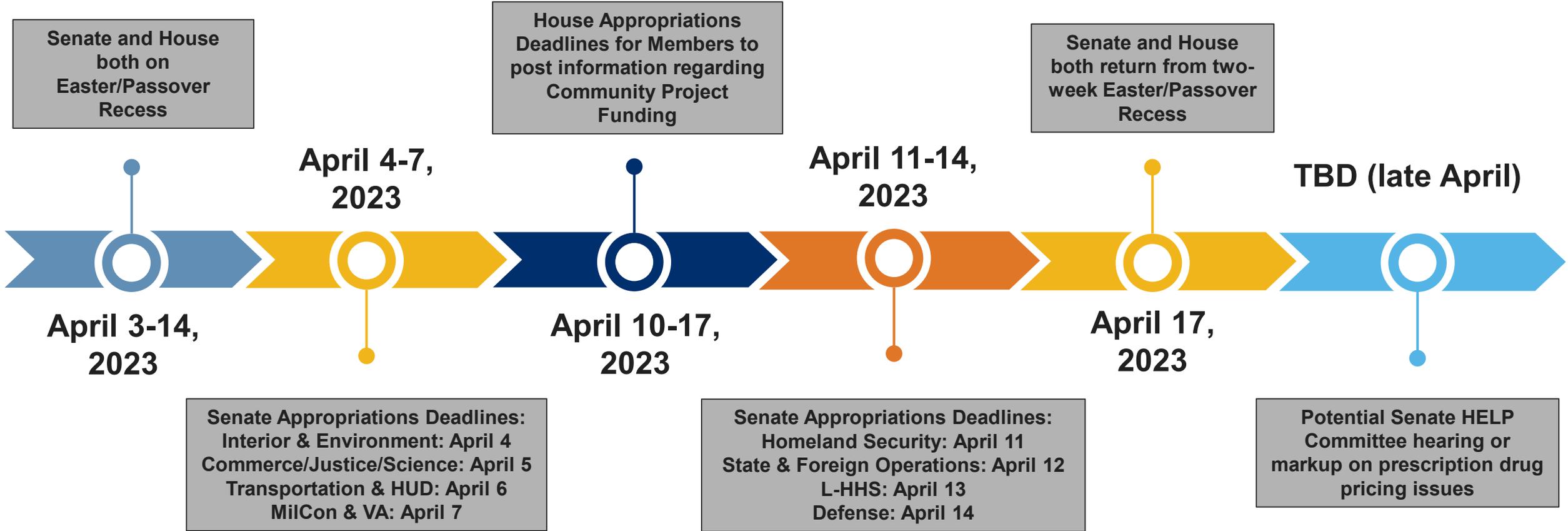
JANUARY							FEBRUARY							MARCH							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
1	2	3	4	5	6	7			1	2	3	4			1	2	3	4			
8	9	10	11	12	13	14	5	6	7	8	9	10	11	5	6	7	8	9	10	11	
15	16	17	18	19	20	21	12	13	14	15	16	17	18	12	13	14	15	16	17	18	
22	23	24	25	26	27	28	19	20	21	22	23	24	25	19	20	21	22	23	24	25	
29	30	31	26	27	28	26	27	28	29	30	31										
<small>SENATE CONVENES JANUARY 3, 2023</small>																					
APRIL							MAY							JUNE							
						1	1	2	3	4	5	6			1	2	3				
2	3	4	5	6	7	8	7	8	9	10	11	12	13	4	5	6	7	8	9	10	
9	10	11	12	13	14	15	14	15	16	17	18	19	20	11	12	13	14	15	16	17	
16	17	18	19	20	21	22	21	22	23	24	25	26	27	18	19	20	21	22	23	24	
23	24	25	26	27	28	29	28	29	30	31	25	26	27	28	29	30					
30																					
						1							1	2							
2	3	4	5	6	7	8	6	7	8	9	10	11	12	3	4	5	6	7	8	9	
9	10	11	12	13	14	15	13	14	15	16	17	18	19	10	11	12	13	14	15	16	
16	17	18	19	20	21	22	20	21	22	23	24	25	26	17	18	19	20	21	22	23	
23	24	25	26	27	28	29	27	28	29	30	31	24	25	26	27	28	29	30			
30	31																				
OCTOBER							NOVEMBER							DECEMBER							
1	2	3	4	5	6	7	1	2	3	4	1	2									
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	
29	30	31	26	27	28	29	30	24	25	26	27	28	29	30							

Red dates = Senate not in session

1ST SESSION CONVENES—JANUARY 3, 2023
TARGET ADJOURNMENT—DECEMBER 15, 2023

GPO: 2022-49-898(100)

Congressional Schedule – April 2023

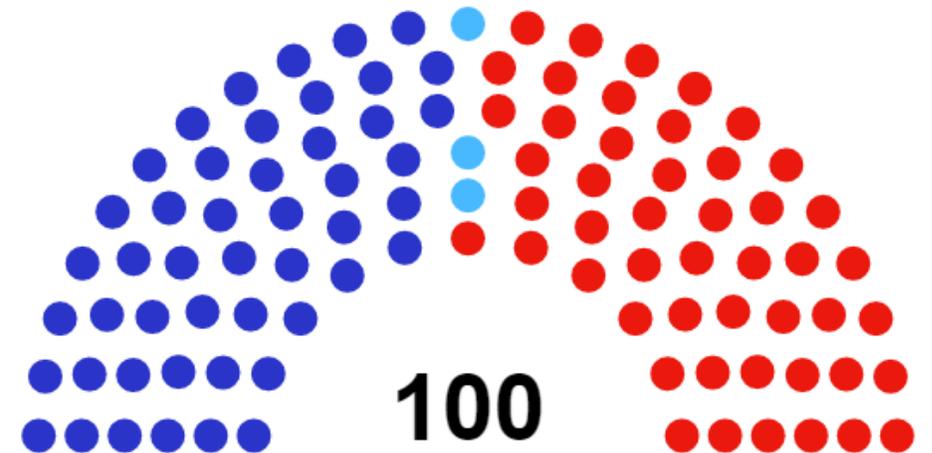
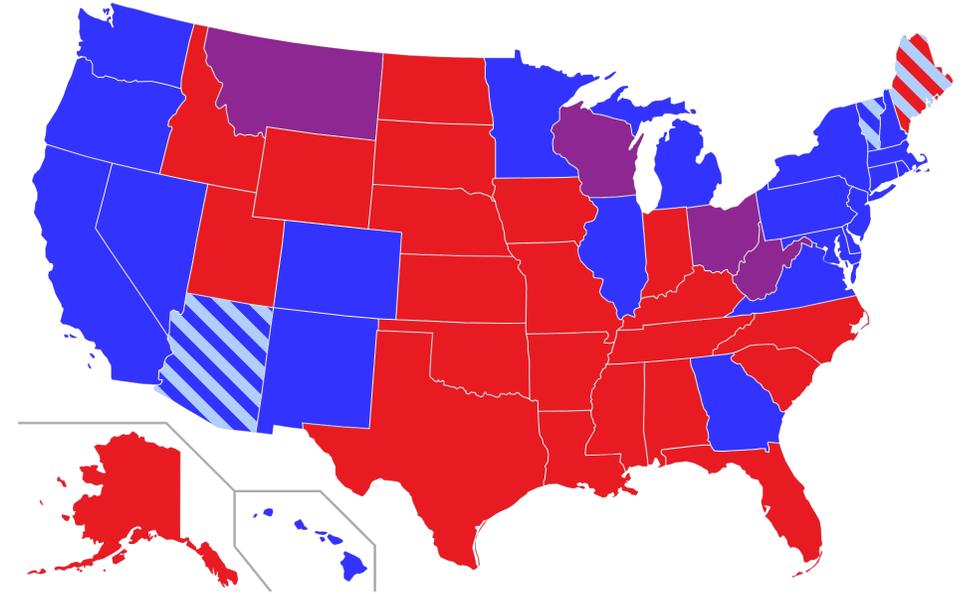


State of Play of the 2024 Congressional Elections



Current Senate – 118th Congress

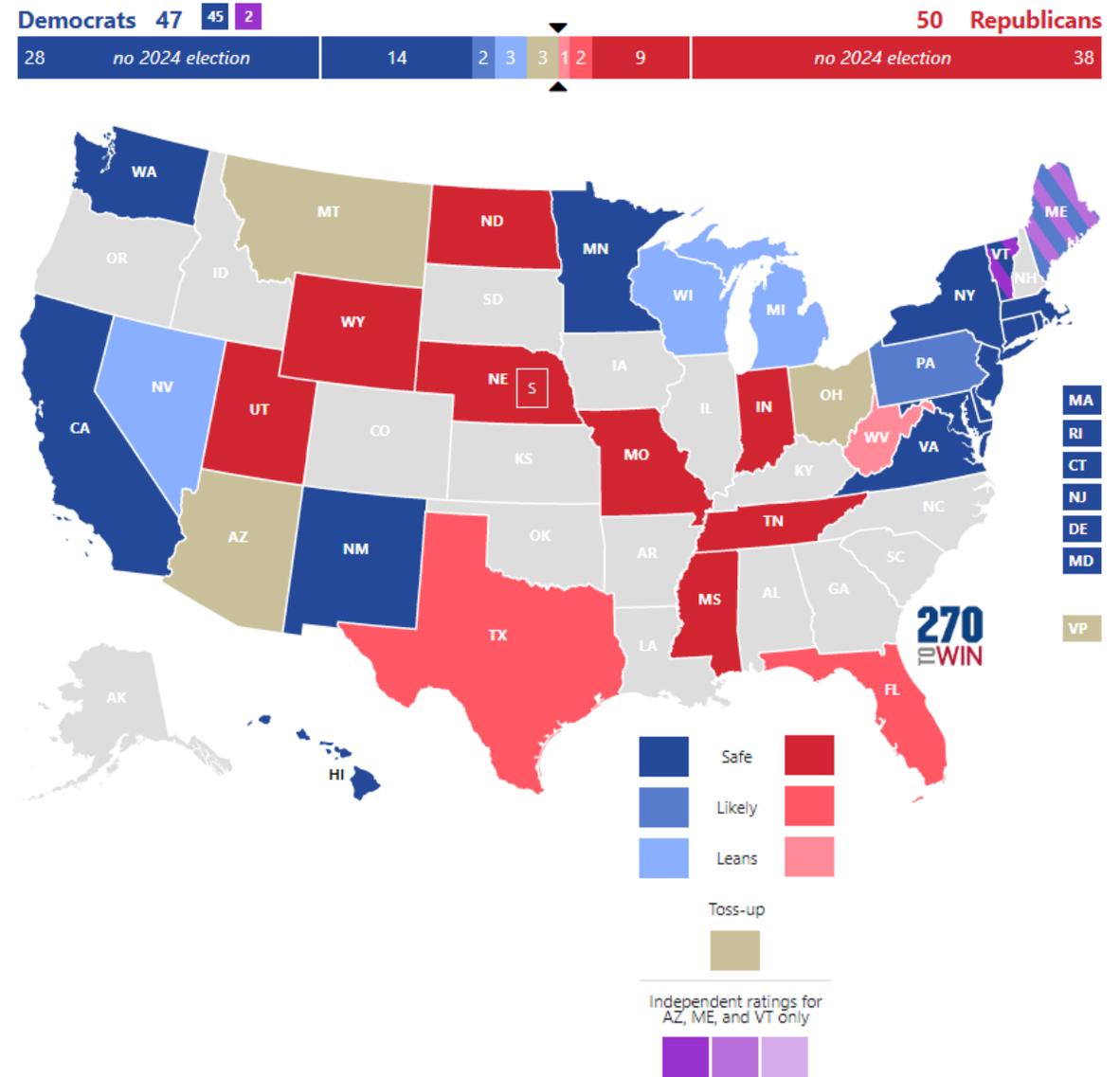
- Democrats have 51-49 majority; their majority includes 3 independent Senators who caucus with the Democrats.
 - Every incumbent Senator who ran for re-election in the 2022 midterms won their race – this is the first time this has occurred in decades.
- Vice President Kamala Harris, who also serves as the Senate President, can cast a tie-breaking vote if the final vote on any legislation or nominee is tied at 50-50.
- Senator Patty Murray (D-WA) is the President Pro Tempore of the Senate. She is the first female President Pro Tem in history.



Source: Parliament Diagram Tool

Senate 2024 Outlook

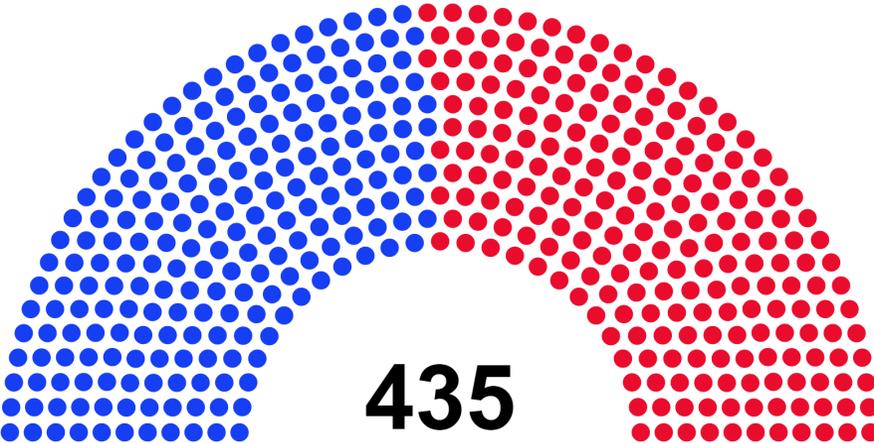
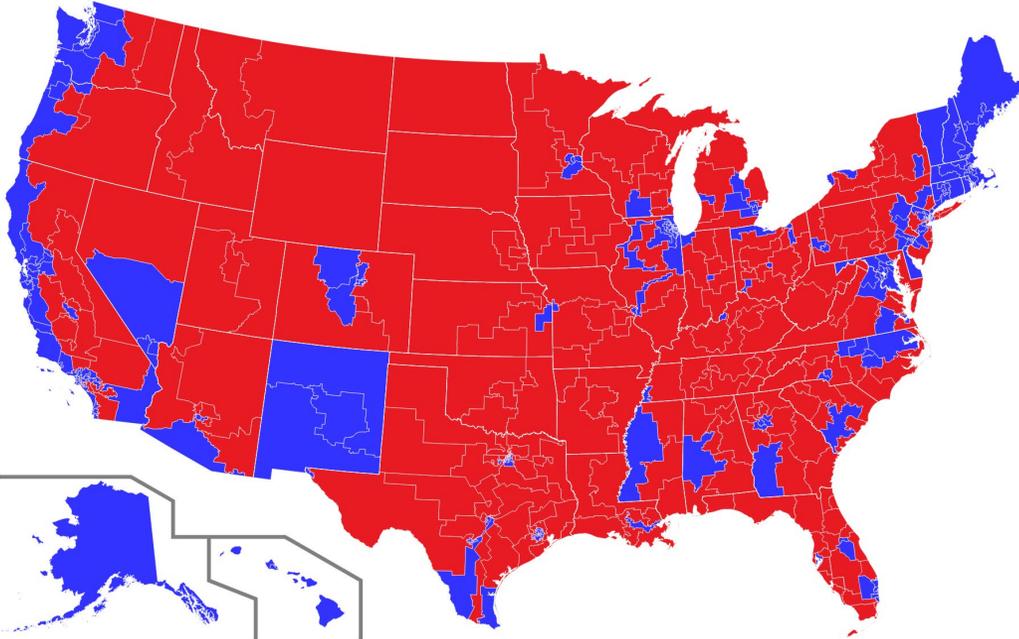
- Democrats currently only have a narrow majority, and have a difficult Senate map for 2024.
- 3 Democratic incumbents are from states which former President Trump won in both 2016 and 2020 (Montana, Ohio, and West Virginia).
- Democrats will also be defending seats in other competitive states such as Arizona, Nevada, Michigan, Pennsylvania, and Wisconsin.
- Republicans hold 38 seats that are not up for election in 2024, 9 seats that are “Safe R,” 2 seats that are “Likely R,” and 1 seat that is “Leans R.”
 - If Republicans win the presidency in 2024, then 50 seats will be enough for a majority.
 - If Democrats retain the presidency in 2024, then Republicans will need 51 seats for a majority.
- While the contest for control of the Senate will be very competitive, due to an advantageous map, Republicans are slightly favored to win back the chamber in 2024.



Sources: UVA Center for Politics, Sabato’s Crystal Ball; 270 To Win

Current House – 118th Congress

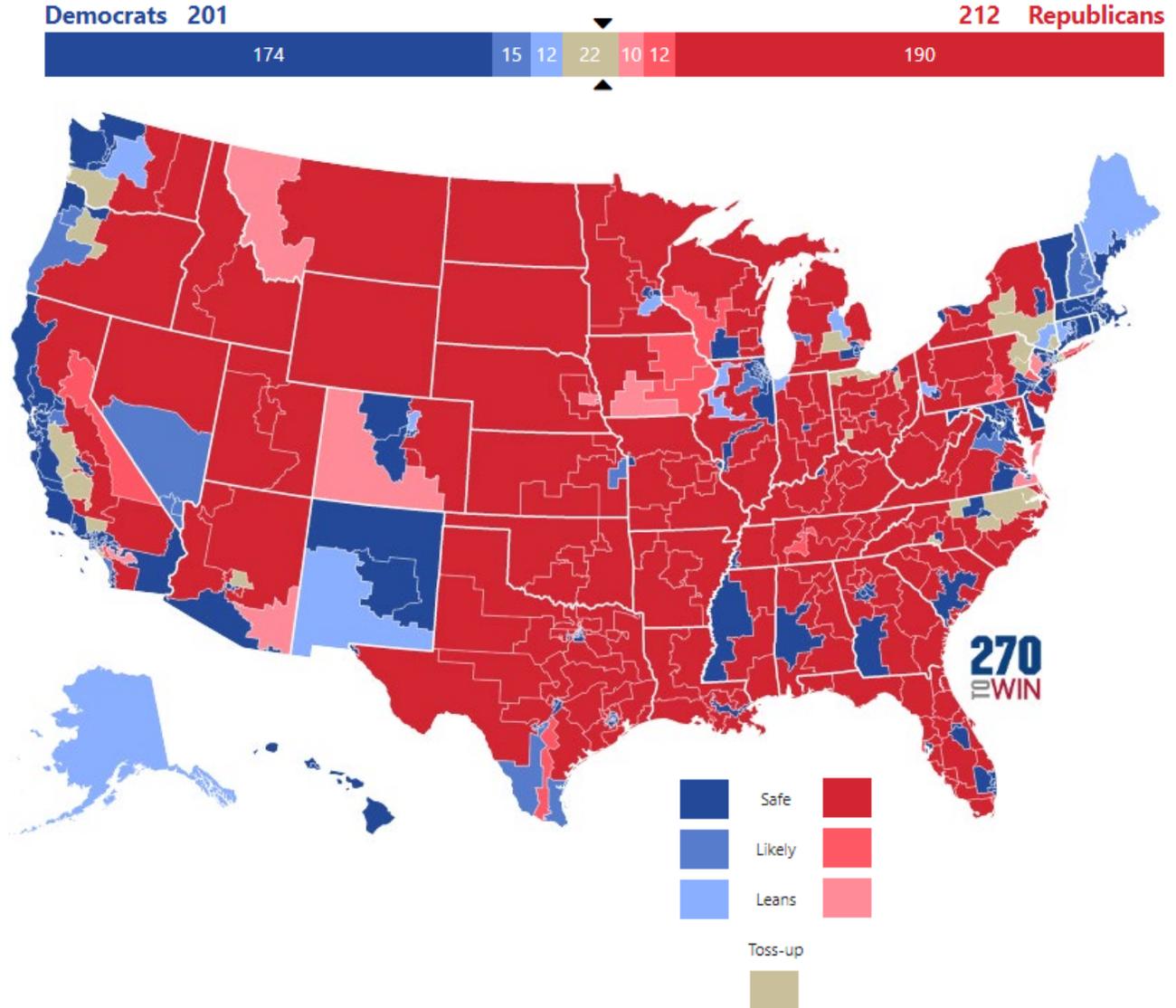
- Republicans hold a four-seat majority (222-213) in the House.
- The 2022 Republican midterm victory is an exact mirror image of the Democrats' 222-213 victory in the 2020 election.



Source: Parliament Diagram Tool

House 2024 Outlook

- Republicans currently have a small majority of 222 – 213. 218 is needed for a majority.
- Although it is early, for the 2024 elections, 190 seats are currently projected as “Safe R,” while 212 seats are rated as Safe, Likely, or Leans R.
- On the other hand, for 2024, 174 seats are rated as “Safe D,” while 201 seats are rated as Safe, Likely, or Leans D.



Sources: UVA Center for Politics, Sabato’s Crystal Ball; 270 To Win

House 2024 Outlook (Toss-up, Leans, and Likely Seats)

Democrats		
TOSS-UP (12)	LEANS DEMOCRATIC (12)	LIKELY DEMOCRATIC (15)
CA-47 Open (Porter)	Mary Peltola (AK-AL)	Josh Harder (CA-9)
MI-7 Open (Slotkin)	Yadira Caraveo (CO-8)	Mike Levin (CA-49)
Don Davis (NC-1)	Jahana Hayes (CT-5)	Lauren Underwood (IL-14)
Jeff Jackson (NC-14)	Frank Mrvan (IN-1)	Sharice Davids (KS-3)
Kathy Manning (NC-6)	Eric Sorensen (IL-17)	Hillary Scholten (MI-3)
Wiley Nickel (NC-13)	Jared Golden (ME-2)	Annie Kuster (NH-2)
Marcy Kaptur (OH-9)	Dan Kildee (MI-8)	Chris Pappas (NH-1)
Greg Landsman (OH-1)	Angie Craig (MN-2)	Susie Lee (NV-3)
Emilia Sykes (OH-13)	Gabe Vasquez (NM-2)	Steven Horsford (NV-4)
Matt Cartwright (PA-8)	Pat Ryan (NY-18)	Dina Titus (NV-1)
Susan Wild (PA-7)	Chris Deluzio (PA-17)	Val Hoyle (OR-4)
M. Gluesenkamp Perez (WA-3)	Kim Schrier (WA-8)	Andrea Salinas (OR-6)
		Henry Cuellar (TX-28)
		Vicente Gonzalez (TX-34)
		Abigail Spanberger (VA-7)

Total seats rated Safe Democratic: 174
Total seats rated Safe, Likely, or Leans D: 201

Republicans		
TOSS-UP (10)	LEANS REPUBLICAN (10)	LIKELY REPUBLICAN (12)
David Schweikert (AZ-1)	Juan Ciscomani (AZ-6)	Kevin Kiley (CA-3)
John Duarte (CA-13)	Ken Calvert (CA-41)	Young Kim (CA-40)
Mike Garcia (CA-27)	Michelle Steel (CA-45)	Anna Paulina Luna (FL-13)
David Valadao (CA-22)	Lauren Boebert (CO-3)	María Elvira Salazar (FL-27)
Anthony D'Esposito (NY-4)	Zach Nunn (IA-3)	Ashley Hinson (IA-2)
Mike Lawler (NY-17)	John James (MI-10)	M. Miller-Meeks (IA-1)
Marc Molinaro (NY-19)	Ryan Zinke (MT-1)	Nick LaLota (NY-1)
George Santos (NY-3)	Don Bacon (NE-2)	Brian Fitzpatrick (PA-1)
Brandon Williams (NY-22)	Tom Kean Jr. (NJ-7)	Scott Perry (PA-10)
L. Chavez-DeRemer (OR-5)	Jen Kiggans (VA-2)	Andy Ogles (TN-5)
		Monica De La Cruz (TX-15)
		Derrick Van Orden (WI-3)

Total seats rated Safe Republican: 190
Total seats rated Safe, Likely, or Leans R: 212

Source: UVA Center for Politics, Sabato's Crystal Ball

Legislative and Policy Updates & Overviews



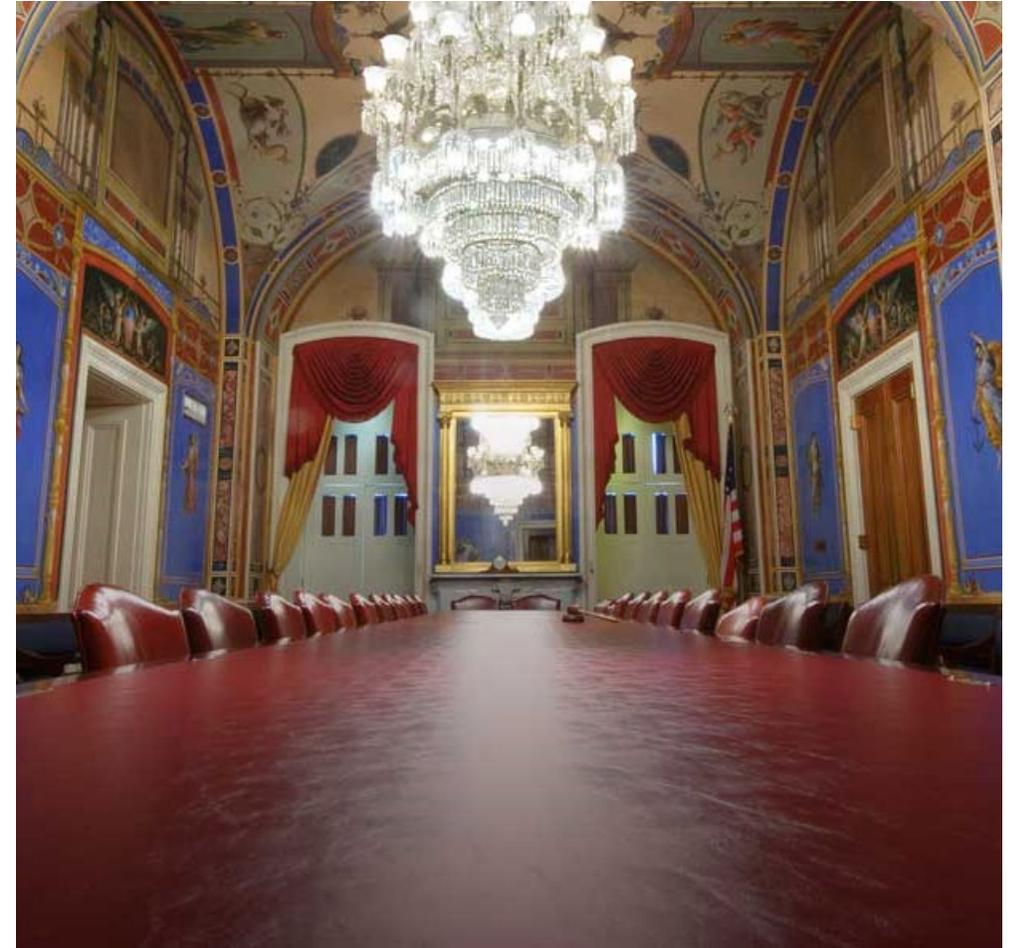
FY 2024 Appropriations

- President Biden released his [FY 2024 budget](#) on March 9. The \$6.9 trillion spending measure's proposed big-ticket items include strengthening of Medicare and Social Security, restoring the full Child Tax Credit, and providing increased access to health care and affordable drugs, improving college affordability, reducing housing costs, lowering energy costs, increasing food security, among others.
- House and Senate Appropriators spent the second half of March holding budget hearings and laying the groundwork for marking up FY 2024 Appropriations bills later this spring.
- House Republicans have committed to reducing spending to FY 2022 levels, which will require substantial cuts ranging from 9 to 22% below FY 2023 levels depending on the types of funding Republicans decide to exempt from reductions (i.e. military, veterans' health care, border security, etc.).
- Member-level decisions regarding Community Project Funding (aka "earmarks") will be made this month with House members disclosing the projects they're supporting on April 17. Senators will similarly publish their disclosure lists mid-April. The markup process will begin in May.



FY 2024 Appropriations

- Both the Senate and House Appropriations Committees recently released their respective guidance for the FY 2024 appropriations process. While the Senate's guidance is largely consistent with the chamber's approach in FY 2023, the new Republican House Majority made significant changes, particularly related to committee's approach to earmarks.
- More information about the general House Appropriations guidance for FY 2024 can be found [here](#). The Senate's guidance is available [here](#).
- In the House, all deadlines for Members to submit appropriations funding, earmark, and language requests have passed.
- In the Senate, a couple deadlines for Members to submit appropriations funding, earmark, and language requests have passed, but most deadlines are still upcoming (spread out during the first two weeks of April).



FY 2024 Appropriations – Upcoming Senate Submission Deadlines

Subcommittee	Date
Interior, Environment, and Related Agencies	April 4, 2023
Commerce, Justice, Science, and Related Agencies	April 5, 2023
Transportation, Housing and Urban Development, and Related Agencies	April 6, 2023
Military Construction, Veterans Affairs, and Related Agencies	April 7, 2023
Homeland Security	April 11, 2023
State, Foreign Operations, and Related Programs <i>(no earmarks)</i>	April 12, 2023
Labor, Health and Human Services, Education, and Related Agencies	April 13, 2023
Defense <i>(no earmarks)</i>	April 14, 2023

FY24 National Defense Authorization Act (NDAA) Process

Background: The NDAA is the annual defense legislation that sets the budget and priorities of the Department of Defense (DoD). The bill has passed every year for over six decades and is considered the last real “must-pass” bill by many in Congress, leading to a bipartisan, bicameral process to ensure passage.

Process: The FY24 process began with the President’s Budget request release on March 9. In March and April, the House and Senate Armed Services Committee (HASC/SASC) will hold the annual budget hearings with each military service component and begin drafting respective versions of the NDAA. We expect committee markups to take place in May. Once completed, both versions will have to be considered by its respective chamber before moving to conference.

What We Are Hearing: Despite House GOP calls for sweeping budget cuts, we expect defense to remain an exception, with bipartisan support for a boost in military spending. Historically, Congress approves an increase over the President request. For example, in FY23 Congress allocated \$45 billion more than Pres. Biden requested. We expect this to remain the norm, especially as the U.S. seeks to further deter China and Russia’s war in Ukraine. However, we are likely to see more oversight of the Defense Department and its policies with House Republicans in the majority.



House Passes Parents Bill of Rights

- On March 24, the House voted along a mostly party-line vote (213-208) to pass the Parents Bill of Rights ([H.R. 5](#)), which seeks to expand parental rights and transparency into curriculum, budgets, and other activities taking place in K-12 schools.
- House Democrats strongly opposed the bill, naming it the “Politics Over Parents Act” in their messaging.
- The White House also issued a [Statement of Administration Policy](#) opposing the legislation in its current form.
- There is no path forward for the legislation through the Democratic-controlled Senate.
- Although the bill is unlikely to move forward, Republicans are likely to use the legislation as part of their 2024 campaign messaging.



Republicans Introduce Student Loan Congressional Review Act Resolution

- On March 17, the Government Accountability Office (GAO) released its opinion determining President Biden's one-time debt relief plan and payment pause extension actions meet the definition of a rule under the Congressional Review Act (CRA).
- As such, the proposed actions should have been submitted to Congress and the Comptroller General before taking effect.
- The Republican education leaders who requested the decision, including Senate Health, Education, Labor and Pensions (HELP) Committee Ranking Member Bill Cassidy (R-LA), subsequently introduced a bicameral CRA resolution to overturn these actions.
- 43 Republican Senators and 46 Republican House members have signed onto the resolution, but floor time has yet to be scheduled in either chamber until they determine if they have enough votes to pass the resolution, which would require simple majorities in both the House and Senate.



Senate HELP Committee Ranking Member Bill Cassidy (R-LA)

Congress Discusses Federal Student-Athlete Legislation

- The House Energy and Commerce Subcommittee on Innovation, Data, and Commerce held a hearing on name, image, and likeness (NIL) dealmaking rights on March 29.
- The hearing featured bipartisan agreement on the importance of a federal standard to protect student-athletes' NIL rights, with Chairman Gus Bilirakis (R-FL) and Ranking Member Jan Schakowsky (D-IL) highlighting the confusion of the current “patchwork” of state laws and the negative impact on student-athletes.
- We anticipate the committee to continue their work on this topic with the goal of introducing a bipartisan bill that would create a federal standard and address additional issues surrounding college athletics in the 118th Congress.
- The Senate Commerce, Science, and Transportation Committee is also considering holding hearings on this topic, which we are likely to see in the coming weeks.



Education Department Delays Release of New FAFSA Application

- On March 21, the Office of Federal Student Aid (FSA) [announced](#) the new Free Application for Federal Student Aid (FAFSA) form will not be available until December 2023 for the 2024-2025 academic year.
- Typically, the form is available to students and parents by October 1, but given changes to the FAFSA application directed by the FAFSA Simplification Act and FUTURE Act, the Department said it would take additional time to ensure the form is ready for students and institutions.
- To accompany the changes to the FAFSA, FSA also:
 - Released a [roadmap](#) outlining resources, outreach, and timelines relevant for various stakeholders (i.e., institutions, financial aid counselors, and students and families); and
 - Announced plans to launch a communication hub for college access professionals as well as training sessions and bootcamps.



Chief Operating Officer of Federal Student Aid, Richard Cordray

Health Care Updates – Implementation of the *Inflation Reduction Act (IRA)*

- On March 15, the White House released a [fact sheet](#) titled, “Seniors Across the Country Are Saving Millions of Dollars in Health Care Costs Because of President Biden’s Prescription Drug Law.”
- As part of the release of the fact sheet, the White House and the U.S. Department of Health and Human Services (HHS) [announced](#) the first set of Part B prescription drugs that will be subject to Medicare inflation rebates pursuant to the *Inflation Reduction Act (IRA)*. As part of this announcement, HHS and CMS identified 20 Part B rebatable drugs for which beneficiaries will have a lower coinsurance obligation.
- This announcement came shortly after Senator Jon Tester (D-MT) and Senate Finance Committee Chair Ron Wyden (D-OR) [led](#) 20 other Senate Democrats in a [letter](#) to Centers for Medicare and Medicaid Services (CMS) Administrator Chiquita Brooks-LaSure on March 13. In the [letter](#), the Senators requested the following information:
 1. A list of the common names of Medicare Part B medications that will be subject to a coinsurance reduction on April 1, 2023; and
 2. The percentage and amount of the coinsurance reduction for each Part B drug.



Health Care Updates – Implementation of the *Inflation Reduction Act (IRA)*

- Later on March 15, the CMS [released](#) initial guidance on the IRA’s Drug Price Negotiation Program; the guidance can be found [here](#). CMS is seeking comment on several components of the guidance by **April 14, 2023** to be considered for revised guidance. CMS anticipates issuing the revised guidance for the first year of negotiation in Summer 2023.
- On March 21, CMS [published](#) a “negotiation elements” information collection request (ICR), which includes the forms that:
 - Manufacturers of selected drugs *must* submit related to “manufacturer-specific data” (i.e., R&D, market data/revenue, unit costs of production/distribution, prior federal financial support, data on pending and approved patents/FDA exclusivities) and non-FAMP; and
 - Manufacturers of selected drugs and third-parties *may* submit related to evidence about alternative treatments.
- Comments on the negotiation data elements form and supporting documents are due by **May 22, 2023**.



Health Care Updates – White House Medicare Trust Fund Plan

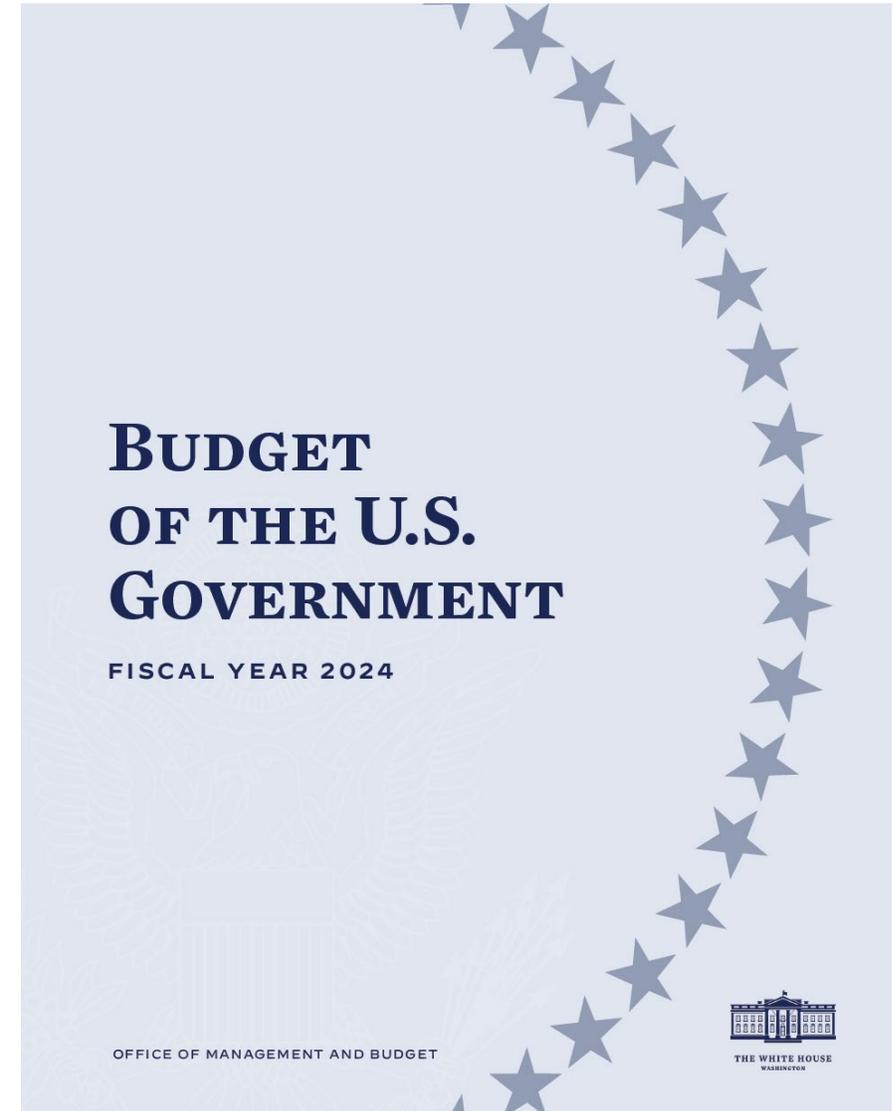
- On March 7, the White House unveiled a plan to extend the life of the Medicare Trust Fund. A fact sheet for this plan can be found [HERE](#).
- According to the Medicare Office of the Chief Actuary, the proposals in the President's FY 2024 Budget would extend the solvency of Medicare's Hospital Insurance (HI) Trust Fund by at least 25 years.
- The President's Medicare plan would:
 - Slightly increase the Medicare tax rate on income above \$400,000, from 3.8% to 5%.
 - Close loopholes in existing Medicare taxes and dedicates the Medicare net investment income tax to the Hospital Insurance (HI) Trust Fund.
 - Credit savings from IRA prescription drug reforms to the HI Trust Fund.
 - The plan would give the Administration expanded authority to negotiate the price the federal government pays for more drugs than those stipulated in the IRA passed last year.
 - The plan would also speed up the process for negotiations.
 - The White House states that its proposed prescription drug changes would bring in an additional \$200 billion in revenue for the Medicare trust fund.



Medicare

Health Care Updates – President Biden Releases FY 2024 Budget

- On March 9, President Biden released his [FY 2024 Budget](#). The President’s budget request is approximately \$6.9 trillion for the upcoming fiscal year, including \$688 billion in non-defense discretionary spending, and \$886 billion in defense spending.
- The budget proposal includes an 11% increase for HHS, and a 19% increase in the National Science Foundation (NSF).
- More specifically, the requested [HHS budget](#) includes \$144.3 billion in discretionary funding and \$1.7 trillion in mandatory funding for FY 2024. The budget also proposes to extend the solvency of the Medicare HI Trust Fund by at least 25 years.
- HHS [released](#) its FY 2024 Budget in Brief report, which can be found [here](#). The agency’s Budget in Brief provides detail and context for both mandatory and discretionary HHS spending in the President’s budget request.



Health Care Updates – 340B Proposal in HRSA’s Budget Justification

- On March 13, the Biden Administration released its [budget justification](#) for the Health Resources and Service Administration (HRSA) and its [budget justification](#) for CMS.
- HRSA’s budget justification includes a proposal “to strengthen compliance and transparency related to the utilization of contract pharmacies” in the 340 program. The text of the proposal is below:
 - **340B Drug Pricing Program Integrity: Establishment of Reporting Requirements and Definitions for the Use of Savings and Contract Pharmacy Utilization.** The FY 2024 Budget Request proposes to enhance 340B Program integrity by requiring covered entities to annually report to HRSA how the savings achieved through the Program benefits the communities they serve, and provide HRSA regulatory authority to implement this requirement. HRSA also proposes explicit regulatory authority to define necessary terms. HRSA is also proposing to strengthen compliance and transparency related to the utilization of contract pharmacies.



Health Care Updates – Congressional Hearings on Biden’s FY 2024 Budget

- Congressional Committees have held a series of hearings on President’s Biden’s FY 2024 Budget Request.
- Committee Members have raised a wide range of topics at the budget hearings, including (1) implementation of the IRA; (2) proposed reforms to the Medicare Advantage (MA) program; (3) COVID-19 oversight; (4) proposed reforms to how pharmacy benefit managers (PBMs) operate; (5) the U.S. Food and Drug Administration’s (FDA’s) accelerated approval pathway (AAP); (6) pandemic preparedness; and (7) surprise medical bills.
- Recent key budget hearings have included:
 - Senate Finance Committee – [March 22](#)
 - Senate Labor-HHS Appropriations Subcommittee – [March 22](#)
 - House Labor-HHS Appropriations Subcommittee – [March 28](#)
 - House Ways & Means Committee – [March 28](#)
 - House Energy & Commerce Health Subcommittee – [March 29](#)
 - House Agriculture-FDA Appropriations Subcommittee – [March 29](#)



Health Care Updates – Oversight of Pharmacy Benefit Managers (PBMs)

- On March 22, the Senate Commerce Committee held a [markup](#) on a variety of bills and also favorably reported the *Pharmacy Benefit Manager (PBM) Transparency Act of 2023* ([S. 127](#)), as [amended](#), by a vote of 18-9.
 - The legislation generally prohibits PBMs from engaging in certain practices when managing the prescription drug benefits under a health insurance plan, including charging the plan a different amount than the PBM reimburses the pharmacy.
- On March 30, the Senate Finance Committee held a [hearing](#) titled, “Pharmacy Benefit Managers and the Prescription Drug Supply Chain: Impact on Patients and Taxpayers.” During the hearing, Committee Members discussed PBM transparency issues, PBMs’ impact on pricing and costs, PBM impacts on insulin pricing, and other drug pricing matters.
 - During the hearing, Chairman Ron Wyden (D-OR) stated there is bipartisan interest on the Committee to evaluate the practices of PBMs, and noted that he and Ranking Member Mike Crapo (R-ID) have agreed to take on this issue.



Health Care Updates – House Energy & Commerce Committee Activity

- On March 28, the House Energy & Commerce (E&C) Subcommittee on Health held a [hearing](#) titled “Lowering Unaffordable Costs: Examining Transparency and Competition in Health Care.”
- Members and witnesses discussed a range of issues related to (1) health care price transparency, (2) the role PBMs play in increasing prescription drug costs, (3) consolidation in the health care industry, and (4) oversight of the 340B Drug discount Program.
- Full Committee Chairwoman Cathy McMorris Rodgers (R-WA) mentioned many hospitals have not complied with the [Hospital Price Transparency Rule](#), and criticized consolidation in the health care industry, stressing competition increases the affordability of medical services.
- Full Committee Ranking Member Frank Pallone, Jr. (D-NJ) also expressed concern about hospitals not complying with the Hospital Price Transparency Rule. He also asserted that increasing price transparency is insufficient without also increasing coverage and lowering service costs.
- Chairman Brett Guthrie (R-KY) urged Congress and the Biden Administration to work to increase transparency around PBMs.
- Ranking Member Anna Eshoo (D-CA) said she fully supports shining a light on bad actors in health care, but more must be done than calling them out.



House E&C Committee Chair
Cathy McMorris Rodgers (R-WA)

Health Care Updates – Senate HELP Hearing with Moderna’s CEO

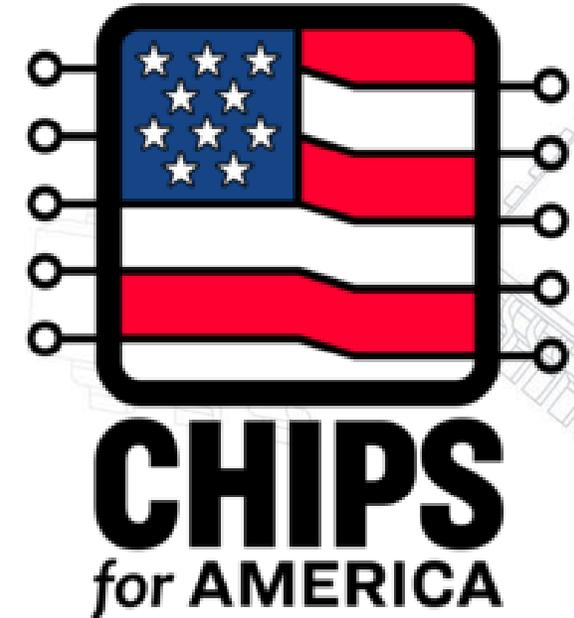
- On March 22, the Senate Health, Education, Labor, and Pensions (HELP) Committee held a [hearing](#) titled “Taxpayers Paid Billions For It: So Why Would Moderna Consider Quadrupling the Price of the COVID Vaccine?”
- Two panels testified at the hearing. The first panel featured Stéphane Bancel, the CEO and Director of Moderna, Inc.
- Chairman Bernie Sanders (I-VT) focused his opening statement on his frustration with “corporate greed” at the expense of the American people. He discussed the cost of prescription drug prices for consumers living in the U.S., compared to what patients in other countries pay for the same drugs. His line of questioning highlighted the role of the federal government, primarily through the National Institutes of Health (NIH), in the development of the Moderna COVID-19 vaccine.
- Ranking Member Bill Cassidy (R-LA) used his opening statement to share his concerns that the title of the hearing presumes guilt, sharing that the hearing should be used as a fact-finding mission to hear how Moderna determined the price of the COVID-19 vaccine. He emphasized his support for public-private partnerships, such as Operation Warp Speed that led to a COVID-19 vaccine in record time.



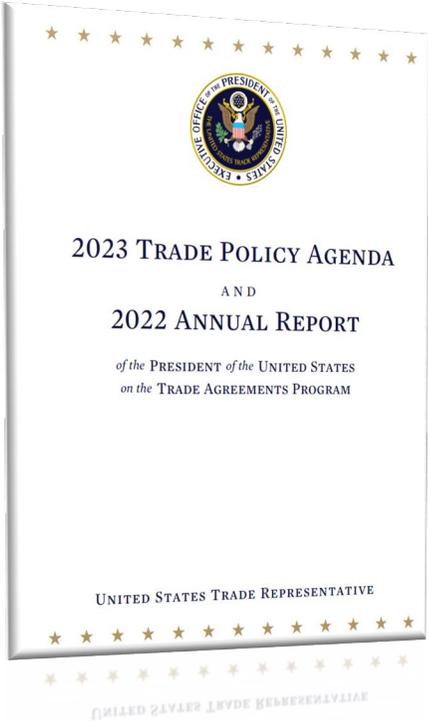
Senate HELP Committee Chairman
Bernie Sanders (I-VT)

CHIPS Act Update

- The Commerce Department started accepting CHIPS incentive award applications from leading-edge facilities on March 31.
- Current-generation facilities, including compound semiconductor facilities; mature-node facilities; and back-end production facilities can start submitting pre-applications and applications on May 1.
- The CHIPS [incentive application](#) was released on February 28.
- The five-part application process is designed to evaluate the technical and financial feasibility and economic impact of prospective projects. Funding will be directed towards projects that address the following six program priority areas:
 - Economic and National Security
 - Commercial Viability
 - Financial Strength
 - Project Technical Feasibility and Readiness
 - Workforce Development
 - Broader Impacts



Trade Update



Katherine Tai
U.S. Trade Representative



Senator Ron Wyden (D-OR)

- The Office of the U.S. Trade Representative released its 2023 [Trade Policy Agenda](#) and 2022 [Annual Report](#) at the beginning of March.
- U.S. Trade Representative Katherine Tai appeared before the House Ways & Means and Senate Finance Committees to defend the Administration’s trade policy agenda, including its commitment to non-traditional trade agreements. Members on both sides of the aisle criticized the Administration’s “go-it-alone” trade policy.
- Senate Finance Committee Chairman Ron Wyden (D-OR) has expanded his investigation into the auto industry’s diligence on forced labor to include first tier suppliers.

Tax Update

- The Ways and Means and Senate Finance Committees held hearings with Treasury Secretary Janet Yellin on the tax components of the [President's Budget Request](#) and [Treasury's Greenbook](#). The proposals included tax law changes to conform with Pillar Two, increasing excise taxes on stock repurchases, and expanding the child tax credit, among others. Notable, the proposals omitted repeals to R&D amortization requirements.
- Republicans in both chambers criticized the Greenbook's support for Pillar Two and the IRS adoption of "woke" auditing policies. Democrats noted the steep reduction of childhood poverty while the expanded Child Tax Credit was in place, and called for it to be renewed.
- Related to the Republican position on Pillar 2, Ways and Means Trade Subcommittee Chair Adrian Smith (R-NE) subsequently sent a nonpublic letter to the House Appropriations Committee urging them to suspend funding for the OECD, describing Pillar Two as contrary to American interests.



House Ways and Means Chairman
Jason Smith (R-MO)

Tax Update

- Senate Finance Committee members Maggie Hassan (D-NH) and Todd Young (R-IN) introduced legislation ([S.866](#)) to repeal R&D expense amortization requirements and expand research and development tax incentives.
- The Finance Committee held a hearing on the role of tax policy in affordable housing. Finance Committee Chair Ron Wyden (D-OR) indicated there is bipartisan support for a housing incentive reform package ([S. 680](#)).
- On March 9, the Senate confirmed Danny Werfel to serve as IRS Commissioner by a vote of 54-42. Several Republicans supported his nomination, including Chuck Grassley (R-IA), Todd Young (R-IN), Thom Tillis (R-NC), among others. Senator Joe Manchin (D-WV) opposed the nomination.



Senate Finance Committee Chairman
Ron Wyden (D-OR)

House Financial Services and Senate Banking Committees Focus on Bank Failures

- Lawmakers on the [House Committee on Financial Services](#) (HFSC) and the [Senate Banking Committee](#) held hearings last week to examine the bank failures at Silicon Valley Bank and Signature Bank and seek accountability and transparency from regulators.
- Democrats in both chambers are touting new legislation and urging bonus claw backs, fines, and debarment of executives from the industry.
- House Republicans, however, see this as an idiosyncratic event that may not require increased regulation, but are still gathering information, including at forthcoming HFSC oversight hearings.
- Additionally, there is some bipartisan discussion about raising the FDIC insurance limit, but the Chairman of the HFSC, Representative Patrick McHenry (R-NC), has been cool to the idea.



House Financial
Services Chairman
Patrick McHenry (R-NC)



Senate Banking
Chairman
Sherrod Brown (D-OH)

Energy Update

- The House of Representatives passed the *Lower Energy Costs Act* ([H.R. 1](#)) by a largely party-line vote of [225 – 204](#). One Republican, Representative Brian Fitzpatrick (R-PA) voted against the package, and four Democrats voted for the legislation.
- The legislation would ban bans on fracking, repeal any prohibition on the import or export of natural gas, repeal the greenhouse gas reduction fund at the EPA, and repeal certain royalty fees imposed on fossil fuel production on public lands.
- On passage, Energy and Commerce Chair Cathy McMorris Rogers (R-WA) noted, “This legislation is about unleashing American energy. It is about making sure America is producing more domestic energy.”
- In turn, Senate Majority Leader Chuck Schumer (D-NY) noted the bill was a “wish list for Big Oil” and as “as bad and partisan as it gets.” He declared the bill was a “nonstarter” in the Senate.
- Still, rumors persist that elements of the legislation might be included in any final debt ceiling bill.



E&C Chair Cathy McMorris-Rogers (R-WA)

California: Key Legislative Updates



- **Governor Newsom signs new legislation on oil industry pricing and profits**

- The legislation was introduced in a special session the Governor called for late last year.
- Industry will now be required to submit pricing data to the California Energy Commission for analysis.
- The Commission is authorized to determine if a price cap is necessary and penalize oil refiners' profits.

- **Bill Hearings**

- Committee hearings are ongoing to consider new legislation. Fiscal Bills must be heard and moved out of policy committees by April 28th, non-fiscal bills by May 5th.
- Key bills of note showing momentum through the legislative process:
 - AB 496 – prohibits manufacturing or selling cosmetics with specified intentionally added ingredients, including some PFAS.
 - SB 234 – requires colleges, universities and public schools, as well as stadiums, concert venues, and amusement parks, to stock doses of naloxone, the generic form of the opioid overdose reversal drug Narcan.
 - SB 28 – places a school maintenance and repair bond on the March 2024 ballot.
 - SB 98 – funds schools based on enrollment, not attendance.

California: Other Hot Topics



- **Budget Deficit**

- Revenues continue to miss projections – February tax income was \$1.4 billion below expectation.
- Shortfall is due largely to a decrease in corporate taxes, which fell \$990 million short of estimates.
- Tax receipts for the fiscal year now sit \$4.7 billion below the January budget forecast.
- According to the Legislative Analyst’s Office, there is a 74% chance that revenues will fall below the Governor’s planned spending for the current fiscal year.
- Key date: Department of Finance will update deficit projections in May, that will inform the Governor’s May Revise Budget.

- **Easing Drought Restrictions**

- A series of storms since December have drenched California – and now many of its reservoirs are at or near capacity.
- In late March, Department of Water Resources officials also announced that they expect to be able to provide at least 75% of requested deliveries for the year, up from an earlier projection of 35%.
- The U.S. Drought Monitor, which six months ago categorized most of the state as in extreme drought, now labels only parts of Northern and Southern California as in moderate drought, with central and coastal California out of drought conditions.

Current Trends that Impact the 2023 Political Landscape



Other Factors that Impact the 2023 Political Landscape



Businesses Added More Jobs in February Than Expected

- On March 10, the U.S. Department of Labor’s Bureau of Labor Statistics [announced](#) (1) total nonfarm payroll employment increased by 311,000 in February 2023 and (2) the unemployment rate rose slightly to 3.6%.
 - Economists had expected an increase of 225,000 jobs in February, so the February jobs report exceeded expectations.
 - The December 2022 number was revised down by -21,000 to 239,000, and the January 2023 number was revised down by -13,000 to 504,000.
- Average hourly earnings were up 0.2% for February, below the estimate of 0.4. Wages are up 4.6% from a year ago.
- The employment report for March 2023 will be [released](#) on April 7.



Sources: U.S. Bureau of Labor Statistics, Dept. of Labor; CNBC

Inflation is Still Persistent

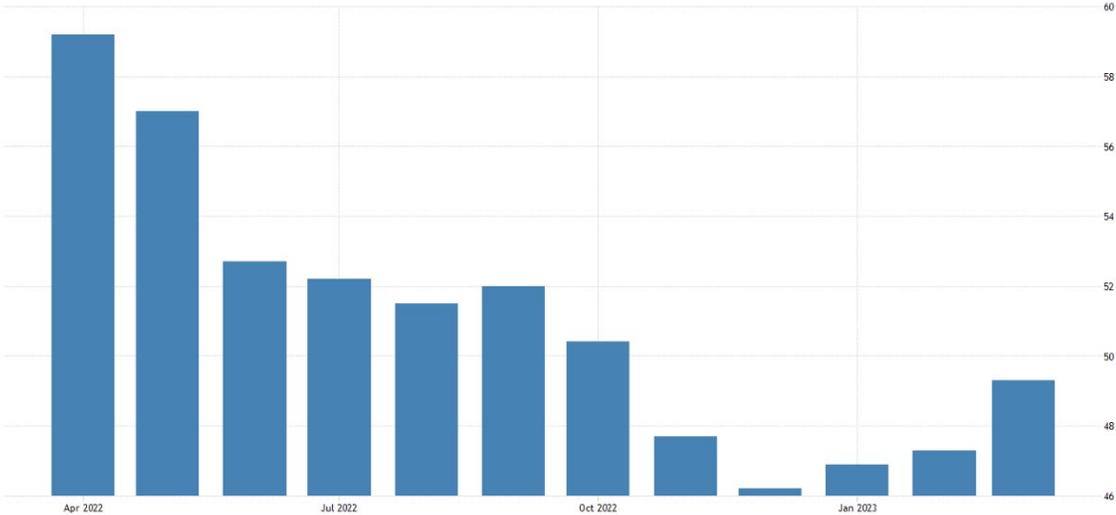
- On March 14, the US Bureau of Labor Statistics announced the Consumer Price Index (CPI) [increased](#) 0.4% in February 2023 from the previous month.
 - This follows a 0.5% increase in January 2023.
- The Bureau of Labor Statistics also reported that the CPI [increased](#) 6.0% from February 2022.
- The CPI data for February was in line with economists' expectations.
- “Core CPI,” which excludes food and energy prices, rose by 0.5% in February, 0.1% higher than estimates.
- Energy CPI decreased by 0.6% from the previous month, while food prices increased by 0.4% and shelter costs increased by 0.8%.
 - Shelter costs make up about one-third of the CPI's weighting.
- The CPI report for March 2023 will be [released](#) on April 12.



Manufacturing PMI

- The S&P Global Flash US Manufacturing Purchasing Managers Index (PMI) rose slightly from 47.3 in February 2023 to 49.1 in March 2023.
- The slight increase is due to a renewed rise in production and the inflationary pressures softening amid less marked supplier price hikes and moderations in some raw material costs
- There was also a big improvement in supplier delivery times.
- PMI all-time high – 63.4 in July 2021.
- PMI all-time low – 36.1 in April 2020.

United States Manufacturing PMI



Sources: Trading Economics and Markit Economics

Thank you



Arnold & Porter

www.arnoldporter.com