

# Arnold & Porter

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

**March 2023**

# This Month's Capital Snapshot Deck Includes

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

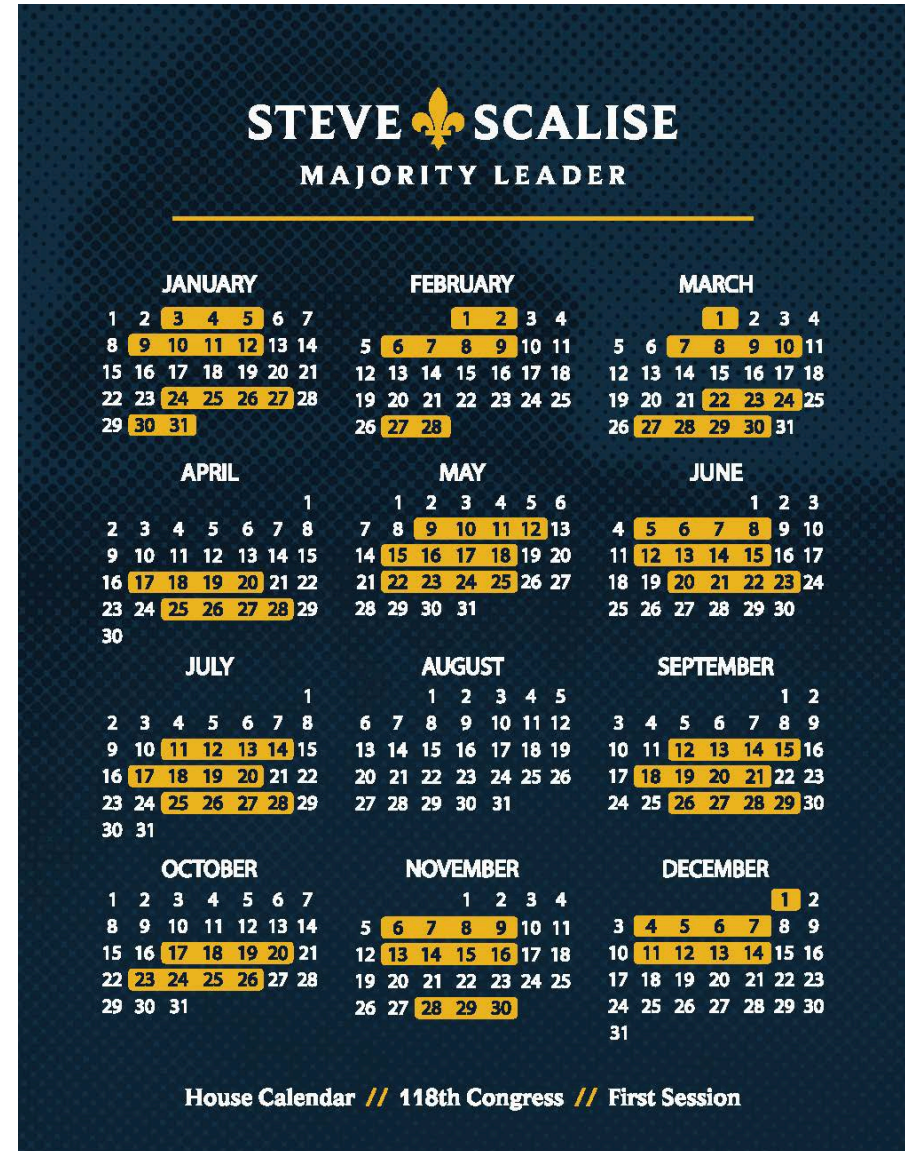
# Congressional Schedule for March 2023

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# 2023 House Calendar

- There are 12 legislative days scheduled in the House for March.
- The House will be on recess during the week of March 13.
- The House will have two short weeks to accommodate party retreats.
  - The House Democratic Retreat took place from March 2-3.
  - The House Republican Retreat will take place from March 20-21.
- There are 95 legislative days left in the House in 2023.



# 2023 Senate Calendar

- There are 19 legislative days scheduled in the Senate for March.
- The Senate will not take a recess week in March, though the week of March 13 will be a three-day work week and the week of March 20 will be a four-day work week.
- There are 129 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**

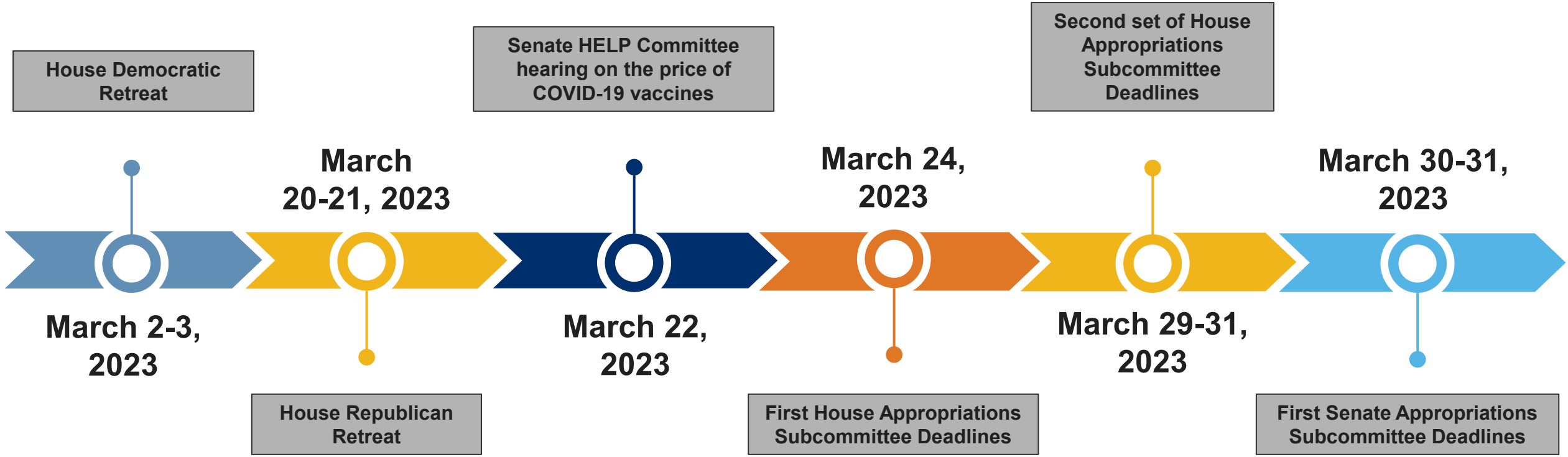
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<small>SENATE CONVENES JANUARY 3, 2023</small>																				
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29	30	31	26	27	28	29	30	24	25	26	27	28	29	30						
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Red dates = Senate not in session

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

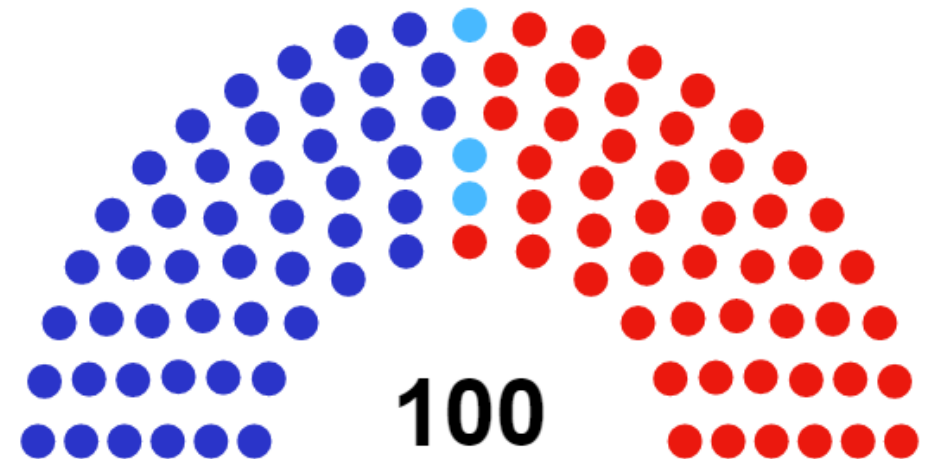
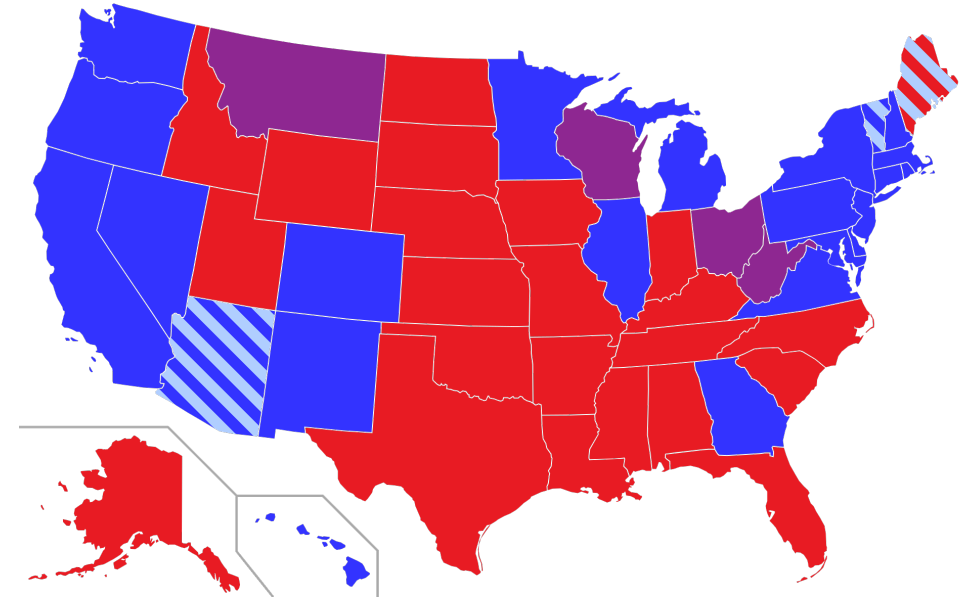
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# Congressional Schedule March 2023



# Current Senate – 118<sup>th</sup> Congress

- Democrats have a 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.
- Sen. Patty Murray (D-WA) replaced the retired former Sen. Patrick Leahy (D-VT) as the President Pro Tempore of the Senate. She is the first female President Pro Tem in history.



Source: Parliament Diagram Tool

# 2024 Senate Retirements and Campaigns

- On February 14, longtime Senator Dianne Feinstein (D-CA) formally [announced](#) her retirement, saying she will [not run](#) for re-election in 2024.
- Senator Feinstein is the oldest sitting U.S. senator and member of Congress, and she is also the longest-tenured female senator.
- Representatives Adam Schiff (D-CA), Katie Porter (D-CA), and Barbara Lee (D-CA) have all recently announced their respective candidacies for Senator Feinstein's open Senate seat.



**Sen. Dianne Feinstein (D-CA)**



**Rep. Adam Schiff  
(D-CA)**



**Rep. Katie Porter  
(D-CA)**



**Rep. Barbara Lee  
(D-CA)**



# 2024 Senate Retirements and Campaigns

- Senator Debbie Stabenow (D-MI) also recently [announced](#) her retirement.
- On February 27, Representative Elissa Slotkin (D-MI) [announced](#) she is running for Senator Stabenow's Senate seat.
- No Republicans have declared their candidacy for this seat yet.
  - Current U.S. Representative John James (R-MI) will reportedly not run for this open Senate seat and will instead seek re-election for a second House term.
  - Representative James was the Republican nominee in the U.S. Senate elections in Michigan in both 2018 and 2020.



**Sen. Debbie Stabenow (D-MI)**



**Rep. Elissa Slotkin (D-MI)**

# 2024 Senate Retirements and Campaigns

- On February 22, Senator Jon Tester (D-MT) [announced](#) he is running for re-election in 2024.
- Senator Tester, who is a farmer and butcher, is a moderate Democrat who represents the Republican-leaning state of Montana in the Senate.
- Many of the Democrats' hopes of holding onto the Senate in 2024 depend on Senator Tester's ability to win re-election in a state that former President Donald Trump won by 16 points in 2020.
- Potential Republican candidates to challenge Senator Tester are:
  - Representative Matt Rosendale (R-MT)
  - Representative Ryan Zinke (R-MT)
  - Governor Greg Gianforte (R-MT)



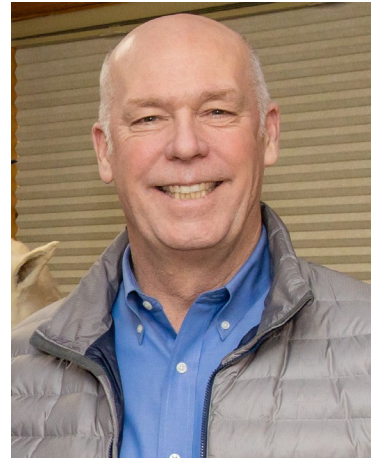
**Sen. Jon Tester (D-MT)**



**Rep. Matt Rosendale  
(R-MT)**



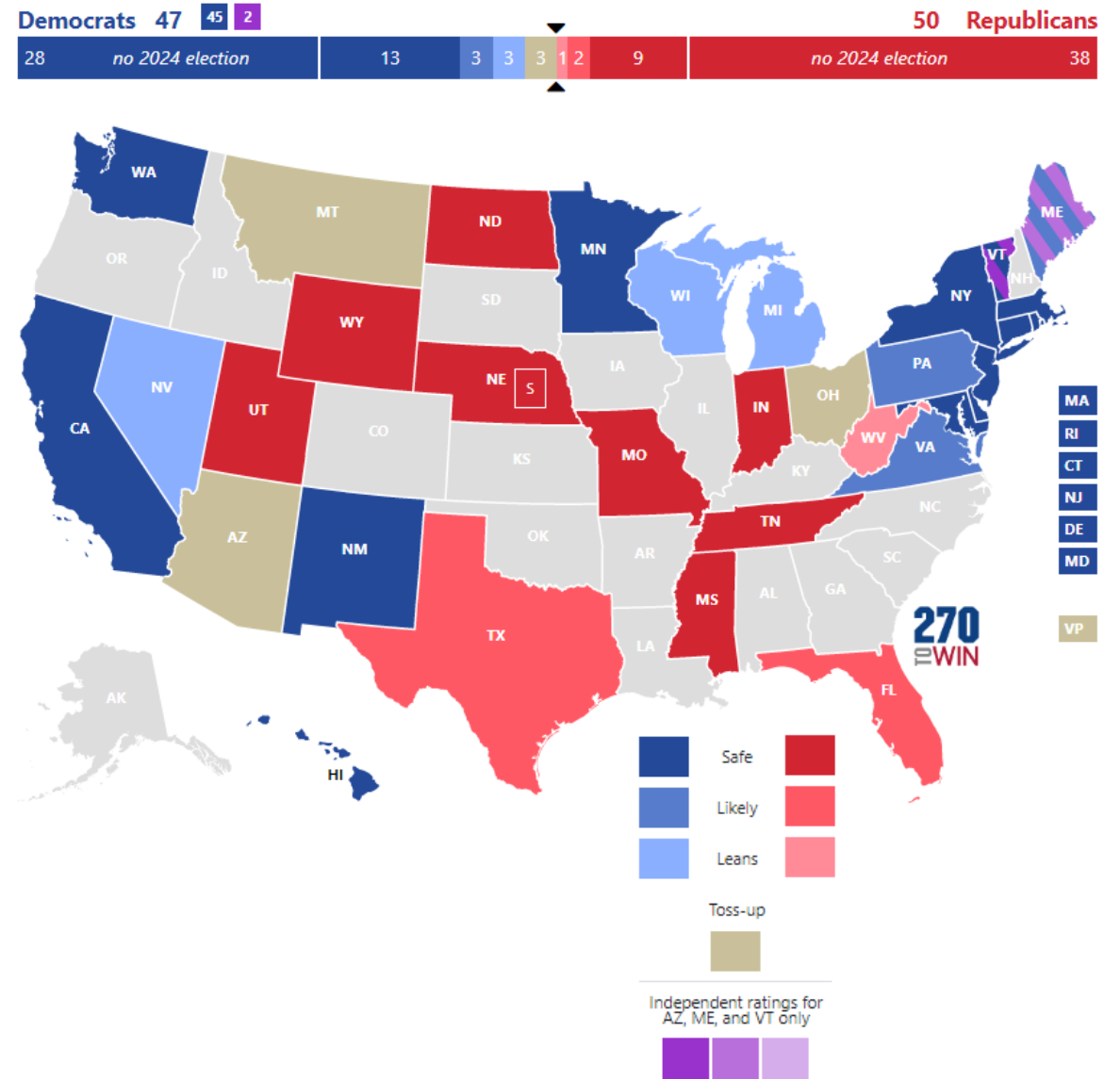
**Rep. Ryan Zinke  
(R-MT)**



**Gov. Greg Gianforte  
(R-MT)**

# Senate 2024 Outlook

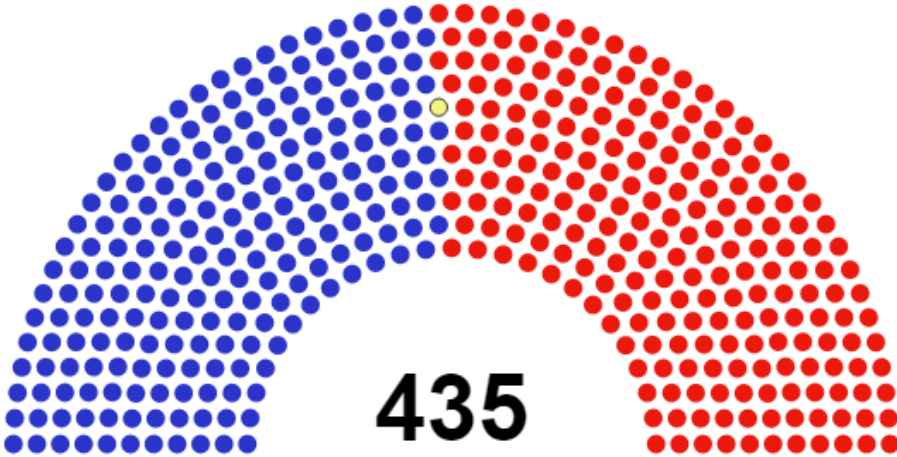
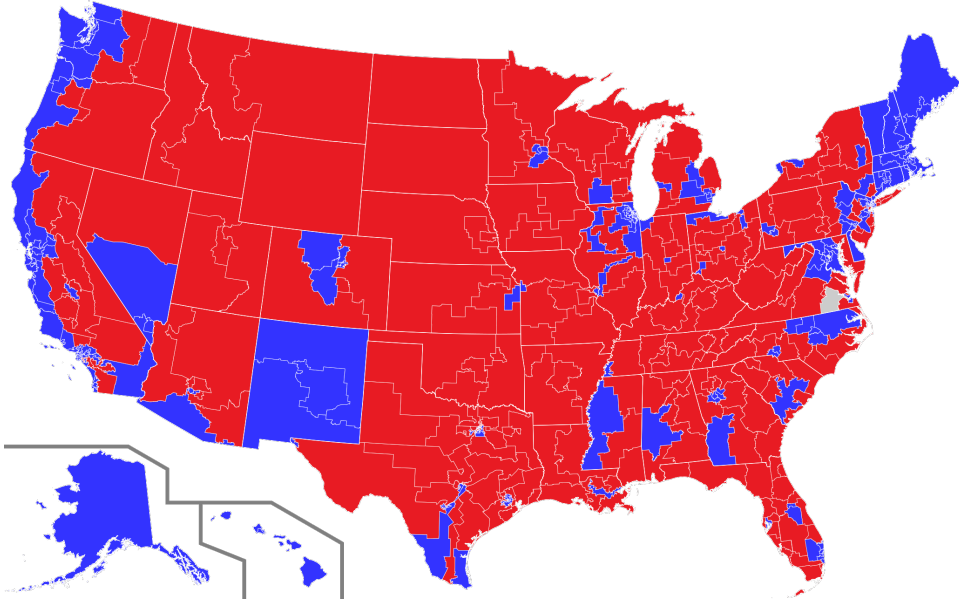
- Democrats currently only have a narrow majority and have a very difficult Senate map for 2024.
- Three Democratic incumbents are from states which former President Trump won in both 2016 and 2020 (Montana, Ohio, and West Virginia).
- Democrats will also be defending seats in other competitive states such as Arizona, Nevada, Michigan, Pennsylvania, and Wisconsin.
- There are 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.”  
 Republicans are already starting the 2024 cycle with a likely 50 seats in hand.
  - 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 – 118<sup>th</sup> Congress

- Republicans hold a four-seat majority (222-212) in the House, with one open seat.
- The 2022 Republican midterm victory is an exact mirror image of the Democrats' 222-213 victory in the 2020 election.



Source: Parliament Diagram Tool

# Virginia's 4<sup>th</sup> Congressional District – Special Election

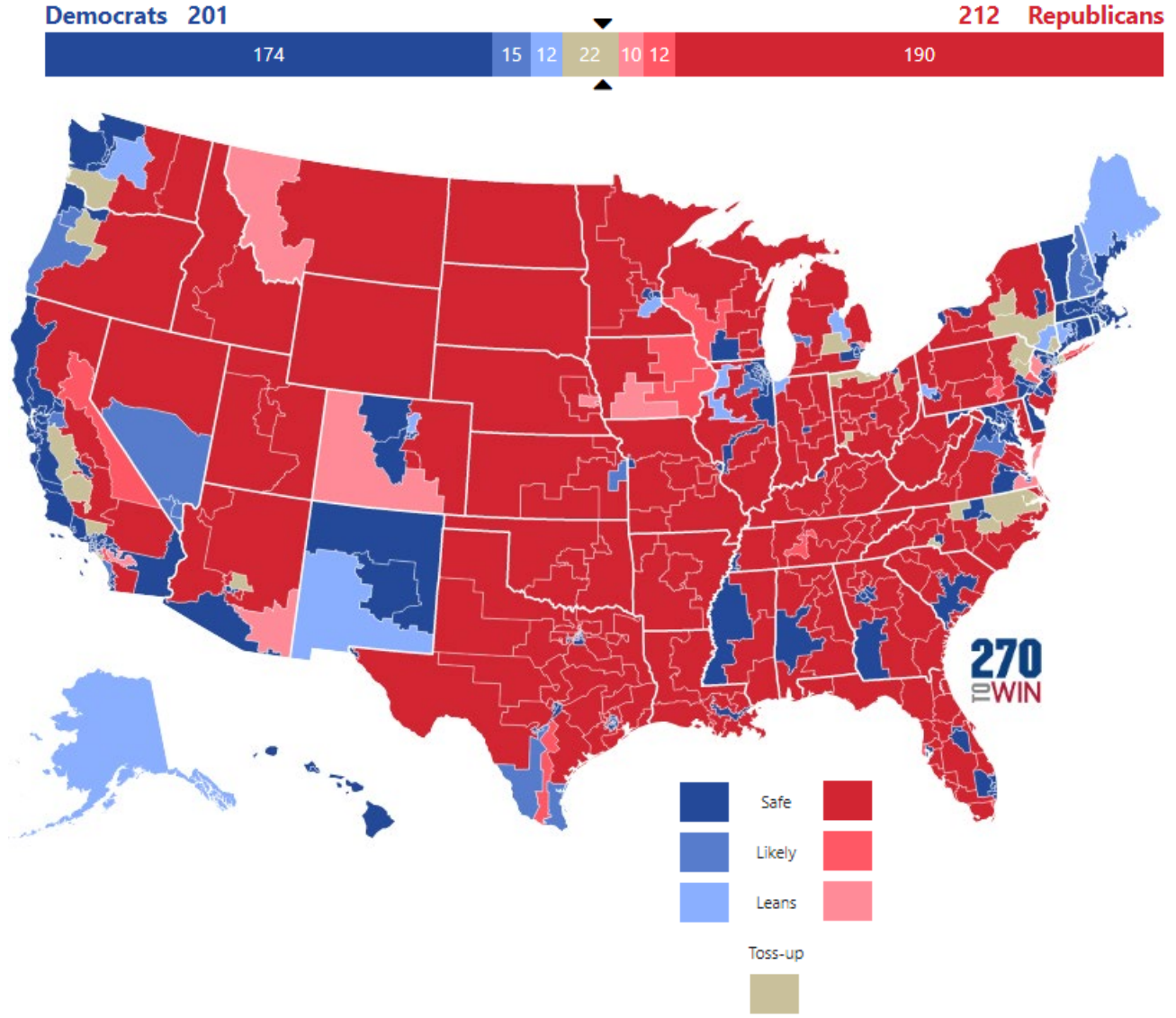
- On February 21, a special election was held to elect a new member of Congress from Virginia's 4th Congressional District, following the death of Representative Donald McEachin (D-VA) who passed away in November 2022 after a battle with colorectal cancer.
- State Senator Jennifer McClellan (D-VA) won the special election by a margin of [74.4% - 25.5%](#), defeating Republican nominee Leon Benjamin, Sr. (R-VA).
  - Representative-elect McClellan won this “safe Democratic” seat by 49 points. In 2022, Democrats won this seat by 30 points.
- Representative-elect McClellan is expected to be sworn in next week, making the new House party breakdown 222 Republicans and 213 Democrats.
  - It will also be the first time that the House will be at its full capacity of 435 members since September 23, 2019.



**Congresswoman-elect  
Jennifer McClellan (D-VA)**

# House 2024 Outlook

- Republicans currently have a small majority of 222 – 212 (soon to be 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 and Overviews

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# FY 2024 Appropriations

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- The FY 2024 appropriations processes have commenced with the release of guidance by both the Senate and House Appropriations Committees. 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 the 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](#).



# FY 2024 Appropriations

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## Notable Changes in the House:

- **Reduction in spending on earmarks:** While members can still request up to 15 projects, the total amount for Community Project Funding (aka earmarks) will not exceed one half of one percent of discretionary spending. For comparison, the Senate limits spending on earmarks to one percent of discretionary spending, which is consistent with the last two fiscal years.
- **Elimination of earmark accounts:** The most significant change taken by the House is the elimination of all earmarks under jurisdiction of the Labor, Health and Human Services, Education subcommittee. This includes accounts to support employment and workforce training, healthcare services, equipment and facilities, elementary and secondary education programs, and higher education. A full list of House FY 2024 earmark accounts can be found [here](#).



House Appropriations Chairwoman  
Kay Granger (R-TX)

# FY 2024 Appropriations

## Notable Changes in the House:

- **Restrictions on Eligible Recipients:** While the House maintains a ban on for-profit recipients of Community Project Funding, it also further restricts eligible recipients under certain accounts. For example, the guidance for the Economic Development Initiatives account under the Transportation-Housing and Urban Development Subcommittee further restricts recipients by explicitly prohibiting specific public and non-profit projects – e.g., the account will not support investments in museums, healthcare facilities, and venues strictly for entertainment purposes.
- **Federal Nexus:** The House Appropriations Committee has committed to only funding projects with a “federal nexus,” which they define as projects tied to a federal authorization law. This is more specific but similar to requirements from the last two fiscal years that tied account eligibility to federal statutes associated with federal programs, such as the Community Development Block Grant Program. Under the House guidance, members will be required to provide a written statement describing the federal nexus for each project they are requesting.



House Appropriations Chairwoman  
Kay Granger (R-TX)

# FY 2024 Appropriations – Senate Submission Deadlines

Subcommittee	Date
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies	March 31, 2023
Commerce, Justice, Science, and Related Agencies	April 5, 2023
Defense <i>(no earmarks)</i>	April 14, 2023
Energy and Water Development	March 30, 2023
Financial Services and General Government	March 31, 2023
Homeland Security	April 11, 2023
Interior, Environment, and Related Agencies	April 4, 2023
Labor, Health and Human Services, Education, and Related Agencies	April 13, 2023
Legislative Branch <i>(no earmarks)</i>	March 30, 2023
Military Construction, Veterans Affairs, and Related Agencies	April 7, 2023
State, Foreign Operations, and Related Programs <i>(no earmarks)</i>	April 12, 2023
Transportation, Housing and Urban Development, and Related Agencies	April 6, 2023

# FY 2024 Appropriations – House Submission Deadlines

Subcommittee	Date
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies	March 24, 2023
Commerce, Justice, Science, and Related Agencies	March 31, 2023
Defense <i>(no earmarks)</i>	March 29, 2023
Energy and Water Development	March 31, 2023
Financial Services and General Government <i>(no earmarks)</i>	March 24, 2023
Homeland Security	March 29, 2023
Interior, Environment, and Related Agencies	March 24, 2023
Labor, Health and Human Services, Education, and Related Agencies <i>(no earmarks)</i>	March 24, 2023
Legislative Branch <i>(no earmarks)</i>	March 24, 2023
Military Construction, Veterans Affairs, and Related Agencies	March 31, 2023
State, Foreign Operations, and Related Programs <i>(no earmarks)</i>	March 24, 2023
Transportation, Housing and Urban Development, and Related Agencies	March 31, 2023

# FY 2024 National Defense Authorization Act (NDAA) Process

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**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 FY 2024 process will kick off with the President’s budget request release, expected **March 9**. After that, the House and Senate Armed Services Committees (HASC/SASC) will begin scheduling their annual budget hearings with each military service component. Then, HASC and SASC will draft respective versions of the NDAA and hold committee markups, likely 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. Typically, Congress approves a larger number over what the President requests. For example, in FY 2023 Congress allocated \$45 billion more than President 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 spending with House Republicans in the majority.



# Russia's Invasion of Ukraine

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- February 24 marked the one year anniversary of Russian President Vladimir Putin's invasion of Ukraine.
- In the past year, the U.S. has responded with several military and humanitarian aid packages as well as an aggressive sanctions campaign against Russia, coordinating with allies.

## *What's Next:*

- Military support for Ukraine has wide bipartisan, bicameral support, with some GOP members looking for the Biden Administration to speed up arms shipments, including F-16 fighter jets, to Kyiv.
- Some House Republican members have begun oversight measures of Ukrainian aid, asking for evidence that money and weapons are being utilized correctly. To date, the Defense Department has assured Congress that there has been no mishandling of Ukrainian aid.
- Department of Defense officials have signaled to Congress the need for an emergency funding bill by the end of 2023 to continue sending weapons to Ukraine. Despite GOP budgetary concerns, we expect this to pass Congress by the end of the year but believe it will be included in an eventual FY 2024 omnibus package, not as an emergency bill.



# The Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party

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- The China Select Committee held its organizational meeting on February 28.
- Witnesses to the Select Committee will need to disclose a wide variety of economic and financial data to ensure transparency to prevent any potential conflicts of interest.
- The Select Committee also held its first hearing on the Chinese Communist Party’s “Threat to America” on February 28. The witnesses were:
  - Matthew Pottinger, Former U.S. Deputy National Security Advisor ([Link](#))
  - H.R. McMaster, Former U.S. National Security Advisor ([Link](#))
  - Tong Yi, Chinese Human Rights Advocate ([Link](#))
  - Scott Paul, President of the Alliance for American Manufacturing ([Link](#))





# CHIPS Act Update

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- The Commerce Department released the CHIPS for America Program [funding application](#) for commercial fabs 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
- In a speech on February 23, Commerce Secretary Raimondo outlined the goals of the program, which include developing two new leading-edge logic chip fabs, developing high volume advanced packaging facilities, producing leading high volume memory chips, and increasing production capacity for current and legacy chips.



U.S. Commerce Secretary  
Gina Raimondo

# Healthcare Updates – Implementation of the Inflation Reduction Act (IRA)

- As part of the IRA implementation process, CMS has released the following items in recent weeks:
  - Medicare Part B and D inflation rebate [guidance](#).
  - Information collection request ([ICR](#)) for the IRA’s “small biotech drug” exception.
  - [ICR](#) for the Part D Manufacturer Discount Program.
  - [Guidance](#) for the Medicare Prescription Drug Inflation Rebate Program.
- On February 14, CMS [announced](#) that Health and Human Services (HHS) Secretary Xavier Becerra selected three new models for testing by the Center for Medicare & Medicaid Innovation (CMMI).
- The three new models are described in a [report](#) from CMMI:
  - The Medicare \$2 Drug List
  - The Cell and Gene Therapy Access Model
  - The Accelerating Clinical Evidence Model
- This CMMI report was completed in response to President Biden’s Executive Order 14087, “[Lowering Prescription Drug Costs for Americans](#),” which is meant to complement the Inflation Reduction Act (IRA).
- Following the passage of the IRA, this action confirms that the Biden Administration plans to pursue additional actions to lower drug prices.



# Healthcare Updates – Republican Oversight of the IRA

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- On February 23, Senate Finance Committee Ranking Member Mike Crapo (R-ID), House Energy and Commerce (E&C) Committee Chair Cathy McMorris Rodgers (R-WA), and House Ways and Means (W&M) Chair Jason Smith (R-MO) [sent](#) a letter to HHS Secretary Xavier Becerra and CMS Administrator Chiquita Brooks-LaSure regarding implementation of the IRA.
- Specifically, the committee leaders request detailed information regarding a \$3 billion implementation fund that was included in the IRA.
- Congressional Republicans are expected to continue oversight of the IRA during each stage of implementation.



# Healthcare Updates – Biopharmaceuticals Intellectual Property (IP) Legislation

- On February 9, the Senate Judiciary Committee [favorably reported](#) five bills pertaining to biopharmaceuticals' intellectual property (IP) rights. These bills were all previously introduced in the 117<sup>th</sup> Congress and were considered on a [bipartisan](#) basis.
- Legislation considered:
  - Interagency Patent Coordination and Improvement Act of 2023 ([S. 79](#));
  - Prescription Pricing for the People Act of 2023 ([S. 113](#));
  - Preserve Access to Affordable Generics and Biosimilars Act ([S. 142](#));
  - Stop STALLING Act ([S. 148](#)); and
  - Affordable Prescriptions for Patients Act of 2023 ([S. 150](#))
- Despite all five bills advancing by voice vote, some committee members expressed concern about disrupting the patent system and creating market uncertainty and disincentivizing research and development, and a desire to see further improvements to the text. Before these bills reach the Senate floor, there could be changes to these bills that address some of these concerns.
- The bills represent the first significant biopharmaceutical-related legislation to advance through Committee this year, and their bipartisan list of supporters indicates potential further movement even in a divided Congress.



# Healthcare Updates – Oversight of Pharmacy Benefit Managers (PBMs)

- On March 1, House Oversight and Accountability Committee Chairman James Comer (R-KY) [announced](#) the committee is launching an investigation into pharmacy benefit managers' (PBMs) role in rising U.S. prescription drug prices.
- As part of his investigation, Chairman Comer is calling on officials from the Office of Personnel Management (OPM), CMS, and the Defense Health Agency (DHA) to provide materials to determine the extent to which PBMs' tactics impact federal healthcare programs.
- Additionally, Chairman Comer is also calling on the largest PBMs, including CVS Caremark, Express Scripts, and OptumRx, to provide documents, communications, and information related to their practices.
- There is bipartisan support for increased scrutiny over the business practices of PBMs, including from Senate Commerce Chair Maria Cantwell (D-WA) and Sen. Chuck Grassley (R-IA), as well as House E&C Committee leadership, so there will likely be multiple congressional investigations and inquiries into PBMs this Congress.



House Oversight and Accountability Committee Chairman  
James Comer (R-KY)

# Healthcare Updates – Senate HELP Committee Priorities

- On February 15, Senate HELP Committee Chairman Bernie Sanders (I-VT) [published](#) a staff report titled “the Pharma Pandemic Profiteers.”
- The [report](#) claims the reason for disproportionately higher prescription drug prices in the U.S. is “unprecedented corporate greed.”
- Chairman Sanders also announced a [hearing](#) to be held on March 22, 2023 with Moderna CEO Stéphane Bancel titled, “Taxpayers Paid Billions For It: So Why Would Moderna Consider Quadrupling the Price of the COVID Vaccine?”
- These recent actions by Chairman Sanders point to an aggressive pharmaceutical industry oversight agenda for the HELP Committee in the 118<sup>th</sup> Congress.



Senate HELP Committee Chairman  
Bernie Sanders (I-VT)

# Healthcare Updates – House GOP COVID-19 Oversight

- On February 8, House Energy and Commerce (E&C) Subcommittees on Health and Oversight & Investigations held an [oversight hearing](#) on the federal response to COVID-19.
- The hearing focused on Republican-led oversight inquiries into COVID-19 origins and discussed various “lessons learned” from the COVID-19 public health emergency (PHE).
- On March 1, Rep. Brad Wenstrup (R-OH), Chairman of the House Oversight and Accountability Committee’s Select Subcommittee on the Coronavirus Pandemic, [announced](#) the subcommittee will hold its first hearing of the 118th Congress: “Investigating the Origins of COVID-19.” It is scheduled for March 8.
- These hearings demonstrate that COVID oversight will continue to be a pillar of the broader House GOP agenda during the 118<sup>th</sup> Congress.



# Healthcare Updates – Other Key Items

- On February 28, House E&C Health Subcommittee Ranking Member Anna Eshoo (D-CA) and Rep. Richard Hudson (R-NC) [released](#) a Request for Information (RFI) in preparation of the upcoming *Pandemic and All Hazards Preparedness Act* (PAHPA) reauthorization by September 30, 2023.
  - Responses to the [RFI](#) are due March 13.
  - House E&C plans to consider PAHPA by Memorial Day, but could face delays.
- On February 28, the House Ways and Means Committee marked up and [approved](#) the Committee's oversight plan for the 118<sup>th</sup> Congress.
  - The full list of matters that fall under the Committee's jurisdiction can be found [here](#).
- Congressional Republicans asked the Congressional Budget Office (CBO) to rescore the *Improving Seniors' Timely Access to Care Act* ([H.R. 3173](#) / [S. 3018](#), 117<sup>th</sup>) before they reintroduce the bill. The legislation would overhaul Medicare Advantage prior authorization.
  - CBO issued an unofficial score of \$10 billion in response. This figure is higher than congressional Republicans had hoped for, but is lower than the \$16 billion CBO score from last September.





# The House Financial Services Committee (HFSC)

Committee Chairman Patrick McHenry (R-NC) outlined HFSC's near-term priorities:

- **Capital Formation – package of bipartisan measures to promote capital formation**
  - The **Accredited Investor Definition Review Act** would amend the Dodd-Frank Act's definition of "accredited investor."
  - The **Increasing Investor Opportunities Act** would prohibit limitations on closed-end companies investing in private funds.
  - The **Small Entrepreneurs Empowerment and Development (SEED) Act** would provide small securities issuers with a micro-offering exemption free of mandated disclosures or offering filings.
  - The **Improving Capital Allocation for Newcomers Act** would ease restrictions and increase the number of qualifying venture capital funds in the Investment Company Act of 1940.
  - The **Unlocking Capital for Small Businesses Act** would create a safe harbor for finders and private placement brokers.
  - The **Investment Opportunity Expansion Act** would add additional investment thresholds for an individual to qualify as an accredited investor.
- **Data Privacy – first bill addressing privacy in the 118th Congress, enforcement will be sticking point**
  - The **Data Privacy Act** would modernize financial privacy protections for consumers' data and preempt state laws.
- **Digital Assets – discussions ongoing**
  - Committee expected to reintroduce bill on stablecoins.



# Tax Update

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- The Ways and Means Committee held its first field hearing on the Appalachian economy, reflecting the populist tilt of Chair Jason Smith (R-MO). The Committee plans to hold a similar field hearing focused on manufacturing in Oklahoma City, OK on March 7<sup>th</sup>.
- The Committee began its oversight agenda with a hearing on unemployment fraud during COVID-19. The Committee will also investigate how individual taxpayer information was leaked to *ProPublica*, among other topics.
- Rep. Smith sent a [letter](#) on February 10 to the Organization for Economic Co-Operation and Development Secretary Manal Corwin arguing the OECD's global tax agreement disadvantages the U.S. He also argued the deal would be ineffective in combatting Chinese economic influence.
- The Committee outlined their [Views and Estimates and Oversight plan](#) in a pair of letters adopted on party line votes.



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

# Tax Update

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- Senate Finance Committee Chair Ron Wyden (D-OR) has maintained his support for the Child Tax Credit (CTC) and social spending programs at the expense of tax breaks like a repeal of research and development amortization requirements.
- The Senate Finance Committee hosted a hearing on the nomination of Danny Werfel to lead the IRS. Werfel's nomination was supported by Democrats and Senator Thom Tillis (R-NC), who is emerging as a key bipartisan leader on the Committee. A vote on Mr. Werfel's nomination has been scheduled for March 2.
- Internationally, a growing number of jurisdictions have committed to adopting the Pillar Two 15% minimum tax, including Japan, Singapore, and Hong Kong. Secretary Cormann described negotiations surrounding Pillar One as being at a "critical point" in a [report](#) to the G20.



Senate Finance Chair  
Ron Wyden (D-OR)

# Biden's Student Loan Forgiveness Plan Faces Court Challenge

- On February 28, the Supreme Court heard oral arguments in the lawsuits challenging the Biden Administration's student loan forgiveness plan.
- Oral arguments showed most conservative justices were skeptical of the legality of the Administration's actions, while the liberal justices saw a clear connection to the authority granted by Congress under the 2003 HEROES Act. Not all justices tipped their hat on the question of standing in the cases.
- The Supreme Court is likely to issue its opinion in the case by the end of June, but it could come sooner.
- The current extension of the student loan payment pause is dependent upon the outcome of the case, given the Department of Education's previous announcement it will end the pause 60 days after the resolution of the Supreme Court case or by August 30 if the case is not resolved by June 30.



# Education Department Releases New Higher Education Guidance

- On February 15, the Department of Education released a “[Dear Colleague Letter](#),” which makes changes to the transparency requirements for contracts between institutions of higher education and third-party servicers.
- The new guidance expands the scope of the original definition of third-party servicers to include any servicers providing:
  - Functions of student recruiting and retention,
  - Software products and services involving Title IV administration activities, and
  - Educational content and instruction.
- The guidance, which would require all third-party servicer agreements to be reported to the Department of Education by September 1, 2023, stemmed from calls from congressional Democrats for additional oversight requirements for these third-party servicers, including online program management (OPM) companies.
- Stakeholders can provide comments on the guidance until March 30, 2023.



U.S. Secretary of Education Miguel Cardona

# Education-Related Congressional Updates

- House Republicans, led by House Education and the Workforce Chairwoman Virginia Foxx (R-NC), continue to address issues surrounding access and transparency in K-12 and higher education, including conducting oversight on issues related to parental rights and student loans.
- As one of her top priorities this Congress, Chairwoman Foxx is drafting a bill to reauthorize the Higher Education Act (HEA), which was last reauthorized in 2008.
- House Republicans also are interested in prioritizing workforce development programs, which could lead to the reauthorization of the Workforce Innovation and Opportunity Act (WIOA) taking place at the same time as – or woven into – HEA reauthorization given their overlapping interests.
- The Senate Health, Education, Labor, and Pensions Committee leaders have not indicated their education priorities for this Congress as they have been focused on health issues so far this year.



House Education and the Workforce Chairwoman  
Virginia Foxx (R-NC)

# California: Legislative Session

- **California's State Legislative Session 2023**
  - Start of a two-year session, so bills that fail to make it to the Governor's desk will have a chance next year.
  - Approximately 2,600 bills introduced with 1,000 as "intent" or "spot" bills waiting for substance to be inserted.
  - First House Deadlines:
    - Fiscal Bills must be heard and moved out of policy committees by April 28, non-fiscal bills by May 5 . Fiscal committees must move bills by May 19 and all bills must pass out of their house of origin to the other house by June 2.
  - Second House Deadlines:
    - Budget Bill must be passed by the Legislature by midnight June 15, although Budget Trailer bills filling in the budget will be passed later in session.
    - Policy committee deadline is July 14; fiscal committees must move bills by September 1; September 14 is the last day for bills to pass out of either house to the Governor.
  - Governor Deadlines:
    - Governor generally has 12 days to sign or veto a bill that passes out of the Legislature, but →
    - Governor must sign or veto bills passed by the Legislature on or before Sep. 14 and in his possession after Sep. 14 acted by October 14. Unlike federal law, if the Governor fails to act, the bill becomes law.



# California: Legislative Session



- **California's State Legislative Session**

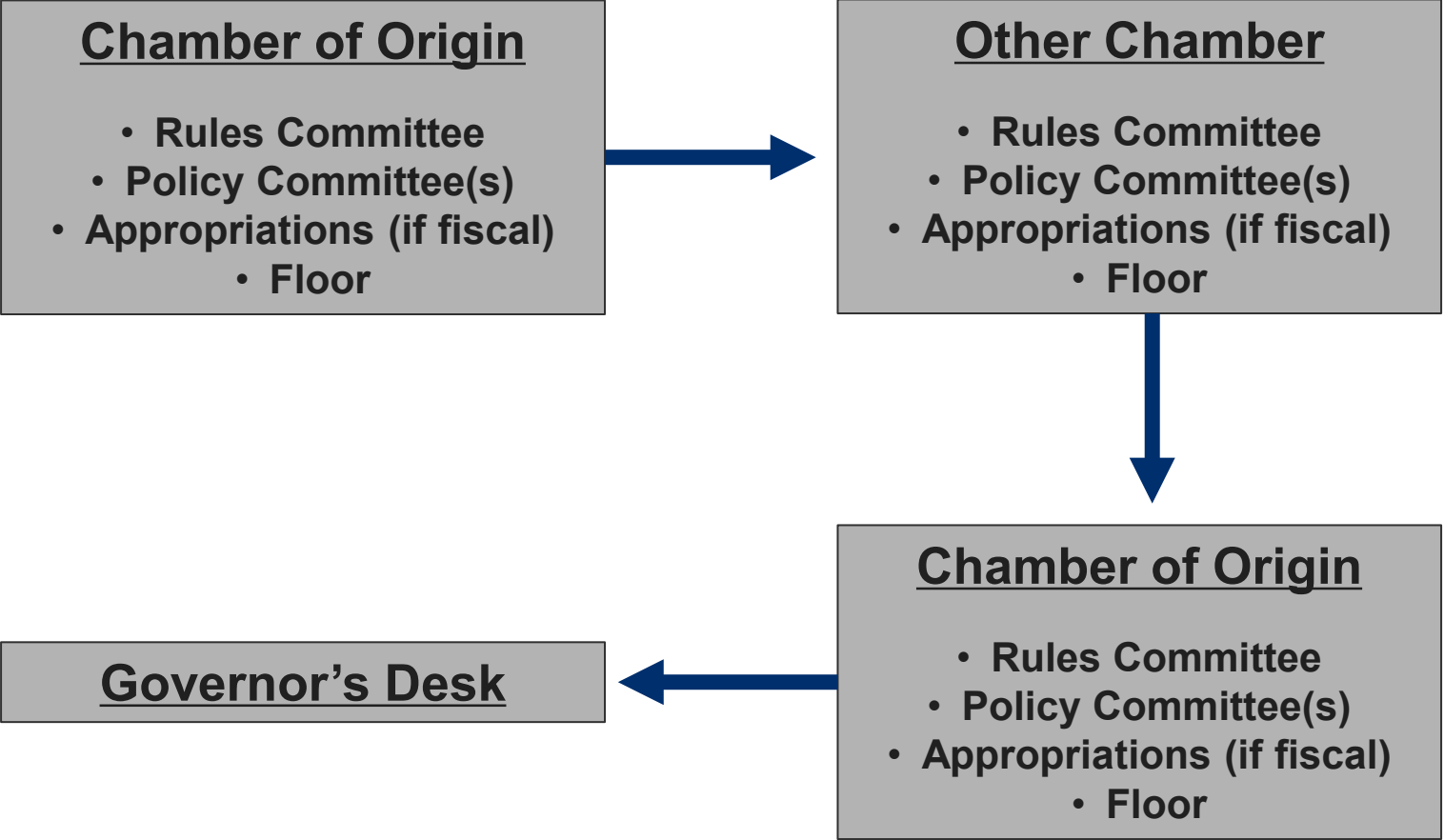
- CEQA legislation will feature prominently
  - California Environmental Quality Act (CEQA) requires state and local government agencies to analyze potential environmental impacts of proposed projects, reduce those environmental impacts to the extent feasible and inform public/decision makers. (Public Resources Code Section 21000 *et seq.*)
  - CEQA is self-enforcing. The law is enforced through public litigation which has been often used to stop projects by claiming a violation of the CEQA process, including housing projects.
- *Make UC a Good Neighbor v. Regents of University of California* (A165451): an appellate court upheld a challenge to much-needed student housing at UC Berkley over the adequacy of an environmental impact report (EIR) to consider alternative sites and, more significantly, “it failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus.”
- With the state housing shortage, this case has caused Governor Newsom to declare that CEQA needs to change and he is committed to working with the Legislature on it.

- **Other issues featuring prominently in introduced legislation:**

- Fentanyl and opioid abuse
- Healthcare
- Homelessness
- Housing
- Climate Change
- Education



# Simple Overview of the California Legislative Process



Thank you



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