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

June 2022

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This Month's Capital Snapshot

- The policy and political timeline for June, and a look at the remaining 2022 Congressional Calendar.
- An overview of top policy and legislative priorities over the course of the next few months.
- An overview of the current state of play for key primary elections ahead of the 2022 midterm elections.
- A look into polling numbers, trends and approval ratings—and what these can tell us about the current political landscape and Americans' views on current affairs.

Congressional Schedule and Priorities for June 2022

Remaining Days in Congress

House

- 11 legislative days scheduled for June
- 23 legislative days until August recess
- 51 legislative days left in 2022

Senate

- 14 legislative days scheduled for June
- 34 legislative days until August recess
- 86 legislative days left in 2022

Congressional Schedule and Priorities for June 2022

Early to Mid-June

Potential Senate votes on gun control legislation

Early to Mid-June

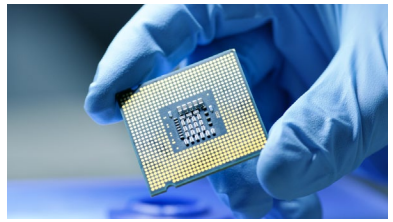
Senate HELP markup on FDA User Fee Agreements Reauthorization

Mid to Late-June

Possible Senate vote on a bipartisan bill to cap out-of-pocket insulin costs

Mid to Late-June

Continuation of the conference process for USICA/America COMPETES Act



Late-June

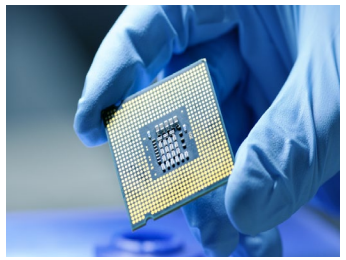
Potential vote on a COVID-19 Supplemental bill

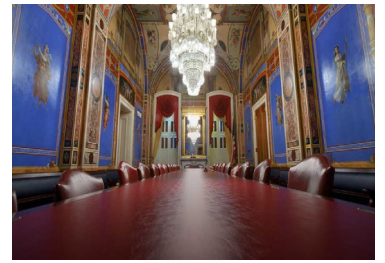
Late-June

Possible House floor consideration of the House E&C FDA UFA Reauthorization Package

Congressional Agenda for June

- Possible Vote on a Bill Related to Insulin Costs
- Potential Negotiations on a Smaller *Build Back Better* bill
- House and Senate Conference on USICA/America COMPETES Act
- Possible Votes on Gun Control Legislation
- FDA User Fee Amendments Reauthorization Process
- COVID-19 Supplemental Funding
- FY 2023 Budget & Appropriations Considerations (House Markups)





Update on a Possible Reconciliation Package

- In recent weeks, Sen. Joe Manchin (D-WV) has indicated he could be open to a "skinnier" reconciliation bill that addresses the following policy areas:
  - Inflation and deficit reduction
  - Prescription drug pricing reform
  - Climate and energy spending
- Sen. Manchin reiterated these policy priorities at the World Economic Forum in Davos, Switzerland on May 23.
- When discussing the possibility of Democrats pursuing a party-line reconciliation bill, Sen. Manchin said there is "***a responsibility and opportunity that we can do something***," possibly indicating that he could be open to reaching a deal with the rest of the Senate Democratic Caucus.
- Sen. Manchin stated the 2017 Trump tax cuts were "weighted unfairly," and briefly debated the issue with Sen. Roger Wicker (R-MS).
- Sen. Manchin has had a few recent meetings with Senate Majority Leader Chuck Schumer (D-NY) to discuss inflation and tax reform.
- Any potential deal that Senate Democrats reach with Sen. Manchin will also have to be approved by Sen. Kyrsten Sinema (D-AZ). Sen. Manchin and Sen. Sinema differ on various tax policies.

Sen. Joe Manchin

Update on Possible Reconciliation Package

- Many Democrats are expressing deep concern over the fact that the enhanced Affordable Care Act (ACA) subsidies that were enacted through the *American Rescue Plan Act* are set to expire at the end of 2022.
- If these subsidies, known as the advance premium tax credits (APTCs), expire, then premiums for plans on the ACA Marketplace will rise for American families, significantly for some.
- On May 23, Rep. Lauren Underwood (D-IL) led a group of 26 moderate and swing-district House Democrats in sending a letter to House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Schumer to urge them to permanently extend the enhanced ACA subsidies in any upcoming reconciliation legislation.
  - The signers of the letter also ask for the ACA tax credits to be expanded to cover Medicaid-eligible residents in states that have refused to expand Medicaid, which is optional under the ACA.
- Sen. Manchin has indicated a willingness to extend the premium ACA subsidies in the past, provided they are adequately paid for under any legislative package.

Rep. Lauren Underwood

US Response to Russia's Invasion of Ukraine

- During the week of May 23, Congress enacted a $40.1 billion aid package for Ukraine.
  - The package contains $19 billion of near-term military aid to restock Ukraine's weapons stockpile and address short-term food needs in the region.
  - About $16 billion of the package is for humanitarian assistance, general support to the Ukrainian government and efforts to mitigate the effects of the war globally.
- The Defense Department also submitted a reprogramming request to allow funding to shift toward additional munitions, combat-vehicle repair, and communications and IT gear for Special Operations personnel to advise the Ukrainian military.
- Ukraine is likely to continue its requests for US Reaper drones and the Multiple Launch Rocket System (MLRS) to counter Russia's long-range artillery.
- We expect Congress to pass another aid package for Ukraine before November, heading into elections.

State of Education: Student Loan Relief

- **The Biden Administration continues to look for ways to relieve the debt burden for student loan borrowers beyond the current moratorium on payments and interest for federal student loans, which is set to expire September 1. In May 2022:**
  - The White House and Department of Education are in active discussions to consider forgiving $10,000 for federal student loan borrowers, which may only apply to borrowers earning less than a certain income threshold (such as $125,000 or $150,000).
  - A group of progressive Democratic Senators, including Senate Majority Leader Chuck Schumer (D-NY), recently met with President Biden to push for $50,000 in forgiveness for all borrowers, but the president has said previously he is not open to the $50,000 figure.
  - Republicans continue to oppose widespread student loan cancellation and argue the president does not have the authority to unilaterally cancel student loans. They have introduced several pieces of legislation to restrict the federal government from forgiving student loan debt.
  - Beyond forgiveness, the Department of Education also is looking at ways to streamline and improve income-driven repayment (IDR) plans to ensure more borrowers can take advantage of the relief provided as part of IDR plans.

State of Education: Looking Forward

- **We expect Congress and the Biden Administration to take action on other education-related issues in the coming months, including:**
  - **School Safety**
    - In light of the recent tragedy in Uvalde, Texas, we expect continued conversations about how to improve school safety.
    - The Senate is planning to bring two pieces of legislation to the floor to expand background checks for gun sales. These bills are unlikely to garner the 60 votes needed to pass in the Senate.
  - **Title IX Regulations Updates**
    - The Department of Education has again delayed the release of the Title IX draft rule, which is now expected to be published in June 2022.
    - The proposed rule is likely to reverse the Trump-era Title IX rule, which gave additional rights to students accused of sexual misconduct, including the ability to question their accuser through an adviser.
    - The new rule is likely to include additional protections for LGBTQ+ students.
  - **Child Care Legislation**
    - There is a narrow window for Democrats to pursue a reconciliation package in the coming weeks, and an even narrower window for childcare support to be included.
      - Senators Patty Murray (D-WA) and Tim Kaine (D-VA) are working to revamp a childcare proposal to be included that expands coverage through the Child Care and Development Block Grant (CCDBG).

Bipartisan Infrastructure Law: May 2022 Funding Announcements

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act into law. The law includes more than $1.2 trillion in funding to improve traditional and next-generation infrastructure. Federal agencies are releasing authorized funding, including these highlights:

- **Department of Energy**
  - **$7 billion** in funding to support the processing, manufacturing and recycling of electric vehicle batteries and components.
  - **$2.5 billion** to establish a program of research, development and demonstration for carbon storage projects.
  - **$2.5 billion** to facilitate the construction of electric power transmission lines to enable clean energy solutions and provide low-cost clean energy to Americans.

- **Department of Transportation**
  - **$12.5 billion** for the Bridge Investment Program, which establishes a grant program to improve the conditions, safety and reliability of bridges.
  - **$5 billion** to improve the safety of roads to prevent roadway deaths and serious injuries.
  - **$1 billion** for a grant program to repair, rehabilitate or replace natural gas distributions pipeline systems.

Bipartisan Infrastructure Law: Looking Forward

- **We expect the White House to announce additional grant programs and opportunities throughout the summer and fall of 2022, including the following significant programs:**
  - **Department of Energy**
    - **$8 billion** in funding for the Regional Clean Hydrogen Hubs program, expected August/September 2022.
    - **$1 billion** to establish a program to develop, demonstrate and commercialize a clean-hydrogen program aimed at reducing the cost of producing clean hydrogen using electrolyzers, expected August/September 2022.
  - **Department of Transportation**
    - **$5 billion** in funding to develop safety improvements and encourage the expansion of passenger and freight rail infrastructure, expected August 2022.
    - **$1 billion** in grants for the Reconnecting Communities Pilot Program, which supports the replacement and retrofitting of transportation infrastructure that creates barriers to mobility and economic development, expected June 2022.
    - **$500 million** for a grant program for communities to conduct demonstration projects focused on advanced and "smart" transportation solutions, expected September 2022.
  - **Department of Commerce**
    - **$42.5 billion** in funding to deploy high-speed broadband in rural, underserved and unserved areas, expected fall 2022.

WTO TRIPS Waiver Status

- On May 3, WTO Director General Ngozi Okonjo-Iweala circulated a compromise TRIPS waiver proposal that was negotiated by the United States, EU, South Africa, and India.
- During a May 10 General Council meeting, China said it would only support the compromise waiver if the final agreement removed the original language that would exclude countries that have exported at least 10% of the world's COVID-19 vaccines in 2021. China also said it would opt out of using the waiver.
- On May 16, the United States said any TRIPS waiver must explicitly exclude China.
- On May 16, text-based negotiations started with 30 members; after two informal TRIPS Council meetings, major differences remain.
  - India pushed to have the compromise waiver cover diagnostics and therapeutics, while the EU insisted there is a delicate balance in the text that should not be upset.
  - The African Group also argued the compromise waiver should be broadened to include therapeutics and diagnostics and argued the waiver should last for at least five years.
- It is unclear whether the TRIPS Council will be able to reach consensus before the 12th Ministerial Conference.

China Competition Legislation Status

Background: On February 4, the House of Representatives passed the America COMPETES Act, incorporating substantial elements of the US Innovation and Competition Act passed by the Senate in June 2021. The two chambers have since entered into a conference committee process to resolve their differences.

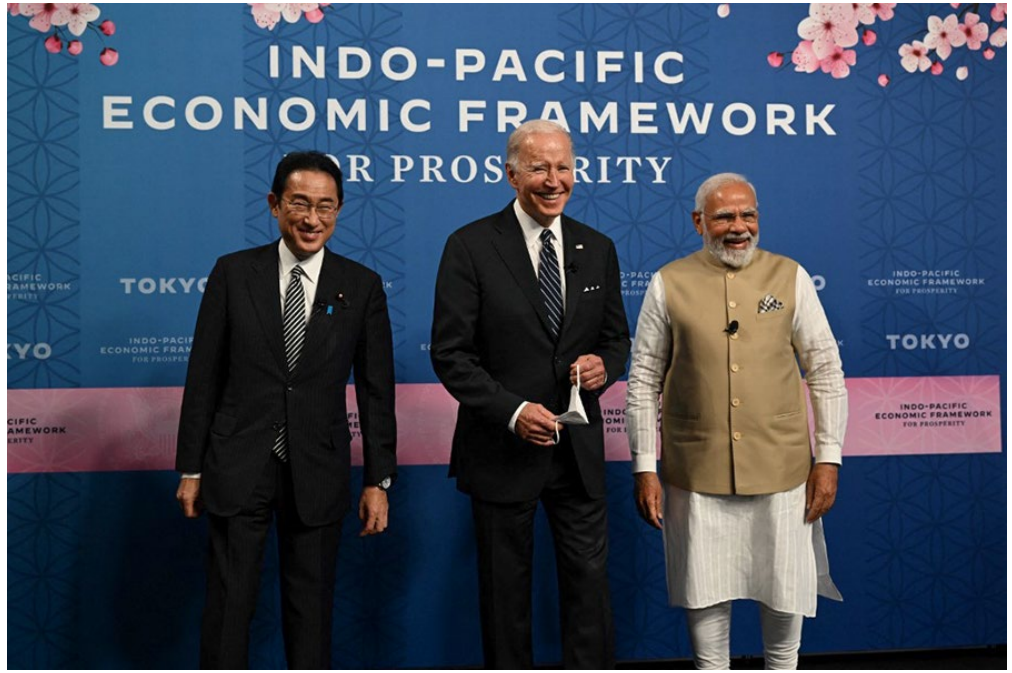
Conference Committee: The 107-member Conference Committee is tasked with reconciling differences in the two bills. It held its first meeting on May 12, 2022, when 94 of the conferees participated. Many conferees focused on the opportunity and need for the $52 billion in funding for semiconductor research, development and manufacturing.

Trade divisions: There are significant differences in the legislation's trade title. This week, staff-level working groups are attempting to make progress in bridging those gaps.

Outlook: Conferees continue to hope to bridge their differences and enact the conference report sometime this summer.

Launch of the Indo-Pacific Economic Framework

Background: On May 23, President Biden launched the Indo-Pacific Economic Framework (IPEF) with Australia, Brunei, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam at an event in Tokyo. (Fiji later joined the IDEF.) The partner nations represent roughly 40% of global GDP, and the effort signals US desire to counterbalance China's engagement in the region.



Four Pillars: The Framework is divided into four "pillars"—thematic areas of policy engagement:

- **Connected Economy**: Trade issues generally, with a focus on digital trade, and labor and environment standards.
- **Resilient Economy**: Supply chain and price stability issues.
- **Clean Economy**: Clean energy, decarbonization and related infrastructure issues.
- **Fair Economy**: Rules relating to tax, anti-money laundering and anti-bribery regimes

Key Health Care Developments: FDA User Fee Agreements

- The House Energy and Commerce (E&C) and Senate Health, Education, Labor and Pensions (HELP) Committees continue to consider draft legislation to reauthorize the US Food and Drug Administration (FDA) User Fee Agreements (UFAs):
  - (1) the Biosimilar User Fee Amendments (BsUFA); (2) the Prescription Drug User Fee Act (PDUFA); (3) the Generic Drug User Fee Act (GDUFA); and (4) the Medical Device User Fee Amendments (MDUFA)
- The FDA UFAs programs provide funding to FDA to ensure the agency has the staffing and bandwidth needed to review, assess and approve biomedical products in a timely manner.
- These User Fee programs must be reauthorized every five years. The current UFAs expire on September 30, 2022.
- The House E&C Committee passed its FDA UFA reauthorization package during a markup on May 18.
- The Senate HELP Committee released a discussion draft of its FDA UFA reauthorization package on May 17 and formally introduced the package on May 26.

Key Health Care Developments: FDA User Fee Agreements (cont'd)

- While the Senate HELP and House E&C UFA bills both reauthorize PDUFA, GDUFA, BsUFA, and MDUFA, there are currently significant differences between the bills.
- The following policy areas are included in the House bill, but not the discussion draft of the Senate bill: (1) clinical trial diversity; (2) generic drug competition; (3) FDA inspection authorities; and (4) research, development and the supply chain.
- The following policy areas are included in the discussion draft of the Senate bill, but not the House bill: (1) diagnostics and in-vitro clinical testing reform (inclusion of an amended version of the previously introduced *Verifying Accurate Leading-edge IVCT Development (VALID) Act*); (2) exclusivity for biosimilar biological products; (3) cosmetics reform; and (4) dietary supplements reform.
- The Senate HELP Committee is expected to mark up its FDA UFA package in early to mid-June.
- The deadline to get a bicameral package to the president's desk remains the August recess. The House may move its bill to the floor as early as this month.

Key Health Care Developments: Other Major Priorities

- The *PREVENT Pandemics Act*
  - This legislation, introduced by Senate HELP Committee Chair Patty Murray (D-WA) and Ranking Member Richard Burr (R-NC), includes provisions to improve the country's public health infrastructure, medical preparedness and response systems.
  - The bill has been marked up by the Senate HELP Committee and was favorably reported to the Senate floor.
- Mental Health Legislation
  - House E&C Committee Chairman Frank Pallone, Jr. (D-NJ) and Ranking Member Cathy McMorris Rodgers (R-WA) introduced the *Restoring Hope for Mental Health and Well-Being Act of 2022*. The bill reauthorizes mental health and substance use disorder programs at the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Health Resources and Services Administration (HRSA).
  - The bill was marked up by the House E&C Committee and favorably reported to the House floor on May 18.
  - The Senate Finance and HELP Committees have identified mental health legislation as a top priority and are working on legislative packages.
- Advanced Research Projects Agency for Health (ARPA-H)
  - $1 billion in funding was appropriated for ARPA-H in the 2022 omnibus spending package.
  - On May 25, HHS Secretary Xavier Becerra established ARPA-H within the National Institutes of Health (NIH).
  - Rep. Anna Eshoo's (D-CA) bill, the *ARPA-H Act*, would establish ARPA-H as an independent entity within HHS. It was favorably forwarded to the House floor on May 18.
- COVID-19 Supplemental Funding
  - In April, Senate Majority Leader Chuck Schumer (D-NY) and Sen. Mitt Romney (R-UT) reached a deal on a $10 billion bipartisan COVID-19 supplemental funding bill, which would provide funding for vaccines, therapeutics, diagnostics, and medical products.
  - The supplemental would be fully offset by repurposing unspent COVID-related funds, mainly from the *American Rescue Plan Act*.
  - A vote on the Senate's bipartisan COVID supplemental funding bill continues to be delayed due to partisan disagreements related to the package's topline budget and Title 42 policy.

Dynamic Policymaking Environment for Digital Assets

- November 2021, President Biden signed the *Infrastructure Investment and Jobs Act* (PL 117-58), including tax reporting requirements for crypto exchanges (others); this served as a wake-up call to industry.
- March 2022, President Biden signed Executive Order "Ensuring Responsible Development of Digital Assets." The EO placed heavy focus on guarding against risk: Consumer, investor, business, illicit finance, and systemic. It included a notable push for the creation of a central bank digital currency. It also directed interagency reporting, with the majority of these reports due in September 2022.
- Congressional views are in flux. Six committees claim substantive jurisdiction: House Financial Services, Senate Banking, House and Senate Agriculture, Senate Finance, and House Ways & Means. Still others claim jurisdiction over externalities such as mining's climate impact.

Dynamic Policymaking Environment for Digital Assets (cont'd)

- Following the midterm elections, there appear to be three substantive priorities: Stablecoin regulation; tax treatment of crypto transactions and lending; and, more remotely, adjustments to SEC and CFTC authority.
- **Stablecoins**: Proposals seek to establish (1) disclosure requirements for assets backing issued coins and (2) government oversight, including possible insured depository institution-like requirements.
- **Tax Treatment for Crypto**: Calls included excluding from income certain de minimis transactions; tax treatment of crypto lending. The Biden administration will likely seek additional tax reporting requirements.
- **Key Agencies**: Legislatively, there is a developing consensus on the need for safe harbor from securities registration for certain tokens. The SEC is regulating by enforcement and recently doubled its crypto enforcement unit. Likewise, CFTC has advised that it needs more authority and resources to oversee crypto spot markets. This outlook suggests future action by bank regulators regardless of congressional action.

The Select Committee to Investigate the January 6th Attack on the US Capitol

- The Select Committee to Investigate the January 6th Attack on the US Capitol is continuing its work of investigating the facts, developments, circumstances, and causes pertaining to the January 6, 2021 attack on the US Capitol during the validation of the 2020 presidential election results.
- The January 6th Committee includes seven Democrats, with Rep. Bennie Thompson (D-MS) as the chair.
- The Committee also has two Republicans: Rep. Liz Cheney (R-WY) (Vice Chair) and Rep. Adam Kinzinger (R-IL).
- Over the past few months, the Committee has been conducting interviews with key witnesses.
  - The Committee has conducted more than 1,000 interviews.
- In recent weeks, Donald Trump, Jr., Ivanka Trump and Jared Kushner all provided voluntary testimony before the Committee.

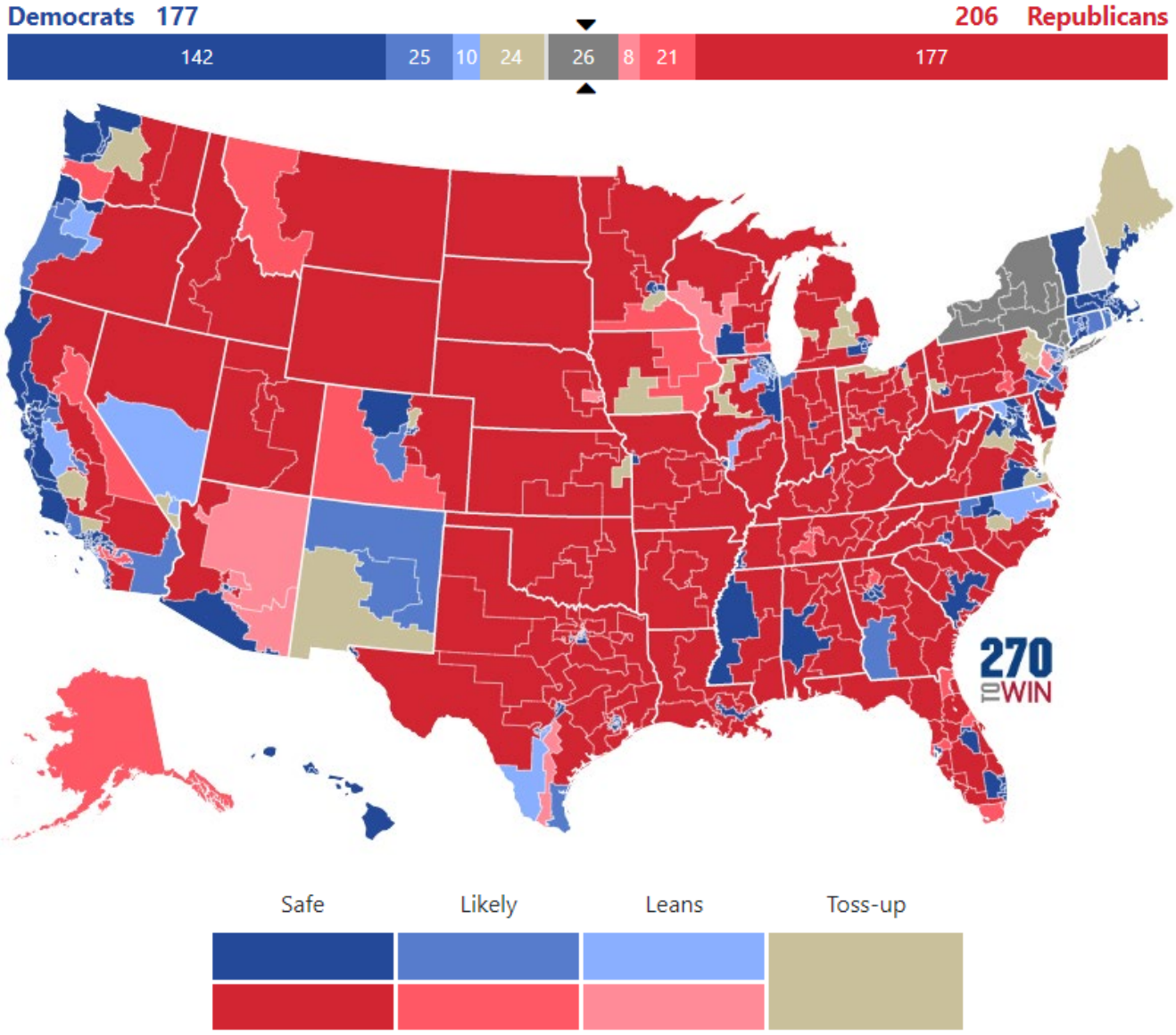
The Select Committee to Investigate the January 6th Attack on the US Capitol (cont'd)

- In May, the Select Committee issued subpoenas for five Republican Congressmembers:
  - (1) Minority Leader Kevin McCarthy (R-CA); (2) Rep. Scott Perry (R-PA); (3) Rep. Jim Jordan (R-OH); (4) Rep. Andy Biggs (R-AZ); (5) Rep. Mo Brooks (R-AL)
- The Committee also recently announced it formally requested information from Rep. Barry Loudermilk (R-GA) related to a tour of the US Capitol he led on January 5, 2021.
- Additionally, the US Department of Justice requested transcripts of interviews conducted by the Committee.
  - Chair Bennie Thompson initially denied the request.
  - Any Justice Department investigation is separate from the Select Committee's investigation.
- The Committee is expected to hold its first public hearing of 2022 at some point in June.

Five Months to Election Day

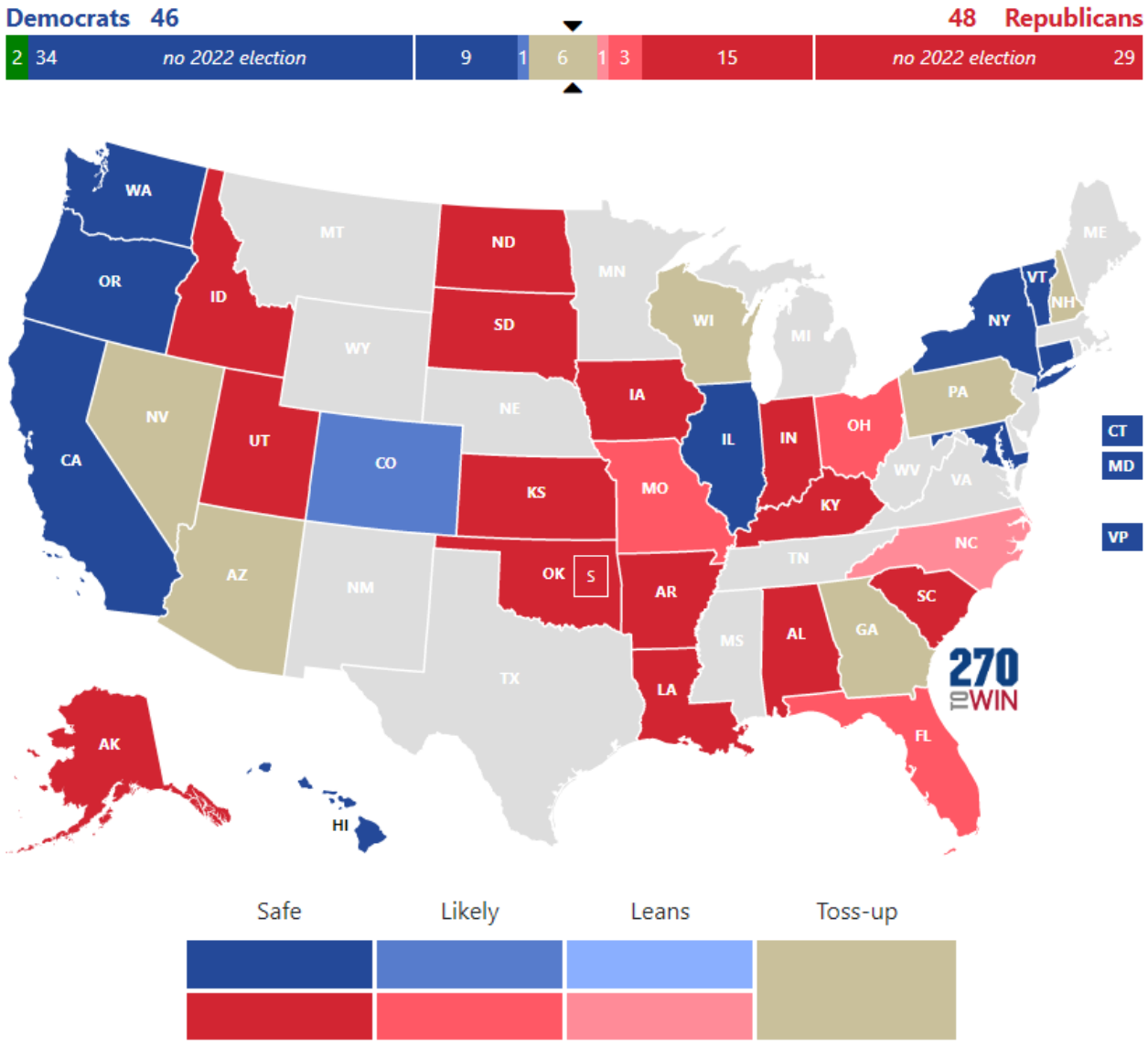
2022 House Election Outlook

- Based on the narrow margin in the House and President Biden's low approval ratings, Republicans are generally considered likely to win control of the House in the 2022 election.
- Redistricting: Initially considered roughly a wash between the two parties, recent legal and political developments are expected to provide a net gain in favorable Congressional seats for Republican candidates.



2022 Senate Election Outlook

- Based on current polling, political factors and projections, there will likely be nine highly contested states in the Senate 2022 races.
- The most competitive states, the “toss-up” states, will likely be Pennsylvania, Georgia, Wisconsin, Arizona, Nevada, and New Hampshire.
- The other states that could be somewhat competitive include North Carolina, Florida and Ohio.
- Four of these nine states—Ohio, Pennsylvania, North Carolina, and Georgia—have held their primary elections already.



Thank you