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

August 2023

This Month's Capital Snapshot Deck Includes

- An overview of the upcoming congressional schedule, including key dates in September
- An outlook on the current Congress and the state of play for the 2024 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

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Congressional Schedule for September 2023



2023 House Calendar

- There are 12 legislative days scheduled in the House for September.
- The House is on its six-week “August recess” from now through Monday, September 11.
- There are 36 legislative days left in the House in 2023.



2023 Senate Calendar

- There are 17 legislative days scheduled in the Senate for September.
- The Senate is on its five-week “August recess” from now through Monday, September 4.
- There are 61 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	
SENATE CONVENES JANUARY 3, 2023																				
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																				
JULY							AUGUST							SEPTEMBER						
						1	1	2	3	4	5				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
																				31

Red dates = Senate not in session

1ST SESSION CONVENES—JANUARY 3, 2023

TARGET ADJOURNMENT—DECEMBER 15, 2023

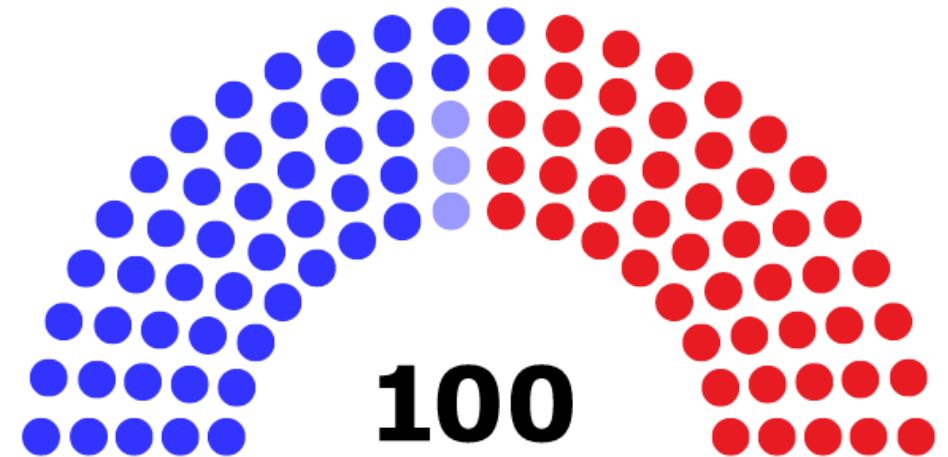
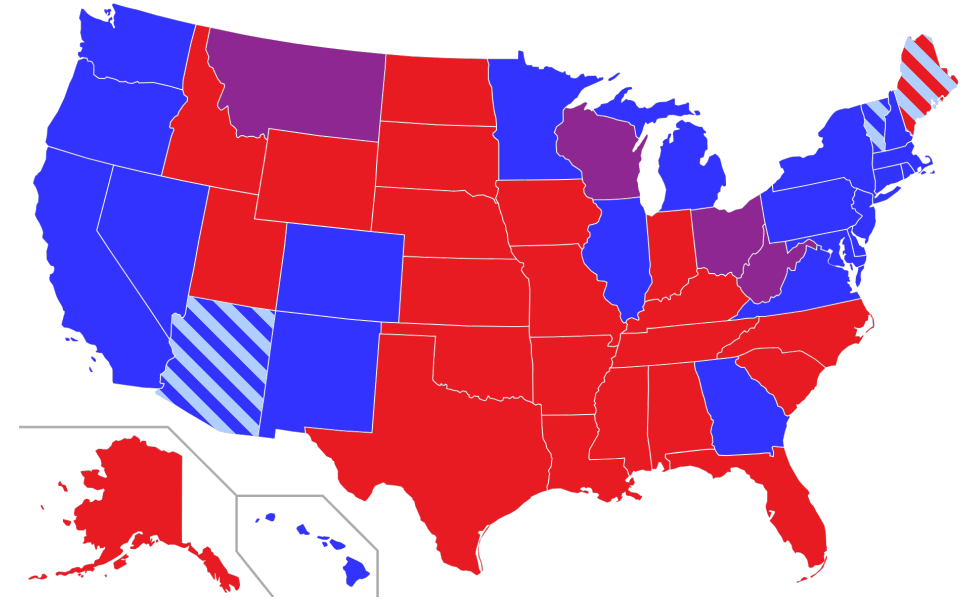
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State of Play of the 2024 Elections



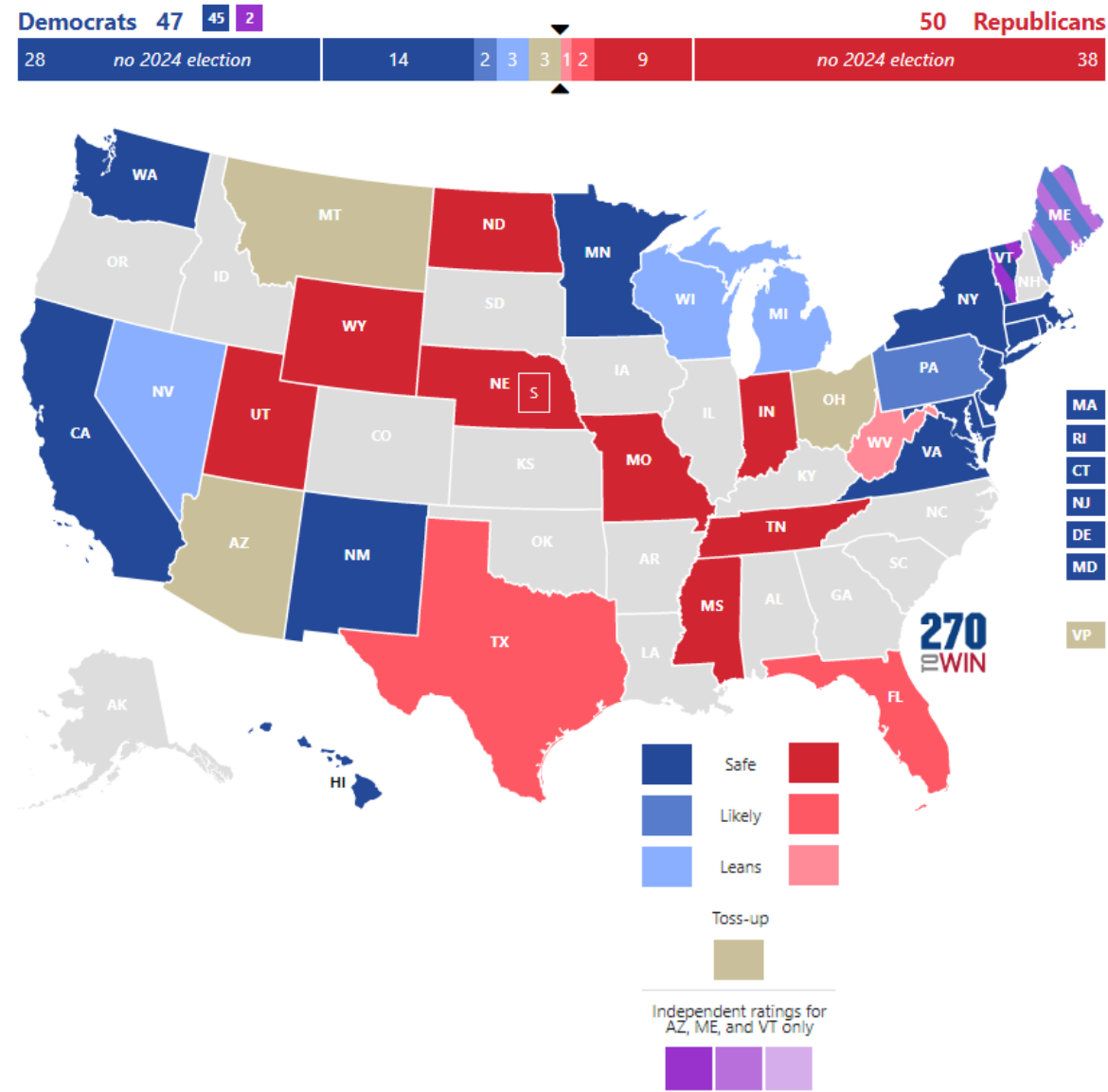
Current Senate – 118th Congress

- Democrats have a 51-49 majority; their majority includes three independent Senators who caucus with the Democrats.
- 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.
 - To date, since assuming the office of Vice President, VP Harris has cast 30 tie-breaking votes in the Senate.
 - This is the second-highest amount of tie-breaking votes a vice president has cast, just one behind John C. Calhoun, who cast 31 tie-breaking votes when he was vice president from 1825 to 1832.
- Senator Patty Murray (D-WA) is the President Pro Tempore of the Senate. She is the first female President Pro Tem in history.



Senate 2024 Outlook

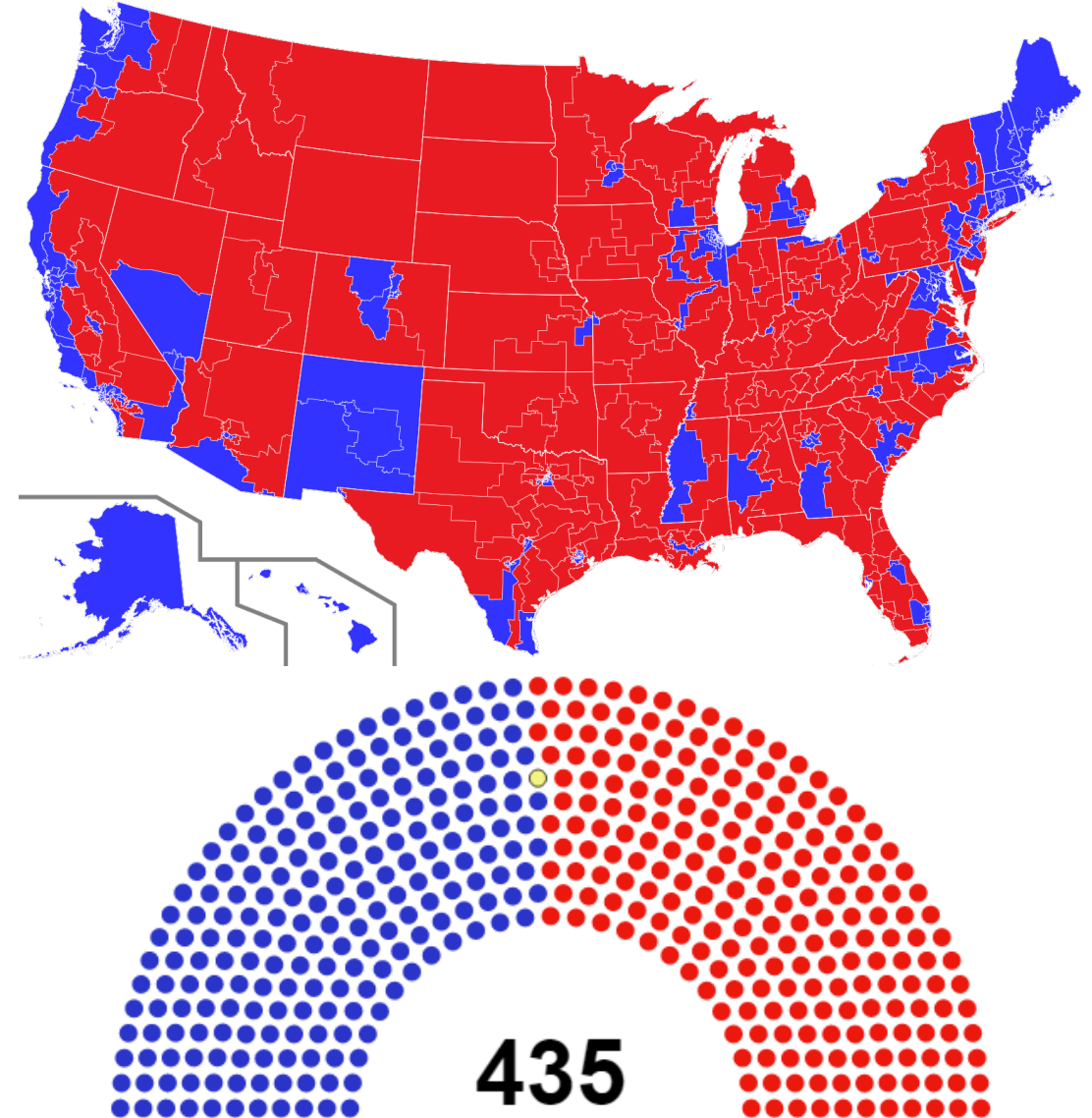
- Democrats have a narrow majority and a difficult Senate map for 2024.
- Three Democratic incumbents are from states which former President Trump won in both 2016 and 2020 (Montana, Ohio, and West Virginia).
- Democrats will also be defending seats in other competitive states such as Arizona, Nevada, Michigan, Pennsylvania, and Wisconsin.
- Republicans hold 38 seats that are not up for election in 2024; nine seats are “Safe R,” two seats are “Likely R,” and one seat “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

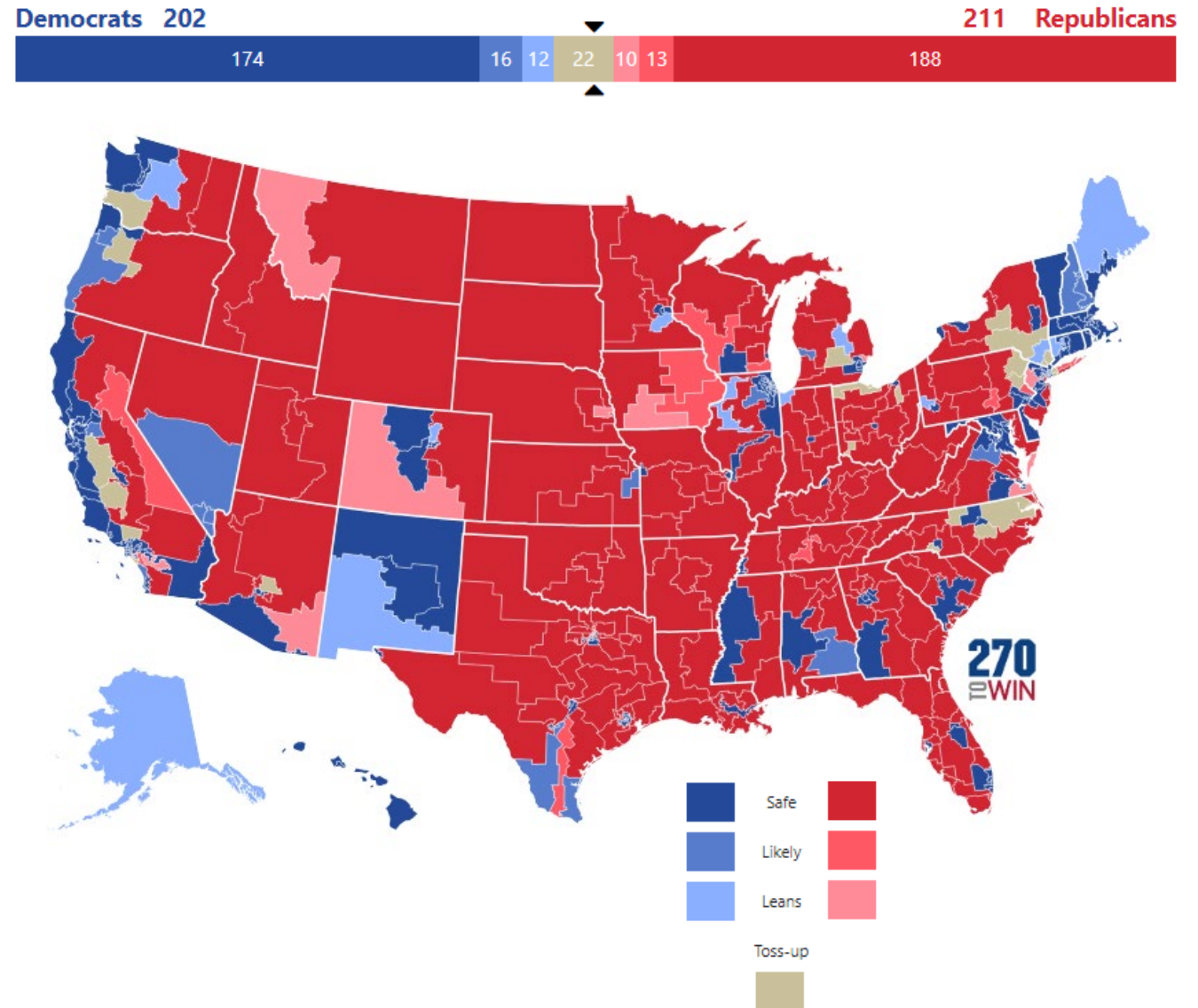
- Republicans hold a five-seat majority (222-212) in the House.
- The 2022 Republican midterm victory is an exact mirror image of the Democrats' 222-213 victory in the 2020 election.
- On June 1, Congressman David Cicilline (D-RI) [resigned](#) from Congress to become the President and CEO of the Rhode Island Foundation. He first [announced](#) his resignation in February.
 - A special election to elect Rep. Cicilline's replacement will take place on November 7, 2023.
- On May 31, Congressman Chris Stewart (R-UT) [announced](#) he intends to resign from Congress to focus on taking care of his wife, who has serious health issues. He will formally resign from Congress on September 15, 2023.



Source: Parliament Diagram Tool

House 2024 Outlook

- Republicans currently have a small majority of 222-212. 218 is needed for a majority.
- Although it is early, for the 2024 elections, 188 seats are currently projected as “Safe R,” while 211 seats are rated as Safe, Likely, or Leans R.
- On the other hand, for 2024, 174 seats are rated as “Safe D,” while 202 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)

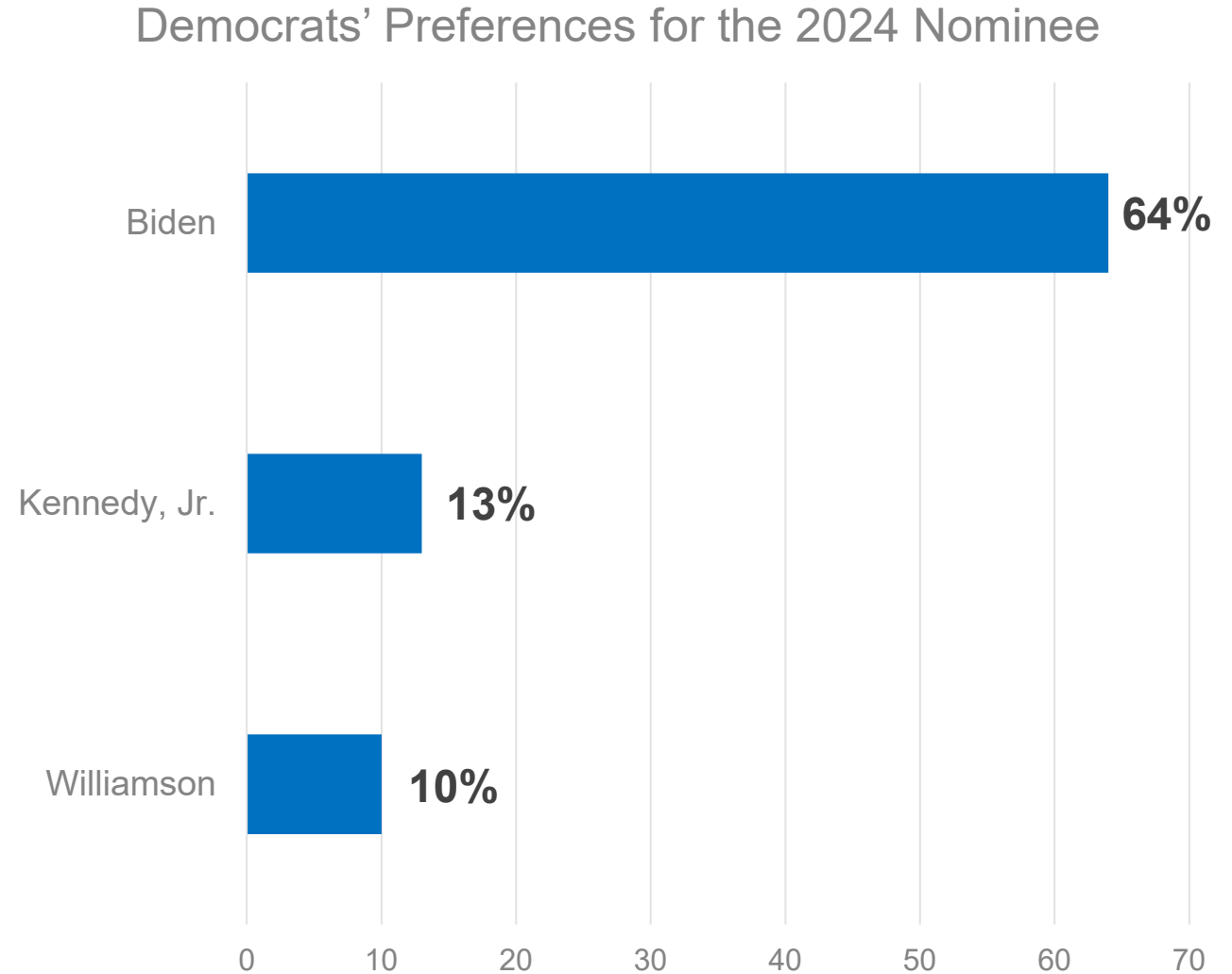
Democrats		
TOSS-UP (12)	LEANS DEMOCRATIC (12)	LIKELY DEMOCRATIC (16)
CA-47 Open (Porter)	Mary Peltola (AK-AL)	AL-? New*
MI-7 Open (Slotkin)	Yadira Caraveo (CO-8)	Josh Harder (CA-9)
Don Davis (NC-1)	Jahana Hayes (CT-5)	Mike Levin (CA-49)
Jeff Jackson (NC-14)	Frank Mrvan (IN-1)	Lauren Underwood (IL-14)
Kathy Manning (NC-6)	Eric Sorensen (IL-17)	Sharice Davids (KS-3)
Wiley Nickel (NC-13)	Jared Golden (ME-2)	Hillary Scholten (MI-3)
Marcy Kaptur (OH-9)	Dan Kildee (MI-8)	Annie Kuster (NH-2)
Greg Landsman (OH-1)	Angie Craig (MN-2)	Chris Pappas (NH-1)
Emilia Sykes (OH-13)	Gabe Vasquez (NM-2)	Susie Lee (NV-3)
Matt Cartwright (PA-8)	Pat Ryan (NY-18)	Steven Horsford (NV-4)
Susan Wild (PA-7)	Chris Deluzio (PA-17)	Dina Titus (NV-1)
M. Gluesenkamp Perez (WA-3)	Kim Schrier (WA-8)	Val Hoyle (OR-4)
		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: 202		

Republicans		
TOSS-UP (10)	LEANS REPUBLICAN (10)	LIKELY REPUBLICAN (13)
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)
		Bryan Steil (WI-1)
		Derrick Van Orden (WI-3)
Total seats rated Safe Republican: 188		
Total seats rated Safe, Likely, or Leans R: 211		

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

2024 Democratic Presidential Primary Polling

- At 64%, incumbent President Joe Biden currently holds a large lead over the other two Democratic presidential hopefuls.
- Robert F. Kennedy, Jr. currently stands at 13% support among Democratic primary voters.
- 2020 presidential candidate Marianne Williamson checks in at 10%.



Source: New York Times/Sienna College poll; July 23-27, 2023

2024 Democratic Presidential Primary

- Of note, in the same poll, among Democratic poll respondents who have a previous record of voting in a primary, President Biden enjoyed a far larger lead: 74% to 8%.
 - Biden's lead was even larger – 92% to 4% – among those who voted in a Democratic primary in 2022.
- President Biden has gained more support and enthusiasm among Democratic voters compared to this time last year.
 - Last year, 64% of Democrats said they did not want the party to renominate him. That number is down to about 50% now.
 - In July 2022, only 26% of Democrats thought the party should renominate Biden in 2024. That figure is now 45% as of July 2023.



Incumbent President Joe Biden

Source: New York Times/Sienna College poll; July 23-27, 2023

2024 Republican Presidential Primary

- Below are the Republican candidates who have qualified for the first Republican Presidential Debate.



Former President
Donald Trump



Florida Governor
Ron DeSantis



South Carolina Senator
Tim Scott



Former UN Ambassador
Nikki Haley



Vivek Ramaswamy



Former New Jersey Governor
Chris Christie



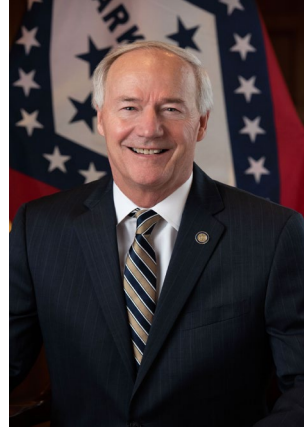
North Dakota Governor
Doug Burgum

2024 Republican Presidential Primary

- Below are major Republican candidates who have NOT yet qualified for the first Republican Presidential Debate.



Former Vice President
Mike Pence



Former Arkansas Governor
Asa Hutchinson



Larry Elder



Miami Mayor
Francis Suarez

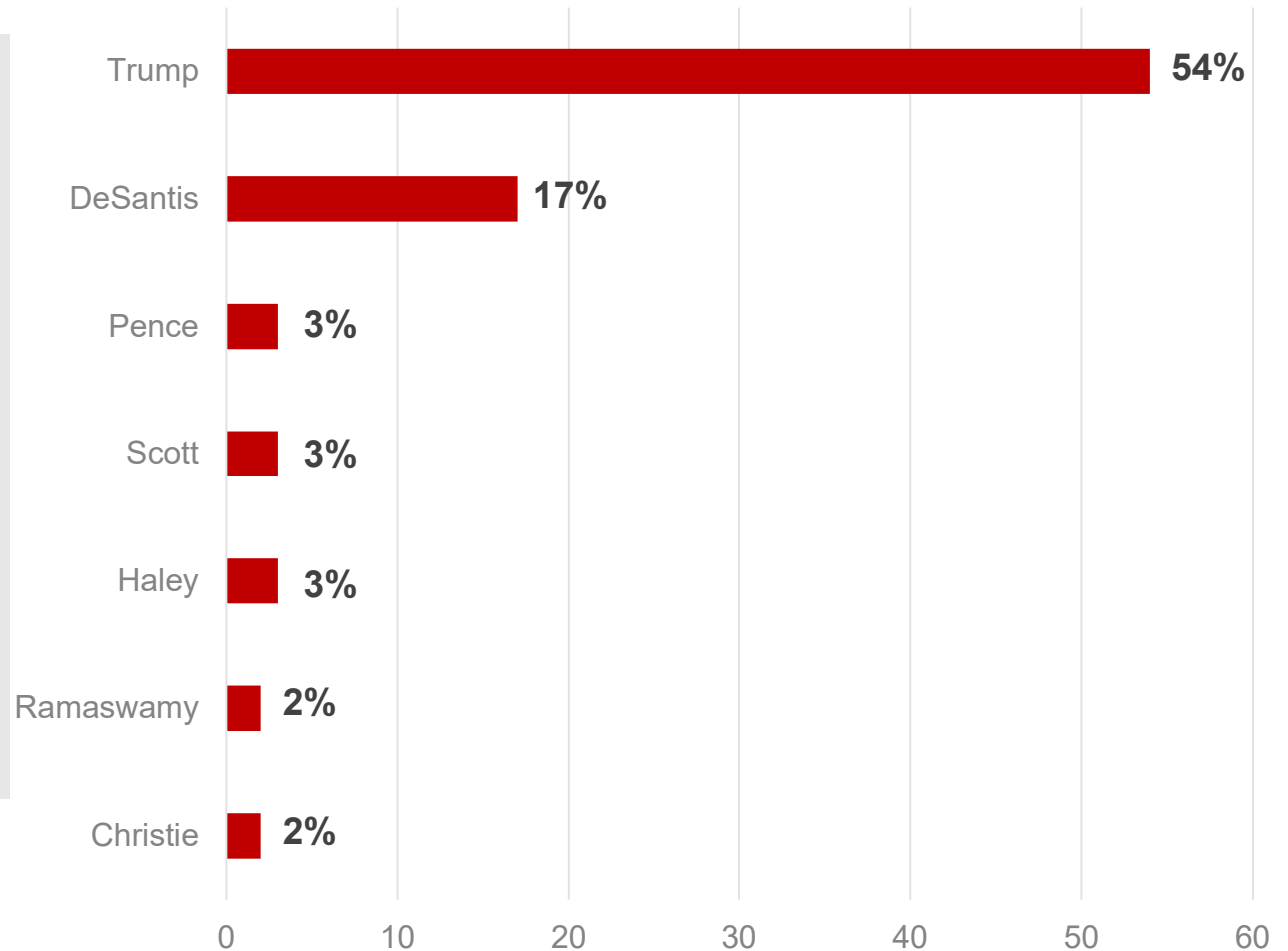


Former Texas
Congressman Will Hurd

2024 Republican Presidential Primary Polling

- At 54%, former President Donald Trump currently holds a large lead over the other top Republican presidential hopefuls.
- Florida Governor Ron DeSantis is the closest challenger to the former President; he is currently 37 points behind Trump, at 17%.
- The other five candidates who have qualified for the first Republican president debate are very far behind, polling at either 3% or 2%.

Republicans' Preferences for the 2024 Nominee



Source: New York Times/Sienna College poll; July 23-27, 2023

2023 Off-Year Elections

- A special election to elect newly-retired Rep. David Cicilline's (D-RI) replacement will take place on November 7, 2023.
- There will be a special election later this year to elect the successor to retiring Rep. Chris Stewart's (R-UT) seat.
 - Rep. Stewart's final day in Congress will be September 15, 2023.
 - The primary election will be on September 5 and the general election will be on November 21.
 - On June 24, at the Utah Republican Party's special nominating convention, Celeste Maloy secured the nomination to be the Republican-nominee for the seat if no other candidates are able to secure the 7,000 signatures needed to qualify for the primary ballot.
- There will be three gubernatorial elections on November 7, 2023:
 - Kentucky (Democratic incumbent)
 - Mississippi (Republican incumbent)
 - Louisiana (term-limited Democratic incumbent)
- Louisiana, Mississippi, New Jersey, and Virginia will hold statehouse elections later this year, too.



Legislative and Policy Updates and Overviews



FY 2024 Appropriations

- The Senate Appropriations Committee used July to mark up the remaining 10 FY 2024 appropriations bills. Six of the 10 bills were unanimously approved.
 - Commerce, Justice, Science – \$71.7 billion
 - Energy and Water – \$58.1 billion
 - Financial Services and General Government – \$41.2 billion
 - Legislative Branch – \$6.8 billion
 - State Foreign Operations – \$61.6 billion
 - Transportation, Housing and Urban Development – \$99 billion
- On July 27, the full committee approved:
 - Defense – \$832 billion
 - Homeland Security – \$61.3 billion
 - Interior and Environment – \$43 billion
 - Labor-HHS-Education – \$224.4 billion
- With the Senate returning from August recess on September 5, there is a strong likelihood a Continuing Resolution (CR) will be necessary in order to avoid a shutdown.



FY 2024 Appropriations

- On July 27, the House passed the MilConVA FY 2024 appropriations bill (219-211). The House punted the floor vote on the Agriculture-FDA bill to September.
- Last month, the House Appropriations Committee approved half of the twelve FY 2024 appropriations bills. Four more bills were approved by the full committee in July, including:
 - Financial Services and General Government – \$25.3 billion
 - Interior and Environment – \$25.4 billion
 - State Foreign Operations – \$52.5 billion
 - Transportation, Housing and Urban Development – \$90.2 billion
- Two FY 2024 appropriations bills – the Commerce, Justice, and Science and the Labor-HHS-Education bills – remain unapproved by full committee. Given the contentious nature of these measures, it is unclear if/when the full committee will mark them up in September.



Biden Administration Responds to SCOTUS Rulings

- After the June SCOTUS [rulings](#) on affirmative action and student loan forgiveness, the Biden Administration is looking to other tools to promote diversity in higher education and address the issue of student loan debt.
 - **Affirmative Action.** On July 26, the Department of Education [hosted](#) the National Summit on Equal Opportunity in Higher Education to discuss the administration's efforts to "promote educational opportunity and diversity in colleges and universities." Multiple administration officials confirmed guidance on how to navigate the affirmative action decision is "forthcoming," with additional information anticipated in August.
 - **Student Loans.** The Department of Education will be focused on several student loan developments in the coming months.
 - **Student Loan Forgiveness Rulemaking.** In July, the Department launched its negotiated rulemaking process to consider how to use its authority under the Higher Education Act to forgive student loan debt.
 - **Return to Repayment.** The Department also is [preparing](#) for the end of the student loan payment and interest moratorium with interest on federal student loans set to resume at the beginning of September and payments for most borrowers beginning again in October.
 - **Income-Driven Repayment (IDR) Final Rule.** On July 11, the Department [released](#) its final rule for its updated IDR plan, called the SAVE plan, which will take full effect on July 1, 2024.



Secretary of Education Miguel Cardona

Congressional Updates

- **GOP Oversight on Student Loan Issues.** On July 27, Republican leaders of the House and Senate education committees – Chairwoman Virginia Foxx (R-NC) and Ranking Member Bill Cassidy (R-LA) – [released](#) a statement indicating they are considering legal options after the Department of Education has refused to brief lawmakers on its plan to return student loan borrowers to repayment this fall.
- **Student-Athlete Legislation.** Congress has increased its activity on student-athlete legislation to allow student-athletes to profit off their name, image, and likeness (NIL), but the path to federal NIL legislation remains unclear given the various proposals that have been introduced.
 - In July, Senators introduced three separate NIL bills: (1) a [discussion draft](#) from Senate Commerce Committee Ranking Member Ted Cruz (R-TX); (2) a [bill](#) from Sens. Tommy Tuberville (R-AL) and Joe Manchin (D-WV); and (3) a [discussion draft](#) from Sens. Cory Booker (D-NJ), Richard Blumenthal (D-CT), and Jerry Moran (R-KS).
- **Children’s Privacy.** On July 28, the Senate Commerce, Science, and Transportation Committee passed the Kids Online Safety Act ([S. 1409](#)) and the Children and Teens’ Online Privacy Protection Act ([S. 1418](#)).
 - While both bills focus on children’s privacy and do not specifically address student data privacy, they would impact how K-12 schools and third-party vendors interact with student data if passed.
 - Despite committee passage, the path for these bills remains unclear as Congress remains divided on how to move forward with a federal privacy standard.



Senators Manchin and Tuberville



Senators Blumenthal and Booker

FY24 National Defense Authorization Act (NDAA)

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 many consider it the final “must-pass” bill in Congress, generally leading to a bipartisan, bicameral process to ensure passage.

Update: The House of Representatives passed its version of the FY24 NDAA on July 14 by a vote of 219-210. The vote was largely along party lines with only four Republicans voting no and four Democrats voting yes to allow the measure to pass. The party line vote occurred after Republicans added controversial provisions restricting the Pentagon’s abortion travel policy, cutting funding for medical care for transgender troops, and removing funding for a DoD DEI office.

On July 27, the Senate passed its version of the FY24 NDAA by a vote of 86-11. The bill authorizes \$886 billion for the Department of Defense and related programs and does not include the controversial provisions included in the House.

Next Steps: House and Senate Armed Services Committee staff will begin conferencing the differences between the two texts. As the Senate did not include the more controversial provisions, we expect a contentious conference. Negotiations will continue until final passage, likely in late December.



Senator Tuberville's Blockade on Military Nominations

- In March 2023, Senator Tommy Tuberville (R-AL) announced a blanket hold on all military nominations, promotions, and appointments.
- The Senator placed this hold to protest the Pentagon's policy of covering servicemember travel costs incurred to receive reproductive health care, including abortions.
- Military nominations are usually confirmed all at once under unanimous consent, allowing any single Senator to hold up the process.
- The Senate could theoretically vote on each of these nominations individually, but that would take months of floor time, in effect halting other legislative business.



Senator Tommy Tuberville (R-AL)

Senator Tuberville's Blockade on Military Nominations

- The Senator's unprecedented blanket hold on senior military nominations has created a backlog of more than 270 military appointments. This backlog is expected to grow to 650 by the end of the year if the hold is still in place then.
- The Marine Corps has been left without a Senate-confirmed leader for the first time in over 100 years.
 - The Army, Navy, and the Joint Chiefs will be in a similar position in weeks if the issue is not resolved soon.
- Democratic Senators have expressed deep frustration with Senator Tuberville's hold. Some Republican Senators have pushed back on the Senator's blanket hold, saying they hope this can be resolved soon.
- The Senate adjourned for the August recess without a deal to end Senator Tuberville's blockade.



Senator Tommy Tuberville (R-AL)

Tax Update

- The OECD released [administrative guidance](#) on July 13 delaying the application of Pillar Two's undertaxed profits rule until 2026 and clarifying that IRA's transferrable tax credits will retain much of their value under the global minimum tax regime.
- Republican members of the Ways and Means Committee remain frustrated with Treasury's position on Pillar Two, voicing their criticisms in a [hearing](#) examining the negotiations.
 - Republican Committee members argued that Treasury negotiated an agreement disadvantaging U.S. firms, in particular noting that nonrefundable credits are not treated as favorably as grant programs favored by China and the EU.
 - Democrats argued Pillar Two benefits U.S. companies by eliminating tax competition and praised Treasury's success in ensuring favorable treatment for transferrable credits.
- Following the hearing, Rep. Ron Estes (R-KS) and Carol Miller (R-WV) issued a [letter](#) to Treasury suggesting it attempted to supersede Congress's tax writing authority.



Ways and Means Chairman
Jason Smith (R-MO)

Tax Update

- The Senate Finance Committee held a [hearing](#) examining the history of the Child Tax Credit (CTC), which featured modest bipartisan support for extending the expanded CTC. However:
 - The expanded CTC is scored at \$1 trillion over ten years.
 - Republican members favor work requirements, which could reduce the fiscal impact of the credit and which Democrats oppose.
- The overall dynamics on possible extension of the expired Tax Cuts and Jobs Act provisions — such as the amortization of research costs under Section 174 — largely remain unchanged, with Democrats continuing to seek extension of the CTC in exchange for any extension.
- The Committee also held a bipartisan [markup](#) of legislation to reform the pharmacy benefit manager (PBM) industry. Members of both parties underscored the need to decouple drug prices from PBM profits, ban spread pricing, and align incentives to ensure patients pay the lowest price possible.



Senate Finance Chairman
Ron Wyden (D-OR)

Environment Update

Senate Committee on Energy and Natural Resources holds a permitting hearing. On July 26, the Senate Committee on Energy and Natural Resources held a [hearing](#) to “Examine Opportunities for Congress to Reform the Process for Permitting Electric Transmission Lines, Pipelines, and Energy Production on Federal Lands.” Senators emphasized the importance of resolving lengthy delays in approving and siting projects and reducing the uncertainty created by legal challenges on a bipartisan basis.

Schumer presses FERC on transmission rules. Senate Majority Leader Chuck Schumer (D-NY) [urged](#) the Federal Energy Regulatory Commission (FERC) to modify its proposed [rule](#), “Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection,” before finalizing it out of concern that “the lack of a clear cost allocation mechanism ... based on an assessment of a defined set of benefits that transmission provides to a region” will allow “transmission providers to skew a cost-benefit analysis in a desired direction.”

The Majority Leader offered several suggestions as to how the rule may be improved before it is finalized. He then called on FERC to “expeditiously finalize its Federal backstop siting authority proposed [rule](#) for electric transmission projects” consistent with clarification provided by the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58).

Trade Update

EU Formally Authorizes Negotiations for a U.S.-EU Critical Minerals Agreement. On July 20, the Council of the European Union adopted a mandate which formally authorizes the EU to negotiate a Critical Minerals Agreement (CMA) with the United States. A U.S.-EU CMA is expected to enable critical minerals that are extracted or processed in the EU to qualify under the clean vehicle tax credit sourcing conditions in the Inflation Reduction Act (IRA, Pub. L. 117-169).

EU Trade Committee Leader Suggests Extending Tariff Truce if Longer GSSA Negotiation Needed. Bernd Lange, chairman of the European Parliament's Committee on International Trade, told reporters that the United States and the European Union could agree to refrain from imposing tariffs on each other's goods even if the two sides cannot agree on a sustainable steel and aluminum deal by the October 31 deadline. When the Office of U.S. Trade Representative (USTR) and the EU announced negotiations for a Global Sustainable Steel and Aluminum Arrangement (GSSA) in October 2021, the United States introduced a tariff-rate quota to exempt "historically-based volumes of EU steel and aluminum" from Section 232 tariffs, while the EU eliminated its retaliatory tariffs on U.S. goods. Failure to conclude a GSSA by their self-imposed deadline of October 2023 would seem to enable each side to reinstate their respective tariffs. While Mr. Lange emphasized both sides will continue to negotiate a GSSA, he also said "it could be ... that we have a partial solution for the next months and have a timeframe for the outstanding issues."

Financial Services Update

Digital Assets

- Last month, the House Financial Services (HFSC) and Agriculture Committees approved the Financial Innovation and Technology (FIT) for the 21st Century Act ([H.R. 4763](#)). The dual markup ensured continued partnership on constructing a system of regulation for digital assets by the federal financial regulators.
- The HFSC also passed the Clarity for Payment Stablecoins Act of 2023 ([H.R. 4766](#)) by a vote of 34-16 to provide for the regulation of payment stablecoins. There is a lack of White House support due to the state licensure provisions in the bill.

ESG Legislation

- The HFSC will remain focused on [combatting](#) the influence of ESG initiatives in financial markets, including [overturning](#) the CFPB's small business lending data collection rule.

Senate Focus

- The Senate Banking Committee remains focused on bank mergers, deposit insurance reform after recent bank failures, and understanding [junk fees](#) in the financial sector.



House Financial Services Chair
Patrick McHenry (R-NC)



Senate Banking Chair
Sherrod Brown (D-OH)



House Agriculture Chair
GT Thompson (R-PA)

Artificial Intelligence Update

- On July 25, Senate Judiciary's Subcommittee on Privacy, Technology, and the Law held a [hearing](#) regarding principles of forthcoming AI regulation with leading AI researchers and executives. During the hearing, Democrats, Republicans, and witnesses advocated for the creation of a single AI regulatory agency capable of monitoring and testing AI systems, as well as researching countermeasures to respond to rogue AI systems.
- On July 21, the Biden Administration secured voluntary commitments from several leading AI firms to establish technological guardrails and social risk management techniques. In announcing the commitments, the Administration indicated it is working on an executive order to guide future agency actions.
- The Senate Judiciary Intellectual Property Subcommittee also held a [hearing](#) on the implications of AI for copyright law. During the hearing, Subcommittee Chair and Ranking Member Chris Coons (D-DE) and Thom Tillis (R-NC) committed to advancing legislation to establish a baseline level of IP protections governing AI before the end of the year. This proposal will be included in Senate Majority Leader Chuck Schumer's (D-NY) forthcoming framework.



Senate Majority Leader
Chuck Schumer (D-NY)

FAA Reauthorization

- On July 19, the House voted 351-69 to approve the Securing Growth and Robust Leadership in American Aviation Act ([H.R. 3935](#)), which would authorize more than \$100 billion for aviation operations, airports, and more, over five years.
- The House-passed bill includes several provisions with broadly bipartisan support, including efforts to bolster air traffic control staffing, advance unmanned aircraft system operations, and support airport infrastructure.
- The process was not immune, however, to controversial issues, including an increase in the commercial pilot retirement age from 65 to 67 – a provision narrowly added during the Transportation and Infrastructure Committee markup in June.
- During House floor consideration, an effort to increase slots and beyond-perimeter flights at DCA was thwarted, while dozens of non-controversial amendments were adopted, including mandating passengers receive complimentary water in-flight.
- The Senate continues to negotiate a handful of controversial issues that have delayed a markup in the Commerce Committee. These issues include pilot retirement age, pilot training hours, and the matter of increasing operations at DCA.
- With the current FAA authorization set to expire September 30, Congress is anticipated to take up a short-term extension in September.



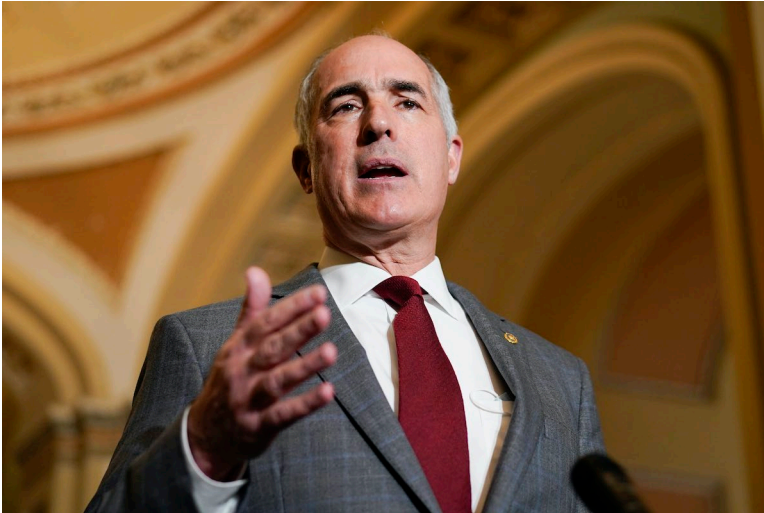
Healthcare Updates – Inflation Reduction Act (IRA)



President Joe Biden Signing the IRA into law in August 2022

- **House Democratic Health Committee Leaders Seek to Expand IRA’s Drug Pricing Provisions**
 - On July 26, three senior House Democratic leaders - Energy & Commerce Committee Ranking Member Frank Pallone (D-NJ), Ways and Means Committee Ranking Member Richard Neal (D-MA), and Education and the Workforce Committee Ranking Member Bobby Scott (D-VA) - introduced the *Lowering Drug Costs for American Families Act* ([text](#); [section-by-section](#)) to build on IRA’s prescription drug pricing provisions.
 - The bill would (1) expand the IRA’s drug price negotiation program to “all Americans with private coverage,” (2) increase the number of drugs the Centers for Medicare and Medicaid (CMS) can select for negotiation from 20 to 50, and (3) expand IRA’s prescription drug inflation rebate penalties to apply to drugs furnished in the commercial market.
- **Senate Democrats Report on Insulin Costs for Patients Without Health Insurance**
 - On July 13, Sens. Elizabeth Warren (D-MA), Richard Blumenthal (D-CT), and Raphael Warnock (D-GA) published an investigative report titled “Unaffordable Insulin: Uninsured Americans Still Face High Costs at the Pharmacy Counter for Eli Lilly’s Authorized Generic.” The report is based on a survey sent to over 300 pharmacies nationwide, and it reviews the cost and access of Eli Lilly’s insulin product, Lispro, for patients **without** health insurance.
 - In addition to touting Democrats’ passage of the IRA, which capped monthly insulin costs for Medicare patients at \$35, the report concluded, among numerous findings, that the average Lispro price for uninsured patients at surveyed pharmacies was \$97.51, “nearly four times as high as the \$25 price point that Eli Lilly promised for its authorized generic.”
- **Additional Lawsuits Filed Against IRA’s Medicare Drug Price Negotiation Program**
 - On July 14, Astellas [filed suit](#) against the Department of Health and Human Services (HHS) and CMS to challenge the constitutionality of IRA’s Medicare Drug Price Negotiation Program. The company alleges the program violates the Takings and Due Process Clauses as well as the First Amendment.
 - On July 18, Johnson & Johnson (J&J) [filed suit](#) against HHS and CMS, claiming the negotiation program would violate the First and Fifth Amendments. Filed in the U.S. District Court of New Jersey, this complaint is the sixth lawsuit challenging IRA’s Drug Pricing Program following earlier suits by Merck, the U.S. Chamber of Commerce, Bristol Myers Squibb, Pharmaceutical Research and Manufacturers of America (PhRMA), and Astellas.

Pandemic and All-Hazards Preparedness Act (PAHPA) Reauthorization



Senator Bob Casey (D-PA),
the lead HELP Democrat on the
reauthorization of PAHPA

- **PAHPA** ([Pub. L. 109-417](#)), which was first signed into law in 2006, authorized many of the federal government's biodefense and pandemic preparedness programs, like the Administration for Strategic Preparedness and Response (ASPR) and the Biomedical Advanced Research and Development Authority (BARDA). Unless reauthorized before September 30, 2023, funding for most PAHPA programs and authorities will expire.
- **Bipartisan Movement on PAHPA in the Senate.** On July 20, the Senate HELP Committee voted 17-3 to favorably pass their PAHPA reauthorization bill, the Pandemic and All-Hazards Preparedness and Response Act ([S. 2333](#)). Three Republicans, Sens. Mike Braun (R-IN), Rand Paul (R-KY), and Tommy Tuberville (R-AL), voted against the bill.
 - The HELP PAHPA reauthorization bill, as amended, contains certain limited reporting requirements related to drug shortages, among other provisions.
 - Given the differences between E&C-passed PAHPA legislation and HELP-passed PAHPA legislation, significant reconciliation between the House and Senate will be needed before final passage.

Pandemic and All-Hazards Preparedness Act (PAHPA) Reauthorization



Rep. Richard Hudson (R-NC), the lead E&C Republican on the reauthorization of PAHPA

- **Partisan Disagreement Around Including Drug Shortage Provisions in PAHPA Continues in the House.** Following an E&C Health Subcommittee markup on July 13, the full E&C Committee on July 19 marked up and favorably reported the Preparedness and Response Reauthorization Act ([H.R. 4420](#)) and the Preparing for All Hazards and Pathogens Reauthorization Act ([H.R. 4421](#)), which taken together, would reauthorize PAHPA.
 - Committee Democrats, led by Ranking Member Pallone, expressed frustration that the PAHPA reauthorization bills did not address ongoing drug shortages in the U.S. or provide sufficient funding for the Centers for Disease Control and Prevention (CDC) and other related public health agencies.
 - In response to calls to address drug shortages, E&C Chairwoman Cathy McMorris Rodgers (R-WA) released a separate, stand-alone [discussion draft](#) on July 21 containing provisions to restrict the eligibility of the 340B Drug Pricing Program, increase reporting requirements for Group Purchasing Organizations (GPOs), and require the U.S. Food and Drug Administration (FDA) to “exercise the reporting requirement authorities it already possesses.” Chair Rodgers maintains these policies will help alleviate shortages by providing market flexibility, increasing transparency, and holding the FDA accountable for supporting supply chains. The announcement follows the completion of Chair Rodgers and Senate Finance Ranking Member Mike Crapo’s (R-ID) bicameral request for information ([RFI](#)) regarding the increase in drug shortages in the U.S.

House Energy & Commerce (E&C) Committee

- On July 18, E&C held a Health Subcommittee [hearing](#) titled “Innovation Saves Lives: Evaluating Medicare Coverage Pathways for Innovative Drugs, Medical Devices, and Technology.”
 - Members of the Committee criticized the widening gap between authorizations made by the FDA and CMS’ coverage policies, including CMS’ National Coverage Determination (NCD) for a new class of Alzheimer’s drugs.
 - Health Subcommittee Chair Brett Guthrie (R-KY) also took a harsh stance against the Biden Administration’s recent breakthrough device proposal, saying it fails to provide reliable coverage for breakthrough medical devices and technologies under the Medicare program and will significantly stifle innovation.
- During E&C’s hearings to reauthorize PAHPA, members of the committee vehemently debated gender-affirming care, with many E&C Republicans arguing providing gender-affirming care should disqualify children’s hospitals from receiving Children’s Hospital Graduate Medical Education Program (CHGME) funding.
 - The Committee passed, in a party-line 27-17 vote, Rep. Dan Crenshaw’s (R-TX) Children’s Hospital GME Support Reauthorization Act of 2023 ([H.R. 3887](#)). His bill reauthorizes the CHGME program, but includes a provision prohibiting children’s hospitals from receiving CHGME funding if they provided gender-affirming care in the previous fiscal year. Rep. Kim Schrier (D-WA) offered an amendment to remove this provision from the legislation, but it failed in a 17-26 vote.
- Like E&C, the House Judiciary Committee’s Constitution and Limited Government Subcommittee has also taken a keen interest in gender-affirming care, holding a [hearing](#) on July 27 to examine the legality of gender transition procedures.
 - Chairman Jim Jordan (R-OH) referred to transition procedures as “barbarism” and said they should be banned altogether. Comparatively, Ranking Member Mary Scanlon (D-PA) said gender-affirming care is safe and supported by accredited medical organizations. She stressed that the hearing is a political attack against parents and their children and that Congress should not interfere in parents’ decision-making around their children’s care.



House Energy & Commerce Chair
Cathy McMorris Rodgers (R-WA)

House Ways & Means and Education & Workforce Committees

- This month, the Ways & Means and Education & Workforce Committees marked up legislation to increase price transparency and competition in the health care sector, following E&C's markup of similar legislation in May.
- On July 12, the Education & Workforce Committee considered and advanced the following bills: (1) the Transparency in Billing Act ([H.R. 4509](#)), (2) the Transparency in Coverage Act ([H.R. 4507](#)), (3) the Health Data Access, Transparency, and Affordability Act (DATA) Act ([H.R. 4527](#)), and (4) the Hidden Fee Disclosure Act ([H.R. 4508](#)).
 - All four bills had significant bipartisan support; the Transparency in Billing Act unanimously, while the other three received one no vote.
- On July 26, Ways & Means considered and advanced two bills, the Providers and Payers COMPETE Act ([H.R. 3284](#)) and the Health Care Price Transparency Act ([H.R. 4822](#)).
 - Ranking Member Neal said the markup was a missed opportunity for bipartisan action. He expressed concern about the lack of Medicare Advantage and private equity provisions in the Health Care Price Transparency Act (H.R. 4822), noting he wished the committee passed the bipartisan Promoting Access to Treatments and Increasing Extremely Needed Transparency (PATIENT) Act of 2023 ([H.R. 3561](#)), which E&C passed in May.
 - Although not officially reintroduced as a standalone bill, H.R. 4822 includes Rep. Suzan DelBene's (D-WA) Improving Seniors Timely Access to Care Act, which has a steep price tag of \$10 billion. H.R. 4822's Pharmacy Benefit Manager (PBMs) and site-neutrality provisions would pay for a significant portion of the Improving Seniors Timely Access to Care Act, with the remaining cost paid for by HR. 4822's Medicare sequestration provision. Of note, Rep. DelBene did not vote to advance H.R. 4822.
- While it is likely the E&C, Ways & Means, and Education & Workforce Committees will eventually combine their respective health care price transparency and competition packages, little progress will be made on this front until the House reconvenes in September. If the package is not passed as a standalone bill, it could be included in a possible end-of-year funding package.



House Ways & Means Committee
Chairman Jason Smith (R-MO)

Senate Health, Education, Labor and Pensions (HELP) Committee

- On July 26, the HELP Committee postponed a [markup](#) for the [Primary Care and Health Workforce Expansion Act](#).
- The markup was postponed due to ongoing negotiations between Chair Sanders (I-VT), Sen. Roger Marshall (R-KS), and other Members of the HELP Committee, per a [press release](#) from Chair Sanders.
 - Chair Sanders noted the negotiations as ‘productive,’ and announced that the bipartisan legislation will be ready for consideration by the first week of September.
- On July 27, Chair Sanders and Finance Chair Ron Wyden (D-OR) released a [joint statement](#) affirming their commitment to advance legislation to reauthorize health care workforce programs in the bill, noting that the U.S. is experiencing a shortage of nearly 120,000 doctors.



Senate HELP Committee
Chairman Bernie Sanders (I-VT)

Senate Finance Committee (SFC) Health Updates

- On July 26, the Senate Finance Committee held a [markup](#) on the Modernizing and Ensuring PBM Accountability (MEPA) Act.
 - The [Chairman's Mark](#), as [modified and amended](#), was favorably advanced in a 26-1 vote. Sen. Ron Johnson (R-WI) was the only committee member who voted no. Chair Ron Wyden (D-OR) and Ranking Member Mike Crapo (R-ID) committed to “develop and include as many additional proposals as possible” before a future Senate floor vote on MEPA, including some of the amendments offered but not adopted during the markup.
 - CBO [estimates](#) that MEPA would reduce federal spending by \$1.7 billion dollars between 2023 and 2033.
 - A total of 53 amendments were filed ahead of the markup, with fourteen adopted. Several Senators introduced and withdrew additional amendments.
 - Senate HELP Committee Ranking Member Bill Cassidy (R-LA) discussed his amendment to create an exception from IRA's Medicare Drug Price Negotiation Program for manufacturers that make a certain level of investments in annual research and development (R&D) spending. Sen. Cassidy said his amendment would give small biotech companies additional incentives to research, develop, and market life-saving drugs for patients.



Senate Finance Committee
Chairman Ron Wyden (D-OR)

Healthcare Appropriations Update

- On July 14, the House Labor-HHS Appropriations Subcommittee held a [markup](#) of the FY24 [L-HHS Appropriations](#) bill.
 - The L-HHS bill provides a discretionary total of \$103.3 billion to HHS, which is \$14 billion (12%) below the FY23 enacted level and \$25.9 billion below President Joe Biden's budget request. The L-HHS bill aligns with House Republicans' goal of lowering spending levels to at least FY22 levels and faced strong [objections](#) from House Democrats.
 - It is unclear if the full committee will mark up the bill, with negotiations in the House largely stalled due to Republican demands for additional spending cuts.
- On July 26, the House was scheduled to vote on the [Agriculture-FDA Appropriations Bill](#), which passed out of the subcommittee and full committee in May and June, respectively. However, lawmakers deferred consideration of the bill until after the August recess, with funding levels and controversial provisions related to gender-affirming care, tobacco regulation, and abortion still under discussion.
- On July 27, the Senate Appropriations Committee held a [markup](#) for FY 2024 appropriations legislation, including the L-HHS Appropriation Act.
 - The Senate's L-HHS appropriations [bill](#) provides \$117 billion in discretionary funding for HHS, and it was approved by a vote of [26-2](#), with Senators Fischer and Hagerty voting against adopting the bill.
 - Unlike the House, Senate appropriators agreed to write their bills based on the spending levels set in the bipartisan debt limit suspension law, the Fiscal Responsibility Act of 2023 ([Pub. Law No: 118-5](#)).
 - The Senate Appropriations Committee has now marked up, passed, and [reported](#) all twelve appropriations bills for the first time in five years. After the conclusion of the L-HHS markup, the committee released the [text](#) of the L-HHS legislation and the corresponding L-HHS bill [report](#).



Senate Appropriations Chair
Patty Murray (D-WA)

Healthcare Agency Updates



HHS Secretary Xavier Becerra

- The Biden Administration had a busy month, from releasing additional IRA guidance to revising its stance on PBMs.
- On June 30, CMS [released](#) revised guidance on how it intends to use its authority with pharmaceutical manufacturers in IRA's Medicare Drug Negotiation Program.
- On July 6, the FDA [granted](#) traditional approval to Leqembi, an Alzheimer's treatment made by Eisai and Biogen.
- On July 20, the FTC [voted](#) to disavow the agency's previous guidance opposing transparency requirements for PBMs.
 - In response to the FTC vote, Chairwoman Khan stated, "We want to make sure that prior statements that the FTC made are not being relied on in a way that could be impeding ongoing efforts at the state or even at the federal level. We want to make sure our statements are not being used in a way to combat these state efforts, especially at a moment where we are taking such a close look at the industry."

Possible Upcoming Impeachment Inquiry

- On July 26, Speaker Kevin McCarthy (R-CA) told the press that House Republicans may consider an impeachment inquiry of President Joe Biden over claims of financial misconduct.
 - He acknowledged that the House's current investigations have not yet proven any wrongdoing, but added that an impeachment inquiry "allows Congress to get the information to be able to know the truth."
- On July 19, a pair of IRA whistleblowers [testified](#) to the House Oversight Committee that the Justice Department (DoJ) politicized, "slow-walked," and deliberately hindered the investigation into Hunter Biden, and that the Justice Department pursued a plea deal for modest charges while ignoring recommendations to file felony charges.
 - On July 26, the judge overseeing Hunter Biden's plea deal refused to accept it and urged the parties to make changes. The plea deal included two misdemeanor tax charges, on which Hunter Biden intended to plead guilty in exchange for certain immunities. With the plea deal now likely to be revised, Hunter Biden pleaded not guilty to the charges.
- On July 20, Senator Chuck Grassley (R-IA) [released](#) an unclassified FBI-generated record that purports to describe an alleged and unverified criminal scheme involving then-Vice President Joe Biden and a Ukrainian business executive.



President Joe Biden (D) and
Speaker Kevin McCarthy (R-CA)

Possible Upcoming Impeachment Inquiry

- On July 24, the Department of Justice announced that David Weiss, the United States Attorney for the United States District Court for the District of Delaware, will be made available to testify at a public congressional hearing after the August recess regarding the Justice Department's investigation into Hunter Biden.
 - Assistant Attorney General Carlos Felipe Uriarte wrote in a [letter](#) to House Judiciary Committee Chairman Jim Jordan (R-OH) that “it is strongly in the public interest for the American people and for Congress to hear directly” from Weiss.
 - Assistant Attorney General Uriarte also wrote that the Department is “deeply concerned by any misrepresentations about our work — whether deliberate or arising from misunderstandings — that could unduly harm public confidence in the evenhanded administration of justice, to which we are dedicated.”
 - U.S. Attorney Weiss was nominated by Donald Trump and has served in his current role since February 2018.



President Joe Biden (D) and
Speaker Kevin McCarthy (R-CA)

California: Budget Update

- A \$310 billion budget, which covers an approximately \$30 billion deficit without drawing from reserves, was agreed to in June for the fiscal year beginning July 1, 2023.
- The budget preserves money for education and social service programs, and increases money for childcare providers.
- Additionally, the deal includes increased payments to Medi-Cal providers with funding from the state's Managed Care Organization tax and \$1.1 billion in new funding over three years for public transit.
- Some climate programs see some cuts or reductions, including funding for climate resilience, sustainable agriculture, drought, and water resilience.
- In addition to the main budget bills, the governor also signed a series of infrastructure-related bills that are part of the overall budget agreement.
- The five infrastructure-related bills go into effect immediately and are intended to streamline and expedite infrastructure development – namely solar and wind facilities, bridges, reservoirs, railways, and other energy, water, and transportation projects.
- Among its provisions, the new legislation includes methods for project delivery to reduce project timeframes and costs; specified timelines for legal reviews of projects; streamlined permitting; and more efficient CEQA procedures.



California: What to Watch for at the End of the Legislative Year

- New Speaker of the Assembly Robert Rivas has taken office. The change in speakership has led to some other changes in Assembly leadership roles – with potentially more in 2024.
- The state legislature adjourned for summer recess on July 14; it returns August 14.
- When session resumes, the legislature has until September 14 to pass legislation still pending, after which the governor will have until October 14 to sign or veto legislation.
- Notable bills that will be considered before the end of this year's legislative session:
 - Senate Bill 253 (Wiener; D-San Francisco), requires any entity – public or private – with total annual revenue in excess of \$1 billion to report greenhouse gas emissions (scope 1-3) annually, starting in 2026.
 - Senate Bill 261 (Stern; D-Los Angeles), requires companies earning at least \$500 million in revenue and doing business in California to report on climate-related financial risks.
 - Assembly Bill 1356 (Haney; D-San Francisco), which significantly expands the WARN Act by increasing the size of covered employers and amount of notice time from 60 days to 90 days, disregarding terms of a contract or agreement between the labor contractor and client.
 - Senate Bill 365 (Wiener; D-San Francisco), which provides that an appeal of a denial or dismissal of a petition to compel arbitration shall not automatically stay civil legal proceedings.
 - Senate Bill 423 (Wiener; D-San Francisco), extends existing law that allows for more streamlined, ministerial approvals for development in compliance with existing local land use plans and requirements.



Thank you

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