ML STRATEGIES

ML Strategies Outlook for 2024

January 11, 2024 | Advisory | By **Alexander Hecht**, **John Lushetsky**, **Frank C. Guinta**, **Christian Tamotsu Fjeld**, **Anthony M. DeMaio**, **R. Neal Martin**, **Pamela Mejia**, **Myria Garcia**

Congress — Big Agenda & Little Time

With the holidays behind us, Congress returned this week for the second half of the 118th Congress with a long list of items to address and, as the 2024 campaign season ramps up, limited legislative days to do their work.

ML Strategies is tracking a range of key policy and funding matters, some of which must be addressed while the fate of others is uncertain due to political considerations within both parties.

Following the historic ouster of then-Speaker Kevin McCarthy (R-CA) in October 2023 over his decision to advance a Fiscal Year 2024 (FY24) spending bill with bipartisan votes, Republicans elected Rep. Michael Johnson (R-LA) to the speakership. Speaker Johnson then, in mid-November, negotiated a dual-track plan to address FY24 spending with two hard deadlines set for early this year.

By January 19, Congress must finalize spending for four of the twelve spending bills:

- Agriculture, Food and Drug Administration
- Energy and Water Development
- Military Construction and Veterans Affairs
- Transportation, Housing, and Urban Development

Then, by February 2, work must be completed on the remaining eight spending bills:

- Commerce, Justice, and Science
- Defense
- Financial Services and General Government
- Homeland Security
- Interior and Environment
- Labor, Health and Human Services, and Education
- Legislative Branch
- State and Foreign Operations

On January 7, 2024, Congress announced a $1.59 trillion spending deal for FY24, with $886 billion for defense spending and $704 billion in non-defense spending. They also agreed to a $69 billion side deal in adjustments that will go toward non-defense domestic spending. Speaker Johnson highlighted how Democrats conceded $20 billion in cuts already agreed to for the Internal Revenue Service and agreed to rescind $6 billion in COVID relief money that had been approved but not yet spent. In a joint statement, Senate Majority Leader Chuck Schumer (D-NY) and House Democratic leader Hakeem Jeffries (D-NY) voiced their support for the agreement. President Biden said the agreement “moves us one step closer to preventing a needless government shutdown and protecting important national priorities.” While the agreement further reduces the chances of a shutdown, the House and Senate will still have to pass the bill. If an agreement is not reached, we will either see another continuing resolution or a government shutdown. The far-right House Freedom Caucus has already called the deal a “total failure” and continues to call for the deal to include stricter immigration measures. This spending package is separate from the emergency spending package for Ukraine and Israel, which Republicans have refused to consider without strict new immigration policies to stem the flow of migrants into the United States.

With two spending bills potentially poised for passage, they could represent opportunities for other priorities such as a deal on tax-related provisions which are discussed below.

Key Dates & Deadlines

Beyond FY23 and supplemental funding issues, there are several additional dates/deadlines approaching that make for a crowded legislative calendar:

- January 19 – Expiration of the Pandemic and All Hazards Preparedness Act (PAHPA)
- February 2 – Expiration of the National Flood Insurance Program Authorization
- March 8 – Expiration of the Federal Aviation Administration Authorization
- April 19 – Expiration of the Foreign Intelligence Surveillance Act (FISA) Section 702 Authority
- September 30 – Deadline to pass Fiscal Year 2024 Appropriations (with the next fiscal year starting October 1)
- September 30 – Expiration of the current Farm Bill Authorization
- December 31– Expiration of the current National Defense Authorization Act
- December 31 – Expiration of some provisions of the Water Resources Development Act

Key Legislative Topics of Debate

- **Artificial Intelligence (AI):** Advancements in artificial intelligence have grown exponentially in just the past year. Building on last year's momentum learning about the opportunities and risks AI poses, federal lawmakers are expected to craft regulatory legislation this year. Senate Majority Leader Schumer predicted that Congress would act on AI within the first few months of 2024. President Biden's October **AI Executive Order** gave agencies a 90-day deadline to ensure and verify the continuous availability of safe, reliable, and effective AI, in accordance with the Defense Production Act. This 90-day deadline will end on January 28, 2024, so stakeholders are currently awaiting action. The Commerce Department is expected to make a regulatory proposal to compel cloud computing providers to report to the government when foreign entities use their services to train AI models capable of cyberattacks, while the Department of Homeland Security is expected to propose new rules to modernize the H-1B specialty occupation worker program to include AI. Read more about the Federal Trade Commission's work on AI later in this outlook. On the state side, most states haven't yet released details of pre-filed bills for upcoming state legislative sessions, but observers predict many will attempt to address AI this year. Legislation will likely aim to deal with the issue of deepfakes, US global AI leadership, and disinformation. Weekly AI updates from ML Strategies and Mintz can be tracked **here**.
- **FCC Spectrum Reauthorization**: In 2023, Congress failed to pass a spectrum package which led to the lapse of the FCC's auction authority last March 9th. The House Energy and Commerce Committee passed the Spectrum Auction Reauthorization Act (**H.R. 3565**) in May 2023 to reinstate the FCC's spectrum auction authority for three years, but the legislation didn't make any movement past the committee vote. However, on December 19, 2023, President Biden did sign into law the 5G Sale Act (**S.2787**) which grants the FCC temporary authority to issue the licenses it already auctioned off for 5G networks in the 2.5 GHz band. Sen. Maria Cantwell (D-WA) recently expressed optimism that renewed dialogue among bipartisan members of Congress and the administration will lead to legislative action for more permanent FCC authority. She recently submitted her ideas for spectrum auction authority to the Congressional Budget Office. On December 15, 2023, the FCC's Wireless Telecommunications Bureau released a **Public Notice** adopting two final deadlines by which eligible incumbents in the 3.7–4.2 GHz band (known as the "C-band") can receive expenses for relocating from the spectrum so that it may be made available for commercial wireless services. On December 22, 2023, the FCC released a **Notice of Proposed Rulemaking** seeking comment on proposals to promote the deployment of commercial wireless services in the 24 GHz band while protecting passive sensors used in the adjacent 23.6-24.0 GHz band for weather forecasting and scientific research by limiting unwanted emissions into that band from the 24 GHz band. Comments and reply comments will be due 30 and 45 days, respectively, after the Notice of Proposed Rulemaking is published in the Federal Register, which has not yet occurred. More information about all these topics can be read in this Mintz **blog post**.
- **Trade**: Lawmakers on the House Ways and Means Committee are expected to unveil an Indo-Pacific trade bill in the first weeks of 2024 that will push President Biden to adopt a more robust trade agenda for the region. Committee lawmakers are also close to an agreement to reauthorize the Generalized System of Preferences, a long-expired tariff exemption program. The Biden administration is expected to complete its review of Trump-era tariffs on China sometime early in the year. This will include considering raising tariffs on high-tech goods like electric vehicles while potentially lowering tariffs on some simpler consumer goods and intermediate products used by US manufacturers. Throughout the year, China hawks in both parties are likely to push for a vote to repeal China's permanent normal trade status.
- **Tax:** Lawmakers hope to pass a long-awaited deal addressing issues, strongly supported by the business community, to modify tax incentives for Research and Development (R&D) activities, along with expanding the Child Tax Credit and advancing legislation to provide double taxation relief to Taiwan. Following the Senate Finance Committee's passing of the US-Taiwan Expedited Double-Tax Relief in September and the House Ways and Means Committee's passing of the bill in December, the bill may ride on a larger legislative vehicle in early 2024, such as the FY24 spending bills referenced above.
- **Workforce Shortages**: Critical fields such as education, medicine, health care, and criminal justice have endured an ongoing shortage of workers. Both federal and state legislation will aim to focus on how to attract and retain essential workers while debating proposals such as student debt forgiveness, pay increases, and child labor laws.
- **Health Care**: In 2023, Congress failed to address the 3.4% cut to Medicare physician reimbursements that took effect on January 1, 2024. Many physicians expected Congress to reduce or eliminate cuts as

part of a government funding package. Now, stakeholders are pushing for legislation to address the issue. Meanwhile, the Biden administration continues its drug price negotiations, seeking to crack down on companies that hike drug prices faster than inflation. Already, the White House flagged on December 14, 2023, 48 Medicare Part B drugs that saw their prices grow faster than the rate of inflation in the final quarter of 2023. After the House overwhelmingly passed **H.R.5378-Lower Costs More Transparency Act**, which would increase reporting requirements for insurers, hospitals and pharmacy benefit managers, all eyes will be watching to see how the Senate acts on the legislation.

Biden Administration Aims High On Regulatory Agenda

Last year, the Federal Register included more than 90,000 pages of rules and regulations – the second highest total ever. At the same time, the year saw only 27 bills enacted into law. As President Biden seeks a second term in the White House and with more congressional dysfunction expected, the administration will vigorously work to implement its regulatory agenda in the first half of 2024, ideally by April, to insulate against a potential Congressional Review Act (CRA) challenge in 2025. The CRA provides a mechanism for Congress to disapprove a final rule under certain circumstances, which could potentially come into play should the November elections result in a Republican sweep of Congress and the White House for 2025.

ML Strategies is following a wide range of regulatory developments across multiple agencies. Below, discussed by agency, are several highlighted regulatory developments that are on our watch list for 2024.

US Department of Energy

On December 7, the Biden-Harris administration announced a new proposed rule to electrify and cut emissions from new or newly renovated federal buildings. Beginning in 2025, these facilities will be required to reduce their on-site emissions associated with the energy consumption of the building by 90% relative to 2003 levels. In 2030, the standard will fully decarbonize the on-site emissions in new federal buildings and major renovations. These measures will help advance the adoption of cleaner technologies for buildings that are necessary to achieving President Biden's goal of net-zero emissions in all federal buildings by 2045.

DOE is also proposing to establish an integrated and comprehensive Coordinated Interagency Transmission Authorizations and Permits Program (CITAP Program) to ensure the expeditious development of electric transmission projects, consistent with the nation’s environmental laws. These laws protect endangered and threatened species, critical habitats, and historic properties.

The Loan Programs Office (LPO) intends to issue a direct final rule to amend the regulations applicable to the Advanced Technology Vehicles Manufacturing (ATVM) Loan Program to allow parties to apply for direct loans in connection with certain categories projects made eligible for such loans by the Infrastructure Investment and Jobs Act of 2021 (IIJA) and the Inflation Reduction Act (IRA).

While not regulatory in nature, we also note that there will continue to be significant federal funding opportunities from the IIJA and IRA. Some major funding opportunities on the horizon include **regional clean hydrogen hubs investments**, **critical materials program grants**, Grid Resilience and Innovation Partnerships (**GRIP**) program grants, and the second round of the **Battery Manufacturing and Recycling Grants Program** which is designed to provide grants to help ensure a North American battery supply chain. Read more about how this opportunity will support facilities used for “battery-grade processed critical minerals, battery precursor materials, battery components, and cell and pack manufacturing” at new, retrofitted, and expanded domestic facilities in this ML Strategies **blog post**. Mandatory concept papers were due January 9, 2024, and full applications are due March 19, 2024. There will also be a significant push at LPO to issue loans ahead of the November election.

Visit our **Energy Funding Matrix** for a roundup of various federal clean energy funding and financing opportunities. We update the matrix on a biweekly basis and welcome any inquiries about how the *IIJA and IRA*, along with other relevant federal opportunities, may impact your business or organization.

Federal Energy Regulatory Commission

Two of FERC’s five seats are currently vacant. However, Democratic Commissioner Allison Clements’ term expires at the end of June. Partisanship will be key as FERC commissioners deliberate on their December 2023 inquiry into large investment funds’ ownership stakes in utilities. The agency plans to investigate whether the deep-pocketed companies exercise too much control over power and water providers' consumer rates, competition, and ESG policies.

The commission will have to decide what changes, if any, to make to the sprawling transmission planning rule proposed under former Chair Richard Glick in 2022. The rule as proposed would require developers to consider a future low-carbon mix of resources when planning new lines and would give states more authority over contentious questions of how transmission costs should be allocated. It's a key issue in clearing the roadblocks to new transmission that the country will need to meet sharply rising demand and fight climate change.

FERC will also decide whether to approve Venture Global's Calcasieu Pass 2 liquefied natural gas terminal in Louisiana. The project would be the largest in the world, capable of exporting more than 20 million metric tons per annum. FERC is under pressure from energy companies worldwide to finalize the project — but US green activists are adamantly opposed to it because it will add pollution to the local community and lock in new fossil fuel consumption for years.

US Environmental Protection Agency

EPA will focus heavily in early 2024 on various rules related to the climate crisis. EPA will address major sources of greenhouse gases (GHGs) that are driving climate impacts by taking regulatory action to minimize emissions of methane from new and existing sources in the oil and natural gas sector, reduce GHGs from new and existing fossil fuel-fired power plants, and limit GHGs from new light-duty vehicles and heavy-duty trucks.

EPA will also carry out the mandates of the American Innovation and Manufacturing (AIM) Act to implement, and where appropriate, accelerate a national phasedown in the production and consumption of hydrofluorocarbons (HFCs).

US Department of Health and Human Services (HHS)

In response to presidential Executive Orders aimed at strengthening Medicaid and the Affordable Care Act (ACA), HHS will pursue rules intended to simplify the enrollment process to help maintain continuous coverage for vulnerable populations and reduce administrative burdens for States, while improving access to care, quality, and health outcomes across delivery systems. On December 14, 2023, HHS **announced** a new list of 48 Medicare Part B drugs that raised their prices faster than inflation and may be subject to inflation rebates in the first quarter of 2024 as a result of the Inflation Reduction Act. President Biden's prescription drug law cracks down on price gouging from Big Pharma, requiring companies to pay back Medicare if they raise prices on seniors at a higher rate than inflation. Starting in January 2024, some Medicare beneficiaries who take these 48 prescription drugs – including drugs used to treat cancer and fight infections – will have lower coinsurance than what they would have paid otherwise, and their out-of-pocket costs may decrease by $1 to as much as $2,786 per average dose.

The Drug Enforcement Administration is expected to soon put out a new proposed rule on how telemedicine can be used to prescribe buprenorphine, used in drug-assisted treatment. A previous proposal, which drew fire from recovery advocates, sought to limit prescriptions to a 30-day initial supply. Additionally, the proposal will address other controlled substances being prescribed virtually.

HHS' Office for Civil Rights is also expected to finalize a rule in March that would bar providers and insurers from giving information to state officials to be used to investigate, sue, or prosecute someone for seeking or providing a legal abortion.

HHS will also advance rules to set a minimum access standard in Medicaid and CHIP programs, advancing access to care for adult and pediatric populations in primary care, behavioral health, home and community-based services and maternal health.

US Department of Transportation

DOT is working on rulemakings to enhance the safety of air travel for individuals with disabilities who use wheelchairs, and to ensure that disabled persons have equitable access to transit facilities.

Executive Order 14036 directs DOT to take actions that would promote competition and deliver benefits to America's consumers, including initiating a rulemaking to ensure that air consumers have ancillary fee information, such as "baggage fees," "change fees," "cancellation fees," and fees for seating adjacent to young children at the time of ticket purchase.

DOT is also working on a rulemaking that would clarify, under the Department's rules requiring airlines to provide prompt refunds, when carriers and ticket agents must provide prompt ticket refunds to passengers when a carrier cancels or makes a significant change to a flight. This rulemaking would also require airlines to refund checked baggage fees when they fail to deliver the bags in a timely manner.

The Federal Aviation Administration (FAA) is working on a rulemaking that would require a safety management system for certain aircraft, engine, and propeller manufacturers, certificate holders conducting common carriage operations, and persons conducting certain specific types of air tour operations.

The Federal Highway Administration (FHWA) is working on a rulemaking that would establish a method for the measurement and reporting of greenhouse gas emissions associated with transportation. In addition, FHWA is working on a Buy America rulemaking to encourage the use of American-manufactured products.

The Federal Motor Carrier Safety Administration (FMCSA) will continue to coordinate efforts on the development of autonomous vehicle technologies and is currently working on a rulemaking to revise existing regulations to identify changes that might be needed to ensure that DOT regulations ensure safety and keep pace with innovations.

The National Highway Traffic Safety Administration (NHTSA) plans to propose a rulemaking to address the next phase of Fuel Efficiency and Greenhouse Gas Standards for Medium and Heavy-Duty Engines and Vehicles.

US Department of the Treasury

Treasury and the Internal Revenue Service (IRS) intend to issue guidance, including proposed and final rules in certain cases, related to key provisions of the Tax Code enacted by the Inflation Reduction Act (IRA), including:

- The credit for alternative fuel refueling property under § 30C of the Code.
- The consumer vehicle credits under §§ 25E and 30D of the Code.
- The credit for sustainable aviation fuel under § 40B of the Code.
- The prevailing wage rate and apprenticeship requirements in § 45(b) as applicable for purposes of §§ 30C, 45, 45L, 45Q, 45U, 45V, 45Y, 48, 48C, 48E, and 179D of the Code.
- The domestic content enhancements for purposes of §§ 45, 45Y, 48, 48E.
- The energy community enhancements for purposes of §§ 45, 45Y, 48, 48E.
- The extension and modification of the credit for carbon oxide sequestration under § 45Q of the Code.
- The zero-emission nuclear power PTC under § 45U of the Code.
- The clean hydrogen PTC under § 45V of the Code.
  - The credit for qualified commercial clean vehicles under § 45W of the Code.
- The advanced manufacturing PTC under § 45X of the Code.
- The clean electricity PTC under § 45Y of the Code.
- The clean fuels production credit under § 45Z of the Code.
- The extension and modification of the investment tax credit (ITC) for energy property under § 48 of the Code.
- The allocation of amounts of environmental justice solar and wind capacity limitation to qualified solar and wind facilities under § 48(e) of the Code.
- The qualifying advanced energy project credit under § 48C of the Code.
- The advanced manufacturing ITC under § 48D of the Code as enacted by the CHIPS Act of 2022.
- The corporate alternative minimum tax under §§ 53, 55, 56, and 56A of the Code.
- The energy efficient commercial buildings deduction under § 179D of the Code.
- The excise tax on the repurchase of corporate stock under § 4501 of the Code.
- The elective payment and transfer of credits for energy property & electricity produced from certain renewable resources under §§ 6417 and 6418 of the Code.

Note that most of the expected guidance from Treasury is related to energy and energy efficiency and will be done in coordination with the Energy Department.

Treasury also has several financial services-related priorities for the coming year, including a proposed rulemaking that would comprehensively revise the agencies' risk-based capital rules, including revisions to the current standardized and advanced approaches capital rules. A major funding opportunity is the second round of allocations for the advanced energy property credit program under **Section 48C** which will be launched in 2024 at a date yet to be announced. The Department of the Treasury and the Internal Revenue Service, in partnership with DOE, announced up to $4 billion in the first round of tax credits for projects that expanded clean energy manufacturing and recycling and critical materials refining, processing, and recycling, and for projects that reduce greenhouse gas emissions at industrial facilities.

The Office of the Comptroller of the Currency, along with the Federal Reserve Board and the FDIC, have issued a joint notice of proposed rulemaking to revise their respective capital requirements for market risk, which are generally applied to banking organizations with substantial trading activity. The three also plan to issue a joint notice of proposed rulemaking that would require certain large depository institution holding companies, US intermediate holding companies of foreign banking organizations, and certain insured depository institutions, to issue and maintain outstanding a minimum amount of long-term debt.

US Department of Commerce

The US Patent and Trademark Office (USPTO) aims to pursue regulatory actions to set and adjust patent and trademark fee amounts to provide USPTO with sufficient aggregate revenue to cover its aggregate cost of operations to maintain a sustainable funding model.

On December 7, 2023, the US Department of Commerce's National Institute of Standards and Technology (NIST) **released** for public comment its *Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights,* a tool to help agencies evaluate when it might be appropriate to require licensing of a patent developed with federal funding. The draft guidance is intended to help agencies work through policy considerations relevant to a potential march-in decision, including price, but faces opposition from Republicans on Capitol Hill as well as the U.S. Chamber of Commerce which has called it "government confiscation" and threatened legal action to stop it from moving forward. The 60-day **comment period** will close on February 6, 2024, after which NIST will review and make publicly available all comments received, before finalizing the guidance.

Federal Trade Commission

The FTC has an active year ahead, with one area of focus being Artificial Intelligence (AI). It and other agencies have responsibilities and deadlines in 2024 laid out in the president's **Executive Order** issued in October 2023. In addition, FTC has several AI investigations open and submitted **comments** to the US Copyright Office indicating that FTC will use its authority to protect competition and consumers in AI markets.

There is also a pending rule at FTC that would retroactively bar most non-compete provisions nationwide, arguing that they create "unfair methods of competition." Once finalized, we expect the rule to be challenged in the courts.

FTC, again with the Justice Department, has also proposed changes to the rules and instructions used to enforce the Hart-Scott-Rodino Act of 1976, which established a federal premerger notification program with changes focused on private equity roll-up transactions. This is also likely to be challenged when finalized.

FTC is also pursuing and Energy Labeling Rule which requires energy labeling for major home appliances and other consumer products to help consumers compare the energy usage and costs of competing models.

The proposed Motor Vehicle Dealers Trade Rule would prohibit motor vehicle dealers from making certain misrepresentations during the course of selling, leasing, or arranging financing for motor vehicles, require accurate pricing disclosures in dealers' advertising and sales discussions, require dealers to obtain consumers' express, informed consent for charges, prohibit the sale of any add-on product or service that confers no benefit to the consumer, and require dealers to keep records of advertisements and customer transactions.

Finally, while not regulatory purely in nature, we expect the federal government to expand its antitrust litigation against big tech platforms in 2024.

Federal Drug Administration

The agency is preparing for the departure of Principal Deputy Commissioner Janet Woodcock who worked for the FDA for almost 40 years. An exact date of her retirement has not been set but is expected for "early 2024." FDA Chief Scientist Namandjé Bumpus is slated to succeed her.

The FDA aims to reorganize its inspection workforce with the rebranding of the Office of Regulatory Affairs as the Office of Inspections and Investigations. The FDA hopes to strengthen the agency's field-based oversight program, partly in response to the agency's handling of the infant formula crisis and increased scrutiny by Republican lawmakers of the FDA's foreign drug inspection program.

On January 5, 2024, the FDA **authorized** Florida's Agency for Health Care Administration's drug importation program under section 804 of the Federal Food, Drug, and Cosmetic Act (FD&C Act). Florida is the first state to get approval for facilitating importation of certain prescription drugs from Canada, aiming to significantly reduce the cost to the American consumer without imposing additional risk to public health and safety. The pharmaceutical industry will be carefully watching implementation of the program.

In Q1, stakeholders should also be on the lookout for a long-awaited final guidance from the FDA that would clarify ambiguity between activities that are remanufacturing versus servicing of medical devices.

Like It Or Not — 2024 Election Season Is Upon Us

Presidential Primaries

The presidential primary and caucus season starts next week in Iowa with the first caucuses to be held on January 15. After that, New Hampshire will hold its primaries on January 23.

The New Hampshire Democratic primary is not authorized by the Democratic National Committee which instead sought to push the Granite State's primary to a later date to free up the "first in the nation" slot for South Carolina which will hold its primary on February 3. New Hampshire's decision to go forward with their earlier date likely means some of the state's delegates will not be seated at the 2024 Democratic national convention.

The schedule then quickly unfolds:

- February 6 – Nevada
- February 27 – Michigan
- March 5 – Alabama, Arkansas, California, Colorado, Maine, Massachusetts, Minnesota, North Carolina, Oklahoma, Tennessee, Texas, Utah, Vermont, and Virginia
- March 12 – Georgia, Mississippi, and Washington
- March 19 – Arizona, Florida, Illinois, Kansas, and Ohio
- March 23 – Louisiana and Missouri
- April 12 – Connecticut, Delaware, New York, Rhode Island, and Wisconsin
- April 6 – Alaska, Hawaii, and North Dakota
- April 16 – Wyoming
- April 23 – Pennsylvania
- April 28 – Puerto Rico
- May 7 – Indiana
- May 14 – Maryland, Nebraska, and West Virginia
- May 21 – Kentucky and Oregon
- May 23 – Idaho
- June 4 – Montana, New Jersey, New Mexico, South Dakota, and Washington DC
- June 8 – Virgin Islands and Guam

Key Senate Races

There are 34 Senate seats up for election. Currently, Democrats hold a narrow majority of 51 seats to 49 Republican seats. Democrats are defending seven of the top 10 seats most likely to flip.

- **Arizona**: Incumbent independent Sen. Kyrsten Sinema, has still not revealed whether she plans to run for reelection. If not, Rep. Ruben Gallego is the only prominent candidate running for the Democratic nomination. Republican opponent Kari Lake is increasingly gaining popular support in the purple swing state.
- **Montana:** Sen. Jon Tester (D) is defending his seat in a deep red state that forces him to rely on independents and swing Republican voters. Businessman and Navy veteran Tim Sheehy and US Rep. Matt Rosendale are competing to run as Tester's Republican opponent.
- **Michigan**: Sen. Debbie Stabenow (D) announced she will not be running for re-election, leaving Rep. Elissa Slotkin and actor Hill Harper competing for the Democratic seat nomination. Four Republicans, businessman Sandy Pensler, Rep. Mike Rogers, Rep. Peter Meijer, and former Detroit Police Chief James Craig, are all competing for the Republican nomination.
- **Nevada:** Sen. Jacky Rosen (D) is defending her seat against eight Republican challengers who have entered the race to oppose her in the purple swing state.
- **Ohio**: Sen. Sherrod Brown is defending his seat in a state that has grown more Republican. Ohio Secretary of State Frank LaRose, state senator Matt Dolan, and businessman Bernie Morena are competing to be Brown's Republican opponent.
- **Pennsylvania:** Sen. Bob Casey (D) is defending his seat against Republican David Cormick in this battleground state.
- **West Virginia**: Sen. Joe Manchin's (D) decision to not run for reelection makes West Virginia the most predicted state to flip Republican. Sitting Governor Jim Justice and Rep. Alex Mooney have announced candidacies for the seat. Zachary Shrewsbury is the Democratic nominee.

Key House Races

Currently, Republicans hold the House majority at 220 over 213 Democratic seats. The most critical House elections will follow 17 Republicans who are defending their seats in districts that voted for Biden in the 2020 presidential election:

- Rep. David Schweikert (R-AZ-1)
- Rep. Juan Ciscomani (R-AZ-26)
- Rep. John Duarte (R-CA-13)
- Rep. David Valadao (R-CA-2)
- Rep. Mike Garcia (R-CA-27)
- Rep. Young Kim (R-CA-40)
- Rep. Michelle Steel (R-CA-45)
- Rep. Don Bacon (R-NE-2)
- Rep. Tom Kean Jr. (R-NJ-7)
- Rep. Nick LaLota (R-NY-1)
- Rep. Anthony D'Esposito (R-NY-4)
- Rep. Mike Lawler (R-NY
- Rep. Marc Molinaro (R-NY-17)
- Rep. Brandon Williams (R-NY-2)
- Rep. Lori Chavez-DeRemer (R-OR-5)
- Rep. Brian Fitzpatrick (R-PA-1)
- Rep. Jen Kiggans (R-VA-2)

Central Issues for Voters

- **Abortion**: Since the overturn of Roe v. Wade in 2022, abortion-related measures have increasingly appeared on the ballot. Democrats are predicted to continue to focus on Republican attacks on abortion rights in hopes that the issue will boost turnout for their candidates across both local and national elections. The upcoming Supreme Court Summer 2024 decision on a case that reviews a widely used abortion pill will also likely instigate further debates about abortion.
- **Candidate Charges:** Democrats are watching closely as both Colorado and Maine have barred Donald Trump from the presidential primary ballot due to his engagement in "insurrection." Trump also continues to deal with four legal election interference charges. Many Republicans perceive all the legal challenges against Trump as Democratic persecution. Meanwhile, Republicans continue to push for Biden's impeachment due to the corruption charges against his son, Hunter Biden. Following Rep. George Santos' (R-NY-3) 2023 expulsion from Congress and increasing calls for the expulsion of Robert Menendez (D-NJ), voters are expected to scrutinize the legal backgrounds of all candidates closely.
- **Candidate Health**: Polls show that voters from both parties are extremely concerned with Biden's health in addition to the fact that Biden is 81 and Trump is 77.
- **Economy**: Public polls consistently show that voters are concerned with costs of living and high inflation. Voters from both parties will be closely assessing how candidates propose to reduce inflation and high prices.
- **Immigration:** The number of immigrants arriving at the Southern border have continued to reach record-high levels. The Biden administration's approach to immigration has been described as a "carrot and stick" approach: punish migrants who enter the US without documents and encourage people to apply to enter legally. On the other hand, Republican candidates rally support around stricter and more militant approaches to immigration. In 2023, several Republican governors bussed migrants to Democratic-led cities such as New York or Chicago to stress the need for hardline immigration policies.
- **Israel-Gaza War**: The Biden administration and Congress have experienced intense criticism from both parties regarding their responses to the Israel-Gaza war. Biden is struggling with younger and non-white voters who are less likely to want a response that is strongly pro-Israel while maintaining support from Jewish Americans who also typically vote Democratic. Republican members of Congress have been outspoken in cracking down on universities to better deal with alleged antisemitism amid student protests for Palestinian rights.

Authors



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Alex Hecht is a trusted attorney and policy strategist with over 20 years of experience advising clients across a broad range of industries on how to navigate complex policy environments. His strategic insight and hands-on experience in both legislative and regulatory arenas empower clients to advance their priorities with clarity and confidence in an evolving policy landscape.



John Lushetsky, Senior Vice President

John Lushetsky draws on over 30 years of experience in government and industry to help clients identify strategic opportunities, secure federal funding, and position innovative technologies for success within evolving energy and infrastructure policy landscapes. He has successfully helped clients navigate complex issues through a variety of federal agencies.



Frank C. Guinta, Senior Vice President

Former US Congressman Frank Guinta advises clients on federal policy and legislative strategy, drawing on a distinguished career in public service and private sector leadership. His extensive experience allows him to provide a well-rounded perspective to clients pursuing federal engagement.



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Christian Tamotsu Fjeld draws on two decades of Capitol Hill experience to support clients in building relationships, shaping policy, and engaging effectively with the federal government. His experience working with Congress and his insights help clients anticipate federal developments and advance their priorities with clarity and confidence.



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Anthony DeMaio is a federal strategist with strong relationships throughout House Democratic Caucus, especially the New England delegation. With over 15 years of experience, he helps a broad range of organizations navigate Congress, federal agencies, and the administration.



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Neal Martin brings more than two decades of experience in government and federal relations to his work, helping clients navigate a wide range of issues. He provides strategic guidance to organizations seeking to advance their legislative priorities and enhance their visibility before Congress and federal agencies.

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