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# 2023 New York State Legislative Session and 118th Congress Preview

The 2023 State Legislative Session marks the beginning of Governor Kathy Hochul's first full—and first elected—term in office. The 2022 Session was something of a honeymoon in Executive/Legislative relations, especially following a decade of Andrew Cuomo strong hand. What will 2023 bring?

Hochul's win was historic—the first woman elected and the first Upstater in a century—but it was not convincing. Challenger Lee Zeldin did better than any Republican since George Pataki won the Executive Mansion and the themes of Zeldin's campaign, especially public safety and cost of living, resonated with voters.

The closeness of the race—and there are any number of reasons for that, including those historic firsts as well as national headwinds, wariness of One-Party rule, and so on—means that any group (and really every group) can and will plausibly take credit for Governor Hochul's victory: Progressives, women, hospitals, Upstate, moderates, unions, Long Island, health care workers, major donors, Hudson Valley, local electeds, state electeds, business groups, and on and on. How the Governor deals with her friends as well as how these groups try to leverage their influence will be important to watch as we head into the new session.

The same question applies to the Legislature. How will the Legislature seek to exert their independence? Will it be by driving issues important to their constituents? Standing up to or challenging Hochul? Pushing increased spending in the budget? Will they continue to work cooperatively with the Governor? Privately, several legislators have been unhappy to have bills vetoed without much warning especially after campaigning hard for the Hochul/Delgado ticket.

The earliest—and biggest—test will be Governor Hochul's nomination of Hector LaSalle as Chief Judge of the Court of Appeals. LaSalle is the Presiding Justice of the Appellate Division, Second Department and, by most accounts, a very well respected judge. He also previously served as an Assistant District Attorney in the Suffolk County District Attorney's Office and is considered by many to be generally a moderate or, depending on your point of view, a conservative in his views. This has raised the ire of Progressives who, even before his nomination, were rallying against LaSalle. LaSalle also was part of a majority that allowed Cablevision to sue union officials personally. A decision that has brought out organized labor in force to oppose LaSalle's nomination. LaSalle does have strong support from Latino groups but, at least to date, that has not been enough. At least fourteen Democratic State Senators have come out against LaSalle's nomination, including Senate Deputy Majority Leader Mike Gianaris, as well as an unspecified number who have privately made clear their opposition. Hochul has stood by her nomination and suggested that



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once there are public hearings on LaSalle and legislators get to know him that they will change their tune, and decide to confirm him. That is, of course, possible but quite unlikely at this point. That conflict and how it underscores the relationship between Executive and Legislature is certainly one to watch, especially the vote on LaSalle's nomination as we head into budget season.

This confirmation fight is against a backdrop of a very strong electoral performance by the Senate Democrats—who maintained their super majority in the face of losses for Congressional Democrats and their colleagues in the Assembly. The Assembly, while losing a couple of close races in Brooklyn and Queens, also maintained their super majority, and retain their dominant position in Albany.

Those losses, especially in New York's Congressional Delegation, and the relative closeness of Hochul's victory have many Democrats, especially from the Party's Progressive wing, demanding the replacement of New York State Democratic Party Chair Jay Jacobs. Jacobs first served as State Chair under Governor David Paterson and then later was reappointed by Governor Andrew Cuomo. A number of state senators, as well as the New York City Comptroller, signed a statement urging Hochul to replace Jacobs as chair, citing a need to reform and reinvigorate the state party. The call for new leadership is symptomatic of the larger fight within the Democratic Party between Progressives and Moderates. Progressives have most recently condemned Jacobs the lack of investment in the party infrastructure and lack of party building. Hochul has voiced her intention to keep Jacobs. How this fight plays out, both in the state party and beyond, will be another important development to watch in 2023.

While Democrats in the Senate and Assembly will remain in charge and their leadership remains unchanged, there will be a host of new Committee Chairs in both Houses. In the Senate, there were several key departures/losses on Election Day, including:

- Senator Todd Kaminsky, Chair of the Environmental Conservation Committee;
- Senator Elijah Reichlin-Melnick, Chair of the Procurement and Contracts Committee;
- Senator Anna Kaplan, Chair of Commerce, Small Business and Economic Development Committee;
- Senator John Brooks, Chair of Veterans Homeland Security and Military Affairs;
- Senator Jim Gaughran, Chair, Local Government Committee.

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### Alec Lewis Vice President and Director of Campaigns

Over the past decade, Alec Lewis has established himself as one of the premier Democratic political operatives and government relations professionals in New York State.

He served as the Statewide Field Director of the New York Democratic Senate Campaign Committee (DSCC) for the 2020 and 2022 election cycles, Alec was integral in creating the voter contact strategy that resulted in historic back-to-back Senate Supermajorities.

As Statewide Field Director, he oversaw the largest canvassing, phone banking, and texting programs in the history of the state senate. [More](#)



In the Assembly, the departures are even more substantial, including:

- Assembly Member Dick Gottfried, Chair, Health Committee (who had Chaired the Committee since 1987);
- Assembly Member Michael Cusick, Chair, Energy Committee;
- Assembly Member Steve Englebright, Chair, Environmental Conservation Committee;
- Assembly Member Pete Abbate, Chair, Governmental Employees Committee;
- Assembly Member Steve Cymbrowitz, Chair, Housing Committee;
- Assembly Member Kevin Cahill, Chair, Insurance Committee

Vacancies in all of these key Committees will set off a game of musical chairs, in some cases opening up other key Committees as current chairs leave to lead more highly coveted Committees. The result: new policy minds in key places. For example, Dick Gottfried had been the Health Chair since 1987, giving any healthcare policy related bill a fairly constant variable in the Assembly. Now, there will be an open playing field. The same is true in several of these policy areas.

We will have to wait to see how all of these dynamics play out in actual policy. In the meantime. Here are the issues we are watching in the 2023 Budget Process and State Legislative Session:

- Housing
  - Governor Hochul has promised an ambitious housing plan to meet what she has said is the state's need for approximately 800,000 new units of housing over a span of the next ten years, in line with her 2022 Budget, which invested \$25 million in housing over the next five years. Her State of the State Address next week will offer a "bold and audacious" housing plan targeting the entire state.
  - It is likely that the fight around 421-a—a tax credit for developers in New York City that allows them to pay the pre-development rate and has been billed by developers as incentivizing affordable housing that lapsed this past year—will be reignited. The Governor floated a modified version of the program, 485-w, in her executive budget last year but opposition from housing advocates who see the program as a give-away to wealthy developers ultimately killed the measure. We will have to wait and see where this lands in the Governor's Budget Proposal this year.
  - In contrast to tax credits, progressive activists will address the affordable housing shortage by advocating for more renter-protection friendly legislation that attempts to give renters more leverage in their relationship with landlords. Amongst these requests are housing access vouchers, passage of the Tenant Housing Purchase Act, and Rent Guidelines Board Reform. A "Good Cause" eviction bill has failed to pass either Chamber yet, despite finding success in local municipalities, but left-wing lawmakers continue to push it forward against landlord groups' opposition.
  - There are also some new proposals this year, including the "Vacancy Reset" being pushed by the Community Housing Improvement Program (CHIP) and other building owners, that would add flexibility to



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balance stiff rent-regulations in the Housing Stability and Tenant Protection Act of 2019 that would allow landlords to make necessary capital improvements to get affordable units back on the market in order to meet the critical need for affordable housing in New York City.

- Healthcare

- Advocates of safety net healthcare will again ask for Governor Hochul to reverse the Medicaid pharmacy benefit “carve out” in 2023-2024 Budget. The current plan shifts the administration of the pharmacy benefit under New York State’s Medicaid system to cover pharmaceutical drugs by reimbursing the pharmacy directly, instead of directly paying an enrollee’s healthcare plan. While a fairly complex policy proposal, it has one simple and major unintended consequence: it will result in cutting millions of dollars in revenue achieved through the Federal 340B drug discount program that goes to covered entities—such as safety net hospitals and Federally Qualified Health Centers—throughout the State making up the safety net used primarily for wrap around services that improve patient outcomes like food pantries and linkages to care. The resulting cuts will mean catastrophic setbacks in the fights against the HIV/AIDS and Opioid Epidemics. 340B covered entities are making a hard push to delay the carve out and identify other solutions for the future of safety net healthcare in New York State.

- In some form, Governor Hochul is also likely to revive the effort to competitively procure plans operating in the State’s Medicaid Managed Care Program. The Department of Health does not view the competitive procurement as a cost saving effort, but rather an opportunity to improve Medicaid enrollees’ experience and solve network issues. Last year’s procurement proposal from the Governor was scaled back to a report on consolidation throughout Medicaid Managed Care due last October. How the Chamber utilizes the findings of that report to reorganize managed care—procurement or other consolidation mechanism—will be a large part of the Budget conversation around healthcare this year.
- With continued hospital staffing shortages, there is pressure on Hochul to renew Executive Order 04, which allows certain licensed out-of-state and foreign health care providers to practice in New York. Along these same lines, the Governor will have to decide if the extensions that passed during Covid will expire including the Interstate Medical Licensure Compact and Nurse Licensure Compact.
- Mental health and homeless issue advocates are asking for legislation that will voluntarily connect homeless people with resources and services. This is in response, and in direct conflict, to Mayor Adams plan to involuntarily commit homeless persons that are “conducting themselves in a manner likely to result in serious harm to self or others.” We will likely see some back and forth over these policies between advo-

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### Jim Moore VP and Policy Director

Jim represents clients in financial services, healthcare, gaming, energy, and emerging technologies, working on a vast array of legislation and regulation, in addition to working with clients across the State to secure millions in integral investment through the state budget process and federal appropriations. [More](#)



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cates and Adams early in legislative session.

- The SUNY Hospitals—Upstate University Hospital in Central New York, Downstate University Hospital in Brooklyn, and Stony Brook Hospital in Long Island—are once again seeking debt relief in this year's state budget. Last year's budget, for the first time gave the hospitals relief on the sweep of patient revenues back into the General Fund. In short, freeing up about \$50-70 million a year in desperately needed capital for these hospitals. The University at Buffalo Jacobs School of Medicine will seek similar debt relief this fiscal year as well.

- Labor

- Expect a major push on increasing New York's minimum wage to \$21.25 an hour by 2026 and then indexing raises to inflation. The campaign is coordinated by the Alliance for a Greater New York (ALIGN) and called Raise Up New York. You will hear a lot about this in 2023.
- Priorities for labor this year include continued clarification on public works and prevailing wage, especially on renewable energy projects across the State and job standards as related to the CLCPA as recommended in the Climate Action Council's final scoping plan.
- Expect a push to combat rampant wage theft throughout the State on the heels of key policy wins over the past few years like legislation increasing contractor liability for subcontractor wage theft violations on private projects, and statewide contractor registration that was signed by the Governor last week.

- The push for clarification and implementation of the Public Subsidy Board, created in the 2020 law to clarify that IDA-supported projects, construction for non-profit entities, and affordable housing were public works that went into effect in 2022, are expected to pick up. The Department of Labor has been slow to seat the Board. Everyone involved is anxious for long-awaited clarity on these projects across the State.

- Education & Higher Education

- New State University of New York (SUNY) Chancellor John King, a former State Education Department Commissioner and Obama Administration Education Secretary, will enter his first year as Chancellor in the system facing challenges like dwindling enrollment as well as major opportunities like adding policies and funding to last year's flagship designations for the University at Buffalo and Stony Brook University.

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### Mike Cinquanti Senior VP and Counsel

With over a decade advocating for clients at the highest levels of government, Michael Cinquanti brings a wide range of insights and relationships to O'Donnell & Associates. Michael puts that experience to work, unwinding the legal intricacies surrounding law and regulation-making in New York as well as providing strategic advice, guidance, and planning to help our clients arrive at solutions and achieve results. [More](#)



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- The New Deal for CUNY (City University of New York), a legislative proposal that would—among other things—make CUNY tuition free for NYC residents is picking up steam in the Legislature. It currently has 23 co-sponsors in the Senate, and 54 in the Assembly, who all are vocally in support. This could put a great deal of pressure on the Speaker and Majority Leader to prioritize both in Budget negotiations and in regular legislative session.
- Leading the issues for P-12 education, parents are demanding the New York State Department of Education remove the Regents exam from its graduation policies. Those demanding the exam requirement be removed allege that it does not accurately represent student achievement, and acts as a graduation obstacle, especially to low-income students and students of color.
- Controversy has continued around the curriculum standards of non-secular schools, and is expected to have repercussions within the local and state governments in 2023. A 2022 New York Times article alleged that many NYC Hasidic Jewish schools were failing to meet academic standards, including allegations of corporal punishment. After Republican Gubernatorial candidate Lee Zeldin opposed calls for increased oversight of the schools, he garnered support from many NYC Orthodox Jewish neighborhoods.
- Climate Change & the Environment
  - The Climate Action Council has released its final report ahead of the January 1, 2023 deadline, outlining recommendations for how the State will meet ambitious greenhouse gas reduction and renewable energy goals outlined in 2019's Climate Leadership and Community Protection Act. Expect an explosion of bills, as well as policy proposals in the State of the State beginning to implement some of these recommendations in year one.
  - The Legislature will be faced with a big question this year: how does New York fund these ambitious energy recommendations without hurting ratepayers? The implementation of the \$4.2 billion Environmental Bond Act, which voters approved in November will certainly help, but expect a number of other climate related/green “revenue raisers.” One such proposal is the Climate and Community Investment Act, which would create a carbon tax on major companies that do not rein in their fossil fuel usage. Money from that tax would be used to fund projects and investments outlined in the Climate Action Council's recommendations.
  - Even before those proposals hit the street, there are a number of items still on the docket from last year. At the top of the list, the Build Public Renewables Act, which would allow the New York Power Authority to increase the number of power plants it operates and require it to only provide renewable energy. While it passed the Senate, the bill failed to get to the floor in the Assembly, but after a full day Assembly hearing over the summer and a great deal of discussion after that, expect it to be toward the top of the list for real consideration early in session.
  - In 2022, the New York State Energy Research and Development Authority will also decide on the State's third large scale off shore wind procurement seeking enough off shore wind energy to power 1.5 million



homes, part of the state's effort to procure 9,000 megawatts of offshore wind power by 2030.

- Crime/Public Safety

- Crime became one of the most talked about points during the election cycle, and has caused some strain between moderate Democrats and progressive Democrats. In New York City, Mayor Eric Adams experienced a more precarious relationship with the state's lawmakers that will continue into 2023. Notably, Adams wants a "dangerousness" factor in Judge's decisions whether or not bail is offered, Progressive Legislators have pushed back hard on many of the Mayor's suggested reforms.
- Crime Prevention is expected to be the one of the top issues for Governor Hochul's administration in the coming year, and across both parties in the Legislature. Republicans and moderate Democrats are expecting Governor Hochul to re-evaluate the post-2019 bail reforms after they became tied to the recent crime surge during the midterm elections. Hochul was obviously not in office when they were signed and few Dems defended the reforms on the campaign trail. However, many progressive legislators were in the Legislature for ending cash bail for most misdemeanors and non-violent felonies in 2019 and remain outspoken advocates. They are unlikely to back down, making this an issue to watch in 2023.

- Technology

- While there has been some bipartisan consensus in Congress on a federal data privacy framework (discussed more in our preview of the 118<sup>th</sup> Congress below), Congress failing to pass that framework and continued debate on federal preemption of state regulations will once again prioritize the conversation in New York. Senate Consumer Protection Chair Kevin Thomas has said that the New York Privacy Act will be back for 2023. The bill, among other things, would allow consumers to have more control over their data and place stiffer limits on data brokers. It echoes similar changes being made by state legislators around the country and in Europe. If enacted, it would be only the fifth such framework in state statute in the Country.
- The Governor signed the Digital Fair Repair Act last week making New York is the first state to adopt a right to repair law, which will become effective in June 2023. The law will change the terms and conditions by which people and enterprises that own telecom equipment can repair it, meaning entities that manufacture and sell equipment will no longer be able to dictate the locations where devices can be brought for repair or who can service them. Many other state legislatures are expected to follow suit. We will be keeping an eye on the implementation of these regulations in 2023.

- Budget

- New York City is nearing a potential fiscal cliff. Total revenue is expected to decline by \$10.5 billion in Fiscal Year 2023. If left unaddressed, the City might be on a path to structural budgetary imbalance. The Adams Administration is expected to make spending cuts across city departments, which most recently affected the NYC Public Libraries riling progressives across the City Council and in the State Legislature.



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This conversation will surely reverberate in Albany this year.

- New York State Division of the Budget predicts a modest budget gap of \$310 million for State Fiscal Year 2023-24. However, Governor Hochul and Democrats are hoping that industry growth—including semiconductor production like Micron in Syracuse, and incentives like the Green CHIPS will bring in enough industry attraction to offset long term budget impacts that would limit state spending.
- Expect Governor Hochul—as well as both houses of the legislature—to offer proposals to ease the cost of living for New Yorkers. This could include an extension of the gas tax holiday, some modest tax relief, and cost of living adjustments for key industries that receive funding from the state through several agencies dealing with mental health, developmental disabilities, addiction services, children and families, and more.
- Other Dynamics to Watch in New York this Year
  - Mayor Eric Adams plans to become a national speaker for the Democratic party ahead of 2024 elections. His stance on bail reform and crime paints him as the moderate Democrat the national party wants to put out, and the elections will serve as a test of his political clout, especially after Adams first year exposed a somewhat rocky relationship with Albany lawmakers. How that national profile will square with spending time in Albany and with the state legislators who hold his fate in their hands will be worth watching.
  - It will be worth paying attention to the continued development of the Adams/Hochul “*New*” *New York: Making New York Work for Everyone Joint Action Plan*. The plan launches in 2023. It consists of 40 proposals from Mayor Adams and Hochul intended to “help to revitalize our business districts, ease New Yorkers’ commutes, promote equity and tackle our 800,000-unit housing shortage.” The plan will intends to target several facets of NYC’s quality of life including, commuter times, childcare access, mixed use buildings for housing, and child tax credits.
  - Senator James Skoufis will again propose that local elections should be moved to even number years in order to coincide with state elections to increase voter turnout. Conservatives argue that this would bury local candidates to the bottom of ballots and make it more difficult for their races to gain attention if they must compete with statewide offices.

## PREVIEWING THE 118<sup>TH</sup> CONGRESS

Republicans won a narrow victory in the House—winning 222 seats—to earn a majority in the 118<sup>th</sup> Congress.

A win is a win but after predictions of a historic red wave, the result was a disappointment for Republicans. Considering the historic trend of the party in power losing seats as well as voters’ concerns with inflation, crime, and the broader economy, there were many reasons to believe Republicans would win a big majority, at least, in the House.





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However, several factors—including the Supreme Court decision overturning *Roe v. Wade* energizing Democrats and holding Republican suburban women; decreases in oil prices; concerns about the future of Democratic systems; and reaction to former President Trump's candidacy helped Democrats minimize losses.

Democrats actually gained a seat in the United States Senate, albeit with thin margins of victory in some states, especially the battleground states of Pennsylvania and Arizona. All of the above factors influenced the Senate as well as, as Republican Senate Leader Mitch McConnell said, a “candidate-quality problem.”



FROM THE LOBBY

with Jack O'Donnell

However, just as Democrats were celebrating an increased majority following Senator Raphael Warnock's victory in Georgia's run-off election, Arizona Senator Kyrsten Sinema announced she would be leaving the Democratic Party to serve as an Independent. Sinema had previously voted as an independent and often received the ire of Democratic activists for wielding her outsized influence to reject filibuster reform, boost business, and block some of the Biden Administration's priorities. However, Sinema will continue to caucus with the Democrats and keep her committee assignments so the change will be minimal... at least until her 2024 reelection campaign.

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With Republicans in charge of the House, any progressive legislative agenda is dead, anyway.

Republicans in the House are facing their fair share of inner-party troubles as well. California Congressman Kevin McCarthy has served as Minority Leader for the past two years. He needs 218 votes to be elected as the House Speaker in 2023. But with only 222 Republicans serving, McCarthy is, at least thus far, short the needed votes to be elected Speaker with most of the holdouts coming from far-right Representatives in the House Freedom Caucus, some of whom are demanding specific rule reforms, hardline approaches to governing, and

some simply do not like McCarthy. The turmoil has also halted decisions over Committee Chairmanships and created a stand-off between Freedom Caucus members and the rest of the party that McCarthy says threatens “to squander this majority.”

## 2023 Federal Legislative Preview

- Healthcare
  - Following the Supreme Court's ruling in *Dobbs v. Jackson*, it has become increasingly clear that the fight for abortion rights will play out at the state level. However, there has been increased pressure for both parties to invest in maternal healthcare provisions at the federal level. Still, Republicans in the House will try to pass a federal ban on abortion while Democrats in the Senate are considering legislation to codify women's reproductive rights.



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- The COVID-19 Public Health Emergency, as determined by Health and Human Services, is currently set to end on January 11<sup>th</sup>. There are questions regarding the extension of flexibilities that came out of the pandemic. Most significant is the allowance for a wider variety of options for receiving care through telehealth, including mental health and counseling services. Additionally, as the nation continues to come out of the pandemic, many hospitals are still facing staff shortages that will likely need to be addressed at least partially by lawmakers at the Federal level.
- The mental health crisis exposed by the COVID-19 pandemic remains an important issue and both parties are interested in providing additional coverage, support, and resources for mental health and addiction. However, Republicans remain split on how to address the crisis, especially as the current mental health debate has become embroiled in parents' rights issues.
- Medicare will continue to face scrutiny in 2023. The American Medical Association voiced their concerns that the 2023 physician payment schedule is a sign of the program's increasing financial instability. The AMA also insists that Congress come up with systemic reforms to make Medicare work better for patients.
- As sales in CBD and Delta-8 cannabinoid products have increased around the US, the FDA will look further into how they can enforce regulation on the cannabinoid industry. The move from the FDA likely comes from increased concerns that the industry is pushing products that target children and teenagers.
- Education
  - House Republicans plan to bolster parents' rights in schools as laid out in their "Commitment to America," including making changes to Title IX to confront new issues of gender identity, and will likely pose questions about the nature of "academic freedom" within public education.
  - House Republicans will also focus on expanding career and technical education and vocational education opportunities. Meanwhile, Democrats will likely revisit the issue of college affordability, including the Pell Grant program.
- Energy & Environmental Policy
  - House Republicans plan to offer legislation to ease permitting on fossil fuel production—which was also a priority for Senator Joe Manchin that died last Congress. Largely similar to Manchin's proposal, McCarthy says the permitting proposal will stimulate oil and gas production in order to lower prices at the pump. Republicans are also entertaining faster permitting processes for low- to no-carbon sources, such as renewables, small nuclear reactors, and hydrogen. Both parties have agreed that the U.S. environmental permitting system needs to be improved, including accelerating timelines and minimizing litigation.
  - The Farm Bill, which must be passed every 5 years, will also be a priority this session. The bill has monumental impact on farmers livelihoods, how our food is grown, how public benefits are administered. This



year, expect the Farm Bill to include support for sustainable farming practices.

- Republicans are committed to targeting oversight of the Department of Energy Loan Guarantee Program, OPEC, and U.S. Securities and Exchange Commission requirements for public company disclosure of risks regarding climate change. Energy and Commerce Republicans believe increased oversight will force the Biden Administration to turn away from OPEC and Russia in order to tap into American energy reserves.
- Foreign Policy
  - House Republican leaders have proposed a House Select Committee on China that is intended to halt US economic reliance on China, protect Americans' data privacy from Chinese companies, strengthen the US military, and advance democratic ideals to combat rising authoritarianism from the Chinese Communist Party. The Committee is a sign that House Republicans will prioritize US competition with China in the 118<sup>th</sup>.
  - Strong support for Ukraine's fight to regain their territories after the Russian invasion will continue, and financial and military resource aid is expected to continue as well, despite some Republicans asking for decreased funding.
  - Congress will need to reauthorize the President's Emergency Plan for AIDS Relief (PEPFAR), which expires on September 30, 2023. PEPFAR invests over \$100 billion in AIDS response in over 50 countries and is vital to controlling the AIDS global pandemic.
- Data Privacy & Technology
  - After years of debate and discussion on a path forward for data privacy, the House Energy and Commerce Committee over the summer voted overwhelmingly (53-2) to approve a bipartisan data privacy bill, the American Data Privacy and Protection Act. The bill would establish a national standard for data privacy and has the backing of Sen. Roger Wicker, R-Miss., the top Republican on the Senate Commerce Committee. The bill may have bipartisan support, but the bill has received opposition from some Democrats—including Senate Commerce Committee Chair Maria Cantwell—because they see its enforcement measures and remedies for consumers as too weak. Furthermore, the bill would largely preempt state frameworks throughout the Country, namely California's, which is why former-Speaker Nancy Pelosi would not bring it to a vote on the floor of the House. The debates on Federal preemption, consumers' private right of action, and enforcement mechanisms will continue into the 118<sup>th</sup> Congress, but Washington is closer to an agreement on an overarching data privacy policy than it has ever been.
  - Beyond data privacy, Republicans and Democrats will largely be united in taking on "Big Tech." With the European Union (EU) aggressively moving forward on the Digital Markets Act and Digital Services Act, policymakers will have even more reason to act so as not to allow the EU to establish on a de facto basis the global terms on which U.S. industry must operate.



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- With Rep. Jim Jordan (R-OH) as Chair of the House Committee on the Judiciary, Congress also could consider amendments to section 230 of the Communications Decency Act of 1996, which generally shields internet platforms from legal liability for content posted by others, depending on how the Supreme Court addresses the issue in two pending cases this term.
- Both parties plan to investigate Big Tech during 2023. Republicans in the House will focus on what they believe is a left leaning bias amongst big tech companies, and a “special relationship” between government officials and tech platforms such as Twitter, Google, or TikTok.
- In the Senate, Democrats are targeting anti-trust issues amongst tech platforms that favor their own services on their marketplaces. It is expected that the Senate will also host hearings that crack down on major tech companies, primarily TikTok and Facebook’s parent company, Meta.
- Labor
  - Republicans will also increase oversight hearings and committee investigations into perceived “conflict of interest” issues in the National Labor Review Board (NLRB), and plan to be more aggressive in their approach to hearings by encouraging more participation and perhaps flexing their subpoena powers.
  - Republicans also plan to introduce the Employee Rights Act as an antithesis of the Protecting the Right to Organizing (PRO) Act, which would regulate the influence of unions amongst workers and heavily diminish unions ability to organize.
- Infrastructure
  - After the passage of Biden’s Infrastructure Investment and Jobs Act (IIJA) last year, Republicans are expected to increase oversight into subsequent appropriations and allocations from the bill over the next several fiscal years, including calling for roll backs regarding the U.S. Department of Transportation’s (DOT’s) discretionary grant decision-making authority. House Energy and Commerce Republicans have already called for the National Telecommunications and Information Administration (NTIA) in the U.S. Department of Commerce to distribute their share of the \$64 billion in funds for high-speed broadband.
- Judges
  - In Biden’s first year as President, he appointed more first year Appellate and District Court Judges than any president since John F. Kennedy. To reach record confirmations and top President Trump’s four-year record, Senate Democrats will need to maintain party unity and avoid any reduction in their majority vote. Democrats plan to continue filling every judicial vacancy, with an emphasis on appointing women of color, public defenders, and civil rights attorneys.
- House Hearings



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- Oversight will dominate House Republicans agendas in the new year, including increased scrutiny of the Biden Administration's funding priorities in their attempt to police the power of government agencies. Hearings will include audits of White House legislation and will feature senior administration members, in what Republicans consider to be necessary investigations.
- Republicans have prioritized their investigation into Hunter Biden's business dealings with Chinese and Ukrainian entities, including the President's son's business records and bank records. Republican lawmakers calling for investigations have stated their belief that Hunter is a national security threat with the potential to corrupt the Biden Administration. Democrats that believe these probes are nothing more than a form of political revenge point out that Hunter is already under investigation by the Department of Justice for false statements on tax returns.
- House Republicans are planning to make up for lost time in their probes, promising to investigate any discrepancies in policy that occurred while they were in the minority over the last two years. Topics they plan to cover include the origins of the Covid-19 virus, inflation, the U.S. withdrawal from Afghanistan, and the U.S.-Mexico border.
- Biden Administration's priorities for 2023
  - As opposed to his sweeping Build Back Better bill, Biden plans to use the 118<sup>th</sup> Congress to focus on smaller policies, including including several items that did not make it into the recent Omnibus package: a permanent extension of pandemic telehealth waivers, an expansion of the Child Tax Credit, and perhaps most notably, the SAFE Banking Act, which would allow financial institutions to take on cash reserves from cannabis companies.
  - In terms of spending, Biden was successfully able to include increases in spending for disaster aid, college access, child care, mental health and food assistance, and veterans. Biden has also requested increased funds for the U.S. Capitol Police. Expect those priorities to continue into 2024.
  - The Biden Administration will continue to work closely with allies to meet challenges from Russia and China, and has doubled down on commitments for continued emergency funding for Ukraine. The US will send a delegation, including Secretary Blinken, to China to keep lines of communication open in order to avoid future conflicts. As Republicans gear up to make US-China relations a priority within the House, the Biden Administration is continuing to stress the importance of diplomacy, despite increasing the defense budget by eight percent.
- A Divided Congress & the FY 2024 Budget
  - Perhaps most importantly, the upcoming Federal Fiscal Year 2024 Budget and Appropriations process will lead to numerous showdowns between Democratic Senate Majority Leader Chuck Schumer and Rep. Kevin McCarthy (or whomever ultimately is elected Speaker of the House) and Republicans. It will also stymie much of the production we saw over the first two years of the Biden Administration.
  - For one, a divided Congress and House Republicans will make budget reconciliation—the process of which the Senate can end the filibuster on fiscal measures with a simple majority—impossible to use. The



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Biden Administration, Leader Schumer, and Speaker Pelosi used budget reconciliation to pass both the American Rescue Plan Act of 2021 and the Inflation Reduction Act of 2022. Passing sweeping legislation in 2024 will be much more difficult, albeit impossible.

- That said, Biden has had bipartisan success in the past and is hoping to use that experience both in policy and appropriations. His FY 2024 Budget is expected to emphasize research and development across government agencies. The White House plans to prioritize research that will prepare and prevent pandemics, as a new wave of Covid threatens to rise out of China. Additionally, research will target solutions to climate change, advancing national security and technology competitiveness, and cultivating the STEM education and workforce. Finally, Biden hopes to deliver on his bold promise to cut the death rate of cancer by half.
- Cybersecurity is also amongst the FY 2024 budgetary priorities. Agencies will invest in three main cyber categories: improving the defense and resilience of government networks through tech modernization, deepening cross-sector collaboration to defend critical infrastructure, and “strengthening the foundations of our digitally enabled future.”

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