MCLE Certificate Information

MCLE Certificate Information

- Approved for 1.0 hour General PP credit.

- CLE credit form must be submitted by **Wednesday, March 20th.**

- Form Link: https://gibsondunn.qualtrics.com/jfe/form/SV_bje9E9IvdaiNILI

- Most participants should anticipate receiving their certificate of attendance in four to eight weeks following the webcast.

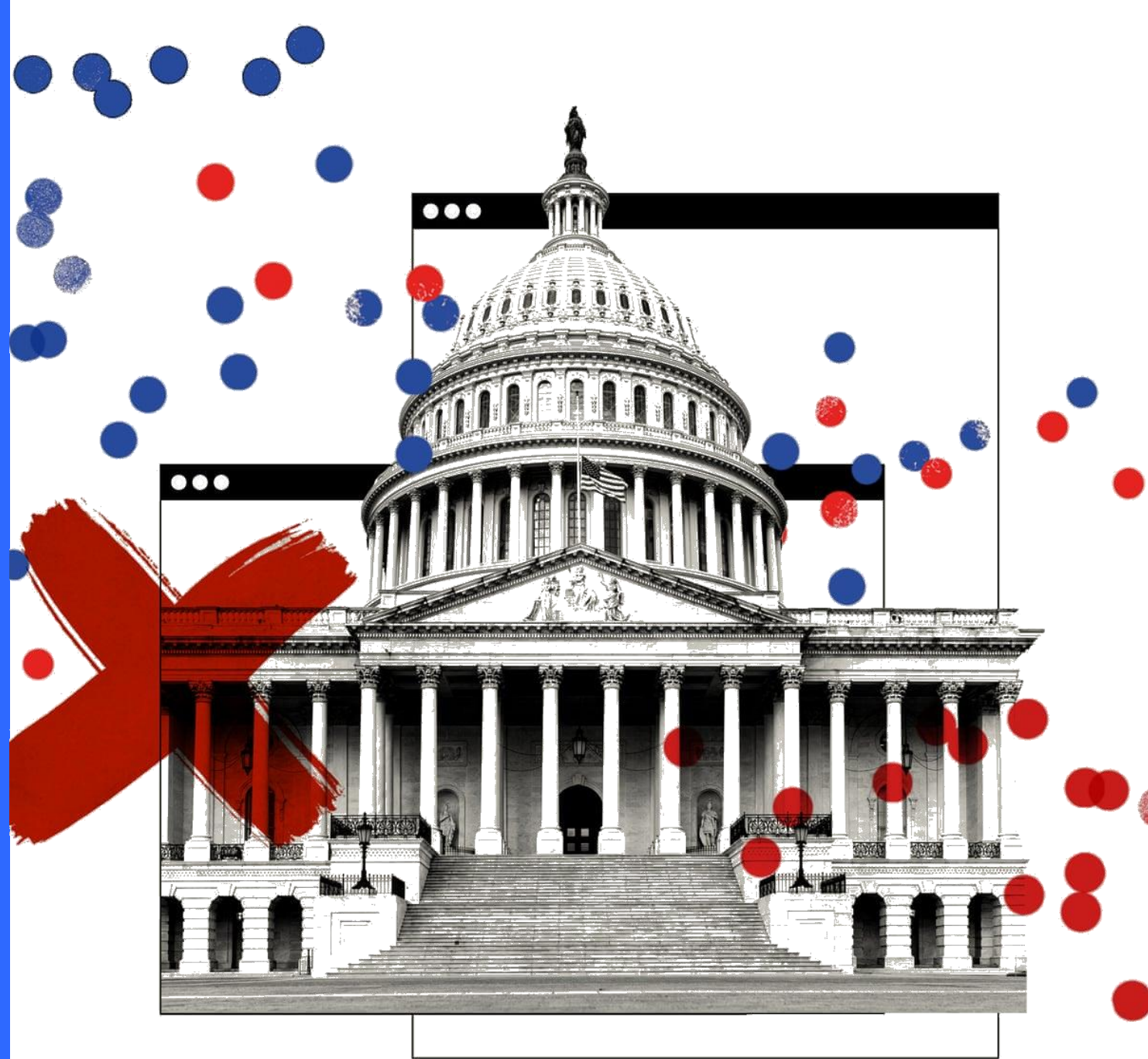- **Please direct all questions regarding MCLE to CLE@gibsondunn.com.**

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GIBSON DUNN

2024 ELECTION
FORECAST

01

Joe Biden

Donald Trump

- Americans tell pollsters they are not satisfied with this match-up. As of January, 56% thought that Trump should not run, and 70% thought that Biden should not run.
- Biden is viewed favorably by 39.9% of U.S. adults, and Trump was viewed favorably by 42.6%. (updated 03/07/2024)

- According to the most recent polls, Trump leads Biden by 1-2%. (updated 03/08/2024)
- Suburban women were critical in helping Biden win the 2020 election, and will likely be a key demographic to watch in swing states leading up to the 2024 election.
  - Biden leads by 10 percentage points (50% to 40%) over Trump among women. (updated 02/04/2024)
  - When it comes to suburban women, his lead drops to 6 percentage points (49% to 43%). (updated 02/04/2024)
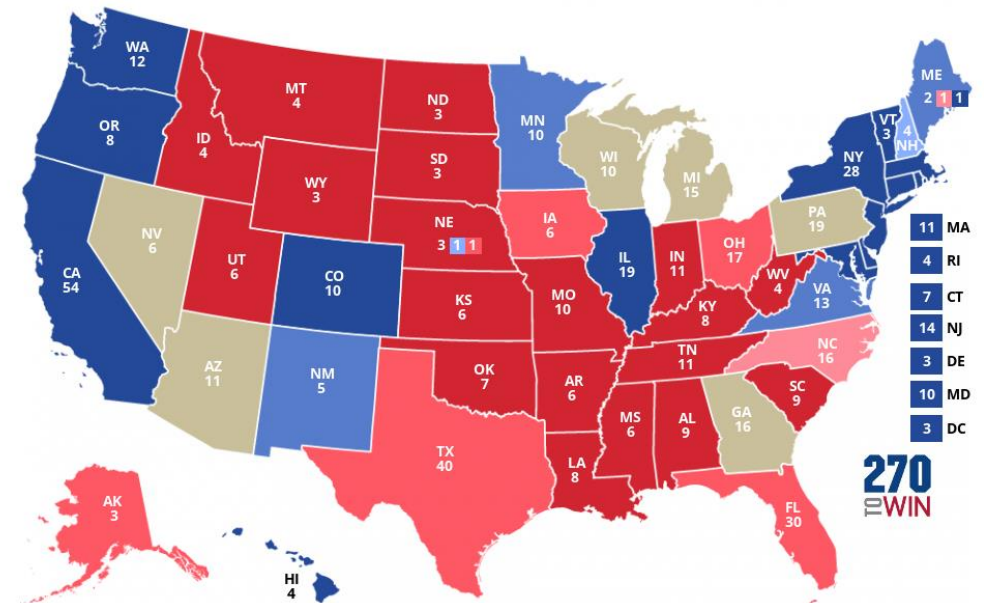
Last updated 03/24/2024 from 270toWin.com

Both the Senate and the House Could Flip

DEMOCRAT | | | | | 50 | | | REPUBLICAN

| 28 | 23 | | 11 | 38 |
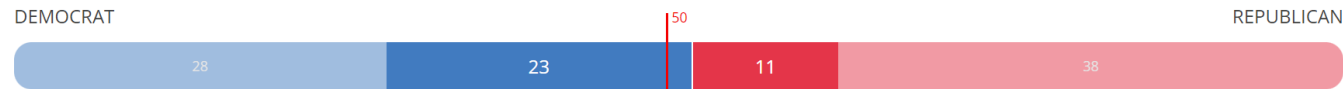
SENATE

- Current 51-49 Democratic majority.

- Senators Joe Manchin (D-WV), Mitt Romney (R-UT), and Kyrsten Sinema (I-AZ) are retiring.

- Republican Leader Mitch McConnell's (R-KY) successor is likely either:
  - Senator John Thune (R-SD); or
  - Senator John Cornyn (R-TX).

SOLID DEMOCRAT | | | | 218 | | SOLID REPUBLICAN

| 171 | 20 | 12 | 22 | 8 | 10 | 192 |
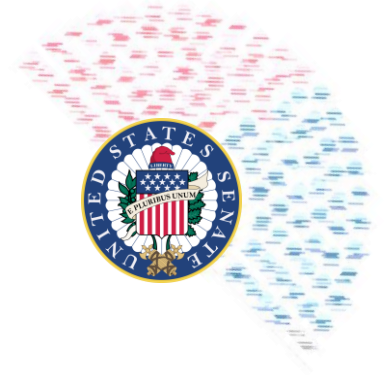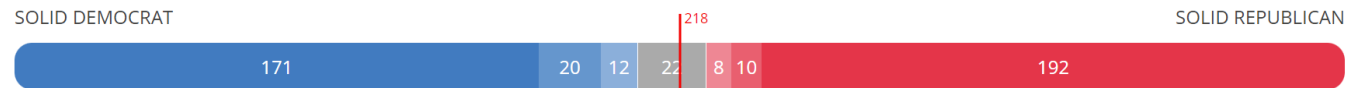
HOUSE

- Current 219-213 Republican majority (with 3 vacancies)

- 20 House Republicans are either retiring or seeking other political office, including five GOP committee chairs:
  - Homeland Security Chair Mark Green (R-TN);
  - Energy & Commerce Chair Cathy McMorris Rodgers (R-WA);
  - Financial Services Chair Patrick McHenry (R-NC);
  - Appropriations Chair Kay Granger (R-TX); and
  - China Select Committee Chair Mike Gallagher (R-WI).

- 23 House Democrats are either retiring or seeking other political office.

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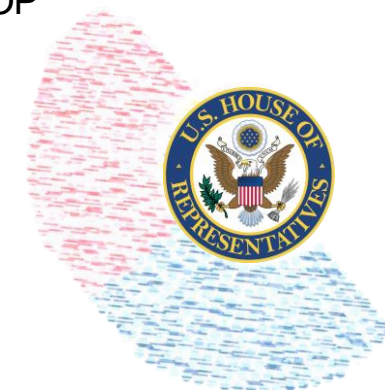
Senate Races to Watch

Three might flip from Democrat to Republican

Cook Political Report (CPR) rates them most competitive; either party has a good chance of winning
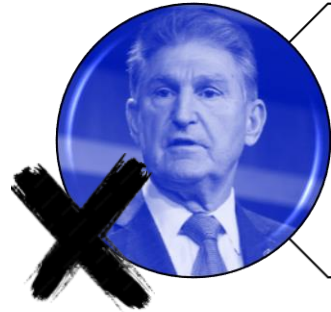
West Virginia

CPR: "Solid Republican"
Republicans will pick up seat

- **Senator Joe Manchin (D)** is not seeking reelection.
- Candidates:
  - **Gov. Jim Justice (R)**, endorsed by Trump.
  - **Alex Mooney (R)**, U.S. Representative for WV.
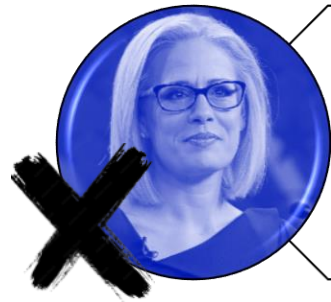
Arizona

Race to replace Sinema is a rush to the center

CPR "Toss Up"

- **Senator Kyrsten Sinema (I)**; Independent; caucused with the Democrats; announced on March 5 that she will *not* run for reelection.
  - Polls show a tight race in a state that voted for Biden by less than one percentage point.
- Candidates:
  - **Ruben Gallego (D)**, U.S. Representative for Arizona.
  - **Kari Lake (R)**, former TV anchor; endorsed by Trump during unsuccessful 2022 gubernatorial run and in Senate race.

Montana

CPR "Toss Up"

- Vulnerable Democratic Incumbent: **Senator Jon Tester (D).**
- Montana voted for Trump in 2020 (~56% of the vote).
- Republican Candidate:
  - **Tim Sheehy**, a military veteran, endorsed by Trump.

GIBSON DUNN

Senate Races to Watch

Three states to watch

Ohio
CPR "Toss Up"

- Vulnerable Democratic Incumbent: **Senator Sherrod Brown (D).**
- Ohio voted for Trump in 2020 (~53% of the vote).
- Republican Candidates:
    - **Bernie Moreno**, businessman.
    - **Frank LaRose**, Ohio Secretary of State.
    - **Matt Dolan**, Ohio State Senator.

New Jersey
CPR: "Likely Democrat"

Heated Democratic primary

- Incumbent **Senator Bob Menendez (D)** is not seeking reelection after being indicted on bribery charges.
- Two candidates are facing off in the Democratic primary:
    - **Tammy Murphy (D)**, the wife of Governor Phil Murphy.
    - **Andy Kim (D)**, U.S. Representative for NJ.

Pennsylvania
CPR: "Lean Democrat"

- Incumbent **Senator Bob Casey (D).**
    - Pennsylvania voted for Biden in 2020 (50% of the vote).
- Republican candidate:
    - **Dave McCormick**, former hedge fund executive; lost primary to Dr. Oz in 2022 Senate race.

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Senate Races to Watch

Two states possible to flip from Republican to Democrat

Florida

CPR: "Likely Republican"

- Incumbent **Senator Rick Scott.**
- Democratic candidate **Debbie Mucarsel-Powell**, former U.S. Representative for Florida.
- What might happen
  - Potential abortion ballot initiative may increase Democratic turnout.
  - Scott is reportedly "seriously considering" a run for Senate GOP leader.
  - Public Policy Polling (left-leaning firm paid for by Emily's List):
    - Sen. Rick Scott leading Debbie Mucarsel-Powell **44% to 41%**, within the margin of error.
    - 63% said they were unsure about thoughts on Mucarsel-Powell.
    - 34% favorable opinion on Scott; 48% unfavorable opinion on Scott.

Texas

CPR: "Likely Republican"

- Incumbent **Senator Ted Cruz.**
- Democratic candidate **Colin Allred**, U.S. Representative for Texas.
  - Secured ballot on Tuesday, March 6.
  - **Colin Allred** is currently outraising **Senator Ted Cruz**.
    - **Colin Allred** raised 18.4 million in 2023, while **Senator Ted Cruz** raised $13.2 million.
- Long shot but too soon to say

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House Races to Watch

- **Democrats need a net gain of four seats to flip the House.**

- Both Democrats and Republicans have the opportunity to flip seats in districts drawn more favorably than they were last cycle.

  - The newly drawn LA-06 is heavily Democratic and opens up a historically Republican seat, while redistricting in North Carolina has opened up three potential flips for Republicans.

- 18 Republicans hold seats that voted for Biden in 2020, many in New York (6) and California (5).

- 20 House Republicans and 23 House Democrats are either retiring or seeking other political office.

- Not since 1952 has the House majority changed hands during a presidential election year.

Republicans		
TOSS-UP (8)	**LEANS REPUBLICAN (9)**	**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)	CO-5 Open (Lamborn)
David Valadao (CA-22)	CO-3 Open (Boebert)	Anna Paulina Luna (FL-13)
Don Bacon (NE-2)	Zach Nunn (IA-3)	María Elvira Salazar (FL-27)
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)
L. Chavez-DeRemer (OR-5)	Tom Kean Jr. (NJ-7)	Brian Fitzpatrick (PA-1)
	Jen Kiggans (VA-2)	Scott Perry (PA-10)
		Andy Ogles (TN-5)
		Monica De La Cruz (TX-15)
		Bryan Steil (WI-1)
		Derrick Van Orden (WI-3)

SAFE REPUBLICAN FLIPS (3)
NC-14 Open (Jackson)
NC-6 Open (Manning)
NC-13 Open (Nickel)

Total seats rated Safe Republican: 190
Total seats rated Safe, Likely, or Leans R: 212

Democrats		
TOSS-UP (9)	**LEANS DEMOCRATIC (14)**	**LIKELY DEMOCRATIC (18)**
CA-47 Open (Porter)	Mary Peltola (AK-AL)	AL-2 Open (Moore)
Jared Golden (ME-2)	Yadira Caraveo (CO-8)	Josh Harder (CA-9)
MI-7 Open (Slotkin)	Jahana Hayes (CT-5)	Mike Levin (CA-49)
MI-8 Open (Kildee)	Frank Mrvan (IN-1)	Sharice Davids (KS-3)
Don Davis (NC-1)	Eric Sorensen (IL-17)	MD-6 Open (Trone)
Emilia Sykes (OH-13)	Angie Craig (MN-2)	Hillary Scholten (MI-3)
Matt Cartwright (PA-8)	Gabe Vasquez (NM-2)	Annie Kuster (NH-2)
Susan Wild (PA-7)	Anthony D'Esposito (NY-4)	Chris Pappas (NH-1)
M. Gluesenkamp Perez (WA-3)	Pat Ryan (NY-18)	NJ-3 Open (Kim)
	Brandon Williams (NY-22)	Susie Lee (NV-3)
	Marcy Kaptur (OH-9)	Steven Horsford (NV-4)
	Chris Deluzio (PA-17)	Dina Titus (NV-1)
	Vicente Gonzalez (TX-34)	Tom Suozzi (NY-3)
	VA-7 Open (Spanberger)	Greg Landsman (OH-1)
		Val Hoyle (OR-4)
		Andrea Salinas (OR-6)
		Henry Cuellar (TX-28)
		Kim Schrier (WA-8)

SAFE DEMOCRATIC FLIP (1)
Garret Graves (LA-6)

Total seats rated Safe Democratic: 174
Total seats rated Safe, Likely, or Leans D: 206

CONGRESSIONAL POLICY
OUTLOOK

02

It is an election year. What does that mean for Congress?

General assumptions:

- It is harder to legislate in an election year.

- "Must-pass" bills (like the budget) pass but likely little else.

- As the year goes on, everything gets more political and the focus shifts to campaigning.

- Hearings and congressional investigations take center stage.

- Bills are introduced with an eye towards the next Congress.

National Security **Supplemental**

- The House and Senate are on completely different pages.
- There is dwindling support in Congress among Republicans to send military and humanitarian aid to Ukraine.
  - Senate Minority Leader Mitch McConnell (R-KY) continues to champion funding for Ukraine.
- Progressives do not support many elements of a border security deal, but many conservatives, particularly in the House, do not believe the proposed deal goes far enough. Can there be a middle ground?
- Progressives have also grown wary of the war in Gaza and oppose aid to Israel without conditions.
  - This will split Democrats in Congress like Ukraine funding splits Republicans.
- Funding for Taiwan would also be part of the National Security supplemental bill if it comes together.
- Will other unrelated items get attached to the supplemental?

Artificial
Intelligence

- Artificial intelligence (AI) is an area of policy focus for Congress.
- In June 2023, Senate Majority Leader Chuck Schumer announced the launch of his SAFE innovation Framework for Artificial Intelligence.
  - Since then, the Senate has hosted nine AI Insight Forums and committees of jurisdiction have held multiple hearings on the topic.
- Leader Schumer's involvement is notable as he controls what bills receive consideration in the Senate.
- Timing of any legislation is uncertain.
- Senator Mike Rounds (R-SD), one of Senator Schumer's three AI collaborators, said that any AI legislation would likely not come up at the earliest until "the second part of the year, which is going to be a real challenge just because of our schedule."
  - Senator Rounds did suggest that perhaps the first legislation Congress would pass would regulate the way AI is used in campaign communications.
- Speaker Johnson and Minority Leader Hakeem Jeffries (D-NY) announced the creation of a bipartisan task for on AI comprised of 24 House members—12 Republicans and 12 Democrats. Will the task force be able to successfully cobble together legislation that could pass the House?

Data Privacy, **Security**

- Congress failed to pass comprehensive data privacy legislation this Congress.
- Smaller bills still may move.
  - Protecting Americans' Data from Foreign Adversaries Act (H.R. 7520) to stop data brokers from selling Americans' sensitive personal data to foreign adversaries passed the House Energy & Commerce Committee 50-0 on March 7.
  - The Kids Online Safety Act (S. 1409) is a more limited, bipartisan effort that would require online platforms to take reasonable measures to protect children from bullying, violence, addiction, drug and alcohol use, and predatory marketing.
    - The legislation now has 65 cosponsors in the Senate—which amounts to enough senators to override a filibuster.
    - The bill does not have a House companion and still faces an unclear path to becoming law.
    - Microsoft, X, Snapchat have endorsed.

Cryptocurrency

- House Financial Services Committee leaders coalescing around stablecoin legislation.

- Republicans and Democrats examining whether anti-money laundering rules are sufficient to regulate crypto.

- Senator Warren's Digital Asset Anti-Money Laundering Act of 2023 has sparked significant lobbying by the crypto industry, and may have attracted a serious Republican contender in her Senate race.

Tax Legislation

- In January, the House passed a $78 billion bipartisan tax package 357-70 (H.R. 2704). It would:

  - Increase maximum refundable child tax credit for households that owe little or no income taxes, adjusted for inflation starting in 2024;

  - Allow businesses to immediately deduct the cost of U.S.-based research investments;

  - Remove double taxation for businesses and workers with operations in United States and Taiwan;

  - Increase small business investment write-off;

  - Provide disaster relief; and

  - Expand the low-income housing tax credit.

- New York members opposed because it did not raise the deduction for state and local taxes (SALT).

- President Biden outlined his preferred tax proposals in the most recent State of the Union.

- Republican leaders like Sens. Cornyn and Thune oppose the bill. Any Senate tax package will look different from the House-passed bill.

China

- China continues to be a focus of both the Biden Administration and Congress.
- Pursuant to an executive order, the Department of the Treasury currently is developing controls on outbound U.S. investments in certain Chinese entities, including Chinese, Hong Kong, and Macau entities engaged in the business of targeted "national security technologies and products."
  - Targeted sectors include semiconductors and microelectronics; quantum information technologies; and AI systems.
  - It is possible we will see a Notice of Proposed Rulemaking sometime this spring.
- China hawks in Congress like China Select Committee Chairman Mike Gallagher (R-WI) also are considering legislating on outbound investment controls.
  - But powerful House Financial Services Chairman Patrick McHenry (R-NC) believes that the existing sanctions regime is more appropriate to regulate outbound investment and that U.S. investment in Chinese entities gives the United States more influence over those entities.

WHITE HOUSE POLICY OUTLOOK

03

2024 White House Policy Priorities

Implementation of Major Legislation

Continued rollout of CHIPS Act, Infrastructure and Jobs Act, and Inflation Reduction Act (IRA) funding

Finalization of Rules

Focus on priority rulemaking before Congressional Review Act deadline

Competition and Consumer Protection

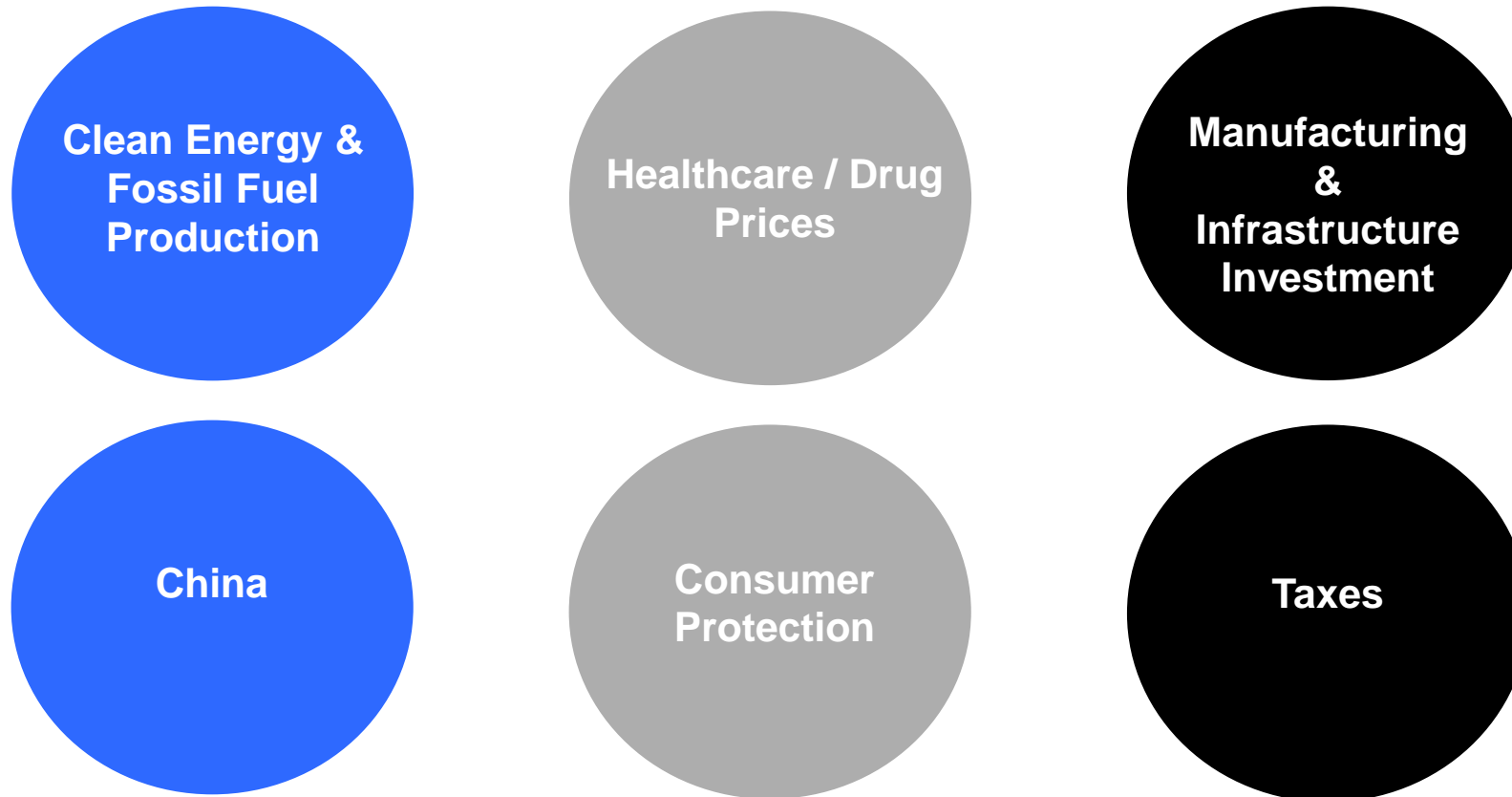Continued focus on Antitrust scrutiny, "junk fees," and lowering prices

AI

Implementation of Executive Orders

Foreign Affairs and National Security

Continued conflicts in Ukraine and Gaza will take substantial attention

Second Biden Administration: Policy Outlook

Clean Energy & Fossil Fuel Production

Healthcare / Drug Prices

Manufacturing & Infrastructure Investment

China

Consumer Protection

Taxes

It is an election year. What does that mean for the White House?

- The Presidential Transition Act of 1963 facilitates the peaceful transition of power.

- Staffing:

  - 4,000 political appointments across Executive Branch agencies

  - Career workforce of more than 2 million civilian employees across 15+ executive agencies

- A second Biden Administration would likely see significant turnover.

It is an election year. What does that mean for the White House?

- **Executive orders** are a significant vehicle for unilateral action by the President, including at the start of an Administration.

  - *Benefits*

    - EOs have the force and effect of law—unless voided or revoked by congressional, presidential, or judicial action.

    - This is one of the most direct ways a president can set policy.

    - Executive orders serve outgoing presidents by shaping policy and securing legacy, especially crucial if the incoming president is of a different party or holds differing policy views.

  - *Disadvantages*

    - Each president is free to amend, repeal, or replace any executive order, including those of his predecessors.

    - Incoming presidents may want to swiftly pursue their policy agenda by amending or reversing their predecessor's actions as soon as they take office.

- **Executive orders by the numbers**

  - In the first 100 days of the Biden administration, the President took **52 executive actions**, directly reversing 24 Trump policies.

    - This was a substantial increase in the first 100 days as compared to his predecessors: Trump (39), Obama (34), Bush (13).

It is an election year. What does that mean for the White House?

- **Rulemaking**
  - Federal agencies tend to issue more rules in the final year of an administration compared to earlier periods.
  - *Presidential tools*
    - The incoming president typically institutes a moratorium on rules that have not yet been published as final rules in the Federal Register.
    - As with EOs, agencies under new leadership can begin processes to reverse positions in prior rules and other agency actions.
  - *Congressional tools*
    - Congress can use its general legislative power to overturn or amend regulations that have already been issued by an agency, prevent an agency from finalizing rules it has already proposed or that are currently under development, or amend the statutory authority underlying a regulation.
    - Congress can utilize the Congressional Review Act (CRA) to reject final rules, employing "fast-track" procedures for joint resolution disapproval. The CRA includes a "lookback mechanism," that enables the overturning of rules from the outgoing administration's final months by the new president and Congress.
    - Congress can add provisions to agency appropriations bills to prohibit certain rules from being implemented or enforced.

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Potential Administrative Actions in a Second Trump Administration

- **Schedule F civil service category**: Trump previously issued an EO creating a new job category (Schedule F) for policy-related employees within the federal government. It effectively made these individuals at-will employees. Biden rescinded the EO shortly after taking office.

- **Immigration**: With border security being a top issue in the 2024 election, Trump has made a few significant promises tied to immigration, including restoring the "remain in Mexico" program, detaining all migrants caught crossing the border illegally or violating other immigration laws, re-implementing and expanding the previously instituted travel ban, and more.

- **Permitting Reform and Infrastructure**: Trump had previously issued a number of EOs tied to permitting and infrastructure, which Biden rescinded on his first day in office and replaced with other approaches to the same issues (including an administrative Permitting Action Plan and proposals for legislation). We would expect a second Trump presidency to bring back many of his prior policies.

- **Energy**: Trump has stated that it is his goal for the U.S. to have the lowest cost energy and electricity in the world. He has promised to increase oil drilling on public lands and to rollback current Biden efforts to encourage transitioning to clean energy. This includes exiting the Paris Climate Accords, ending wind subsidies, and eliminating regulations related to gas stoves and shower heads.

- **Trade**: Like he did during his first term, Trump has stated that he will institute tariffs on most foreign goods – up to 10%. He has also urged Congress to pass legislation giving the president authority to impose a reciprocal tariff on any country that imposes one on the U.S.

- **China**: Trump has proposed a plan to phase out reliance on essential Chinese goods. This would cover electronics, steel, and pharmaceuticals. He has also mentioned his goal of banning Chinese companies from owning U.S. critical infrastructure. We can expect efforts tied to divestment of Chinese-owned assets in the U.S. that could impact U.S. national security.

CONGRESSIONAL INVESTIGATIONS
OUTLOOK

04

Congressional Investigations Powers

Authorized by the Constitution

Not a "general power"

Must further a valid legislative purpose
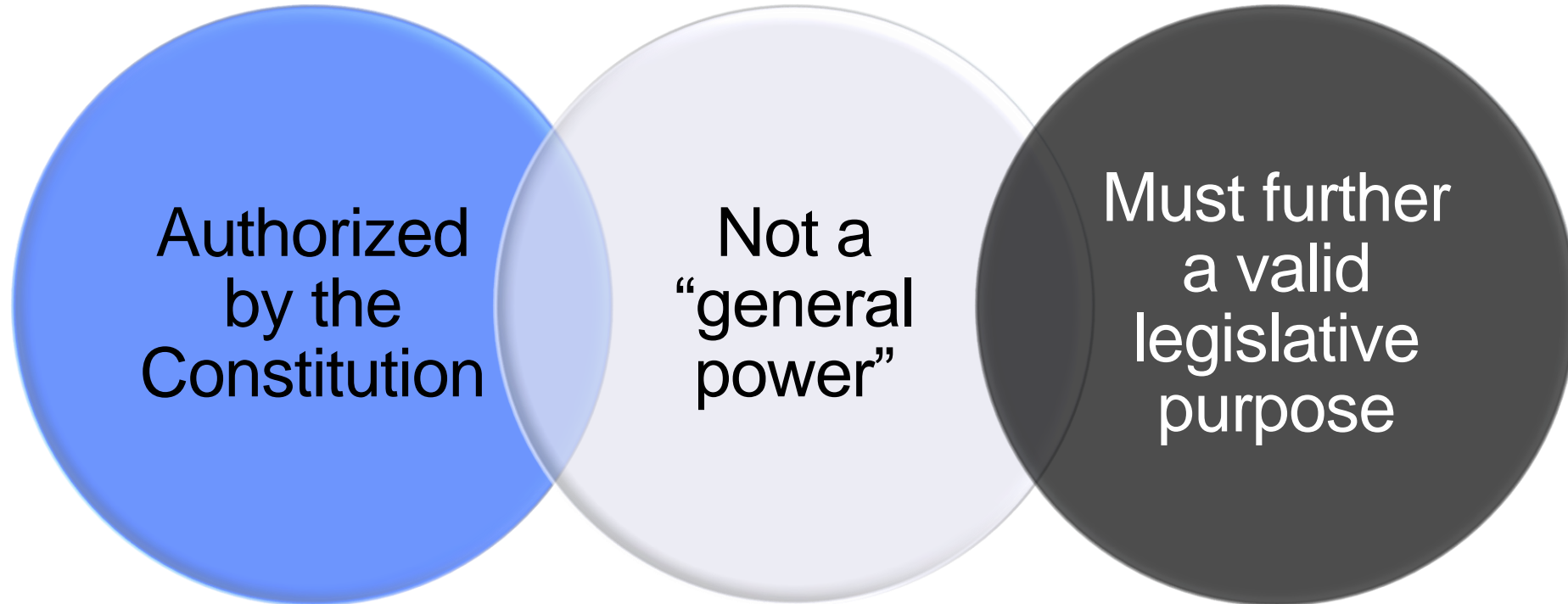
# Purposes of Congressional Investigations

- Expose actual criminal or civil wrongdoing
- Hold a company, government agency, or other entity responsible for its actions
- Advance a policy preference
- Advance legislation
- Bolster a Member's or party's political agenda or position
- Influence Executive Branch agencies, including regulatory agencies
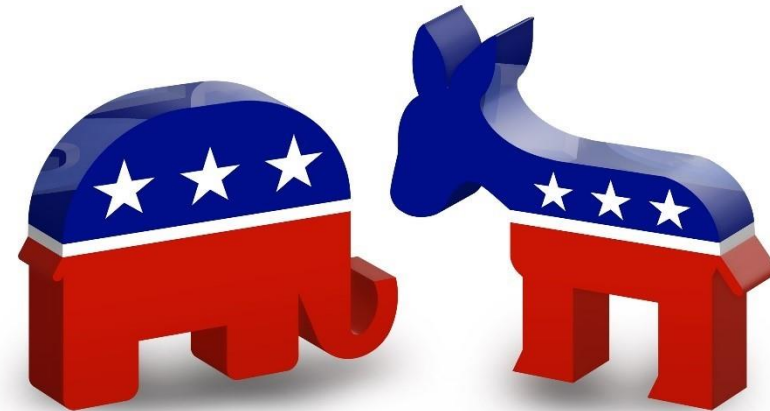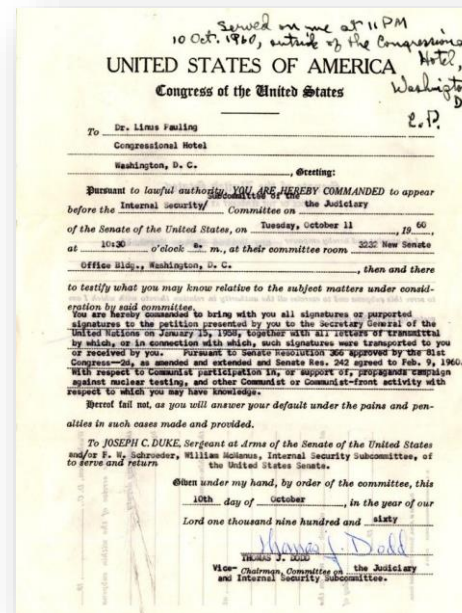
Congressional
Investigatory Tools

- Requests for information
- Interviews and depositions
- Hearings
- Subpoenas
  - Generally no pre-enforcement review
- Referral to Executive Branch for criminal prosecution
  - Congress may refer, but Executive Branch may proceed regardless of Congress's views.
  - Prosecute false statements to Congress, obstruction, destruction of evidence, etc.
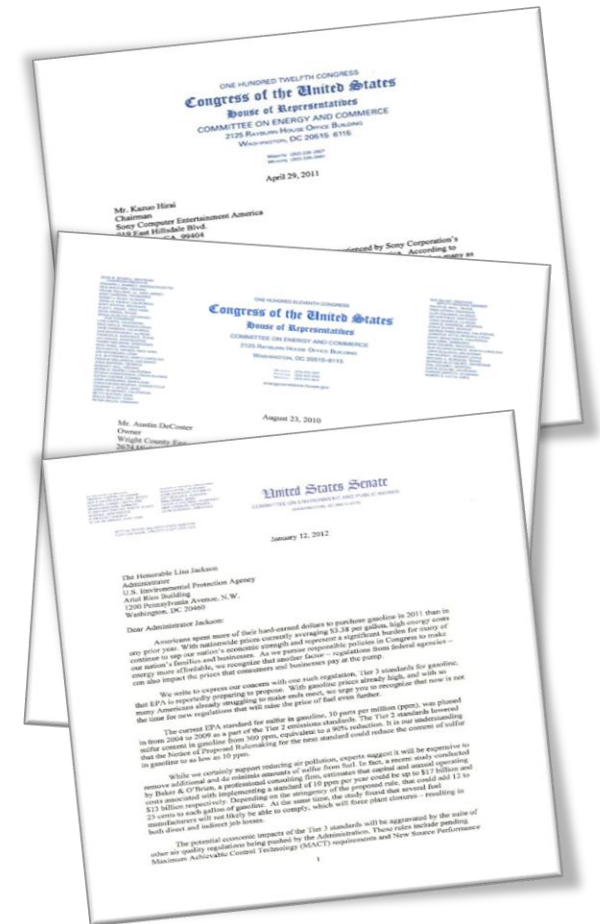
Subpoena **Power**

- Document requests usually begin with a letter and are followed by a subpoena, if necessary.

- Every standing committee has the authority to issue subpoenas. This is authorized under both House and Senate rules, but the specific procedures vary by committee.

- House rules give more authority to committee chairs.

- Subpoenas can be friendly.

- Recipient can't move to quash a subpoena.

Congressional Contempt / Civil Enforcement

- There are three means through which Congress can enforce its subpoenas:

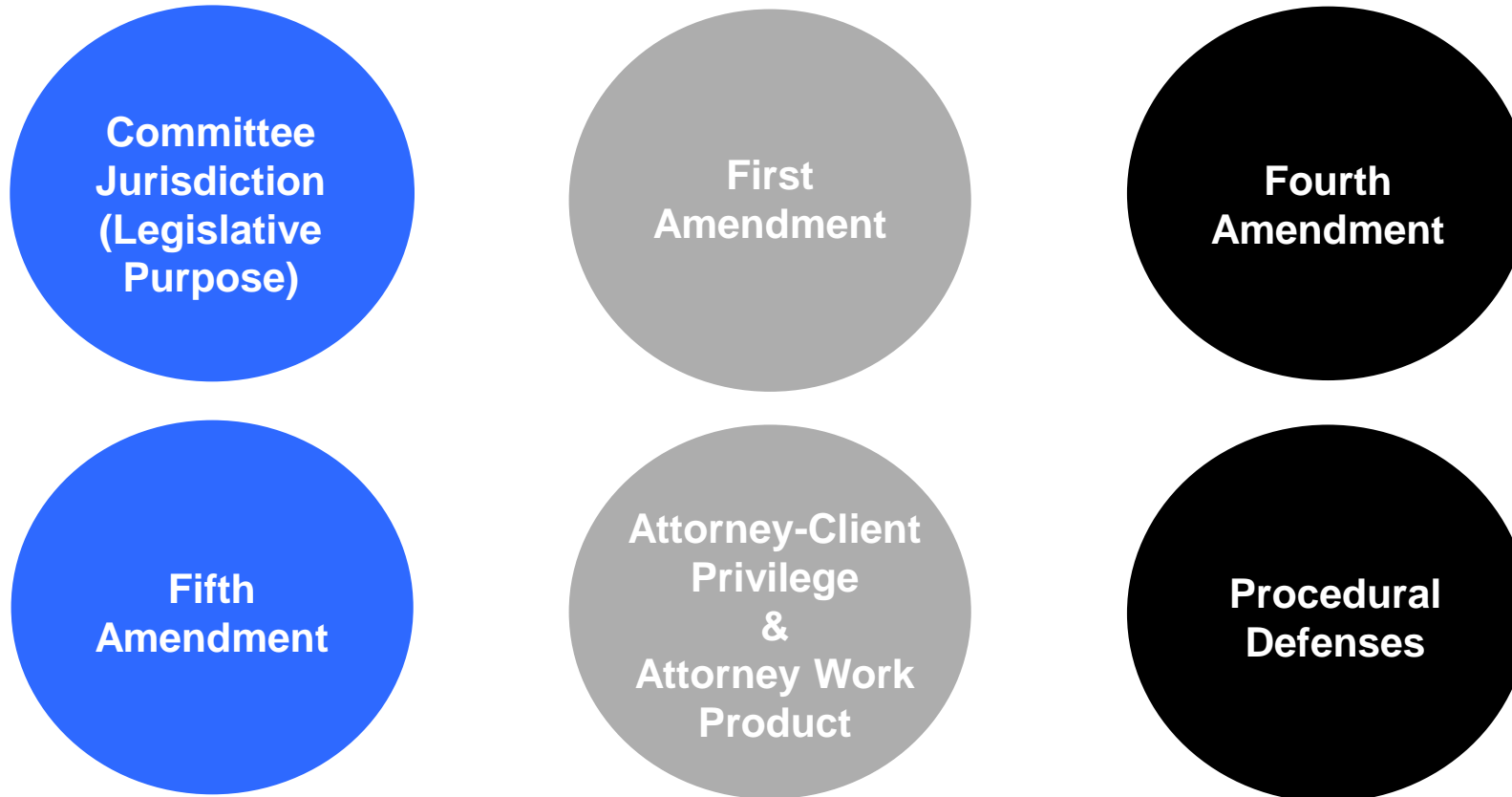**Inherent Contempt** (both House and Senate)

Criminal contempt (both House and Senate)

Civil Enforcement (Senate, and if authorized, House)

Congressional Investigations Defenses – Private Parties

Committee Jurisdiction (Legislative Purpose)

First Amendment

Fourth Amendment

Fifth Amendment

Attorney-Client Privilege & Attorney Work Product

Procedural Defenses

Trump v. Mazars: Legislative Purpose

- Standard for showing valid "legislative purpose": The Supreme Court announced what it called a "balanced approach" to govern future interbranch disputes, one that it viewed as protecting Congress's ability to investigate the President while also mitigating the risk of improper congressional inquiry.

- The Court held that a congressional subpoena must address a "valid legislative purpose" and must be "related to, and in furtherance of, a legitimate task of the Congress."

  - "Congress may not issue a subpoena for the purpose of 'law enforcement,' because 'those powers are assigned under our Constitution to the Executive and the Judiciary.'"

- Motivating this newly heightened standard appears to be dissatisfaction with the existing legislative-purpose analysis, which the Court described as "limitless," thus permitting Congress to "exert an imperious control" over the President.

- Congress must now, in effect, show its work and adequately describe the nexus between the records sought and the legislation the committee is considering.

- Thus, courts are to engage in a more rigorous examination of a committee's legislative purpose than the analyses lower courts have traditionally used.

Attorney-Client Communication
Privilege & Attorney Work Product

- *Mazars* and Common Law Privileges/Protections
  - Congress has traditionally taken the position that it is not bound to recognize common law privileges and may determine, on a case-by-case basis, whether to accept a witness's request to invoke such privileges against a congressional subpoena, but this position has not been tested in litigation.
- In *Mazars*, the Court stated that recipients of congressional subpoenas retain **both** "common law and constitutional privileges with respect to certain materials, such as attorney-client communications and governmental communications protected by executive privilege."
- While the Court's treatment of common law privileges in Mazars is arguably dicta, both the **Executive Branch and private litigants can be expected to take the position** that Congress is obligated to observe common law privileges **in the same way that courts and grand juries must observe them.**
  - The D.C. Circuit has repeated this dictum in *Trump v. Thompson*, 20 F.4th 10 (D.C. Cir. 2021), *cert. denied*, 142 S. Ct. 1350 (2022).

Top **Mistakes**

- **Facts:** failure to identify and verify

- **Corporate message:** unclear or undetailed

- **Internal communications:** understanding the risks and settling on a strategy

- **Context:** failure to adapt to type of investigation

- **Care and concern:** inadequate attention

- **Legal:** preserving privilege and assessing collateral consequences

- **Knowing the rules:** vary by committee

  - *See* https://www.gibsondunn.com/power-to-investigate-table-of-authorities-of-house-and-senate-118th-congress/

- **Big picture:** anticipating what might come next

Congressional Investigations: By the Numbers (116th – 118th)

30+
Industries investigated

700+
Companies receiving letters

950+
Letter requests

25+
Letters sent to Meta

300+
Letters sent by House COA
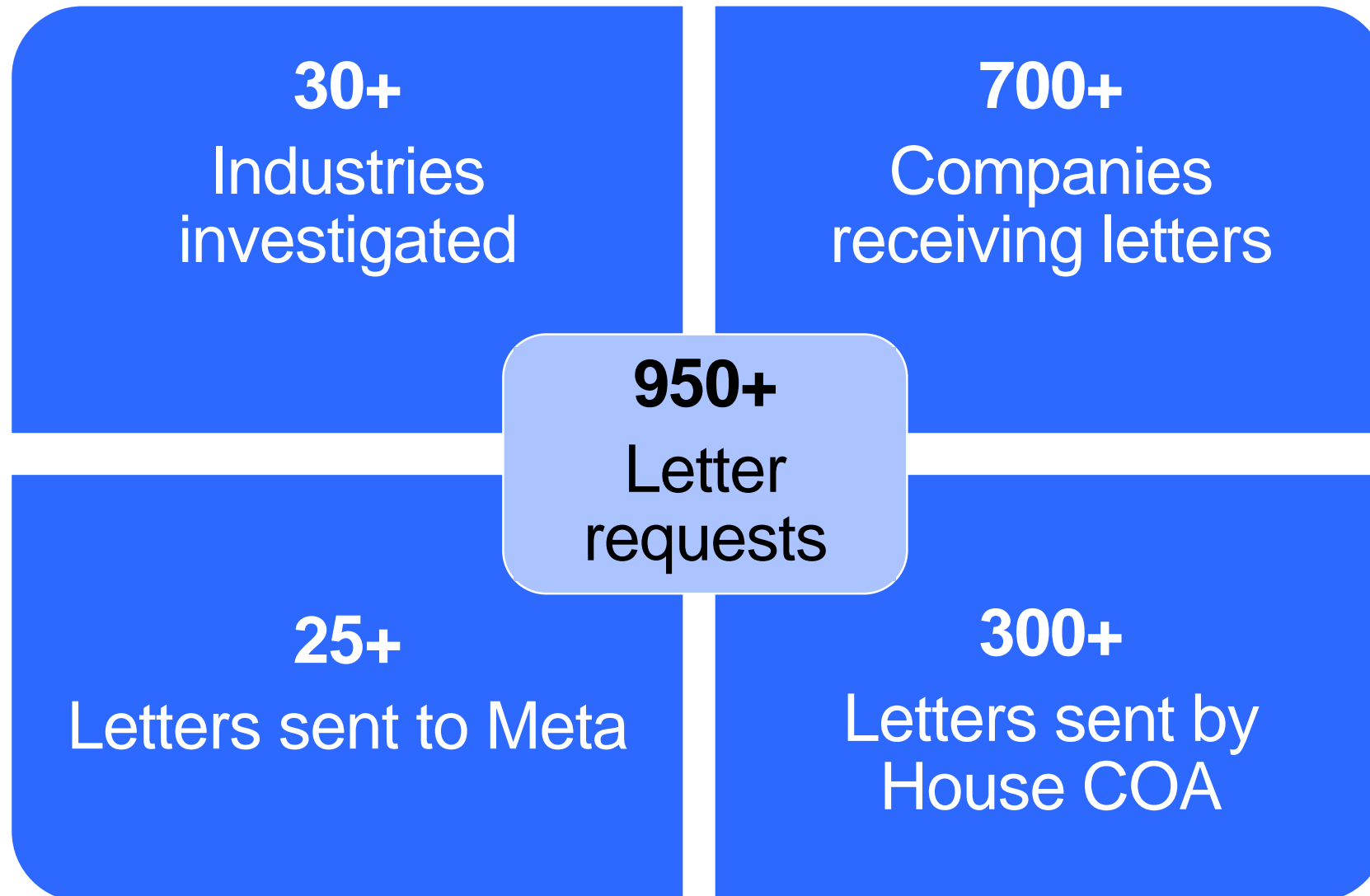
Key Committee Inquiries & Investigations

- **House Select Committee on Strategic Competition between the United States and the Chinese Communist Party**

  - Supply chain risks and vulnerabilities (e.g., port security)

  - Intellectual property theft

  - Chinese police "service stations"

  - Boosting U.S. competition with China in the tech space

  - China's influence in American universities

  - China's purchase of agricultural land in the U.S.

  - Malign influence, coercion, and lobbying efforts at the state, local and federal level to advance their agenda

  - Spread of CCP propaganda and its covert threat inside the U.S.

  - TikTok's threat to national security

Rep. Mike Gallagher (R-WI) chairs the Select Committee on China (retiring at the end of this Congress)

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Key Committee Inquiries & Investigations (Cont'd)

- **House Financial Services Committee**

  - Investments in China

  - Financial firm business practices related to diversity, equity and inclusion (DEI) and ESG

  - Agency actions related to ESG

Key Committee **Inquiries & Investigations (Cont'd)**

- **House Committee on Oversight & Accountability**
  - Hunter Biden and President Biden (Impeachment)
  - Corporate policies related to ESG
  - Prescription drug pricing and pharmacy benefit managers
  - Chinese involvement in American research and business
- **House Education & Workforce Committee**
  - Antisemitism at U.S. colleges
- **House Homeland Security Committee**
  - Immigration enforcement and impact of drug trafficking on communities across the country
  - Impeachment of DHS Secretary Mayorkas

GOP to probe 'cancer' of climate-friendly investing after midterms

Republican lawmakers plan to conduct oversight of Wall Street's efforts to promote sustainability, calling them 'woke capitalism'

Key Committee Inquiries & Investigations (Cont'd)

- **House Judiciary Committee**
  - Big Tech and allegations of politicization
    - Weaponization of federal government and big tech firms to censor conservative speech
  - Various issues related to President Biden and son Hunter Biden (Impeachment)
  - Content moderation policies at social media companies
    - Section 230 of the Communications Decency Act

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House Republicans vow to investigate Biden and his family's business dealings

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Key Committee Inquiries & Investigations (Cont'd)

- **Senate Judiciary Committee**
  - Hospitality extended to Supreme Court Justices
  - Competition issues/merger reviews
- **Senate Permanent Subcommittee on Investigations**
  - Saudi Arabia's involvement in sports
  - Use of AI by health insurers
  - Alleged evasions of export controls by semiconductor manufacturers
  - E-cigarettes
- **Senate Finance Committee**
  - Taxation of pharmaceutical companies
  - Marketing and use of AI by health insurers, including Medicare Advantage organizations

Key Committee Inquiries & Investigations (Cont'd)

- **Senate Health, Education, Labor & Pensions (HELP) Committee**
  - Prescription drug costs
  - Worker protections
- **Senate Committee on Commerce, Science, and Transportation**
  - Data privacy (Minority)
  - NSF Contracts (Minority)
- **Senate Budget Committee**
  - Climate change and property and casualty insurance
  - Private equity ownership of hospitals
  - Banking for Nazis during and after WWII

GIBSON DUNN

OUR TEAM

05

Recent
Recognitions

The Public Policy Practice Group at Gibson Dunn is one of the most experienced, effective, and respected teams in Washington, D.C.

The National Law Journal named Washington, D.C. partner Roscoe Jones, Jr. among the **finalists in the Government Relations & Lobbying** category, which recognizes attorneys "who have achieved outstanding results in full-service lobbying and public policy initiatives."

Practice co-chairs Michael Bopp and Roscoe Jones, Jr. were recognized by The Hill in its prestigious **Top Lobbyists list for 2022 and 2023** — as having "a track record of success in the halls of Congress and the administration."

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Michael D. Bopp

Partner / Washington, D.C.

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Mr. Bopp is a partner in Gibson Dunn's Washington, D.C. office. He is a Co-Chair of the Public Policy Practice Group and Chair of the Congressional Investigations Practice Group. He advises clients on public policy and regulatory consulting in a variety of fields, managing and responding to major crises involving multiple government agencies and branches. Mr. Bopp has extensive knowledge of both legislative and regulatory processes, as well as of the powers and authorities of congressional committees.

BTI Consulting named Mr. Bopp to its 2018 BTI Client All-Stars List. As a result of his work, Mr. Bopp has been named one of the most influential people in finance by Treasury and Risk magazine and has been asked to testify before Congress.

Relevant Experience:

- Associate Director of the Office of Management and Budget (OMB)
- Staff Director and Chief Counsel of the Senate Committee on Homeland Security and Governmental Affairs
- Legislative Director and General Counsel for U.S. Senator Susan Collins of Maine
- Chief Counsel to the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce in the U.S. House of Representatives
- Senior Investigative Counsel to the House Committee on Government Reform and Oversight
- Counsel to the Senate Committee on Government Affairs
- Counsel to the Senate Permanent Subcommittee on Investigations
- Outside General Counsel to the campaign to re-elect Senator Susan Collins

Mr. Bopp's full biography can be viewed here.

EDUCATION

Harvard University
Juris Doctor

Brown University
Bachelor of Arts

RECOGNIZED

Top Lobbyist
- 2023 and 2022 The Hill

Band 1 for Congressional Investigations
- 2023 Chambers USA

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Roscoe Jones Jr.

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Mr. Jones is a partner in Gibson Dunn's Washington, D.C. office. He is a Co-Chair of Gibson Dunn's Public Policy Practice Group and is recognized as one of *Lawdragon's* "500 Leading Lawyers in America," one of *The Hill's* "top lobbyists," and ranked nationally by *Chambers USA* as a leading government relations practitioner. In 2023, Chambers USA ranked him as one of the leading government relations practitioners in the United States. Clients state he is "a very responsive and thorough adviser," "a valued and trusted adviser, who is easy to talk with and eager to collaborate in a helpful and productive manner," and "an excellent leader and lawyer."

Mr. Jones represents clients in legislative and policy matters before the U.S. Congress and Executive Branch. He has a decade of Capitol Hill experience advising three U.S. Senators and a Member of Congress as chief of staff, legislative director, chief counsel, and senior counsel and advising an Assistant Attorney General in the Justice Department.

Relevant Experience:

- Chief of Staff to U.S. Representative Abigail Spanberger of Virginia

- Legislative Director to U.S. Senator Dianne Feinstein of California

- Senior Counsel to U.S. Senator Cory Booker of New Jersey

- Senior Counsel and Counsel to the U.S. Senate Judiciary Committee for then-Chairman Patrick Leahy of Vermont

- Special Counsel to then-Assistant Attorney General for Civil Rights Tom Perez

- Clerked for both federal appellate and district court judges

He has taught policy courses at the Harvard Kennedy School and University of Michigan, Chicago, and Yale Law Schools.

Mr. Jones's full biography can be viewed here.

EDUCATION

University of Virginia
Juris Doctor

Stanford University
Bachelor of Arts

RECOGNIZED

Government Relations: Federal
- 2023 Chambers USA

Finalist: Government Relations & Lobbying
- 2023 The National Law Journal

500 Leading Lawyers in America
- 2023 Lawdragon 500 in America

Top 100 List
- 2023 The National Black Lawyers

Top Lobbyist
- 2023 and 2022 The Hill

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Mr. Delery is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher, where he is a member of the firm's Litigation Department and Co-Chair of the Crisis Management Practice Group and Administrative Law and Regulatory Practice Group. He is an experienced appellate and district court litigator who brings 30 years of experience at the highest levels of government and the private sector to help clients navigate major matters that present complex legal and reputational risks, particularly matters involving difficult statutory, regulatory and constitutional issues. His practice focuses on representing corporations and individuals in high-stake litigation and investigations that involve the federal government across the spectrum of regulatory litigation and enforcement.

Prior to re-joining the firm in 2024, Stuart served as White House Counsel for President Biden, where he advised the President on the full range of constitutional, statutory, and regulatory legal issues, including on questions of presidential authority, domestic policy, and national security and foreign affairs. Earlier in his career, Stuart held senior positions at the U.S. Department of Justice, including as the Acting Associate Attorney General of the United States, the third-ranking position at the U.S. Department of Justice, and the Senate-confirmed Assistant Attorney General for the Civil Division, the Department's largest litigating component.

Relevant Experience:

• White House Counsel for President Biden

• Acting Associate Attorney General of the United States, DOJ

• Clerk for U.S. Supreme Court Justices Sandra Day O'Connor and Byron White

• Clerk for Judge Gerald Bard Tjoflat on the U.S. Court of Appeals for the Eleventh Circuit

Mr. Delery's full biography can be viewed here.

EDUCATION

Yale University
Juris Doctor

University of Virginia
Bachelor of Arts

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Ms. Neely is of counsel in the Washington, D.C. office of Gibson, Dunn & Crutcher and a member of the Public Policy Practice Group and Congressional Investigations Practice Group. Her practice leverages her substantial experience in government to advise clients regarding the most significant public policy issues they face, as well as to advocate for their interests before Congress and the executive branch. Ms. Neely also represents clients undergoing congressional and executive branch investigations.

Relevant Experience:

- Director of Governmental Affairs of the Senate Committee on Homeland Security and Governmental Affairs

- General Counsel to U.S. Senator Robert Portman of Ohio

- Deputy Chief Counsel to the Senate Permanent Subcommittee on Investigations

- Oversight Counsel to the House Committee on Ways and Means Oversight Subcommittee

- Deputy General Counsel to U.S. Senator Tom Cotton's 2014 Senate Campaign

- Clerk for Chief Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit

- Banking Legislative Correspondent and Staff Assistant to U.S. Senator Elizabeth Dole of North Carolina

Ms. Neely's full biography can be viewed here.

EDUCATION

Duke University
Juris Doctor

Princeton University
Bachelor of Arts

GIBSON DUNN

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Mr. Smith is of counsel in the Washington, D.C. office of Gibson, Dunn & Crutcher and a member of the Public Policy Practice Group. His practice focuses on advancing and protecting clients' interests before the U.S. Congress and the Executive Branch. He provides a range of services to clients, including political advice, intelligence gathering, policy expertise, communications guidance, and legislative analysis, and drafting.

Relevant Experience:

- Chief Counsel to the U.S. Senate Judiciary Committee, Subcommittee on Criminal Justice and Counterterrorism for Senator Cory Booker of New Jersey
- Counsel to the U.S. Senate Judiciary Committee for U.S. Senator Cory Booker of New Jersey
- Deputy Counsel to U.S. Senator Cory Booker of New Jersey
- Legislative Correspondent for U.S. Senator Cory Booker of New Jersey
- Advance Associate to the White House
- Deputy Event Coordinator for the Presidential Inaugural Committee
- National Advance Staff Member for Obama for America
- Staff Assistant to the Hall Manager for the Democratic National Convention Committee

Mr. Smith's full biography can be viewed here.

EDUCATION

Loyola University - Chicago
Juris Doctor

University of Notre Dame
Bachelor of Arts

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ADDITIONAL RESOURCES

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Michael J. Scanlon is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher. He is a member of the firm's Securities Regulation and Corporate Governance, Securities Enforcement, and Corporate Transactions Practice Groups, and has an extensive practice representing U.S. and foreign public company and audit firm clients on regulatory, corporate governance, and enforcement matters.

Mr. Scanlon advises corporate clients on SEC compliance and disclosure issues, the Sarbanes-Oxley Act of 2002, and corporate governance best practices, with a particular focus on financial reporting matters. He frequently represents both accounting firms and public company clients on SEC and PCAOB accounting and auditing matters, including financial statement materiality and restatement issues, internal control issues, auditor independence, and other accounting-related disclosure issues. Mr. Scanlon has represented large accounting firms in enforcement investigations conducted by the SEC, PCAOB, and state accountancy boards. He also is experienced in conducting internal investigations involving accounting irregularities for management, audit committees, and other Board committees, and represents clients on these matters before the SEC. Mr. Scanlon also represents several public company boards of directors and audit committees, as well as not-for-profit organizations, with respect to corporate governance and other compliance matters.

Mr. Scanlon has served as Chair of the ABA's Law and Accounting Committee, Business Law Section, and as Chair of the DC Bar's Law and Accounting Committee. Mr. Scanlon currently serves as one of eight lawyers nationwide on the National Conference of Lawyers and Certified Public Accountants, a joint ABA-AICPA standing task force. He also is a member of the Society of Corporate Secretaries and Governance Professionals.

Mr. Scanlon is admitted to practice in the District of Columbia and he is a member of the American Bar Association. He served as a law clerk to Judge Richard W. Goldberg of the U.S. Court of International Trade from 1997 to 1999. He received his law degree *cum laude* from the Georgetown University Law Center in 1997, where he was a member of the *Tax Lawyer*. He received his Bachelor of Arts degree from Middlebury College in 1992.

Mr. Scanlon's full biography can be viewed here.

EDUCATION

Georgetown University
Juris Doctor

Middlebury College
Bachelor of Arts

CLERKSHIPS

U.S. Court of International Trade

GIBSON DUNN

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David C. Ware is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher. He is a member of the firm's Securities Enforcement, Securities Litigation, Accounting Firm Advisory and Defense, and White Collar Defense and Investigations Practice Groups.

Mr. Ware's practice focuses on government investigations and enforcement actions, internal investigations, and litigation in the areas of auditing and accounting, securities fraud, and related aspects of federal regulatory and criminal law. He also counsels clients concerning compliance with SEC and PCAOB rules and standards.

Prior to joining Gibson Dunn, Mr. Ware spent nearly six years at the PCAOB's Division of Enforcement and Investigations, rising to the position of Associate Director. While at the PCAOB, Mr. Ware was responsible for numerous complex and high-profile investigations, including acting as the lead attorney in some of the PCAOB's most significant enforcement actions.

Mr. Ware received a number of honors while at the PCAOB, including the Superior Achievement Award in 2017 and the Division Director's Award in 2014 and 2016. Prior to working at the PCAOB, Mr. Ware was an associate at another international law firm, handling securities, accounting, and FCPA matters.

Mr. Ware received his Juris Doctor *cum laude* from Harvard Law School and his bachelor's degree *magna cum laude* from Dartmouth College. Following law school, he served as a law clerk for the Honorable Robert J. Cordy of the Massachusetts Supreme Judicial Court.

Mr. Ware is admitted to practice in the District of Columbia and Massachusetts, as well as before the U.S. District Court for the District of Columbia and the U.S. Courts of Appeals for the First Circuit and Third Circuit.

Mr. Ware's full biography can be viewed here.

EDUCATION

Harvard University
Juris Doctor

Dartmouth College
Bachelor of Arts

CLERKSHIPS

Massachusetts Supreme Judicial Court

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