

Memorandum

From: The Smith-Free Group
Date: April 27, 2022
RE: The Big Casino – April 2022

*“Sweet April showers do spring May flowers.”
-- Thomas Tusser, “A Hundred Good Points of Husbandry”*

Political Overview

The political weather has indeed been rainy and gloomy for Democrats. Will things change in May? The current Real Clear Politics [average](#) of presidential ratings has President Biden at 41-54%, continuing the months-long trend of his being mired in the low 40s. On the low end of the range, the recent Quinnipiac [survey](#) even put the president’s approval at 36%, and with each day that passes this mediocre standing with the American public becomes just a bit harder for Democrats to improve upon before mid-term elections begin in earnest.

Down a level, the professional pundits have started to set the baseline expectations for the outcome of congressional races this fall. Surveys continue to show a small but [consistent lead](#) for Republicans on the generic ballot, and the early [conventional wisdom](#) is for Democrats to lose 15-25 seats in the House and 1-3 seats in the Senate. This perceived momentum for Republicans has manifested itself in tangible ways leading to a spate of House Democratic retirements, vibrant candidate recruitment for Republicans, and strong fundraising for the GOP.

By all anecdotal and survey information we have seen, Covid has given way to inflation as the dominant question on voters’ minds. For instance, the most recent NBC/Wall Street Journal [poll](#) underscored voters care more about the economy over events in Ukraine by a 66-33 margin. While Americans care about Ukraine, events in Europe – and every other issue, really – comes in a distant second place behind pocketbook concerns. To date, the president has not received a “rally around the flag” bump for what most characterize as a competent handling of events in Europe.

Democratic politicians are not dummies and there has been an effort to confront the inflation issue and to shift the blame for its cause. Whether the Biden Administration and others can frame the problem as “Putin’s fault” instead of “Bidenflation” will continue to be a linchpin message for the Biden Administration. The GOP response will be simple: Democrats control government and wastefully overspent on Covid programs, leading to a glut in the money supply and the higher prices that are plaguing Americans. The GOP will talk a great deal about the need for “balance” in government and a “check” on Democrats’ runaway spending.

But we offer a final cautionary note. In a recent column, Stu Rothenberg rightly reminded everyone “the modern presidency offers its occupants nearly inexhaustible capacity for political revival.” While surveys put Biden’s approval in the low 40s, on specific issues it is usually low to mid-30s. This indicates voters still like him and want him to succeed, even if they do not like how events are unfolding

in particular policy areas. In short, he has some goodwill in the bank with voters and can regain some standing. If the White House can notch some political wins this summer or fall and boost that voter approval, it might be enough to prevent a wipeout in November.

Whatever Happened to Term Limits?

Not too many years ago there was a vibrant effort to limit the terms of lawmakers. Up until the mid-1990s, voters regularly returned as much as 98% of federal lawmakers to office each even-numbered November. The lack of turnover in Congress often led to joking comparisons with the old Soviet Union Politburo. But things have changed – dramatically so. Currently, just under 300 House Members have been elected since 2012. By the beginning of the next Congress in January, at a minimum there will be fewer than 100 House Members who have served for more than a decade. In the Senate, 49 sitting senators have been elected in the last decade. It is safe to say that after the November elections more than half of the body will be in their first or second term.

Legislative Agenda

Congress is slowly returning to life after the Easter recess. The last six-week stint of the congressional session leading up to the Easter recess was a tough slog on the Hill. We have spoken with many staffers, especially on the Senate side, about the fatigue and stress from recent legislative activity – FY22 spending, Jackson nomination, response to Ukraine, and the low-hum of what, if anything, comes next on budget reconciliation (BBB). At first glance, the next five weeks leading to Memorial Day do not seem to be so jam-packed. But if Democratic political fortunes continue to sink expect an especially concerted effort by leadership to put legislative points on the board in the hope that accomplishments will prop up incumbents in the fall. While recent history indicates that even major legislative events do not always help congressional majorities in mid-term elections (e.g., Affordable Care Act in 2010, the Tax Cut and Jobs Act in 2018), there really is no other alternative for the congressional majority.

The House is only in session for parts of the period leading up to Memorial Day, and increasingly it is time in the legislative session where political form overwhelms policy substance. We expect a growing focus on votes, hearings and bill introductions meant more for the campaign trail than the U.S. Code. For instance, recently in the Senate we saw the Democratic majority hold votes on several items (election law, abortion) where defeat was a foregone conclusion, but leadership thought the vote helpful in a purely political context. For Republicans, the demand to hold a pre-recess vote on the Biden Administration’s Title 42 proposal as part of the Covid funding bill is sure to come up again during the next work period. In the House, expect consideration of an increasing number of bills that are D.O.A. in the Senate or else seen as helpful to individual Democratic lawmakers in tough races. Much energy will be spent on the Hill on gas tax relief for consumers; a fantastic number of policy proposals will now be framed as “anti-inflation”.

For House Democrats, Speaker Pelosi grinds away at running a fractious chamber with a slim majority. We assume her job becomes harder as the year unfolds — retiring Members will be difficult to corral, and endangered incumbents will increasingly fret about distancing themselves from an unpopular Biden White House. One item to watch closely: if Covid continues to recede, how will this affect the use of proxy voting? Proxy voting has been a useful tool for the majority in managing tough votes on the floor. On a related matter, it appears the Capitol complex will continue to open in phases, although it will be interesting to see if the recent court decisions about removing masks on airplanes will accelerate the restoration of full public access to the Hill.

House GOP will ardently play the role of loyal opposition. It is what any House minority does in an election year when campaign prospects in the fall are bright. But legislative minorities are not always easy to manage so the usual contrarian suspects bear watching for signs that could split GOP unity and/or signal new challenges if the GOP regains the majority.

In the Senate, give the majority leader credit for his perseverance and drive. Sen. Schumer has been forced to deal with a 50-50 Senate for far longer than any majority leader in history, but he's been able to tend to the legislative basics. Whenever possible he puts a bill on the floor. In other times he fills the calendar with executive and judicial branch nominations, following a "path of least resistance" strategy. As with any majority leader there is criticism of his style, in Schumer's case that he focuses more on politics and communications to the detriment of efficiently managing Senate floor mechanics. But no one is ever going to fault him for lack of effort or work ethic, and from our vantage point he is making the most of a weak, legislative hand.

The Senate GOP has experienced a minor internal contretemps in recent weeks after Sen. Rick Scott put out a set of policy ideas that Democrats have had some luck in portraying as Republican proposals and tagging in-cycle candidates with unpopular aspects of the Scott agenda. Politico and others have reported on unhappiness among rank-and-file senators at what they see as an unforced error. Because mid-term politics tend to focus more on the accomplishments or misdeeds of the party in power, we are skeptical this episode will have any real long-term impact.

Here are some brief thoughts about specific policy matters that will see action in the coming weeks.

Supplemental Spending Proposals (Covid-19 and Ukraine) – Eventually, Congress will act on both fronts. But first there needs to be some sort of resolution of the lingering Title 42 immigration matter. The larger number of Democratic senators who have expressed concerns about the Biden Administration's approach is a high roadblock, although ongoing efforts in the courts (both on Title 42 as well as the "Stay in Mexico" asylum issue) could still provide an offramp for the White House.

Many Republicans are unlikely to support further Covid funding; we keep hearing from many of them that "states are awash in money", along with skepticism the Biden Administration can provide any real accounting of CARES and ARP spending to date. But enough senior GOP figures have indicated a level of comfort with Sen. Romney's work with Democratic leadership that we continue to believe a relatively lean package will be enacted. Because of Putin's villainy and the bipartisan support for Ukraine, further support for that country is a certainty. Combining Covid and Ukraine spending, as floated again today by Democratic leadership, seems the most likely plan at this point. Still, however events unfold there is no way around the fact that the immigration issue must be resolved, or at least on a path to resolution put into place.

USICA/China Competitiveness – We continue to believe legislation will be enacted as early as this summer. That timing could be optimistic, but as we have discussed in past memos the "China = Bad" view is one of the few policy tenets that unites Democrats and Republicans on Capitol Hill. Because the bill is a viable legislative vehicle, the biggest barrier to enactment for supporters will be fending off efforts to add extraneous, unrelated measures. Watch also for last-minute hiccups about the cost of the measure and what, if any, offsets to include. Finally, work on the final version of the bill will be an interesting case study in how conference committees work now. As we have touched upon in past memos, bicameral conference committees have become something of a relic; to navigate a sprawling committee of approximately 100 House Members and senators over such a wide-ranging bill will be a

formidable task. Because so many officials on both sides of the aisle seem to want to get “yes” we think the task will be accomplished but predicting how the process will unfold is a fool’s errand.

Build Back Better Progeny – For months we have argued that Democrats will eventually revisit a new, reworked version focused on popular, easier-to-pass provisions before the September 30th deadline for FY22 reconciliation legislation. But we are starting to doubt that position now. By all accounts we have picked up, publicly and privately, there is no real ongoing preparatory work. To solve the Rubik’s Cube of lining up all 50 Democratic senators behind a bill – not just Sens. Manchin and Sinema but also their more liberal colleagues – will take real time and effort. As far we can determine that work has not truly begun and the fundamental dynamic that led to the collapse of the bill in December still holds.

Worth a Read

Here are some [items](#) to watch for if the Biden White House adopts a “phone and pen” strategy.

More and more, [love and politics](#) do not mix.

Nevada might have the [wackiest](#) mid-term congressional elections of any state this year.

It looks like we are going to be living with [inflation](#) for a while.

Calendar

April 28	Take Your Daughter to Work Day
April 29	Arbor Day
May 4	Star Wars Day
May 8	VE Day
May 29	Indy 500
June 11	Special election for Alaska At-large House seat.
June 21	Summer Solstice (longest day of the year!)