



The Big Casino

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Congress returns from its annual August break this week, and we expect lawmakers to focus sharply on budget matters as the September 30th deadline for FY24 spending measures approaches. Below is our assessment of the current state of political play as well as a handful of policy measures.

Political Overview

By definition, each election cycle is unique. But to paraphrase George Orwell's "Animal Farm," some are more unique than others. The 2024 cycle seems to be shaping up to be perhaps the most unique in modern memory.

Like him or not, the American political world revolves around Donald Trump. As Shakespeare wrote about Julius Caesar, "he doth bstride the narrow world.... like a Colossus." Trump's innate sense of how to dominate media coverage, combined with the press corps' fascination with and addiction to covering him, means he will remain at the center of events. The focus on him is a product not just of the media's fascination, but also a recognition that he drives ratings: he makes good copy. This has led some to argue there is an implicit Faustian bargain whereby the mainstream press both overtly cheers against Trump but continues to devote time and focus on him to the detriment of other Republican candidates.

Trump continues to demonstrate that conventional wisdom is usually wrong, and he has been able to use the recent indictments to his political benefit. But there is real legal peril for him in the courts in 2024. And although the initial trendlines point toward a Biden-Trump rematch, at this early point in the primary season it is too early to make a firm prediction. As for President Biden, he is running a "Rose Garden" campaign, laboring to stay above the daily fray and leveraging the power of the White House and his official position to maximum extent. He has held back on building out a full-fledged campaign apparatus although he is raising money in a respectable, workmanlike manner. This had led to concern among some Democrats that the president's team has been slow to hire a campaign team and to build out the political infrastructure necessary to win a modern presidential contest. On one hand, such a relatively

slow start seems naïve given that presidential campaigns are now billion-dollar operations. But the president's allies argue this approach plays to his strengths as a consensus builder and recognizes the marathon-like nature of the race.

Part of this strategy also implicitly acknowledges the president's limitations and a sense among many voters about his age and ability to perform the duties of his office. In the August New York Times/Siena College poll, half of Democrats did not want him to run again and an eye-popping 40% said he was too old for the job. But as we have noted in other memos, the Biden team has leveraged the power of incumbency along with Democrats' fear of a Trump comeback to ward off primary challenges. Short of a catastrophic performance like LBJ's narrow win in the 1968 New Hampshire primary over upstart Eugene McCarthy, Biden will garner the Democratic party nomination in Chicago next summer.

While the Times poll had Biden and Trump tied at 43% in a head-to-head contest, digging into the survey's crosstab data shows that Trump is the best possible match-up for Biden, the president performing worse against other GOP candidates. Forty-three percent support typically represents a flashing "DANGER" sign for an incumbent, and in such a race the challenger could focus on an incumbent's shortcomings and stand a good chance of winning. But the ubiquity of Trump, and his continual focus on himself, means a potential run against Biden would not follow the paradigm of challenger taking on an incumbent but more closely represent two incumbents contesting the match. Handicapping such a race will be unique in American politics.

The president's political weakness has led to some gadfly primary challengers. They cannot beat Biden but do signal an underlying Democratic unease. There are some Democrats (and Republicans) backing a potential third-party candidacy by a fusion ticket where a Democrat and Republican would run together as president and vice president. Organized by the group No Labels and backed reportedly by as much as \$75 million in seed money, the effort is serious enough that some of the president's allies have been furiously working behind the scenes to blunt support. Such an effort would not garner enough votes to win the White House, but it has the potential to tilt toss-up states toward either Trump or Biden in 2024.

At the congressional level, control of both Houses of Congress appears at this stage to be a 50/50 proposition. In the House, the recent Supreme Court decision in *Allen v. Milligan* likely means several southern states will have to redistrict and create safe Democratic seats. The Republican majority is further threatened in that several freshmen GOP will be running in blue states (New York and California) where expected blowout losses at the top of the ticket may be too much for down ticket candidates to overcome. Over in the Senate, the Democrats' narrow margin remains under threat because of the three incumbents running in states (Montana, Ohio and West Virginia) the Republican presidential nominee is likely to win by double-digits. No Republican senator at this point is in real jeopardy meaning Biden could win re-election but Democrats lose the Senate majority. In short, 2024 could yield the same sort of closely divided

federal government we currently enjoy. As one noted Washington pundit recently observed, “most voters are permanently locked into their partisan identity, [and their] opinions of political figures remain relatively stable, regardless of events.” If he is correct, our politics and governance – as dynamic and volatile as they may seem on the surface – could fundamentally change very little in 2024.

Legislative Agenda

Government spending and fiscal issues will dominate the legislative agenda on Capitol Hill for the balance of the year. The federal budget year ends on September 30th and enacted legislation is required to prevent a shutdown.

As we have written previously, the output of enacted legislation will be relatively low in 2023. The House Republican majority is less concerned with passing a legislative agenda and more focused on oversight of what the GOP sees as the unchecked excesses of the first two years of the Biden Administration. Senate Democrats face a difficult 2024 campaign cycle that threatens their own narrow majority and are content to avoid votes on difficult policy matters, instead focusing on confirming Biden-appointed judges to counter what they, Democrats, see as a federal judiciary that shifted to the right during the Trump Administration.

But one legislative hurdle Congress and the Biden team must clear is how to address FY24 federal spending. Because lawmakers will not be able to reach a permanent solution by the September 30th deadline, a stopgap – or series of short-term measures – will likely be passed this fall to continue federal spending while Capitol Hill and the White House haggle over an ultimate solution. Prepare for a great deal of public and media speculation in the coming months about “government shutdowns”.

Besides the budgetary debates, Congress is unlikely to pass much noteworthy legislation in the coming months. There is an annual defense policy measure that will pass before the end of 2023, and discussions will continue around several other higher-profile bills – agriculture policy (“Farm Bill”) and air transportation spending legislation to update the FAA – but because there are no firm deadlines to drive the debate, we are unlikely to see final resolutions to these matters until 2024.

The debate around the federal budget will take on predictable tones of previous discussions in years past. The House Republican majority is narrow, but the fiscal conservatives will push Speaker McCarthy up to the brink, and perhaps beyond, to adopt what they see as necessary spending cuts to begin to address a trillion-dollar annual budget deficit. The Biden Administration and congressional Democrats will portray the GOP as heartless amateurs who are only interested in chasing Hunter Biden and only want to take a meat axe to needed social safety net spending.

As with the debt ceiling discussion back in the spring, the fulcrum of this budgetary debate will be Speaker McCarthy. Any ultimate fiscal proposal will need to originate from the House, and McCarthy's first challenge is to corral his conference into supporting an approach that can serve as a negotiating position going into eventual negotiations with the president. For this debate, we expect the Senate will play largely a secondary role, accepting any ultimate deal between Biden and McCarthy as it did with the debt ceiling.

The Washington press corps continues to openly deride McCarthy, framing each legislative challenge as the next existential threat to his speakership. McCarthy has embraced the disdain from what he sees as effete political elites, portraying himself and House Republicans as underdogs who continue to prove the naysayers wrong. From his perspective, the House GOP forced the White House to the table to accept a workable debt ceiling bill and now are focused on a legislative agenda that Senate Democrats are afraid to confront and thus continue to stonewall.

This argument over spending policy will continue deep into the fall and possibly into 2024. In some ways, the current dynamic is starting to remind us of the budget debates between House Republicans and the Clinton White House in the 1990s. GOP conservatives do not have the votes to enact their agenda, and a key question will be how long they hold out for before agreeing to legislation the president will sign. Republicans in the 1990s paid a heavy political price for the Gingrich-led shutdowns even if the ultimate agreements helped lead to the balanced budgets from 1997-99. No matter how long it takes to agree to a framework, it will then take more time for Congress to enact the underlying legislation to implement any policy changes. The debate will be shrill and hyperbolic up through and maybe beyond the holiday season.

There is one final item to keep an eye on during the budget debates. The debt ceiling agreement included an amendment by Rep. Massie to attempt to prod Congress to pass appropriations legislation (i.e., not continuing resolutions). In short, the amendment includes a mechanism that would begin an across-the-board sequester process starting May 1st if appropriations bills are not enacted. If implemented, this would threaten not only defense and other discretionary spending but also some already enacted spending including the 2021 infrastructure law. The history of such sequesters is checkered, Congress obviating them with new legislation. The question will be if lawmakers in the current polarized environment will do the same.

Calendar

Sept. 8	NFL season begins.
Sept.15-17	Rosh Hashanah.
Sept. 14	UAW contract expires with “Big Three” automakers.
Sept. 27	Second GOP presidential debate held at Reagan Presidential Library.
Oct. 1	National Homemade Cookies Day.
Oct. 9	Columbus Day.
Oct. 27	Game One of the World Series.
Nov. 7	Statewide elections in Kentucky, Louisiana, and Mississippi.



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