

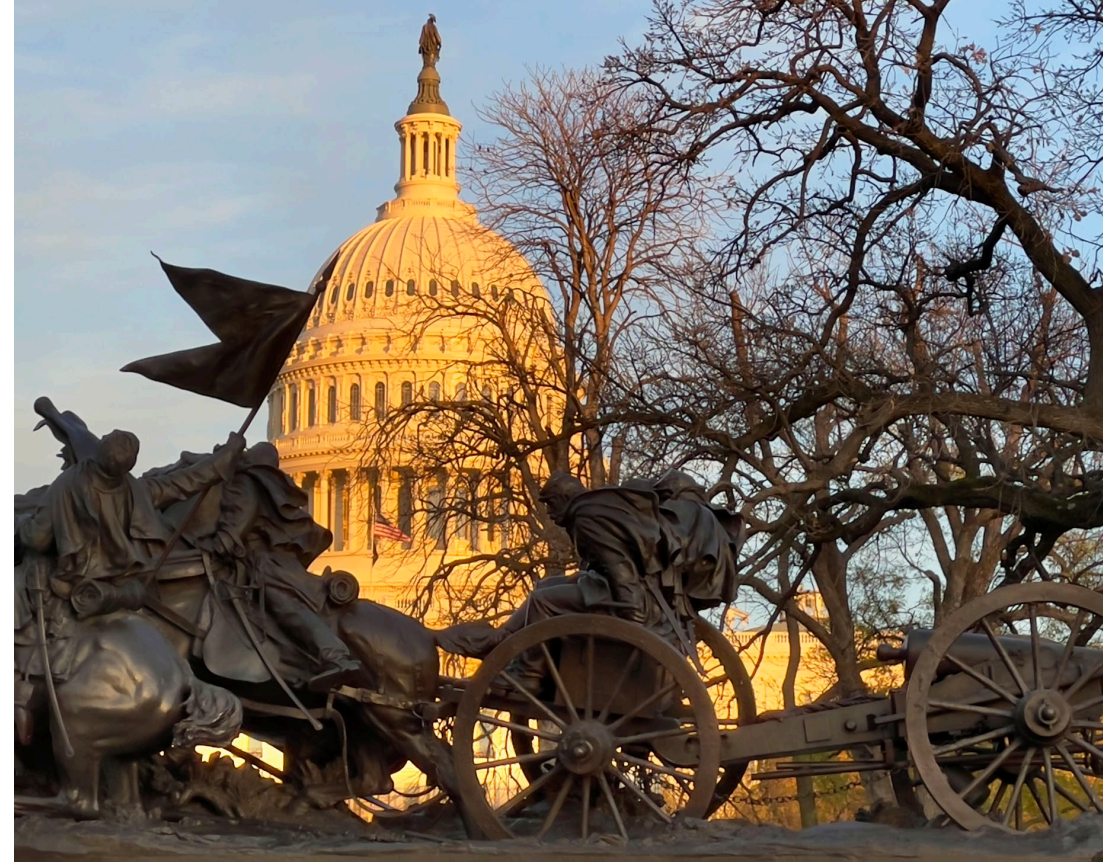


# **NAPA's Legislative Priorities for Congress in 2022**

**January 25, 2022**

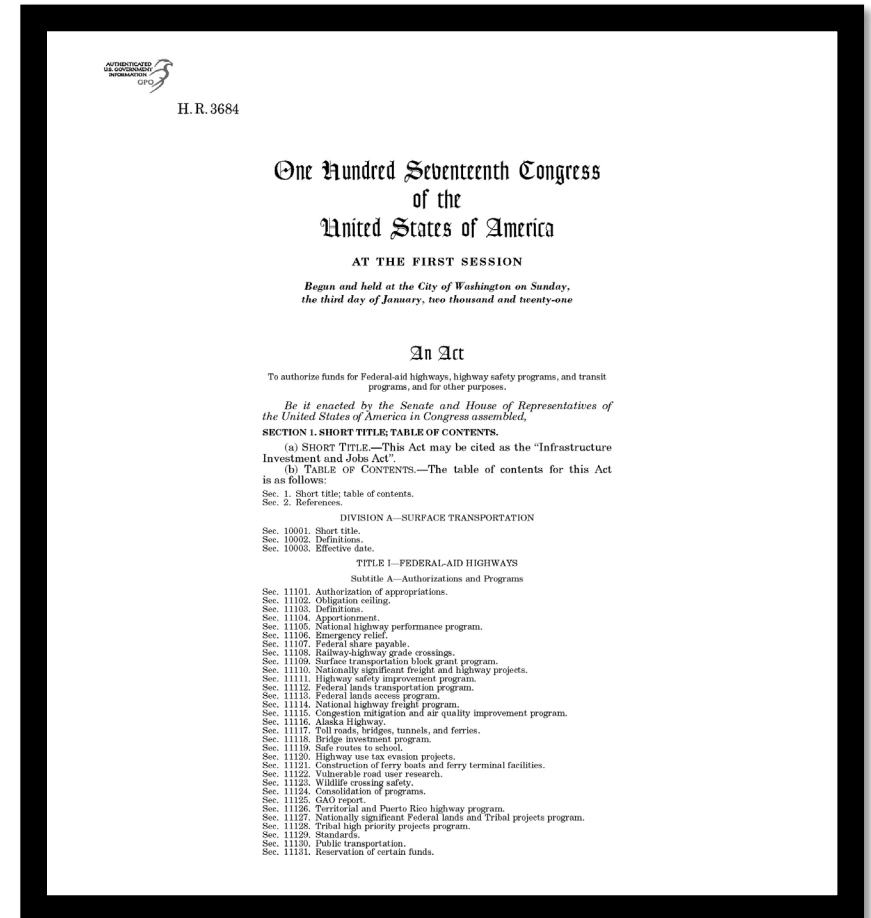
# Overview

- **Lawmakers are returning to Washington for the second session of the 117th Congress with much left on their to-do list, while facing election-year headwinds**
- **This presentation prepares NAPA Members for the year on Capitol Hill and at US DOT**
  - Legislative highlights from 2021
  - 2022 congressional calendar
  - Key dates in 2022
  - Major legislative items left to do
  - IIJA Implementations
  - 2022 Elections



# Legislative Highlights From 2021

- President Joe Biden signed the American Rescue Plan Act, a \$1.9 trillion Covid-19 response and stimulus package, into law on March 11
- The Infrastructure Investment and Jobs Act was enacted Nov. 15
  - Reauthorized surface transportation programs
- Lawmakers raised the debt limit twice, the most recent at \$2.5 trillion, likely ensuring it won't be reached until after the midterm elections
  - Passed with mostly Democratic votes, though in both cases Republicans agreed to procedures to allow the vote to move forward





## **2021 NAPA Legislative Accomplishments**

- ✓ **5-Year Highway Reauthorization**
- ✓ **Grew Highway and Airport Infrastructure Funding**
- ✓ **Buy America Exemption for Asphalt & Aggregates**
- ✓ **Reauthorized Innovative Asphalt Technology Deployment Program (AIDPT)**
- ✓ **Incentivized Safety Contingency Funds for Safer Work Zones**
- ✓ **No Pavement Mandates, Green New Deal Requirements**
- ✓ **\$3 million for Asphalt Airfield Pavement Research Program**

# 2022 Congressional Calendar

January						
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18	19	20	21	22	23	24
25	26	27	28	29	30	31

- House in Session Only
- Senate in Session Only
- House & Senate in Session
- Federal Holiday

# Key Dates to Watch in 2022

<u>Date</u>	<u>Event</u>
<b>Feb. 18</b>	<ul style="list-style-type: none"><li>• Federal funding under continuing resolution (CR) expires</li></ul>
<b>March 1</b>	<ul style="list-style-type: none"><li>• Presidents State of the Union Address, First state primaries begin</li></ul>
<b>March ?</b>	<ul style="list-style-type: none"><li>• President's FY 2023 Budget Submission. (delayed)</li></ul>
<b>May 16-17 (Tentative)</b>	<ul style="list-style-type: none"><li>• TCC Legislative Fly-In</li></ul>
<b>July 10-13</b>	<ul style="list-style-type: none"><li>• NAPA Midyear Meeting</li></ul>
<b>Sept. 30</b>	<ul style="list-style-type: none"><li>• End of Fiscal Year 2022</li></ul>
<b>Nov. 8</b>	<ul style="list-style-type: none"><li>• Midterm Congressional Elections</li></ul>

# Major Items Left on 117th Congress To-Do List

Issue	Bills	Status
<b>FY 2022 Transportation – HUD Appropriations Bill</b>	H.R. 4502 (seven-bill minibuss)	<ul style="list-style-type: none"> <li>• House passed July 29, 2021</li> <li>• Senate Appropriations Committee issued outline Oct. 18</li> <li>• Continuing Resolution expires Feb. 18, 2022</li> <li>• Negotiations by big four on an Omnibus have begun</li> </ul>
<b>Build Back Better</b>	H.R. 5376, the Build Back Better Act	<ul style="list-style-type: none"> <li>• Schumer pledged to bring up bill early in 2022</li> <li>• Biden’s signature proposal in flux after Sen. Joe Manchin (D-W.Va.) pulled support</li> </ul>
<b>ARPA Funds Used For Infrastructure</b>	S. 3011, The State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act	<ul style="list-style-type: none"> <li>• Passed Senate on 10/19/2021</li> <li>• Being held at the Speakers’ desk</li> </ul>

# Fiscal 2022 Spending Faces Complicated Path

● Passed by chamber   
 ● Committee approved   
 ● No votes

Bill	House	Senate
Agriculture-FDA	<span style="color: teal;">●</span>	<span style="color: yellow;">●</span>
Commerce-Justice-Science	<span style="color: yellow;">●</span>	<span style="color: red;">●</span>
Defense	<span style="color: yellow;">●</span>	<span style="color: red;">●</span>
Energy and Water	<span style="color: teal;">●</span>	<span style="color: yellow;">●</span>
Financial Services	<span style="color: teal;">●</span>	<span style="color: red;">●</span>
Homeland Security	<span style="color: yellow;">●</span>	<span style="color: red;">●</span>
Interior-Environment	<span style="color: teal;">●</span>	<span style="color: red;">●</span>
Labor-HHS-Education	<span style="color: teal;">●</span>	<span style="color: red;">●</span>
Legislative Branch	<span style="color: teal;">●</span>	<span style="color: red;">●</span>
Military Construction-VA	<span style="color: teal;">●</span>	<span style="color: yellow;">●</span>
State-Foreign Operations	<span style="color: teal;">●</span>	<span style="color: red;">●</span>
Transportation-HUD	<span style="color: teal;">●</span>	<span style="color: red;">●</span>

- **Continuing resolution expires Feb. 18**
- **Lawmakers negotiating:**
  - Top-line spending totals
  - 302(b) subcommittee allocations
  - Policy riders
  - Earmarks
  - Covid-19 supplemental
- **Disagreement is delaying start of fiscal 2023 budgeting process**

Source: Bloomberg Government



# Omnibus FY 2022 Appropriations Bill

- **NAPA is working to include in the bill:**
  - FY 2022 Transportation Appropriations Reauthorization Bill (Full Year)
  - \$3 million for Airfield Pavement Research & Technology Program
  - Wicker-Stabenow amendment: “Paving Activity” eligible for Carbon Reduction Program funding
  - Padilla-Cornyn amendment to allow America Rescue Plan funds for infrastructure
  - Plastic in asphalt research earmark
- **Last major bill before midterm elections in November**
  - Provisions from Build Back Better may be added

# Democrats' Social Spending and Tax Bill in Flux After Pushback

- Senate postponed action on reconciliation bill ([H.R. 5376](#)), weighs what to include

## Best chance

- Universal preschool
- Expanded ACA premium tax credits
- Medicare drug price negotiations
- Clean energy tax incentives
- Corporate minimum tax
- International tax changes
- Stock buyback tax
- Net investment income tax
- IRS enforcement funding

## Medium chance

- Expanded child tax credit
- Expanded EITC
- Millionaires' surtax
- SALT deduction changes
- Funding for housing
- Home health expansion
- Electric vehicles tax credit

## Small chance

- Paid leave
- Medicaid expansion
- Medicare hearing coverage
- CTC refundability
- Methane fee
- Immigration provisions
- Vaping tax

Source: *Bloomberg Government*

Notes: ACA – Affordable Care Act; EITC – earned income tax credit; SALT – state and local tax; CTC – child tax credit

# IIJA: Requests for Information

- ***FHWA: Implementation of IIJA.*** On December 1, FHWA issued a Request for Information (RFI) on the implementation of IIJA. The RFI is intended to solicit information on: (i) Potential opportunities and challenges for implementing new IIJA programs; (ii) potential opportunities and challenges for implementing existing programs modified by the IIJA; (iii) solutions or suggestions as to how FHWA might implement the IIJA; (iv) necessity for additional guidance, FAQs, or program changes; and (v) areas requiring new and continued research. The RFI is [here](#).
- ***DOT: Research Plan.*** On December 30, DOT issued a Request for Information (RFI) on its Research, Development and Strategic Plan for FY 2022-26. The plan is intended to guide research and development activities at DOT for the next five years. Comments are due by January 31. The RFI is [here](#).

# IIJA: Key Federal Actions

- **IIJA Implementation Czar/Task Force.** On November 15, Biden appointed Mitch Landrieu to oversee implementation of IIJA. Also established Infrastructure Implementation Task Force, led by National Economic Council director Brian Deese. Each state have been asked to identify an implementation coordinator.
- ***Infrastructure Priorities EO.*** On November 15, Biden issued an Executive Order (EO) outlining the Administration's [priorities](#) for implementing IIJA:
  - Invest public dollars efficiently, avoid waste, and focus on measurable outcomes;
  - Buy American and increase the competitiveness of the U.S. economy;
  - Create good-paying job opportunities by focusing on high labor standards, including prevailing wages and the chance to join a union;
  - Invest public dollars equitably, including through the Justice40 Initiative, which is a government-wide effort toward a goal that 40 percent of the overall benefits flow to disadvantaged communities; and
  - Build resilient infrastructure.

## IIJA: Key Federal Actions (continued)

- ***IIJA One-Stop Shop FHWA Website.*** On November 30, FHWA announced a new website designed for transportation agencies, and stakeholders interested in learning more about the Infrastructure Investment and Jobs Act. The link is [here](#).
- ***Federal Sustainability EO.*** On December 8, Biden issued an [Executive Order](#) (EO) to focus federal government activities on achieving carbon neutrality. The EO mandates a Buy Clean Task Force that would provide recommendations on policies to expand consideration of *embodied emissions and pollutants of construction materials* in Federal procurement and federally funded projects, to include:
  - Identifying and prioritizing pollutants and materials, such as concrete and steel, to be covered under a Buy Clean policy;
  - Recommendations to increase transparency of embodied emissions, including supplier reporting; procedures for auditing environmental product declarations, and verifying accuracy of reported emissions data;
  - Recommending pilot programs that incentivize Federal procurement of construction materials with lower embodied emissions.



## IIJA: Key Federal Actions (continued)

- **FHWA Implementation Policy Framework:** On December 16, FHWA issued a policy memorandum favoring repair and rehabilitation rather than increasing road capacity in projects funded by IIJA. It “prioritizes projects by modernizing and increasing the operational efficiency of existing roads and highways over projects that expand the general-purpose capacity of roads and highways.” The policy also indicates projects that do add capacity “necessarily require more scrutiny” under the National Environmental Policy Act (NEPA). The link is [here](#).
- ***FHWA: Planning Emphasis Areas.*** On January 5, FHWA issued [guidance](#) on planning for future projects to include:
  - Climate Change. Evaluate opportunities to reduce single-occupancy vehicle trips and increasing access to public transportation, shift to lower emission modes of transportation
  - Equity and Justice40. Work with State DOTs, to review metropolitan transportation plans to advance federal investments to disadvantaged communities.
  - Complete Streets. Help federal aid recipients plan, develop, and operate streets and networks that prioritize safety, comfort, and access to destinations for people who use the street network, including pedestrians, bicyclists, transit riders, micro-mobility users, freight delivery services, and motorists.

# IIJA: Funding Notices

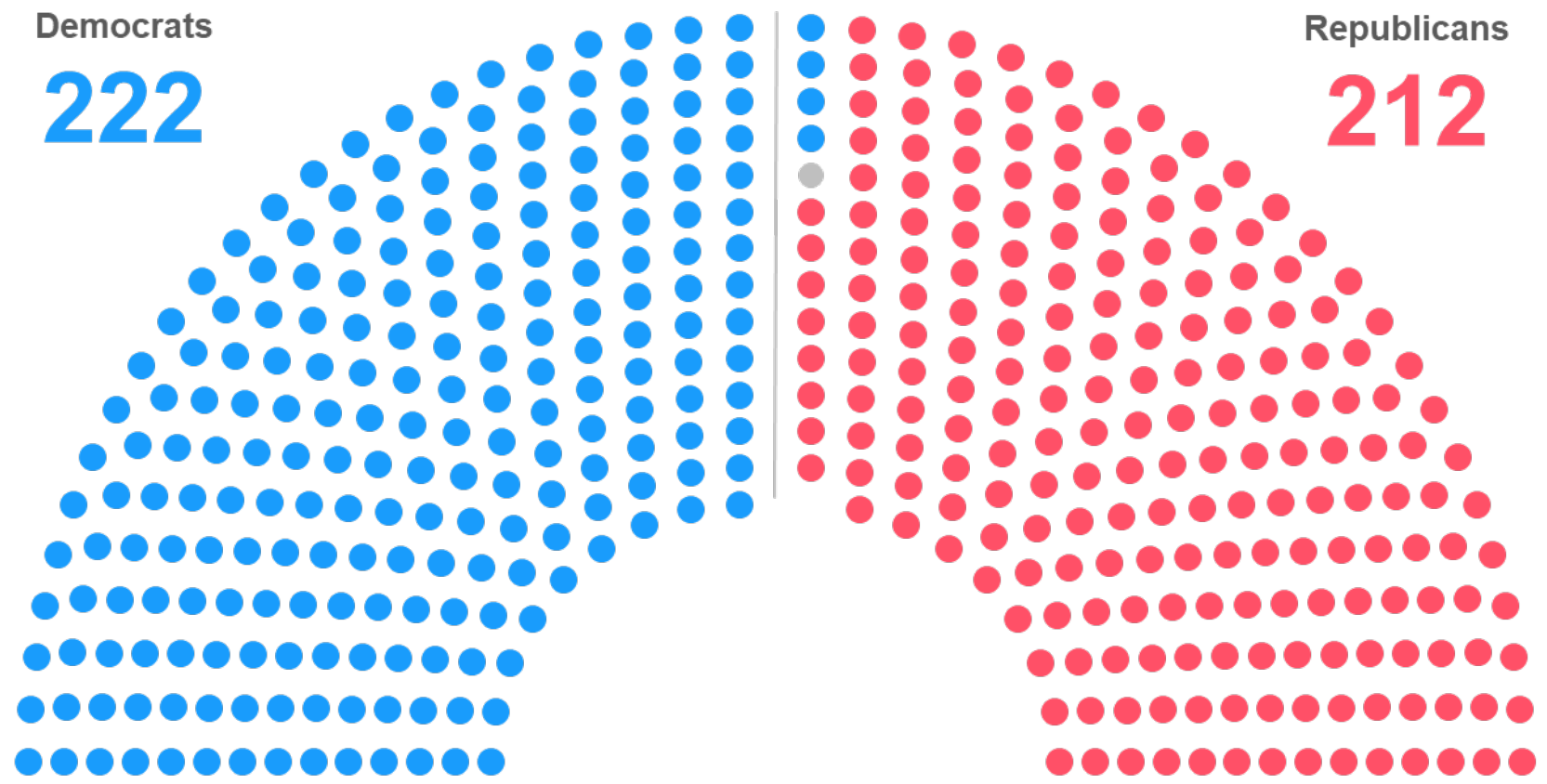
- ***FHWA: IIJA Highway Authorizations.*** On December 14, the Federal Highway Administration published the program authorizations for fiscal years 2022-26, pursuant to the Infrastructure Investment and Jobs Act. The \$52.5 billion in apportioned funding for FY 2022 is an increase of more than 20 percent over FY 2021. In order to spend these resources, however, Congress first needs to finish the FY 2022 appropriations measures. The link is [here](#).
- ***FAA: IIJA Airport Grant Awards.*** The Federal Aviation Administration announced that it has awarded \$2.89 billion in airport grant funds that were provided by Congress in the IIJA. This is the first installment of the IIJA Airport Improvement Program (AIP) grant funds. Funding will go to 3,075 airports around the nation and the funds can be invested in runways, taxiways, as well as roadway projects. An interactive map and listing of funding for individual airports, is [here](#).
- ***FHWA: IIJA Bridge Formula Funds.*** On January 14, President Biden announced the availability of \$5.3 billion for FY 2022 in the first annual installment of formula bridge funds that will be allocated to the states. The Federal Highway Administration (FHWA) Bridge Replacement, Rehabilitation, Preservation, Protection and Construction Program will provide \$26.5 billion to states and \$825 million for tribal transportation facilities for bridge projects over the next five years. An interactive map highlighting bridge formula funds and bridge condition by state is [here](#). The FHWA notice is [here](#).

# Next Steps

- Advocate for Full Year FY 2022 Transportation Appropriations Bill
  - Involve grassroots
- NAPA to comment on
  - 1) IIJA Implementation RFI; and
  - 2) Research RFI (Engineering).
    - Form Legislative Task Group to Review IIJA Implementation Task Force
    - Finalize issues and prepare
- NAPA to request involvement in Buy Clean Task Force.

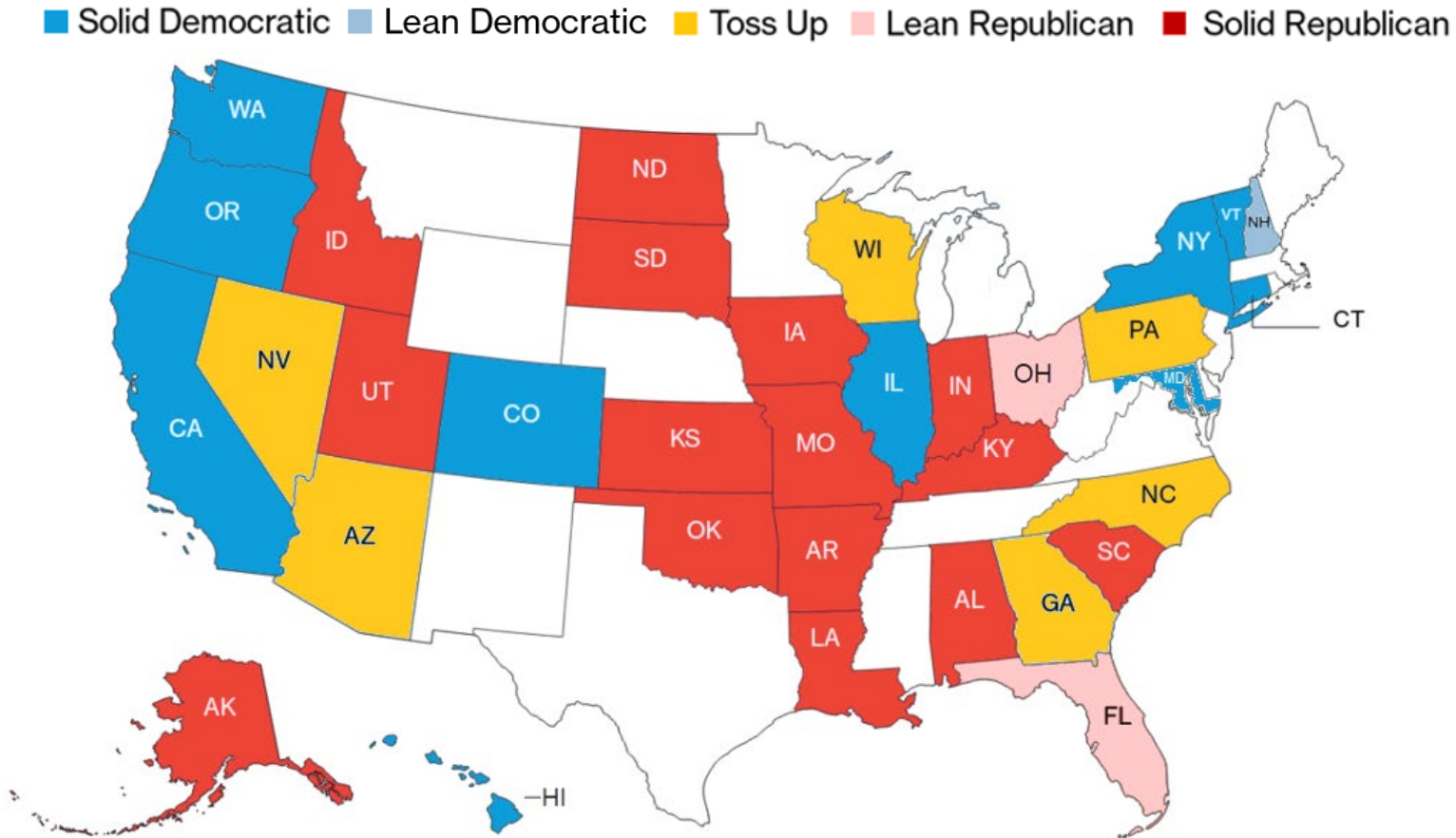
# Narrow House Majority Heading in 2022 Midterm Elections

- All 435 House members are up for election
- Republicans need to net five seats to take control
- 37 members are retiring or seeking other offices
  - 26 Democrats
  - 11 Republicans
- 17 states still working on redistricting
- At least five member vs. member matchups



Source: Bloomberg Government

# 50-50 Senate Tie Could Be Broken; GOP Has More Open Seats



- **34 seats are up this year**
  - 20 Republicans
  - 14 Democrats
- **One net gain would give Republicans control**
- **Six tossups according to Cook Political Report with Amy Walter**
- **Five Republicans retiring vs. one Democrat**

Source: Bloomberg Government

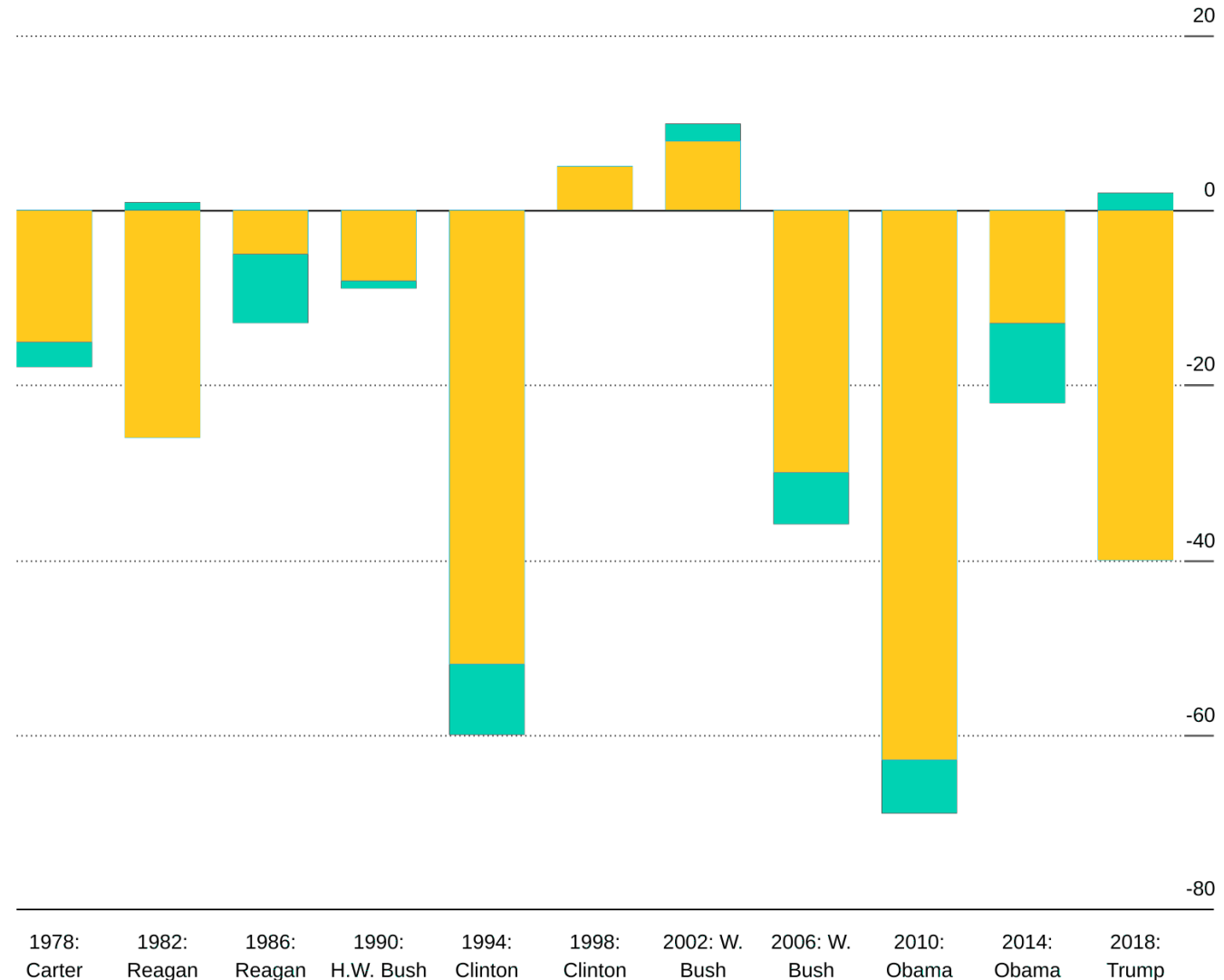
Source: Cook Political Report with Amy Walter race ratings as of Nov. 19; no races are rated as "likely" for Republicans or Democrats



# President's Party Often Takes a Hit in Midterm Elections

■ House ■ Senate

- A president's popularity is often diminished by the midterm elections
- Clinton, Obama, Trump lost majorities in at least one chamber in their first midterms
- Republicans gained the Senate in George W. Bush's first midterm



Source: Bloomberg Government

Source: [American Presidency Project](#)