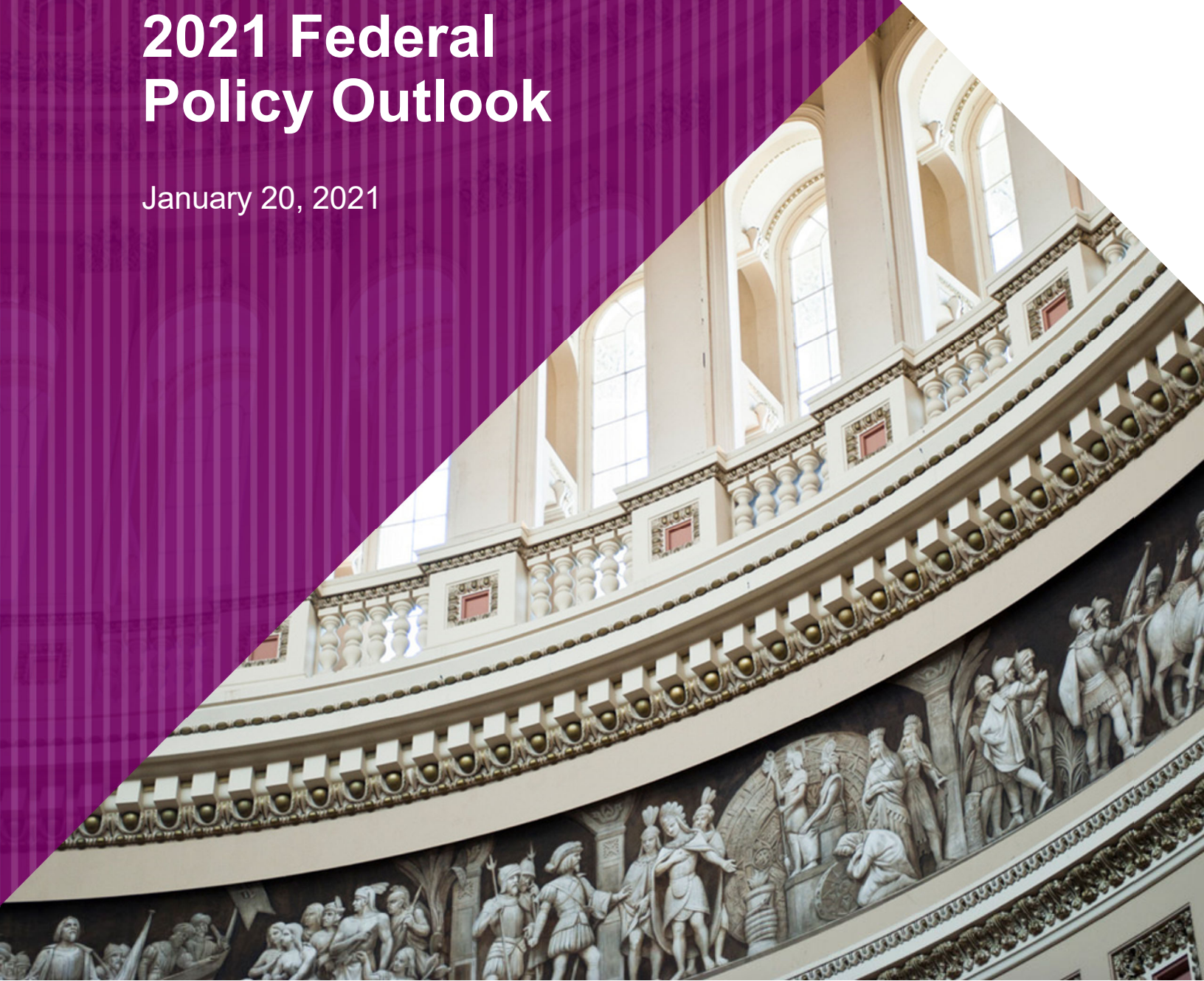


# 2021 Federal Policy Outlook

January 20, 2021



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## Introduction

Today, January 20, 2021, President-elect Joe Biden will take the oath to become the 46<sup>th</sup> president of the United States of America, bringing extensive change from the tactics and policies of the Trump administration.



Biden will have the convenience of working with an undivided government for at least the first two years of his presidency — in the 117<sup>th</sup> Congress, which officially began on January 3, there will be a 50-50 party tie in the Senate. Vice President-elect Kamala Harris will cast the tie-breaking vote to formally affirm the Democrat's majority in the upper chamber.

According to *The Washington Post*, this is the fourth time in U.S. history that the Senate has experienced a split 50-50. Previously, the Senate split in 1881 for nearly two years, in 1954 for a few months, and for six months in 2001. In other words, this thin balance of power rarely occurs and usually doesn't last long. Democrats have not held the majority in the Senate since the end of the 113<sup>th</sup> Congress in January 2015. Initially, leaders Schumer and McConnell must overcome their differences to establish a power-share agreement with committees, staff, and budgets, as they agree on the Senate rules. It's expected to mirror the 2001 agreement, which allowed tied votes in committee to advance to the floor.

In the House, Democrats will face a slimmer majority than in the 116<sup>th</sup> Congress but will still hold at least a 222-212 seat lead over Republicans (one House seat remains vacant/uncalled). Given the diverse ideologies within the Democratic caucus, this may cause some difficult floor votes, where Democratic leadership will need to maintain a tight grasp on their whip count.

Senate Majority Leader Chuck Schumer (D-NY) and House Speaker Nancy Pelosi (D-CA) both now control what legislation comes up for a vote in their respective chambers, and Democrat chairmen/women can control the activity of their committees.

President-elect Biden and congressional Democrats will likely use their majority positioning to push major pieces of legislation previously unattainable with Republican control of the Senate and White House. It's expected they will use a process called budget reconciliation, which only requires a simple majority of votes in the Senate — as opposed to the 60 votes needed to advance most bills — to pass some of the more partisan measures.

We expect the first 100 days of President-elect Biden's term the new Senate Democratic majority to be aggressive and fast moving. Unified Democratic control of government will mean the drafting of a budget resolution and legislation containing COVID-19 stimulus and infrastructure spending, the push to confirm as many cabinet nominees as fast as possible, all while balancing floor time in the Senate to hold an impeachment trial of President Trump. The stimulus bill, which will be passed using reconciliation, could

be as much as \$2 trillion and include some of the infrastructure proposals in Biden's Build Back Better plan depending on the Senate Parliamentarian's ruling on its germaneness. It is still uncertain if this stimulus will be deficit financed, or if it will be accompanied by tax increases. Tax increases funding the spending could affect when infrastructure proposals move. Biden will make certain that \$1,400 stimulus checks as well as state and local aid are part of a new stimulus bill.

The Congressional Review Act (CRA) will be a tool at the disposal of the Biden administration and a Democratic Congress and will likely be used during the first 100 days. The CRA allows Congress to undo any rule within 60 legislative days of it being sent to Congress. Several rules from agencies such as the EPA, CFPB, and OCC will be primary targets for reversal using the CRA.

However, Democrats have several top priorities that they cannot pass through Congress without bipartisan agreement and cooperation from Republicans. Many policy issues not completed in the 116<sup>th</sup> Congress will carry over into the 117<sup>th</sup> Congress, and several new areas of across-the-aisle cooperation will undoubtedly emerge during President-elect Biden's first term. One thing is clear; moderate members' influence on legislation will increase in the 117<sup>th</sup> Congress given the narrower majorities and the need for bipartisan cooperation.

In the following sections, the Troutman Pepper Strategies (TPS) Washington, D.C. team will present an overview of issues the incoming Biden administration and the 117<sup>th</sup> Congress may address over the course of 2021 and beyond.



# Issues

## Agriculture & Food Safety

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In December 2020, President-elect Biden announced that he would nominate Tom Vilsack to serve as the next secretary of agriculture. Vilsack previously served as the agriculture secretary for the entirety of President Obama's tenure, so he is very familiar with the department's functions and operations. Vilsack strongly supports promoting American agriculture through international trade and has criticized President Trump's tariff wars with China and subsequent adverse effects on agricultural producers. Biden also hopes Vilsack can help him build support among constituencies, especially rural voters that generally backed President Trump. Vilsack already stated that his first priorities for the U.S. Department of Agriculture will address pandemic relief for hungry families, rural communities, food workers, and agriculture producers, as well as confronting climate change. Biden said that he wants U.S. agriculture to be the first in the world to reach net-zero emissions, and he supports paying farmers for climate-friendly practices like capturing carbon in their fields and forests. Additionally, the current Farm Bill (enacted in December 2018) will expire at the end of 2023, requiring renewal by the 118th Congress after the first two years of Biden's term. The Farm Bill covers numerous agricultural and food issues, including commodity support, dairy and sugar policy, agricultural trade assistance, conservation, and food and nutrition support.



### Food Safety

In October 2019, the Food and Drug Administration (FDA) released its blueprint for “A New Era of Smarter Food Safety” to strengthen its protection of the food supply. The blueprint indicates that the FDA will begin looking at new technologies — such as distributed ledgers, sensors, the Internet of Things, and artificial intelligence — and how these technologies can help create a more “digital, transparent, and safe food system, while also addressing consumer demands for quick access to information about where their foods come from, how they are produced, and if the food is the subject of an ongoing recall.” It's probable that Biden, along with his yet-to-be-announced pick to lead the FDA, will continue implementing the agency's blueprint and may eventually ask Congress for additional funding to support the new food safety efforts.

## Budget & Appropriations

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### Fiscal Year 2022 Budget

Both the Senate and House Budget Committees will look to pass a budget resolution outlining spending guidelines. Democrats will have an opportunity to use this process twice in 2021; once for fiscal year 2021 and again for fiscal year 2022, which begins in October. The discretionary spending caps put in place by the 2011 Budget Control Act expire at the end of fiscal year 2021, although mandatory spending reductions remain in effect through fiscal year 2029. Additionally, the debt limit will come back into effect around August, which may lead to renewed battles over spending limits and the federal deficit.



The president and the administration are statutorily required to submit an annual budget request to Congress by the first Monday of every February, but this deadline is rarely met.

President-elect Biden's first budget may be delayed even longer due to the challenges and time constraints of an incoming administration. The House recently passed a bill that requires posting federal department and agency budget justification documents online and on a central website for public viewing.

### Budget Reconciliation

Senate control now means that Democrats can use a fast-track legislative process called budget reconciliation to pass big-ticket legislative priorities, such as pandemic stimulus package, tax hikes, health care legislation, clean-energy infrastructure spending, or other important bills that would otherwise face political difficulties. It's expected that the FY21 budget reconciliation bill will be used for deficit-financed pandemic relief items, and that the second FY22 bill will be used as a vehicle for health care and other priorities, funded largely on the repeal of the Tax Cuts and Jobs Act (TCJA) and the closing of other tax loopholes. For example, Republicans employed budget reconciliation in 2017 to pass the TCJA and during their failed attempt to repeal and replace the Affordable Care Act. Democrats used it in 2010 to modify the Affordable Care Act. With a razor thin majority in the Senate and a slim majority in the House, Democrats will need to maintain unity and prevent defections to utilize budget reconciliation effectively.

Budget reconciliation requires only a simple majority of votes to pass in both the House and Senate, as opposed to the typical 60 votes required to end debate and pass legislation in the Senate. In order to use the budget reconciliation process, they must first pass a budget resolution that includes reconciliation instructions, laying out deficit parameters to the relevant committees. Then the committees drafting the relevant legislation will combine the text into one omnibus bill. The scope of a reconciliation bill is limited by the budget resolution, as well as the Byrd Rule in the Senate. The Byrd Rule lays out six definitions for extraneous provisions, dependent on the Senate parliamentarian (traditionally nonpartisan role) to interpret.

### Fiscal Year 2022 Appropriations

The signing of the fiscal year 2021 omnibus spending bill in December 2020 officially kicked off the fiscal year 2022 appropriations season. Over the next few months, federal department and agency heads will testify before the relevant appropriations subcommittees about the needs and expectations of their

operations. Typically, House and Senate appropriations subcommittees then begin releasing the 12 annual spending bill drafts in late spring or early summer. Several House Democratic members have floated the idea of allowing “earmarks” to return to the appropriations process after a nearly decade-old ban. Earmarks allow appropriators to designate federal funding for specific projects in their home states. New House Appropriations Committee Chairwoman Rep. Rosa DeLauro (D-CT) supports the reintroduction of earmarks, and it has the support of Democratic leadership. Many members view the return of congressional-directed spending as necessary because only lawmakers understand their districts’ specific needs. The bipartisan House Select Committee on the Modernization of Congress (which included six Democrats and six Republicans) previously proposed a plan that included a grant program allowing local and community officials to propose federal grant projects to members of Congress. Members, in turn, would submit those requests to the appropriations subcommittees for consideration. Funding for these types of projects would have been capped at 1% of total discretionary spending. It is not yet clear what the final process for earmarks will be in fiscal year 2022, or if they ultimately will be allowed at all.

### House Rules Package

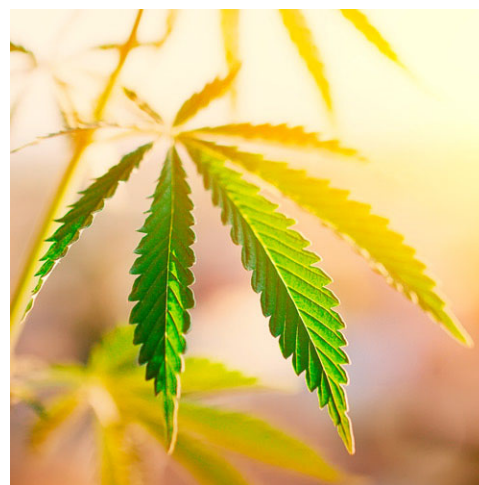
House Democrats recently passed a package setting the rules for the House of Representatives for the 117<sup>th</sup> Congress. While generally aligned with the rules of the 116<sup>th</sup> Congress, the updated package makes several important changes when it comes to a provision known as “pay-as-you-go” or “PAYGO.” Normally, PAYGO requires lawmakers to offset the cost of bills with spending cuts or tax increases. However, the rules package includes exemptions from PAYGO for bills related to the economic or public health consequences of the COVID-19 pandemic or the economic, environmental, or public health consequences of climate change. The rules also direct House Budget Committee Chairman John Yarmuth (D-KY) to determine which bills qualify for the new exemption. Congressional Republicans argued that this new exemption from PAYGO clears the way for Democrats to pass massive pieces of legislation, such as a “Green New Deal” or a “Medicare for All” package, but House Majority Leader Steny Hoyer (D-MD) responded that is not the Democrats’ intention, and that he and Speaker Pelosi largely support the PAYGO provision.

## Cannabis & Tobacco

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### Cannabis

In December 2020, the House passed the MORE Act (H.R. 3884), which would legalize and remove marijuana from the federal drug schedule under the Controlled Substances Act. The bill also allows taxing marijuana at the federal level. The House passed an additional measure (H.R. 3797) that would ease marijuana research regulations for researchers and manufacturers. Both bills had little hope for a vote in the GOP-controlled Senate, but the bills’ advocates will likely renew their efforts with Democrats now in control of the upper chamber. Majority Leader Schumer also indicated that this will be a priority. Additionally, in 2019, the House passed the SAFE Banking Act, which created protections for depository institutions providing financial services to cannabis-related businesses. Since the Senate never voted on companion legislation, it may also be revived this year.



Vice President-elect Harris stated that she supports legalization, but President-elect Biden, so far, has publicly come out only for decriminalization. However, it's unlikely he would oppose or veto measures passed in the House, should they pass again in the 117<sup>th</sup> Congress.

### Tobacco

In the 116<sup>th</sup> Congress, legislation passed the House of Representatives that would ban all flavored tobacco, with an emphasis on curbing youth use of e-cigarettes. House Energy and Commerce Committee Chairman Frank Pallone (D-NJ) will likely reintroduce this legislation in the 117<sup>th</sup> Congress. Although there is consensus around dealing with e-cigarettes, Pallone will have challenges with a slimmer majority on the committee and in Congress, and many Republican and Democratic members have concerns about banning flavored tobacco for specific products.

The omnibus spending and stimulus package signed in December included provisions aimed at preventing the online sales of electronic nicotine delivery systems (ENDS) products to youths. Going forward, it will require retailers to verify the age of customers buying e-cigarettes online. The Biden administration is expected to strongly enforce federal oversight of how tobacco and e-cigarette manufacturers market and sell their products. Biden has yet to announce a new commissioner for the FDA, but any potential nominee is expected to support stronger and more targeted regulations on the tobacco industry.

It is also rumored that Biden is considering Janey Woodcock to head the FDA. Woodcock has worked at the FDA for over 30 years and is expected to serve as the acting commissioner at the FDA after President-elect Biden's inauguration. Woodcock was previously the director of the FDA's Center for Drug Evaluation and Research but stepped aside from that role last year to help lead Operation Warp Speed. Woodcock is also the chief medical advisor to current Commissioner Stephen Hahn, who is expected to leave the FDA after Trump's term. Additionally, Biden recently named the former FDA commissioner, David Kessler, as a top advisor on vaccine distribution. During his time at FDA, Kessler spearheaded aggressive regulations on tobacco and may continue to advise the Biden administration on such matters.

### Coronavirus Relief

Although Congress passed a nearly \$900 billion pandemic stimulus package in December 2020, President-elect Biden stated he will push Congress for more stimulus in the early months of his presidency. Top priorities for Biden include additional \$1,400 stimulus checks for individuals — given that a push for \$2,000 checks had bipartisan support but was blocked by then Senate Majority Leader Mitch McConnell (R-KY) — and additional funding for states and the Centers for Disease Control and Prevention (CDC) for coronavirus vaccine distribution, investments in treatments, and other testing tools for COVID-19. Funding for vaccine distribution may be even more necessary now that the current process has been criticized as being too slow by many elected officials and staff within federal public health agencies. Additional stimulus priorities for Biden include more funding for schools, emergency paid leave funding, rental assistance, increased benefits for nutrition programs like SNAP and WIC, and an increase to the minimum wage, among other provisions.





Stimulus spending may not be limited to pandemic-related issues, however. Other priorities from Biden’s Build Back Better plan and for congressional Democrats could find their way into a new stimulus spending package. For instance, federal money could be directed to spur growth in energy efficient projects, electric vehicle infrastructure, or funding low-carbon technologies. Funding could also be directed toward more traditional infrastructure projects, such as repairing and building new roads, highways, or bridges. It remains to be seen if Democrats will pursue a broad and inclusive strategy toward a potential stimulus package, or if they will keep it narrow and pursue goals unrelated to the pandemic through other means.

## Education

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### Higher Education Authorization

Former Senate HELP Committee Chairman Lamar Alexander (R-TN) and then ranking member Patty Murray (D-WA) began negotiating a bipartisan deal to reauthorize the Higher Education Act (HEA) at the start of the 116<sup>th</sup> Congress. They were never able to finalize an agreement, however, and focus on reauthorizing the HEA fell to the wayside as the pandemic took over the committee’s agenda. New committee leadership for Senate Republicans (Alexander retired at the end of the 116<sup>th</sup> Congress) may mean that negotiations must begin anew, especially with a new Democratic majority, or it may pick up where Alexander and Murray left off. Areas of bipartisan agreement included simplifying financial aid applications and creating a tracking system so the public can view the financial outcomes of college degrees. House Democrats, on the other hand, passed the College Affordability Act (H.R. 4674) out of the House Education and Labor Committee in October 2019, but the bill never made it to the floor for a full House vote. The \$332 billion package would have provided free community college, boosted federal financial aid, simplified the student loan repayment process, and codified protections for student borrowers eliminated by the Trump administration, among other provisions.



### “Education Beyond High School”

President-elect Biden framed his education platform for higher education under the moniker “Education Beyond High School.” He did this to recognize and encompass the idea that a modern workforce may require anything from an industry-recognized credential, an associate degree, and a bachelor’s degree to a PhD. The Biden campaign outlined three core goals of the plan:

- Invest in community colleges and training to improve student success and grow a stronger, more prosperous, and more inclusive middle class.
- Strengthen college as the reliable pathway to the middle class, not an investment that provides limited returns and leaves graduates with mountains of debt they cannot afford.
- Support colleges and universities that play unique and vital roles in their communities, including historically Black colleges and universities and minority-serving institutions.

## Student Loans

Several progressive members of Congress, particularly Senator Elizabeth Warren (D-MA), are pushing President-elect Biden to use executive action to cancel student loan debt. Both the HEROES Act, a stimulus bill passed by the House in May 2020, and a proposal released by Biden in April cancel a minimum of \$10,000 in student loans (both federal and private). Biden's proposal also would forgive payments and interest for those earning less than \$25,000 per year, cap income-based repayments at 5% of discretionary income for those earning more than \$25,000 per year, forgive the remainder of federal student loans without a tax burden after 20 years, and provide additional forgiveness for those who work in public service. Many of Biden's proposals would require Congress to pass new legislation, so this will largely depend on bipartisan support since there was Republican opposition to many of the student loan proposals, especially the forgiveness of privately held student loans.

## Energy & Environment

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### Energy Package & Extenders

If Congress had not passed a broad and bipartisan energy package with the fiscal year 2021 and pandemic stimulus package at the end of 2020, it would have been accomplished in early 2021. In December 2020, Congress passed portions of the American Energy Innovation Act (S. 2657) from the Senate, which contained over 50 bipartisan bills, and the Clean Economy Jobs and Innovation Act (H.R. 4447) from the House. Additionally, the year-end deal included several energy-related tax extenders, including the Investment Tax Credit (ITC) for solar energy and the Production Tax Credit (PTC) for wind and geothermal energy. The Water Resources Development Act (WRDA) was also attached to the bill.



### “Clean Energy Revolution and Environmental Justice”

President-elect Biden has called climate change an existential threat to America and has put forward an ambitious \$2 trillion climate proposal, called “Clean Energy Revolution and Environmental Justice,” to address the problem. In his proposal, Biden plans to take several executive actions on day one, including putting limits on methane pollution, developing fuel economy standards for vehicles, banning oil and gas leasing on public lands and waters, and rejoining the Paris Climate Agreement. Biden's plan would also invest \$400 billion over 10 years in clean energy and innovation projects, including the establishment of ARPA-C, a new research agency focused on accelerating climate technologies. The plan includes several other ambitious targets, such as achieving economywide net-zero emissions no later than 2050, reducing the carbon footprint of U.S. building stock by 50% by 2035, and building 500,000 new public charging stations across the country by the end of 2030.

Biden and the administration will more than likely implement his energy and environmental agenda through several different agency regulations and legislative initiatives. He will not likely seek to address it as a standalone initiative through landmark legislation, as even some moderate Democrats in the Senate, such as Joe Manchin (D-WV), will oppose some of the more progressive proposals. Biden will likely take quick executive action to reverse many of the policies that President Trump either put in place or reversed from the Obama administration, such as fuel efficiency standards. However, many of Biden's energy and

climate proposals that he cannot accomplish through executive action or agency rulemaking may take a backseat to more urgent needs at the beginning of his first term, such as addressing the pandemic and rebuilding the nation’s economy. Portions of the plan also could be included in a budget reconciliation, which would only require a majority vote in the Senate, or in an additional pandemic stimulus package.

## Financial Services & Taxes

COVID-19 relief and related areas of concern will be the top priority for the Biden administration. President Biden now will receive assistance in his financial services policy agenda not only by Chairwoman Maxine Waters (D-CA), but also by incoming Senate Banking Chairman Sherrod Brown (D-OH). While Biden and Democrats have proposed some aggressive reforms over the past years in the financial services industries, their control of each chamber is by the thinnest of majorities. The Senate 50-50 split will likely force a power sharing agreement with equal budgets and equal committee memberships, as has happened in the past. As of now, the filibuster appears to remain in place, with Senator Joe Manchin (D-WV) not supporting its removal. For any legislative initiative to be realized and pass committee or the Senate floor, Chairman Brown will need to gain and ensure bipartisan support.



Like with Treasury Secretary nominee Janet Yellen’s confirmation, President-elect Biden should have a much easier time selecting and confirming to-be-named nominees for a variety of posts, including Treasury assistant secretary positions, the heads of the CFPB, OCC, SEC, and eventually the FDIC. Likewise, Senator Brown will oversee the nomination hearing of his Ohio colleague Rep. Marcia Fudge (D-OH), Biden’s nominee for secretary of housing and urban development. Without a GOP-controlled Senate, Biden will no longer need to shy away from progressive nominees, thus enabling him to choose nominees who will support the administration’s actions it wants to pursue solely through executive action. It’s important to note though, that with thin majorities in each chamber, especially in the Senate, progressive proposals, such as an annual percentage rate caps and other progressive items resisted by moderate Democrats, will not have the same path forward.

Some areas we expect Congress and the Biden administration to immediately address involving financial services and taxes include:

### COVID-19 Response

The administration and Congress will unite in their immediate goal to secure more stimulus funds and continue to ensure a smoothly run the Paycheck Protection Program (PPP). On the heels of the Georgia elections, Senator Brown stated that the first priority must be coronavirus relief, including \$2,000 stimulus checks. Also, several progressive measures in the House-passed HEROES Act will concern many industry segments, such as suspending consumer and small-business credit payments and negative credit reporting. We expect moderate Senate Democrats to resist this type of provision as they look to craft a COVID-19-relief bill that all 50 Senate Democrats can support through reconciliation. Some proposals, including

Federal Reserve facilities that incoming ranking member Senator Pat Toomey (R-PA) has pushed to wind down, may be pursued to enable Treasury Secretary nominee Janet Yellen to act more freely when needed.

## Housing

Biden already provided a detailed plan of the areas he would like his administration to address concerning housing policy and the systemic inequities within the housing market and to undo what they view as modern day redlining. Biden focuses on affordable housing and proposed to invest \$640 billion over 10 years to create a more stable and equitable housing market, including a new refundable tax credit for first-time buyers that could be issued in advance. Housing security has been a focus for Chairwoman Waters and will continue to be through coronavirus relief legislation and beyond. Biden's affordable housing plans include establishing a \$100 billion affordable housing fund similar to what Chairwoman Waters proposed in 2019. Senate Chairman Brown also championed affordable housing and will support passing affordable housing, rent, and tenant support initiatives into law.

## Community Reinvestment Act (CRA)

Chairwoman Waters placed a spotlight on the CRA during her first two years with the gavel. She placed pressure on the CRA regulatory implementation by Trump-led banking agencies to focus on consistent application of its law and to be inclusive of minority and low-to-middle income (LMI) neighborhoods. The Federal Reserve, OCC, and FDIC all recently proposed rule changes, but currently the OCC stands alone with a proposed final rule broadening qualifying activity for CRA credit. Biden, Waters, and Brown will likely pressure regulators to change course and broaden the CRA in its application, seeking to benefit more communities in need. This effort by Biden and a Democratic Congress will work toward their broader goal of creating greater racial equity and eliminating redlining.

## CFPB Restoration

Biden will restore enforcement power for the Office of Fair Lending an Equal Opportunity within the CFPB. Chairwoman Waters has sharply criticized the Trump administration's actions to limit the CFPB's oversight and enforcement. The Biden-run CFPB will try to strengthen oversight of lending, credit, and target predatory lending. Waters and Brown hope to bolster all efforts emphasizing consumer benefits where possible. This will include the administration revisiting the short-term lending rule and reinstating an "ability to repay" requirement.

## Financial Technology (FinTech)

Chairman Brown and ranking member Toomey may find some areas of compromise in advancing a new regulatory framework for financial technology. A Biden administration and Democratic Congress will want to ensure that nonbanks offer services that benefit consumers and are safe and sound in their practices. It's expected that a Biden administration will support and foster innovation in balance with its consumer protection efforts. A Biden administration will likely ensure that firms seeking new "fintech charters" will provide increased access to the unbanked and underbanked. Biden's appointments to financial regulatory agencies will largely shape the outlook and immediate future for fintech issues such as crypto and blockchain. Regulations will be closely examined to ensure consumer protection while also fostering innovation through regulatory sandboxes.

## Banking

With an evenly divided Senate, reform legislation is far from likely, but banks should expect Waters and Brown to urge regulators to govern banks closely and more strictly. This will include closer oversight of the Federal Reserve, FDIC, OCC, and SEC. Brown already criticized the Fed for allowing banks to resume stock buy backs, which are expected to continue into early 2021. Brown will also support possible



Biden administration attempts to revisit the Volcker Rule to guard retail banking from other investments. Further, Democratic chairs will leverage their gavels to move policy and regulators to ensure that Wall Street banks and other firms address climate risk, and Democrats will seek a path so the Federal Reserve can include climate change/risk as part of a stress test. A Democratic majority also could allow for an agreement and path forward with cannabis banking, through the SAFE Banking Act.

## Tax Reform

Democrats — now holding a 222-211 House majority and a 50-50 majority in the Senate through a Vice President-elect Harris — have a path for substantial tax reforms and rolling back some of President Trump's 2017 tax cuts. Biden's top legislative priority will be a stimulus package for vaccination funds to states, as well as other COVID-19-related priorities. This means that a \$1-2 trillion stimulus package will occur as soon as possible. The stimulus bills prioritized by President-elect Biden will be accomplished through a budget reconciliation bill, enabling the Senate to bypass the filibuster and requiring the House and Senate to adopt a budget resolution before a simple majority vote on the legislation. Democrats will have an opportunity to use this process twice in 2021; once for fiscal year 2021 and again for fiscal year 2022, which begins in October 2021.

Reconciliation is a critical tool for tax reform since it allows for a simple majority vote to pass the Senate without worrying about the politics of ending the filibuster — which moderate Democrats will likely not allow. Democrats will be unconcerned with deficit stimulus spending but will look to “pay-fors” for long-term priorities like health care. This means that many of the tax increases that could occur will likely take hold in a second reconciliation bill this coming fall. Also, other Treasury regulations and moves under the Trump administration may be subject to the Congressional Review Act (CRA). A Biden administration proposing regulatory changes on its own will need to provide strong legal explanations and undergo the normal notice-and-comment process with an interpretation and conclusion consistent with the law.

Several tax increases and revenue raisers currently have strong Democratic support. For others only supported by a thin majority in each chamber, it will be up to leadership to build consensus. Some tax proposals with the narrow 50 seat majority may receive some Democratic resistance, including limitation on itemized deductions, raising capital gains taxes, and eliminating the step-up basis.

- **Corporate Tax Rate:** Democrats will try to raise the corporate tax rate to 25-28%. The Biden administration may need to convince some Democrats to support a 28% increase. The Congressional Budget Office (CBO) estimates the each percentage point increase in the corporate tax rate will raise \$99 billion.
- **Step-up Basis:** They will seek to eliminate the step-up bases in capital gains, as well as in inherited assets. The CBO estimates this will increase revenue by \$110 billion over 10 years.
- **Capital Gains:** Democrats will likely try to raise capital gains rates, but it will be up to Congress and largely the Senate to negotiate by how much. Biden mentioned raising the capital gains tax rate to nearly 40%.
- **Income Tax Rate:** They will likely seek to increase taxes for the top income bracket — those earning more than \$400,00. The rate will raise taxes to 39.6% from 37%, like it was before the 2017 law.
- **Global Intangible Low-Taxed Income (GILTI):** Democrats will replace the 2017 global intangible low-taxed income regime with a 21% country-by-country minimum tax on profits earned by foreign subsidiaries of U.S. firms — effectively doubling the current rate. Companies can currently opt out of the tax if they already pay at least 18.9% in offshore taxes. This could raise nearly \$290 billion over 10 years.

- **Payroll Taxes:** The payroll tax rate cannot be raised through the budget reconciliation process. Congress cannot touch anything that might impact social security in reconciliation. Democrats want to address the payroll tax structure, so earnings above \$400,000 will be taxed at 12.4% — splitting the amount equally between employees and employers.
- **State and Local Tax (SALT):** Democrats have included undoing the SALT deduction limit in the HEROES Act, which was introduced last summer. They will likely try to include this as part of their stimulus efforts. Chairman Richie Neal (D-MA) will undoubtedly prioritize this in major legislation since it would mean \$11 billion staying in his home state of Massachusetts.
- **Carried Interest:** Democrats will likely seek to close the loophole to tax profits at the earned income rate, rather than the capital gains rate. This will also help with a second reconciliation bill, likely focused on health care. It's projected to generate \$180 billion over 10 years.
- **Financial Transaction Tax (FTT):** Progressive Democrats may attempt to place a tax on stock, bond, and derivatives trades. The CBO estimates that a .1% FTT would raise as much as \$777 billion over 10 years. Biden expressed support for an FTT, but moderates would likely negotiate this revenue source.
- **Tax Deductible Interest on Debt Obligations:** Democrats could try to prohibit interest on excessive debt obligation from being tax deductible by large companies.
- **Offshore Manufacturing Tax:** Biden's plan calls for a 10% tax on profits generated from offshore manufacturing on products sold in the U.S. — this is a surtax that would raise the effective corporate rate up to 30.8%.
- **Fossil Fuels:** Biden called for an end to fossil fuel subsidies. This is an area that will face an uphill fight among Democratic moderates, including Senator Joe Manchin (D-WV).
- **Renewables:** Democrats are expected to expand tax incentives reducing carbon emissions. While some initiatives may suffer with the narrow majority, tax benefits for carbon capture, use, and storage will likely have a better chance of being realized with moderates like Senator Manchin, who supports the measure.
- **Repatriation:** Biden's plan would end the 2017 tax law provision allowing multinational companies to lower (or pay no) taxes on income earned overseas.
- **Real Estate:** Biden proposed eliminating Section 1031 like-kind exchanges that allow the deferral of capital gains taxes on swap of appreciate real property, as well as the elimination of qualified business income (QBI) deductions for profitable rental real estate activities.

## Healthcare & Health Information Technology

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### Affordable Care Act

President-elect Biden campaigned on expanding the Affordable Care Act (ACA), a promise he may feel especially compelled to deliver on given that millions of people have likely lost their health insurance due to the pandemic or need better coverage. A centerpiece of Biden's plan includes a government-run public health insurance option that can compete with private insurers. Pushing a plan through Congress will face stiff opposition from congressional Republicans and may need to be accomplished through an easier process, such as budget reconciliation. If Biden cannot work with Congress to legislate an expansion, he will allow his administration to take whatever steps they can to make it easier for states to individually set up public options. However, state budgeting shortfalls due to the pandemic will make it difficult for states that want to create public options to offer new subsidies to encourage enough people to buy into the plan. Additionally, the health care cost controls likely to accompany any public option plan (such as forcing doctors and hospitals to accept rates for public insurance options that are lower than private insurance options) could hamstring the hospitals on the frontlines of the pandemic.



### Cures 2.0

In 2016, Congress passed the 21st Century Cures Act, a landmark piece of legislation promoting biomedical innovation and setting health information technology policy. The bill was significant to then-Vice President Biden because it contained his cancer moonshot initiative, and he presided over the Senate when the legislation passed. In April 2020, Reps. Diana DeGette (D-CO) and Fred Upton (R-MI) released a concept paper for a "Cures 2.0" that will improve access to digital health services, modernize the Centers for Medicare & Medicaid, and improve public health preparedness programs, among other health-related policies. DeGette and Upton plan to issue a draft version of Cures 2.0 by early 2021. The original Cures passed with overwhelming bipartisan support, and an update to the law would denote a legislative win for everyone, including the Biden administration, which will likely provide substantial input. However, Cures 2.0 has yet to become a major focus for any Senate members or jurisdictional committees.

### Drug Pricing

Drug pricing legislation was supposed to be an easy accomplishment at the start of the 116<sup>th</sup> Congress, but a broad, bipartisan agreement remains elusive. That may change with a new Biden administration, a new Democrat-controlled Senate, and a slimmer House majority, leading to a compromise agreement. In June 2019, the Senate HELP Committee passed the Lower Health Care Costs Act (S. 1895), which contained provisions addressing drug pricing. In September 2019, the Senate Finance Committee passed the Prescription Drug Pricing Reduction Act (S. 2543). Neither bill made it to the Senate floor for a vote. The Senate Finance Committee's bill redesigns Medicare Part D by capping out-of-pocket expenses for the elderly at \$3,100, requiring drug manufacturers to provide Medicare with inflation rebates and making changes to outpatient care and drugs administered by physicians (Medicare Part B), among other provisions. In December 2019, the House passed the Elijah E. Cummings Lower Drug Costs Now Act (H.R. 3), largely along party lines. That bill was then combined into one large bill (H.R. 1425) meant to

serve as an election-year message package for Democratic health care priorities. H.R. 1425 passed in the House in June 2020 by a vote of 234-179. The House bill gives the federal government the authority to negotiate prices for medications and makes other changes related to the Affordable Care Act and health insurance exchanges. In September 2020, President Trump signed an executive order pegging the cost of drug prices to the prices of drugs in “most favored nations.” In late November, CMS released an interim final rule implementing the executive order, which was quickly met by a lawsuit from the Pharmaceutical Research and Manufacturers of American (PhRMA) and other health care interest groups. It is unclear if President-elect Biden would allow the agency to continue with the rulemaking process when he takes office, but drug pricing in general will remain a key issue for Democrats as part of their plan to improve health care and lower costs.

### **Health Data Security & Privacy**

The COVID-19 pandemic also rekindled discussions around the privacy of health data not covered under HIPAA, mostly due to the proliferation and focus on digital tools used to track and combat the virus. Congress and the administration may shift their focus to regulating and legislating these issues once the pandemic subsides. Although no bills have recently passed in either the House or the Senate, several bipartisan measures have been introduced. Senators Bill Cassidy (R-LA) and Jacky Rosen (D-NV), for example, have a bill that would prohibit the sale or transfer of consumer health information (unless aggregated or anonymized) or any other individually identifiable consumer health information collected from personal consumer devices. Senator Roger Wicker (R-MS), then-chairman of the Senate Commerce, Science, and Transportation Committee, had a bill titled, “The COVID-19 Consumer Data Protection Act,” that broadly protects the privacy of consumers personal health information, proximity data, device data, and geolocation data during the coronavirus public health crisis. Senator Amy Klobuchar (D-MN) has a bill that would create a National Task Force on Health Data Protection and focuses on providing security and privacy protection standards. It is unclear if Biden supports any of these bills, but it is unlikely that he will act swiftly on any health data security and privacy issues unless outside events (such as a large-scale data hack) prompt a response.

### **Telehealth & Telemedicine**

The COVID-19 pandemic is also reshaping how the federal government and Congress view telehealth and telemedicine. The Trump administration also took steps under emergency authorities to expand telehealth during the pandemic. Congress will have to act legislatively to make many of the telehealth expansions permanent when the public health emergency expires. In the short term, Congress could grant the Department of Health and Human Services (HHS) additional waiver authorities in coronavirus response legislation or other packages. Meanwhile, many members remain interested in telehealth and dozens of bills have been introduced over the last several months. Many legislative proposals include provisions, such as allowing the Centers for Medicare & Medicaid (CMS) to eliminate geographic and originating site restrictions, continuing telehealth reimbursements beyond the public health emergency, providing funding for telehealth grant programs, and granting HHS permanent authority to expand what telehealth services are covered by Medicare, among other ideas. Congress may take a closer look over the coming months at how telehealth was utilized during and after the pandemic. If data shows that telehealth drove down health care costs without lowering health care quality, there may be more demand from lawmakers to enact these types of proposed policies.

### **Surprise Billing**

The omnibus spending package Congress passed in December also contained a bipartisan agreement on surprise billing legislation. The law bans surprise billing for several emergency and medical services beginning in 2022. It will now be the Biden administration’s job to set up a system this year to prevent



instances of individuals receiving expensive medical bills from out-of-network hospitals and to set up a system for arbitration for pricing disagreements between doctors and insurers. Through regulation, the Biden administration will need to carefully balance the interests of those doctors and insurers, all while attempting to ensure that insurance costs do not increase for individuals.

## Nominations

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Democrats' new majority in the Senate means they can push through President-elect Biden's cabinet and other department nominees, as well as judicial appointments, so long as the entire Senate Democratic caucus stays united. Senate Republicans, for example, had already threatened to block Biden's nominee to lead the Department of Health and Human Services, Xavier Becerra, over his record on abortion. Neera Tanden, Biden's pick to lead the Office of Management Budget, who Senate Republicans also opposed and was most at risk, now seems to be in the clear to be confirmed. Senate Majority Leader Schumer will dedicate ample floor time in the early weeks of President-elect Biden's term to confirm his cabinet and other high-level nominees.



## Regulatory & Rulemaking

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President-elect Biden is expected to issue a memo on Inauguration Day that will halt regulatory actions currently underway or in review by the Trump administration that haven't become final. The move is typical for incoming administrations to stop "midnight" regulations and actions taken by the outgoing administration from going into effect. The Trump administration is currently rushing to finalize dozens of regulations ranging from air pollution, labor rules classifying some employees as contractors, and foreign agriculture workers to endangered species. Usually, major regulations cannot go into effect at least 60 days until after the final rules are published in the *Federal Register*, which should provide the Biden administration ample time to rewrite rules or stop them completely.



## Transportation & Infrastructure

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President-elect Biden and congressional Democrats will look toward transportation and infrastructure funding (potentially included in a new pandemic stimulus package) to expediate the recovery from the pandemic and boost the economy. Biden's transition team said they want to push an infrastructure bill as early as February. Biden and congressional leaders, such as Senate Majority Leader Schumer, have expressed a desire for "green" transportation and infrastructure spending to promote things, such as electric vehicle infrastructure, electric grid modernization, and funding research and development of energy efficiency technology. Neera Tanden, Biden's pick to lead the White House Office of Management and Budget, and Pete Buttigieg, Biden's pick to lead the Department of Transportation, will be key to reaching any agreement with congressional Republicans and Democrats alike. During the 2020 presidential campaign, Buttigieg proposed spending \$1 trillion on infrastructure projects over 10 years, focusing on green energy projects, improving public transportation, and preparing communities for natural disasters. Additionally, a return to using earmarks for infrastructure projects may help build bipartisan support for a major bill early in the 117<sup>th</sup> Congress. Without earmarks, the Department of Transportation holds the authority to dispense any discretionary transportation funding not distributed to state and local governments directly.



Both the House and the Senate introduced surface transportation authorization bills during the last Congress. However, the House bill, the Moving Forward Act (H.R. 2) that passed in the House in July 2020, would have authorized \$500 billion (over five years) in highway, transit, rail, and broadband projects. The House bill was nearly twice as large as the Senate's version — the America's Transportation Infrastructure Act (S. 2302) — which never received a full vote in the Senate. While these bills may form the basis for a new bill later this year, it is also possible that House and Senate Democrats may want to work on a brand new bill with the Biden administration's input to achieve some of the "green" infrastructure promises on which Biden campaigned, including things like zero-emission transit or bike-friendly streets. Current funding for surface transportation projects was reauthorized for one year in September 2020, when Congress passed an extension in a continuing resolution. That means that current funding authority for infrastructure projects will expire on September 31, 2021 and should provide motivation for the Biden administration to reach an agreement with congressional Democrats and Republicans by then.

## Trade

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### China

President-elect Biden's campaign said that there is "no going back to business as usual on trade." Although Biden will likely reevaluate the Section 301 tariffs placed on billions of Chinese exports and the Phase 1 trade agreement, it is unclear if he will immediately reverse any of those decisions. Biden stated that he will work with our international economic partners and allies to pressure China into reforming its practices. Katherine Tai, Biden's pick to become the next U.S. trade representative, served as a China trade enforcement chief counsel during the Obama administration and is expected to push for structural changes to how China operates its economy. It will also be up to the Biden administration on whether to pursue a Phase 2 agreement with China, something that never got off the ground during the Trump administration.



### Trade Promotion Authority

Last reauthorized by Congress in 2015, Trade Promotion Authority (TPA) is currently authorized through July 1, 2021, and it will need to be renewed. Through TPA, Congress delegates authority to the president and the administration to negotiate free trade agreements (FTAs). TPA also provides lawmakers with extensive oversight to handle ongoing negotiations and allows for expedited procedures for agreements to be voted on in Congress once the administration submits legislative text. Since 1979, Congress has passed 16 out of 17 implementation measures for FTAs and multilateral trade agreements under TPA, and it becomes drastically more difficult to pass FTAs without TPA. Most importantly, TPA also allows lawmakers to set the rules allowing the executive branch to negotiate new trade deals. Democrats, for example, are becoming increasingly confident they will add climate concerns to their trade agenda and within their TPA guidelines for the administration. This can give the Biden administration both the green light and statutory authority to include provisions in trade deals that would address climate change. Provisions regarding climate change may include tariffs on carbon-heavy imports and commitments from countries to reduce carbon emissions.

### Trade Agreements

President-elect Biden will also strongly reconsider the entrance of the United States into the Trans-Pacific Partnership (TPP). Negotiated during the Obama administration, President Trump withdrew the U.S. from the agreement in 2017. After the U.S. withdrew, the remaining 11 members renegotiated a similar agreement that took effect in December 2018. Additionally, the Trump administration is leaving several trade-related issues for the Biden administration to pick up. U.S. Trade Representative Robert Lighthizer recently announced the indefinite suspension of retaliatory tariffs on France over a digital services tax. The Biden administration must decide whether to proceed with the tariffs or not. The U.S. and the U.K. are also in the middle of negotiating a trade deal since the U.K. formally left the European Union (EU). The Biden administration may also revitalize trade negotiations with the EU despite a "mini-deal" on tariffs that the U.S. and the EU reached in August. The U.S. and Kenya also officially launched FTA discussions in July 2020, which remain uncompleted. Other countries with ongoing or expected negotiations include India, Brazil, and Ecuador.

## Congressional Leadership in the 117<sup>th</sup> Congress

Below find a list of Senate and House leadership for the 117<sup>th</sup> Congress, as well as a table showing the chairmen/woman and ranking members of the House and Senate committees. Additionally, Senate Republicans have yet to determine who will lead several committees, therefore several names are presented as the leading contenders.



### Senate Leadership – Democrats

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- Majority Leader Chuck Schumer (D-NY)
- Majority Whip Dick Durbin (D-IL)
- Assistant Democratic Leader Patty Murray (D-WA)
- Chairwoman of Policy & Communications Debbie Stabenow (D-MI)
- Vice Chair of Conference Elizabeth Warren (D-MA)
- Vice Chair of Conference Mark Warner (D-VA)
- Chair of Steering Committee Amy Klobuchar (D-MN)

### Senate Leadership – Republicans

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- Minority Leader Mitch McConnell (R-KY)
- Minority Whip John Thune (R-SD)
- Republican Conference Chairman John Barrasso (R-WY)
- Republican Policy Committee Chairman Roy Blunt (R-MO)
- Vice Chairman of the Republican Conference Joni Ernst (R-IA)
- Republican Senatorial Committee Chairman Todd Young (R-IN)



Committee	Democratic Chair	Republican Ranking Member
<b>Agriculture, Nutrition, and Forestry</b>	Debbie Stabenow (MI)	<a href="#">John Boozman (AR)*</a>
<b>Appropriations</b>	Patrick Leahy (VT)	Richard Shelby (AL)
<b>Armed Services</b>	Jack Reed (RI)	James Inhofe (OH)
<b>Banking, Housing, and Urban Affairs</b>	Sherrod Brown (OH)	<a href="#">Pat Toomey (PA)*</a> <a href="#">Mike Crapo (ID)*</a>
<b>Budget</b>	Bernie Sanders (VT)	<a href="#">Lindsey Graham (SC)*</a>
<b>Commerce, Science, Transportation</b>	Maria Cantwell (WA)	Roger Wicker (MS)
<b>Energy &amp; Natural Resources</b>	Joe Manchin (WV)	<a href="#">John Barrasso (WY)*</a> <a href="#">James Risch (ID)*</a> <a href="#">Mike Lee (UT)*</a>
<b>Environment &amp; Public Works (EPW)</b>	Tom Carper (DE)	<a href="#">John Barrasso (WY)*</a> <a href="#">Shelley Moore Capito (WV)*</a>
<b>Finance</b>	Ron Wyden (OR)	<a href="#">Mike Crapo (ID)*</a> <a href="#">Pat Toomey (PA)*</a>
<b>Foreign Relations</b>	Bob Menendez (NJ)	<a href="#">James Risch (ID)*</a> <a href="#">Marco Rubio (FL)*</a> <a href="#">Ron Johnson (WI)*</a> <a href="#">Mitt Romney (UT)*</a>
<b>Health, Education, Labor &amp; Pensions (HELP)</b>	Patty Murray (WA)	<a href="#">Richard Burr (NC)*</a> <a href="#">Rand Paul (KY)*</a> <a href="#">Susan Collins (ME)*</a> <a href="#">Bill Cassidy (LA)*</a>
<b>Homeland Security</b>	Gary Peters (MI)	<a href="#">Ron Johnson (WI)*</a> <a href="#">Rob Portman (OH)*</a>
<b>Indian Affairs</b>	<a href="#">Catherine Cortez Masto (NV)*</a>	John Hoeven (ND)
<b>Intelligence</b>	Mark Warner (VA)	<a href="#">Marco Rubio (FL)*</a> <a href="#">Richard Burr (NC)*</a> <a href="#">James Risch (ID)*</a>
<b>Judiciary</b>	Diane Feinstein (CA)	<a href="#">Chuck Grassley (IA)*</a>

<b>Small Business</b>	Ben Carden (MD)	<b>Marco Rubio (FL)*</b> <b>Rand Paul (KY)*</b>
<b>Veterans Affairs</b>	Jon Tester (MT)	Jerry Moran (KS)

\* indicates a leadership change from the 116<sup>th</sup> Congress

## House Leadership – Democrats

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- Speaker of the House Nancy Pelosi (D-CA)
- Majority Leader Steny Hoyer (D-MD)
- Majority Whip James Clyburn (D-SC)
- Assistant Speaker Katherine Clark (D-MA)
- Democratic Caucus Chairman Hakeem Jeffries (D-NY)

## House Leadership – Republicans

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- Minority Leader Kevin McCarthy (R-CA)
- Minority Whip Steve Scalise (R-LA)
- Republican Conference Chairwoman Liz Cheney (R-WY)
- Republican Policy Committee Chairman Gary Palmer (R-AL)

<b>Committee</b>	<b>Democratic Chair</b>	<b>Republican Ranking Member</b>
<b>Agriculture</b>	<b>David Scott (GA)*</b>	<b>Glenn Thompson (PA)*</b>
<b>Appropriations</b>	<b>Rosa DeLauro (CT)*</b>	Kay Granger (TX)
<b>Armed Services</b>	Adam Smith (WA)	<b>Mike Rogers (AL)*</b>
<b>Budget</b>	John Yarmuth (KY)	<b>Jason Smith (MO)*</b>
<b>Education &amp; Labor</b>	Bobby Scott (VA)	Virginia Foxx (NC)
<b>Energy &amp; Commerce</b>	Frank Pallone (NJ)	<b>Cathy McMorris Rodgers (WA)*</b>
<b>Financial Services</b>	Maxine Waters (CA)	Patrick McHenry (NC)

<b>Foreign Affairs</b>	<b>Gregory Meeks (NY)*</b>	Mike McCaul (TX)
<b>Homeland Security</b>	Bennie Thompson (MS)	<b>John Katko (NY)*</b>
<b>Intelligence</b>	Adam Schiff (CA)	Devin Nunes (CA)
<b>Judiciary</b>	Jerry Nadler (NY)	Jim Jordan (OH)
<b>Natural Resources</b>	Raul Grijalva (AZ)	<b>Bruce Westerman (AR)*</b>
<b>Oversight &amp; Reform</b>	Carolyn Maloney (NY)	James Comer (KY)
<b>Rules</b>	Jim McGovern (MA)	Tom Cole (OK)
<b>Science, Space, and Technology</b>	Eddie Bernice Johnson (TX)	Frank Lucas (OK)
<b>Small Business</b>	Nydia Velazquez (NY)	<b>Blaine Luetkemeyer (MO)*</b>
<b>Transportation &amp; Infrastructure</b>	Peter DeFazio (OR)	Sam Graves (MO)
<b>Veterans' Affairs</b>	Mark Takano (CA)	<b>Mike Bost (IL)*</b>
<b>Ways &amp; Means</b>	Richard Neal (MA)	Kevin Brady (TX)

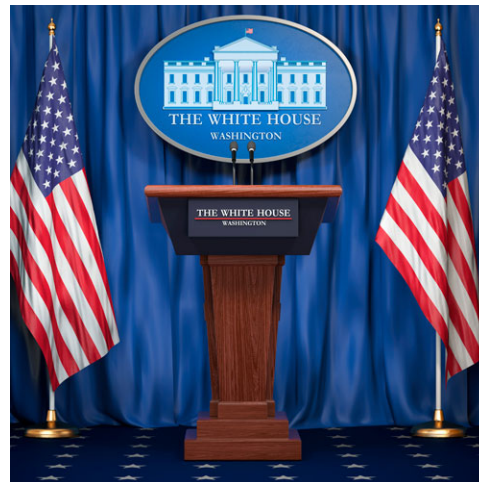
\* indicates a leadership change from the 116<sup>th</sup> Congress

## Biden Administration Announcements

### General Lloyd Austin – Secretary of Defense

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If confirmed, retired Army General Austin would be the first African American to lead the Department of Defense. Austin previously headed of U.S. Central Command from 2013 to 2016 under President Obama and commanded forces in the Middle East. During that time, he led the campaign to defeat the Islamic State terrorists and train forces in Syria. For Austin to be confirmed, Congress must waive a law requiring military officers to be retired for seven years before serving as defense secretary. After leaving the service, Austin formed Austin Strategy Group LLC in 2016 and currently sits on the board of Raytheon Technologies Corp.



### Xavier Becerra – Secretary of Health and Human Services

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Becerra currently serves as the attorney general for the state of California. Before being appointed as attorney general, Becerra served 12 terms in Congress, representing a Los Angeles area district and at one point led the House Democratic Caucus. Once confirmed, Becerra will face significant challenges during his tenure, such as leading the primary federal agency responding to the pandemic and navigating President-elect Biden's agenda to improve the Affordable Care Act. If confirmed, Becerra will be the first Latino to run the Health and Human Services department.

### Tony Blinken – Secretary of State

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Blinken acted as deputy secretary of state from January 2015 to January 2017 and before that served as the deputy national security advisor. Blinken currently serves as a foreign policy advisor for the Biden campaign and co-founded WestExec Advisors, a political strategy advising firm, in 2017. If someone else secures the secretary of state position, Blinken may be considered for national security advisor.

### Williams Burns – Director of the Central Intelligence Agency

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Burns is currently the president of the Carnegie Endowment for International Peace; a nonpartisan foreign policy think tank in DC. Burns served as deputy secretary of state during the Obama administration and as undersecretary of state for political affairs during the Bush administration. Burns has also served as the U.S. Ambassador to both Russia and Jordan. If confirmed, Burns would become the first CIA director whose career experience comes solely from the State Department.



## **Pete Buttigieg – Secretary of Transportation**

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Buttigieg is the former mayor of South Bend, Indiana and a 2020 Democratic presidential candidate. Prior to becoming mayor, Buttigieg served as a U.S. Navy reservist and even took a seven-month leave during his mayoral term to deploy to Afghanistan. During the 2020 presidential campaign, Buttigieg proposed spending \$1 trillion on infrastructure projects over 10 years, focusing on green energy projects, improving public transportation, and preparing communities for natural disasters.

## **Miguel Cardona – Secretary of Education**

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Cardona currently acts as the Connecticut Commissioner of Education — a position he's held since August 2019 — and began his career as a fourth-grade teacher. He also served as co-chair of Connecticut's legislative achievement gap task force and as co-chair of the Connecticut birth-to-grade three leaders council. If confirmed, Cardona would be tasked with helping Biden achieve an ambitious agenda for higher education. Many progressives have called for the administration to cancel billions of dollars of outstanding student loan debt, and Biden has said he wants to introduce a plan for free community college.

## **Brian Deese – Director of the National Economic Council**

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Brian Deese is a former BlackRock executive and former senior advisor and economic aide to President Obama. Prior to serving under Obama, Deese briefly served as the acting director of the Office of Management and Budget while he was the deputy director.

## **Rep. Marcia Fudge – Secretary of Housing and Urban Development**

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Rep. Fudge (D-OH) was elected to her seventh term in the House in the November 2020 election. Before her time in the House, Fudge served as mayor of Warrensville Heights, a suburb of Cleveland, for eight years. Fudge also acted as the chairwoman of the Congressional Black Caucus during the 113th Congress and is a member of the Congressional Progressive Caucus.

## **Merrick Garland – Attorney General**

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Garland currently serves as chief judge of the U.S. Court of Appeals for the District of Columbia. President Obama had nominated Garland for a seat on the Supreme Court, following the death of Justice Antonin Scalia, but Mitch McConnell prevented him from even getting a confirmation hearing. Garland also served several stints at the Department of Justice, first as a special assistant during President Jimmy Carter's administration and then as a deputy assistant attorney general in 1993.

## **Gary Gensler – Chair of the Securities and Exchange Commission**

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Gensler is currently a part of the Biden transition team reviewing the Federal Reserve and several other financial regulators, including the SEC. Gensler previously served as the chairman of the Commodity Futures Trading Commission and stepped down six years ago to work as the chief financial officer for

Hillary Clinton's 2016 presidential campaign. Gensler also currently teaches financial technology classes at MIT.

### **Jennifer Granholm – Secretary of Energy**

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Granholm is the former governor of Michigan and former energy adviser to Hillary Clinton's 2016 presidential campaign. Granholm also served as Michigan's attorney general from 1999 to 2003. More recently, Granholm was a senior research fellow at the Berkeley Energy and Climate Institute and a project scientist at the Lawrence Berkeley National Laboratory. She's also a senior advisor to the Pew Charitable Trusts' clean energy program.

### **Isabel Guzman – Small Business Administration**

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Guzman currently serves as the director of the California Office of the Small Business Advocate, a role she's held since April 2019. Guzman previously acted as an SBA deputy chief of staff during the Obama administration.

### **Rep. Deb Haaland – Secretary of Interior**

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Rep. Haaland (D-MN) was elected to her second term in the House in November 2020. If confirmed, Haaland will become the first American Indian cabinet secretary in U.S. history. Although Haaland is reportedly Biden's preference, a final announcement is being delayed because House leaders expressed concerns about another vacant House Democratic seat early in 2021 and the delay on holding a special election.

### **Avril Haines – Director of National Intelligence**

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Haines formerly served as the White House deputy national security advisor during the Obama administration (preceded by Tony Blinken) and was also the deputy director of the Central Intelligence Agency — the first woman to hold that position. After leaving government service, Haines worked at Columbia University, became a member of the National Commission on Military, National, and Public Service, and worked at WestExec Advisors.

### **Jaime Harrison – Chair of the Democratic National Committee**

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Harrison is the former chairman of the South Carolina Democratic Party and recently drew nation-wide attention in his bid to unseat Senator Lindsey Graham in the 2020 election. Harrison ran for the national party chairman in 2017 but eventually backed out and supported current chairman Tom Perez. Biden will work closely with Harrison to ensure that the Democrats' narrow majorities in the House and Senate are protected in the 2022 midterm elections.

## **John Kerry – Special Presidential Envoy for Climate**

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Former Secretary of State John Kerry will serve as the new special climate envoy on the National Security Council (NSC). The former Massachusetts Senator and presidential candidate will focus on rejoining the Paris climate accords and coaxing pledges from other countries ahead of next year's U.N. climate meeting. The creation of the new position within the NSC shows Biden's commitment to addressing the climate crisis.

## **Ron Klain – Chief of Staff**

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Klain currently serves as an advisor for the Biden campaign, and is widely speculated as the leading contender to be Biden's chief of staff. Klain's long career and involvement in all facets of Washington, D.C. politics — including serving as Biden's first chief of staff during his vice presidency (January 2009 - January 2011) — give him a clear advantage over others considered for the post. Klain also acted as the White House Ebola response coordinator, a role he may also reprise should Biden want him involved in his COVID-19 response plans or in another public health capacity. Prior to his role in the Obama administration, Klain oversaw President Clinton's judicial nominations and acted as associate counsel to the president, playing a crucial role in the confirmation of Supreme Court Justice Ruth Bader Ginsburg. Klain also served as chief of staff to Vice President Al Gore from 1995 to 1999.

## **Alejandro Mayorkas – Secretary of Homeland Security**

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Mayorkas is a Cuban American lawyer and was the deputy secretary of homeland security during the Obama administration. Prior to becoming the deputy secretary, Mayorkas ran Citizenship and Immigration Services at the department. He also served as a federal prosecutor in central California. Under Obama, Mayorkas was regarded as instrumental in negotiating a memorandum of understanding with Cuba.

## **Gina McCarthy – White House Office on Climate Change**

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McCarthy led the Environmental Protection Agency (EPA) for nearly four years during President Obama's second term and was instrumental to the development of the Clean Power Plan. The newly created White House Office on Climate Change will coordinate energy and environmental policy, as well as elevate global warming to a top position in the executive offices. Since January, McCarthy has served as president of the Natural Resources Defense Council. Previously, she acted as the head of the Connecticut Department of Environmental Protection.

## **Denis McDonough – Secretary of Veterans Affairs**

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Former White House chief of staff to President Obama, McDonough also served as the National Security Council deputy national security adviser, as well as its chief of staff. Earlier in his career, McDonough worked as an aide on the House Foreign Affairs Committee and then served as a senior foreign policy adviser to Senator Tom Daschle (D-SD).

## **Dr. Vivek Murthy – Surgeon General**

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Murthy is a physician who served as vice admiral in the Public Health Service Commissioned Corps and was the nineteenth U.S. surgeon general during President Obama's second term. One of the closest advisors to Biden on coronavirus, Murthy currently serves on Biden's Public Health Advisory Committee and will continue to help manage the pandemic in his new role.

## **Gov. Gina Raimondo – Secretary of Commerce**

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Raimondo currently acts as the governor of Rhode Island, a post she has held since January 2015, and previously served as the chair of the Democratic Governors Association. Prior to becoming governor, Raimondo served as general treasurer of Rhode Island. Although she endorsed Mike Bloomberg during the 2020 presidential campaign, Biden reportedly considered Raimondo to be his running mate.

## **Susan Rice – White House Domestic Policy Adviser**

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Most recently, Rice served as the U.N. ambassador during President Obama's first term and moved on to become the national security advisor during his second term. Prior to that, Rice served as an assistant secretary of state for African affairs during the Clinton administration. Rice was also considered for the vice presidency and secretary of state and has recently been outspoken on domestic policy issues, such as health care and social justice issues.

## **Cecilia Rouse – Chair of the Council of Economic Advisers**

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Rouse will become the first African American to head the Council of Economic Advisers (CEA). Rouse was formerly a member of the CEA during the Obama administration and served in the National Economic Council during the Clinton administration. Rouse currently serves as the dean at the Princeton University School of Public and International Affairs.

## **Jake Sullivan – National Security Advisor**

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Sullivan is a former senior foreign policy advisor to the Hillary Clinton campaign, and he previously served as a deputy assistant to President Obama and then as the national security advisor to Vice President Joe Biden. Prior to working in the federal government, Sullivan clerked for Justice Stephen Breyer on the Supreme Court, practiced law at Faegre & Benson, and taught law as an adjunct professor at the University of St. Thomas School of Law.

## **Katherine Tai – U.S. Trade Representative**

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Tai currently serves as the chief trade counsel on the House Ways & Means Subcommittee on Trade and was an important figure in the negotiations with the Trump administration and House Democrats to renew the North American Free Trade Agreement (NAFTA). Before working in the House, Tai served in the



Office of the U.S. Trade Representative during the Obama administration as associate general counsel and then as chief counsel for China enforcement.

### **Neera Tanden – Director of the Office of Management and Budget**

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Tanden is currently the president and CEO of the Center for American Progress, a think tank in Washington, D.C. She brings expertise in economics, health care, and domestic policy and has utilized those skills in prior positions. Tanden previously served as a senior adviser for health reform at the Department of Health and Human Services, and she worked as the director of domestic policy for the Obama campaign and as policy director for Hillary Clinton's first presidential campaign.

### **Linda Thomas-Greenfield – Ambassador to the United Nations**

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Thomas-Greenfield has extensive experience serving in foreign service and policy roles in the federal government. She served as assistant secretary of state for African affairs during the Obama administration and shortly into the Trump administration. Prior to that, Thomas-Greenfield was the director general of the U.S. Foreign Services and the U.S. ambassador to Liberia. Most recently, she served as a senior vice president at Albright Stonebridge Group and formerly was a political science professor at Bucknell University.

### **Tom Vilsack – Secretary of Agriculture**

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Tom Vilsack served as the secretary of agriculture for the entirety of Obama's presidency. Prior to his first stint as secretary, Vilsack acted as the governor of Iowa for two terms and was a member of the Iowa Senate prior to serving as governor. Vilsack is a strong proponent of international trade and has been critical of President Trump's tariff wars with China. Biden hopes Vilsack can help him build support among constituencies, especially rural constituents who generally favored President Trump.

### **Dr. Rochelle Walensky – Director of the Centers for Disease Control and Prevention**

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Walensky is currently the chief of infectious disease at Massachusetts General Hospital and a practicing physician at Brigham and Women's Hospital. She is also a professor of medicine at Harvard Medical School. Dr. Walensky serves as the chair of the Office of AIDS Research Advisory Council at NIH and is a member of the Department of Health and Human Services Panel on Antiretroviral Guidelines for Adults and Adolescents.

### **Marty Walsh – Secretary of Labor**

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Walsh is currently the mayor of Boston, a position he has held since January 2014. Prior to becoming mayor, Walsh served in the Massachusetts House of Representatives since 1997. Walsh is well versed in labor and union issues, having joined the Laborers' Union at the age of 21 and served as the union's president, as well as having served as the head of Boston Building Trades.

## Janet Yellen – Secretary of Treasury

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Yellen would be the first woman to run the Department of the Treasury should the Senate confirm her to the position. Yellen is the former chair of the Federal Reserve, serving for four years during the Obama and Trump administrations. After leaving the Fed, Yellen became a distinguished fellow in residence at the Brookings Institute and an adviser to the Magellan Group. Yellen also previously served as the vice chair of the Federal Reserve, as president and CEO of the Federal Reserve Bank of San Francisco, and as chair of the White House Council of Economic Advisors.

## TPS Federal Team



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Lindsay, principal of the Washington, D.C. office, has 15 years of experience in Washington, D.C. and represents and advises Fortune 500 companies, universities, nonprofits, and trade associations on federal relations strategy and political. She covers a range of legislative, policy and regulatory issues so that she may advise her clients and act on their behalf with the federal government. She has extensive knowledge in numerous policy areas, including health and public health, trade, agriculture, environment, water and infrastructure, veterans' affairs, higher education, food safety, financial services and technology, federal appropriations, and various regulatory matters coming out of federal agencies.



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Tom serves as a Director in the Washington, D.C. office and has nearly a decade of policy and legislative experience through his work on and off Capitol Hill. In his current role, Tom leads in the development of strategy, outreach, and advocacy of client initiatives before Congress and federal agencies. He has worked on a wide array of complex issues in support of public and private corporations, higher education institutions, national trade associations, among others.



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Chris Baxter assists in the development of client initiatives, political strategy, outreach, and advocacy before Congress and federal agencies. Additionally, Chris assists client goals by monitoring and evaluating legislation, regulations, and grants put forth by the U.S. Congress and federal agencies and providing in-depth policy analysis. Since joining the firm, Chris has worked with Fortune 500 companies, institutions of higher education, multinational corporations, agricultural groups, non-profits, trade associations and others, covering a wide range of public policy issues.



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Chuck is a senior advisor to TSS and provides strategic counsel and legal representation on energy, environmental and natural resources matters to public utility districts, and governmental entities, investor-owned utilities, water districts, and independent power producers. Recognizing that complex issues are often resolved most efficiently and effectively through a multi-faceted legal and policy strategy, Chuck has successfully assisted many clients in achieving their business objectives through engagement with Congress and Executive Department agencies and bureaus. As a recognized thought leader on water and power policy, Chuck brings trusted subject-matter expertise and experience in policy advocacy.