

Dear Friends,

With major U.S. media outlets calling the presidential race for Vice President Biden last Saturday, November 7th, the President-elect and his team have begun moving the [transition](#) process forward and on Tuesday appointed their "[agency review teams](#)" (ART). Agency review teams are responsible for understanding the current operations of the federal agencies within their purview and helping ensure the new administration can hit the ground running when it takes over in January. President-elect Biden has also reportedly formed a special transition team dedicated to coordinating the Coronavirus response across the government, which is in addition to the team of Coronavirus advisors that was previously [announced](#).



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Meanwhile, control of the U.S. Senate still has not been determined. It hinges on two (2) Senate runoffs in Georgia on January 5, 2021. Neither candidate met the "50 percent plus one" vote threshold required to win the election outright on election night, so both incumbent senators now face runoff elections in a little over a month. For more information on the runoff, other election results, and what Congress is likely to consider in the "lame duck" session that began this week, please see below.

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¹ The month-ahead policy review is provided by *POLITICO Pro's* monthly "CEO Report," a "high-level outlook on the policy issues driving the month and beyond." This month *POLITICO Pro* looks at how successful Biden would be enacting his platform with a likely GOP-led Senate pushing back.

I. 2020 Election Recap

Following is a level-set of the presidential, House, and Senate races, as of today, a few highlights, and some potential takeaways for what the results may mean for 2021:

1. **President-elect Biden.** Vice President Joe Biden was declared the winner on Saturday, November 7th, after winning Pennsylvania and surpassing the 270 electoral votes he needed to clinch the presidency. The Georgia secretary of state [announced](#) a hand recount of presidential ballots in that state, and votes are continuing to be counted in North Carolina. As of Wednesday, however, President-elect Biden's national popular vote margin surpassed 5 million, putting him 3.4 percentage points ahead of President Trump (which is larger than Hillary Clinton's margin of 2.9 million nationwide, and 2.1 percent in 2016).
2. **The Senate results.** With the Alaska and North Carolina senate races called this week for the incumbent Republicans, Senator Dan Sullivan and Senator Thom Tillis, the current Senate margin stands at a 50-48 GOP-Democrat split heading into the two Georgia runoffs on January 5th. Based on the polling, many outside observers predicted that Senate Democrats were likely to pick up several seats on November 3rd and retake the majority. At this point, however, Senate Democrats have netted only one seat, with Republican incumbents losing in Colorado (Senator Cory Gardner) and in Arizona (Senator Martha McSally), but Democrat Senator Doug Jones also losing in Alabama. Democrats will need to defeat Georgia's two sitting incumbent senators, Senator Kelly Loeffler and Senator David Perdue, in January to take back control. The safer bet is that Republicans will hold both seats given the Republican lean of the state, but it will be a dogfight and an expensive one to boot.
3. **House Republicans had a surprisingly good night.** Going into last Tuesday, most campaign watchers predicted that Speaker Pelosi's House majority wasn't in any serious jeopardy, and in fact, Democrats were likely to gain potentially five to 10 House seats, with some predicting as much as a 20-seat gain. Instead, the opposite happened. With several races still to be called, House Republicans have gained nine seats, and [the current House count](#) stands at 220D to 208R. Depending on how the uncalled races unfold – and Republicans lead in many of them – Republicans could end up with between 209 and 212 seats, leaving Speaker Pelosi with a margin of less than 10 votes, the slimmest in decades. It will give Republicans tremendous leverage and almost by definition make compromise a necessity on big-ticket items.
4. **What do the election results mean for legislative results in 2021?** Tuesday night's results, if they hold, will feature split control of Washington, D.C. ("D.C."): President Biden, Speaker Pelosi, and Majority Leader McConnell. Some will conclude that it is a recipe for yet more D.C. gridlock. There are a lot of open questions and "what-ifs," and certainly there continues to be much that divides the two parties philosophically, but there are reasons to be optimistic that in a world of shared political risk, divided government can provide the conditions for compromise at key points in the year, even if somewhat incremental:
 - a. President Biden ran as a centrist, defeating some of the more outspoken candidates in the Democratic primary, such as Bernie Sanders and Elizabeth Warren who called for more far-reaching, sweeping policies. The President-elect is known as a dealmaker who likes to get things done, and reportedly has a cordial working relationship with Senator McConnell and served together with him as far back as 1987.
 - b. If the Senate stays in Republican control – depending on the outcome of the Georgia runoffs – the potentially more controversial, bigger-ticket policy items demanded by the progressive base of the Democratic Party – for example, the Green New Deal, a government health care option – will be stymied in a GOP-controlled Senate. President Biden will have to find areas of compromise to get any legislation through the Republican-controlled Senate. The question is, beyond getting the virus under control and potentially passing another COVID-

relief bill (see below), what will those broad legislative priorities be in the world of a Republican-controlled Senate?

- c. Margins in the House are extraordinarily thin. There is a debate happening among House Democrats right now about what Tuesday's results mean for the party, with many moderates arguing that the more progressive aspects of their platform left the moderates in Trump districts vulnerable to attack, and that to succeed in their marginal House districts, they need to govern more toward the center. The progressives in the party don't necessarily agree, which reveals a split in the Democratic Caucus that could make it difficult for Speaker Pelosi to corral her caucus. Time will tell how Speaker Pelosi manages those differences and views the election results. However, I would argue that on the big ticket items – the stuff that has to get done – it will require compromise with Republicans and thus, policy changes that are more incremental and can garner majority support from segments of both caucuses. And arguably, with many Americans voting for President-elect Biden but also splitting their tickets to support down-ballot Republicans in the House and Senate, that is the message from last Tuesday night's elections – one of compromise and getting things done.
- d. Congress and the new president will face a few action-inducing deadlines in 2021, including a likely [debt limit ceiling sometime next summer](#), some [expiring tax provisions](#), and of course, the annual end-of-year spending deadline. In prior years, similar “deadlines” have forced a divided Congress to find bipartisan agreement. For example, the [Budget Control Act of 2011](#) was a compromise – whatever one may think of the policy – between newly-elected House Republicans (who had taken back control of the House on a platform of spending restraint) and then-President Obama to extend the debt ceiling for two more years while enacting broad spending cuts. In 2015, then-Speaker Boehner and then-minority leader Nancy Pelosi struck an important deal to fix the intractable “doc fix” problem. The [bipartisan compromise](#), which was signed by then-President Obama, fixed a long-term problem with physician reimbursement under the Medicare program, while extending a popular children's health insurance program and making a few structural changes to Medicare; changes typically opposed by Democrats that will help shore up the program's long-term finances. Finally, [the expiring Bush-era tax cuts were extended in 2010](#) through a compromise between then-President Obama and congressional Republicans. It was a deal that was criticized by members of the left and right, but Republicans and Democrats found a way to work together to avert an impending tax increase on the American people. Admittedly, this does not mean that D.C. will be a bipartisan nirvana for the next two years, and many of these were hard-fought deals that generated a great deal of angst and uncertainty as deadlines approached. However, it does show there are reasons to be optimistic about how divided government, with political leadership that believes in getting things done, can necessitate bipartisan progress on important issues that is more sustainable over the long-term.

II. Potential Biden Cabinet

As the saying goes, “Personnel is policy.” To that end, President-elect Biden [announced](#) Ronald Klain, his chief of staff when he was vice president, as his incoming White House Chief of Staff. As one Republican member of Congress described him, Mr. Klain is “pragmatic” and a “known quantity” in Washington, which bodes well for the Administration working with the Hill. [Here](#) is an early rundown of the names being discussed for key cabinet positions in a Biden-Harris Administration; he president-elect [indicated](#) he hopes to announce some Cabinet nominees prior to Thanksgiving. Finally, we could have an announcement very soon on other key White House [personnel](#) appointments.

III. Issue to Watch: "Lame Duck" Congressional Session

The Senate returned to Washington this week for a “lame-duck” session, the period after the election but before a new Congress is sworn in. Such sessions are typically not productive, but this year, Congress must

fund the government for the remainder of the fiscal year ("FY") and has a few other pending legislative items on its plate:

- FY2021 Funding. Congress passed a "continuing resolution" ("CR") in September, a measure that extended government funding until December 11th. Congress has to act by then – either to extend the CR or pass individual FY21 appropriations bills – to avoid a government shutdown. There is a strong desire in both the House and Senate to avoid another CR and pass an "omnibus" funding bill by the deadline. Toward that end, Senate Republicans unveiled their proposed spending measure on Tuesday. However, several difficult and potentially contentious items remain to be negotiated, including funding for the border wall and individual agency allocations, and there's not much time in which to do so. However, on the positive side, there is an existing budget agreement in place, the Senate's proposal is the product of bipartisan discussions, and there does seem to be a strong desire to clear the decks on spending heading into 2021. In short, there is reason to be hopeful that a deal can be reached in Congress. The big unknown at this point, however, is the President's position.
- National Defense Authorization Act (NDAA). The House and Senate must also reconcile the differences between the annual defense authorization bills that each body passed earlier in the year. The NDAA is one of the few pieces of legislation that Congress passes every year – if successful, this will be the 60th consecutive. It could be more complicated than usual as President Trump has threatened a veto over provisions that would rename military bases that honor Confederate leaders. However, it's hard to see partisan disagreements preventing them from continuing a 60-year streak on such an important issue.
- Covid-19 Relief. The on-again, off-again discussions about a Covid-19 relief bill continue, and there remains some hope that Congress will be able to reach an agreement in a post-election session. Indeed, after indicating earlier that January 2021 would be the best time to reengage on the issue, last week, Senator McConnell indicated that Congress should approve a relief package before the end of the year. However, both parties remain far apart on the top-line number for the package, and several contentious issues remain, including liability reforms and state and local funding. It's more likely this ends up being one of the first orders of business for a new Congress, working with a Biden-Harris Administration in January 2021. However, if they are able to cobble together an omnibus funding package (see above), you could potentially see some smaller COVID-related relief funding agreed to and attached to that measure.
- "Extenders." There are also a number of health care and tax "extenders" that could be addressed in the lame duck session. These are temporary provisions that, if not extended, will expire at the end of the year. Extenders typically enjoy broad bipartisan agreement, and if a compromise is ultimately found, it could be attached to an end-of-year omnibus funding package and sent to the President.

IV. Policy Look-Ahead - November

A. Quick Fix

A government-run insurance option would be off the table: The new Democratic president's most ambitious plans for expanding health care coverage would surely stall if Republicans keep the Senate.

Lower tax expectations: Biden ran on an aggressive tax agenda, including higher rates for wealthy Americans and corporations, but would likely have to scale back his plan in face of strong opposition from a GOP-led Senate.

A mixed bag for Silicon Valley: The former senator and vice president from Delaware has surrounded himself with tech-savvy advisers and allies, but don't expect a return to the Obama era's chumminess with Silicon Valley.

B. Health Care

Expanding on Obamacare gets harder: Biden's most ambitious plans for expanding health care coverage, including a government-run insurance option and lowering the Medicare eligibility age, would come off the table if Republicans keep the Senate. And they would still be difficult lifts even if Democrats secure control of the chamber in a pair of Georgia Senate runoff elections in January.

Though Biden's legislative agenda has narrowed, he could focus on pushing through an expansion of Obamacare subsidies to more middle-income people. With the prospect of congressional gridlock, Biden could take other smaller measures to bolster coverage without congressional support, like reopening HealthCare.gov for Obamacare enrollment and restoring advertising funds that the Trump Administration slashed. He could also try new ways of incentivizing the remaining dozen Medicaid expansion holdout states to extend coverage to millions of poor adults.

The Supreme Court's upcoming review of Obamacare remains the major wild card — a decision that overturns all or part of the law would force a scramble to shore up coverage.

A few prospects have already emerged as likely candidates to oversee Biden's health care agenda as Health and Human Services Secretary. Among them: former Surgeon General Vivek Murthy, who has advised Biden on the pandemic response, New Mexico Governor Michelle Lujan Grisham, and North Carolina Health and Human Services Secretary Mandy Cohen, who was a top health official in the Obama administration. — *Jason Millman*

C. Tax

Biden would have to lower his tax expectations: He ran on an aggressive tax agenda, including higher rates for wealthy Americans and corporations, along with expanded tax credits for lower income people and incentives for companies to return jobs to the U.S. But, while he may have won the presidency, with the Senate appearing likely to stay in Republican hands, he'd probably have to jettison much of his plan.

That's not to say there aren't areas where the two sides could agree. For instance, Republicans are also interested in using the tax code to lure jobs back to America. And there are parts of the 2017 tax overhaul that are nearing expiration that members of both parties would like to keep alive, including generous deduction rules for equipment purchases and other investments by businesses. — *Toby Eckert*

D. Technology

Social media under fire: Biden has surrounded himself with tech-savvy advisers and allies. However, the next four years probably mean even more heat for big tech companies like Facebook, which repeatedly tussled with the Biden campaign over issues, such as the platform's refusal to take down misleading attacks on Democrats. In contrast, with President Donald Trump's attacks on the tech giants, Biden is expected to bring a more practical, steady focus that could result in actual regulation and legislation.

Status quo plus: A Biden Justice Department would be expected to continue — and could even broaden — the antitrust lawsuit that the Trump Administration filed against Google in October, which narrowly focused on the company's command of the search market. Biden also would inherit Trump's efforts to block China's telecom giant, Huawei, from building the 5G networks of U.S. allies, an issue that has largely earned bipartisan support. Biden could continue that quest as well, though maybe with some milder rhetoric. Still, Biden may have more trouble getting GOP buy-in with initiatives that are more popular in Silicon Valley, such as creating more open immigration policies or spending billions of dollars to expand broadband access.

Personnel moves: People will be watching to see if Federal Communications Commission ("FCC") Chair Ajit Pai and Federal Trade Commission Chair Joseph Simons step down soon — expected

moves regardless of who won the White House. It's less clear if the Senate will bother confirming Trump's FCC nominee, Nathan Simington, whose nomination hearing is still set for Tuesday in the Commerce Committee. — *John Hendel*

E. Defense

A Biden defense policy: The former vice president has telegraphed he doesn't anticipate drastic cuts to the Pentagon budget, but is expected to reverse or reevaluate some major planks of Trump's national security policy. Biden could cut nuclear spending and take a fresh look at Trump's nuclear weapons blueprint that calls for overhauling the entire U.S. arsenal and building new warheads.

Biden could also reverse Trump's troop drawdowns abroad by slowing the pace of the U.S. withdrawal from Afghanistan and scrapping a plan to remove 12,000 troops from Germany. Biden is also expected to cancel construction of a wall on the U.S.-Mexico border, for which Trump has forced the Pentagon to fork over nearly \$10 billion to help finance. Biden also has pledged to reverse Trump's restrictions on transgender individuals serving in the military. — *Connor O'Brien*

F. Trade

GOP Senate control could hamper Biden's trade agenda: Biden's more ambitious trade proposals could face roadblocks from a GOP-led Senate — once the White House gets around to them. At first, trade would likely take a back seat. Biden's campaign said any new trade deals would come after a "series of dramatic domestic investments," but some things can't be delayed. Trading partners would pressure Biden quickly to lift Trump's unilateral tariffs. And Biden would have to name a new U.S. trade representative ("USTR") and decide whether to continue talks with Britain and Kenya started under Trump.

The Biden campaign has been tight lipped about appointees, but USTR candidates include Obama Administration officials, like former agriculture negotiator Darci Vetter, policy wonks like Mike Wessel or Jennifer Hillman, and politicians like Representative Jimmy Gomez (D-Ca.).

Biden would also face the expiration of the trade promotion authority, which can fast-track deals in Congress next July. Given its domestic focus, Biden likely won't push for authority renewal or new trade deals immediately. But, when he does, a GOP Senate would mean opposition to Democratic priorities, like using trade pacts to fight climate change. But, while it may frustrate progressives, Republicans controlling the Senate could be the preferred outcome for U.S. industry, leaving Majority Leader Mitch McConnell (R-Ky.) in place to rein in the Democrats, while trading Trump's go-it-alone foreign policy for Biden's steadier, multilateral approach. — *Gavin Bade*

G. Agriculture

United States Department of Agriculture ("USDA") secretary to set the tone on agriculture and food policy: The first clue of the kind of Agriculture Department that would exist under Biden would be his pick for USDA secretary. Former Senator Heidi Heitkamp is the favorite — a moderate from North Dakota who was also on Trump's short list for USDA head. Democratic Representatives Marcia Fudge of Ohio and Cheri Bustos of Illinois are also in the top tier of contenders, along with California Agriculture Secretary Karen Ross and Delaware Agriculture Secretary Michael Scuse.

It's likely the USDA pick's first order of business would be undoing most of the Trump Administration's measures that sought to decrease participation in the Supplemental Nutrition Assistance Program ("SNAP"). Biden has said he wants to expand household SNAP benefits by 15 percent during the economic downturn. Biden would also need to address the spigot of trade aid money that has been funneled to farmers and ranchers during the last few years. Cutting off the billions of dollars to producers would be politically unpopular, even if economists say that the [taxpayer-backed assistance is unsustainable](#).

On climate, Biden wants to push the agriculture industry to have net-zero emissions, which he's proposed achieving in part by boosting USDA's conservation programs that financially reward farmers for engaging in sustainable practices. The trick, however, would be coaxing farmers to get on board given how reluctant many have been in the past about government proposals like the Green New Deal. — *Liz Crampton*

H. Transportation

Biden's big swing on infrastructure: During the campaign, Biden promised a \$2 trillion, four-year spending plan that would boost infrastructure, speed the transition to electric vehicles, reinvigorate transit and rail systems, and more. Many before him have made similar promises, and many before him have failed for one reason: money. There is, put simply, no easy, politically-safe pot from which to draw.

Biden has proposed to pay for his plan with some amount of stimulus-style deficit spending, with the rest coming from increasing taxes on corporations and the wealthiest Americans. The tax piece, in particular, would meet a wall in an expected Republican Senate. Biden could still get pieces of his priorities enacted. For instance, his early months would likely be consumed with another Coronavirus aid bill and that could include a significant chunk of money for transportation industries.

Congress must also reauthorize surface transportation programs by the end of Sept. 2021, and that legislation could also be a vehicle for some of his priorities — but the more progressive they are, the more demagogued they will be, especially now. It's likely that Biden would make attempts to yank back a Trump Administration rule that lowered fuel economy standards for light duty vehicles and also repealed California's ability to impose their own greenhouse gas ("GHG") standards for motor vehicles. — *Kathryn A. Wolfe*

I. Energy and Environment

Climate agenda's uphill fight: Forget Biden's \$2 trillion climate plan. Virtually any legislation to rein in greenhouse gas emissions would be dead in the water, and any green energy provisions that hitch a ride on stimulus legislation would likely be more modest in scope. But, that doesn't mean he couldn't make substantial progress on his promise to decarbonize the U.S. economy.

Biden has vowed to rejoin the Paris climate accord on day one, a simple step that would send a strong message to the world. Expect his administration to swiftly begin reversing Trump's suite of climate rule rollbacks, including those that severely weakened carbon rules for power plants and undid limits on greenhouse gas emissions from vehicles and oil and gas drilling. He can also use executive power to halt drilling permits on public lands, although he's unlikely to take aggressive action to reduce oil and gas output, especially at a time of record unemployment.

The Trump Administration's sweeping rollback of Clean Water Act protections, however, can't simply be reversed, since the previous, Obama-era rule would be unlikely to withstand scrutiny at the Supreme Court given its new conservative makeup. And, while Democrats have been livid over the Trump EPA's move to exonerate a series of toxic chemicals, it's not clear the Biden Administration will have the time or bandwidth to go back and review them all. — *Annie Snider*

J. Education

Taking a look at the money: Biden's campaign education platform included pursuing massive new federal funding for K-12 schools, boosting teacher pay, and trying to make public college tuition free for some students. Additionally, in the Senate, Minority Leader Chuck Schumer of New York and Senator Elizabeth Warren (D-Mass.) have already prepped a resolution to cancel up to \$50,000 in federal student loan debt for millions of borrowers. The senators said Biden "would be very seriously entertaining" the plan.

If no new economic stimulus bill is passed, Biden has endorsed the House Democrats' stimulus plan, which would extend the pause on monthly student loan payments until next November and keep the interest rate at zero percent. He's also committed to canceling \$10,000 in student loan debt for each borrower, as a pandemic relief measure, but hasn't said how he would pursue that loan forgiveness.

Title IX: Biden has also [vowed a "quick end"](#) to the Trump Administration's new rule on sexual misconduct in schools, which he says aims to "shame and silence survivors." The policy is a key part of Education Secretary Betsy DeVos' legacy while in office. — *Bianca Quilantan*