

To: KPM Group DC Colleagues
From: KPM Group DC
Date: January 8, 2020
Re: January Washington Policy Update



After winning their elections and weeks of preparation, Members-elect were sworn in as Members of the U.S. House of Representatives, and the 117th Congress was gavelled into session at noon on Sunday, January 3, 2021.

Congressional Overview

The 117th Congress held its first session last Sunday at noon. During the session, Representative Nancy Pelosi (D-CA-12) was elected to her fourth and, what many people believe to be, her last term as Speaker of the House, receiving 216 votes vs. 209 for Minority Leader Kevin McCarthy (R-CA-23). Overall, there are **60 new members in the House of Representatives and eight new Senate members** (including the newly appointed Senator from California to replace Vice President-Elect Kamala Harris).

In the House, the balance currently sits at 222 Democrats and 211 Republicans, with two vacancies to be filled. This is the thinnest House Majority since World War II, meaning that it may be challenging to push through legislative priorities in this Congress.

The Senate currently sits at 50-50 in favor of the Democratic Party, with two independents caucusing with the Democratic party, Sens. Bernie Sanders (I-VT) and Angus King (I-ME). Vice President-Elect Kamala Harris, in her role as President of the Senate, will serve as tie-breaker. Combined with her authority as presiding officer of the Senate, this allows Vice President-Elect Harris to determine which party will have a majority in the Senate, sets the legislative agenda, brings nominations and measures to the floor, and assigns committee leadership and membership. This assures that the top Senate Democrat, Sen. Chuck Schumer (D-NY), will become Majority Leader.

Senate leaders may look to a power-sharing agreement forged two decades ago as they begin negotiations over the daily running of the chamber and its committees. Both Democrats and Republicans said a starting point is likely to be the agreement used by the parties in 2001 when the

Senate was also split 50-50, and Vice President Dick Cheney provided tie-breaking votes to get Bush administration priorities through.

Even under a 50-50 power-sharing plan that had committee memberships equally divided, **Democrats would still chair committees.**

Senator Schumer said yesterday that his first act as Majority Leader would be to **put the \$2,000 stimulus checks on the floor for a vote.** We have also talked with individuals on the Hill who have said that Covid funding, infrastructure, climate change, and drug pricing are all priorities for the Biden Administration, Speaker Pelosi, and Majority Leader Schumer.

Why This Matters

Republican Tools: Given that the Republican Party will be the minority party, they will be able to utilize the power of the filibuster on legislation going forward. A filibuster is a political procedure where one or more members of parliament or congress debate over a proposed piece of legislation to delay or entirely prevent a decision from being made on the proposal.

Democratic Tools: Democrats will look to a process established in the Congressional Budget Act of 1974 called the “reconciliation process” to address drug pricing and tax reform measures. Changes recommended by committees are incorporated into a reconciliation measure and only need 50 votes to pass in the Senate as opposed to the 60 required for all other legislation. With Democrats holding 50 Senate votes and Vice-President Elect Harris’ tie-breaking vote, it is possible Democrats could pass a partisan-bill that includes Medicare, tax, and other domestic policy priorities without Republican votes.

Drug pricing is going to be a hot button issue going forward in the 117th Congress. We expect [H.R. 3- The Elijah E. Cummings Lower Drug Costs Now Act](#), which was passed in the House in December 2019, to be a starting point for Democrats as they work on drug pricing legislation. Senator Wyden (D-OR) and Senator Grassley (R-IA) [put forth a bipartisan bill](#) out of the Senate Finance Committee, S. 2543. The bill was reintroduced in July by Senator Grassley as [S. 4199](#), the Prescription Drug Pricing Reduction Act of 2020, with original co-sponsor Senator Wyden and all Senate Democrats dropping off the bill. We can expect these bills to help shape what we see in the 117th Congress.

Congressional Review Act

The CRA requires federal agencies to submit most final rules to Congress and the Government Accountability Office before they can take effect.

Lawmakers must then act within specified time periods to use the law’s “fast track” procedures to block the rules. For instance, the Senate can pass a disapproval resolution with a simple majority, but it has to act within 60 session days of a rule being submitted to Congress or published in the Federal Register.

If Congress adjourns its annual session before the 60-day period expires, the clock resets starting on the 15th working day of the following session. **That means Democrats in the 117th Congress could try to use the CRA to block Trump-era rules that were finalized since August 2020.**

The law also prevents “major” rules from taking effect during a 60-day review period. The Office of Information and Regulatory Affairs, part of the White House Office of Management and Budget, designates such rules if it determines they would do one of the following:

- Have an annual economic effect of \$100 million or more.
- Result in a significant increase in costs or prices for consumers, industries, governments, or geographic regions.
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.

HOUSE COMMITTEE LEADERSHIP

Republican House Committee Leadership Elections Happen the Week of the 18th

Energy and Commerce Committee

Chair: Rep. Frank Pallone (D-NJ-6)

Current Ranking Member: Rep. Cathy McMorris Rodgers (R-WA-5)

Health Subcommittee

Chair: Rep. Anna Eshoo (D-CA-18)

Current Ranking Member: Rep. Michael Burgess, MD (R-TX-26)

Ways and Means Committee

Chair: Rep. Richard Neal (D-MA-1)

Current Ranking Member: Rep. Kevin Brady (R-TX-8)

Health Subcommittee

Chair: Rep. Lloyd Doggett (D-TX-35)

Current Ranking Member: Rep. Devin Nunes (R-CA-22)

SENATE COMMITTEE LEADERSHIP

Final committee assignments will not be confirmed until after a power-sharing agreement has been finalized

Health, Education, Labor and Pensions (HELP) Committee

Expected Chair: Sen. Patty Murray (D-WA)

Expected Ranking Member:]

Subcommittee on Primary Health and Retirement Security

Expected Chair: Sen. Bernard Sanders (I-VT)

Expected Ranking Member: Sen. Michael B. Enzi (R-WY)

Finance Committee

Expected Chair: Sen. Ron Wyden (D-OR)

Expected Ranking Member: Sen. Mike Crapo (R-ID)

Subcommittee on Health Care

Expected Chair: Sen. Debbie Stabenow (D-MI)

Expected Ranking Member: Sen. Patrick Toomey (R-PA)

CAUCUS LEADERSHIP

Congressional Diabetes Caucus

Co-Chair: Rep. Diana DeGette (D-CO-1)

Co-Chair: Rep. Tom Reed (R-NY-23)

Senate Diabetes Caucus

Co-Chair: Sen. Susan Collins (R-ME)

Co-Chair: Sen. Jeanne Shaheen (D-NH)

Rare Disease Congressional Caucus

Co-Chair: Sen. Roger Wicker (R-MS)

Co-Chair: Sen. Amy Klobuchar (D-MN)

Co-Chair: Rep. G.K. Butterfield (D-NC-1)

Co-Chair: Rep. Gus Bilirakis (R-FL-12)

Addiction, Treatment, and Recovery (ATR) Caucus

Co-Chair: Rep. Tim Ryan (D-OH-13)

Co-Chair: Rep. James Sensenbrenner, Jr. (R-WI-5)

Vice Co-Chair: Rep. Paul Tonko (D-NY-20)

Vice Co-Chair: Rep. Dave Joyce (R-OH-14)

Personalized Medicine Caucus

Co-Chair: Sen. Tim Scott (R-SC)

Co-Chair: Sen. Kyrsten Sinema (D-AZ)

Co-Chair: Rep. Eric Swalwell (D-CA-15)

Co-Chair: Rep. Tom Emmer (R-MN-06)

BIDEN ADMINISTRATION HEALTHCARE PRIORITIES

Biden ran a **heavily policy-focused campaign**, releasing dozens of lengthy and ambitious plans ranging from large-scale economic and environmental initiatives to broad actions on racial justice, education, and health care.

Biden has said that he hopes to **strengthen the Affordable Care Act** stating recently "what I'm going to do is pass Obamacare with a public option."

Biden has said he would **rejoin the World Health Organization** and reestablish the White House National Security Council Directorate for Global Health Security and Biodefense.

Biden has said he plans to address the **high prices Americans pay for prescription drugs** with proposals that include allowing the government's Medicare program to negotiate costs, letting American import drugs from abroad, and linking price hikes to inflation. The major planks of Biden's platform would require Congressional action. Given the slim majority in both Chambers, we can expect the Biden Administration to use Executive branch actions as a powerful tool.

Biden has pledged that on his first day as president, he will **raise corporate income taxes** to 28% — compared with the current 21% rate set by the GOP-led tax cuts of 2017.

KEY ADMINISTRATION OFFICIALS

Chief of Staff

Ronald Klain is a veteran Democratic political strategist, former lobbyist, and former Chief of Staff to two U.S. Vice Presidents, Al Gore and Joe Biden. The choice of Klain points to a focus on coronavirus and economic recovery, arguably the two most immediate priorities of the Biden Administration.

Director of Domestic Policy Council

Ambassador Susan Rice will lead the Domestic Policy Council (DPC). The idea is for Rice to reshape the Domestic Policy Council or DPC, so it operates more like the more prestigious National Security Council, which she oversaw during the Obama administration. Rice has described the DPC as "the front line for our fight for all that matters right now." Beyond the coronavirus pandemic and economic recovery, the DPC's top priorities will include health care, immigration, and racial equality and justice.

Counselor to the President

Steve Ricchetti has been named Counselor to the President. Before rejoining the Vice President's team in 2012, he represented a variety of companies, including General Motors, Experian, the American Hospital Association, AT&T, Eli Lilly, Nextel, Novartis, and Pfizer.

Secretary of the Department of Health and Human Services

Nominee: Xavier Becerra, California Attorney General and Former U.S. Representative

CMS Administrator

At this time, there is no nominee for this role. Some within the Biden transition team see North Carolina HHS Secretary Dr. Mandy Cohen as an ideal choice for leading the Centers for Medicare and Medicaid Services (CMS). Another top contender to lead the CMS is Chiquita Brooks-LaSure, a staff member for the House Ways and Means Committee and worked to get the ACA passed, then put the law in place as an official at the HHS and CMS's Center for Consumer Information and Insurance Oversight.

FDA Commissioner

At this time, there is no nominee for this role. President-Elect Biden may appoint an acting commissioner while waiting for confirmation of his nominee. Principal Deputy Commissioner Amy Abernethy, a career FDA employee, has been floated as a potential acting commissioner.

NIH

At this time, there is no nominee for this role.

CDC

Nominee: Dr. Rochelle Walensky, Chief of Infectious Diseases at Massachusetts General Hospital

U.S. Surgeon General

Nominee: Dr. Vivek Murthy, former Surgeon General under the Obama Administration (2014-2017)

Other Key Healthcare Roles

Chief Medical Advisor: Dr. Anthony Fauci

Coordinator of the COVID-19 Response: Jeff Zients

Deputy Coordinator of COVID-19 Response: Natalie Quillan

COVID-19 Equity Task Force Chair: Dr. Marcella Nunez-Smith

SO WHAT

Democrat control of the House, Senate, and White House means that a broader healthcare reform agenda, including drug pricing, is back on the table. The Biden team will have a much easier time getting appointees approved. The Democrat Senate Majority **will make the Cabinet nomination process much easier** for the Biden administration. Only 51 votes are required to confirm political appointees when there are no Senate vacancies - meaning that Biden's HHS pick, Xavier Becerra, is more likely to be confirmed.

Given the very slim majority in the House and the 50-50 split in the Senate, passing legislation will require significant negotiations across the aisle. With a potential power-sharing agreement in the Senate and committee membership split equally, negotiations will occur at the committee and subcommittee level. Engaging with committee staff will be key to pushing, stopping, or changing legislation moving forward.

As we look into the 117th Congress and the first 100 days of the Biden Administration, we must continue to strengthen our existing relationships and introduce ourselves to relevant officials on both sides of the aisle.

As always, we are here to answer any questions and have more information as members get situated. Leadership decisions are made in the House, Senate, and the incoming Administration.