



**TROUTMAN SANDERS
STRATEGIES**

2020 Federal Policy Outlook

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Introduction

Happy New Year from Troutman Sanders Strategies! The Troutman Sanders Strategies Washington, D.C. team is pleased to release the following outlook and analysis of policy issues that Congress and President Trump’s administration may address in 2020 as well as other significant events that will shape the second session of the 116th Congress.

Although the House voted in December to impeach the President with no Republican votes, Congress did end 2019 on a note of bipartisanship by passing all twelve of the annual spending bills to complete fiscal year (FY) 2020 federal government funding. Republicans and Democrats both took home policy wins, including nearly equal increases in defense and domestic funding and a bipartisan agreement to raise the minimum age to legally buy tobacco to 21.

At the start of the year, all eyes were on House Speaker Nancy Pelosi (D-CA) and when she would send the articles of impeachment over to the Senate to formally prompt a trial of President Donald Trump. The House voted to send over the articles, and Speaker Pelosi appointed House impeachment managers on Wednesday, January 15. The Senate voted on the rules for the impeachment trial in the late hours of Tuesday, January 21, and proceedings are ongoing. Supreme Court Chief Justice John Roberts will preside over the trial, though he will likely not take any substantive role.

Ahead of the November 3, 2020 Presidential elections, both political parties will focus on issues and legislation that will appeal to voter bases. However, ample room for bipartisan policy work remains, as both parties also need to demonstrate their ability to govern and to legislate. Meanwhile, President Trump is preparing for his fourth State of the Union address scheduled for February 4, which will lay out his administration’s goals over the year heading into his reelection campaign.

The Troutman Sanders Strategies team hopes you and your organizations find this outlook informative and a useful tool. It is expected to be an exciting, if not hectic, election year.

The information contained in this report is up to date as of Thursday, January 23. Please be aware that some issues in this report are ongoing and information may change rapidly.

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2020 Election Preview

The 2020 elections will play a large part in how the House and Senate conduct their legislative business leading up to November 3. Political leaders in both parties and chambers will focus significant attention on passing bills that can also provide messaging to voter bases and political wins ahead of the election.

In addition to the presidential election, there are 11 gubernatorial, 35 Senate seats, and all 435 seats of the House of Representatives up for election. The shortened congressional calendar will also provide more time for members of Congress to spend time in their home districts and states ahead of the election.

On the Senate side of Capitol Hill, 35 Senators are up for reelection; Republicans currently hold 23 of those seats and Democrats hold 12. Democrats would need to win a net of four seats to take control of the Senate. Netting only three would result in a 50-50 split with any vote ending in a tie being broken by the vice president's vote. Given that President Trump won all but two of the states where Republicans are defending Senate seats, it seems improbable that Democrats will be able to retake the chamber in November. The most vulnerable incumbents are currently Senators Doug Jones (D-AL), Susan Collins (R-ME), and Cory Gardner (R-CO).

In the House, Democrats are defending the majority they have held since gaining 40 seats in the 2018 election. The House currently has 232 Democrats, 197 Republicans, 1 Independent, and 5 vacant seats (previously held by 2 Democrats and 3 Republicans). Therefore, Republicans would need a net gain of 18 seats in 2020 in order to retake the majority. However, complicating Republicans road to retake the majority is 26 incumbent Republican members are either retiring or seeking other office compared to only 9 Democrats.

Finally, there are 11 governorships up for election in 2020. Of these, Republicans hold 7 and Democrats hold 4, and each party has one open race with no incumbent (Montana & Utah). Currently, Republicans hold 26 of the Governor's mansions and Democrats hold 24.

TSS will release a more detailed analysis of the 2020 elections closer to November 3.

Agriculture & Food Safety



In response to several foodborne illness outbreaks that occurred last year, the FDA will continue to focus its efforts on improving food safety by issuing, implementing, and enforcing the regulations mandated by the Food Safety Modernization Act (FSMA). Last year, the FDA announced a new initiative called a “New Era of Smarter Food Safety” that will augment FSMA and focus on new digital and emerging technologies and how they can improve traceability and food safety. Last year was also the first year the FDA and state partners conducted routine inspections of large farms covered under the Produce Safety Rule created by FSMA. Additionally, the FDA recently stated they plan to issue revisions to agricultural water regulations sometime in 2020.

Also, in December, the Senate confirmed Dr. Stephen Hahn to be the next Commissioner of the FDA, the federal agency responsible for regulating a large portion of the nation’s food supply, in addition to other product categories such as drugs, medical devices, cosmetics, and tobacco. In line with the administration’s broader efforts to improve the federal government’s information technology infrastructure, Commissioner Hahn quickly announced a new initiative to improve the FDA’s computing and technology infrastructure. The new initiative will build off of the FDA’s Technology Modernization Action Plan released in September and tie-in with the agency’s broader food safety goals.

Appropriations & the President's Budget



Last year, the White House and congressional leaders reached a budget and debt limit deal that increased discretionary federal spending limits for both FY 2020 and FY 2021 to \$1.37 trillion and \$1.375 trillion, respectively. The agreement included equal funding increases for both domestic and defense spending. On December 20, President Trump signed into law two FY 2020 spending packages passed by Congress funding the federal government through September 30, 2020. Together, the two packages contained all twelve of the annual spending bills.

Congressional appropriators will begin working on FY 2021 spending bills. The budget deal provided an additional \$5 billion for appropriators to divvy out among the twelve annual spending bills. Any increases in spending for programs above the \$5 billion will have to be met with cuts in other areas. Typically, the spending bills are introduced and considered in the House Appropriations Subcommittees around May, followed shortly by introduction and consideration in the Senate Appropriations Subcommittees. Although both the Senate and House are expected to introduce and move FY 2021 spending bills, the timing of the election may make completing the work by the September 30 deadline difficult. Lawmakers may need to pass a short-term continuing resolution to fund the government beyond September 30 and finalize funding work during the lame-duck session.

President Trump is expected to release the administration's FY 2021 budget request by February 10. Although President's budgets are rarely accepted by Congress and appropriators, the request nonetheless demonstrates agency priorities and where resources are needed or desired. Last year, the administration's FY 2020 budget request proposed steep cuts to domestic spending programs which made it difficult for appropriators, especially in the Senate, to draft spending bills. Top appropriators, including Senate Appropriations Committee Chairman Richard Shelby (R-AL) and Labor-HHS-Education Subcommittee Chairman Roy Blunt (R-MO), have already indicated that it would help the appropriations process if the President submitted a budget that was more in line with last year's spending agreement.

Data Privacy & Security



Privacy, protecting consumer's data, and who owns and controls the data, will continue to be discussed and debated in Congress, but has little hope to turn into law. The implementation of the California Consumer Privacy Act (CCPA), as well as a patchwork of other state laws and initiatives raising various bars for the protection and treatment of consumer data, will continue to place pressure on companies and Congress to act. Until that time, though, California's state law, will functionally serve as the nation's de facto privacy law. Alistair Mactaggart, the board chair for Californians for Consumer Privacy, is already leading a ballot initiative for November 2020 that expands the CCPA to protect data including geolocation, race, ethnicity, and other categories, as well as raise fines for violating the privacy of those under the age of 16.

Last year, there was much anticipation for new privacy proposals, though activity was mostly only carryover from proposals in 2018. In the Senate, working drafts and efforts to have a bipartisan approach largely went nowhere, as agreements on preemption and consumer protections could not be reached. Senate Commerce, Science, and Transportation Committee Chairman Roger Wicker (R-MS) and Ranking Member Maria Cantwell (D-WA) each released separate privacy proposals in December 2019. The partisan approach signals an impasse for any progress to be made in the Senate or for a compromise with the House.

Despite the Senate's partisan route, in December the House Energy and Commerce Committee emerged with a bipartisan draft text authored by Reps. Jan Schakowsky (D-IL) and Cathy McMorris Rodgers (R-WA). The draft left two of the most contentious issues that have killed previous bipartisan efforts, private right of action and federal pre-emption, on the table for further discussion. The draft sets limits on sharing consumer information and allows consumers to correct personal data that companies have collected. It also calls for the Federal Trade Commission (FTC) to establish a new privacy bureau. While this draft may not have a high chance of making it into law in an election year, it's important to note that any working drafts serve as a framework for future bills.

Energy, Environment & Climate



American energy independence is a goal and achievement often touted by President Trump and the administration. Since taking office, the administration has taken several deregulatory actions to promote domestic energy production, most often at the expense of previous regulations meant to protect the environment. For example, in 2018 the administration opened nearly all federal waters to oil and gas drilling, with mixed support and opposition even among his own political party. In September, the House passed two separate anti-drilling bills that won significant Republican support. While Senate Majority Leader Mitch McConnell (R-KY) is unlikely to allow the Senate to vote on the two House-backed bills, some Senate Republicans such as Marco Rubio (R-FL) and Rick Scott (R-FL) are also opposed to drilling off Florida waters. The administration will likely deliver on more deregulatory activity in 2020, including rolling back the National Environmental Policy Act to make it easier for federal agencies to approve infrastructure projects without the need to conduct environmental reviews and rolling back the Waters of the U.S. rule to remove environmental protections for wetlands and thousands of miles of streams and waterways.

In November, House Democrats on the Ways & Means Committee released a draft energy package called the “Growing Renewable Energy and Efficiency Now (GREEN) Act” that would extend existing clean energy tax credits or create new tax credits and clean energy incentives, including for solar, energy storage, onshore and offshore wind, electric vehicles, renewable fuels, geothermal, and others. Democrats wanted to extend several of the tax credits in the year-end spending package, but they were not included due to push back from the White House. Several of these tax incentives have bipartisan support such as energy storage, offshore wind, and carbon capture technology. The Production Tax Credit, however, was extended in the year-end package through 2020 for energy production projects related to wind, geothermal, hydro, and others.

Additionally, on January 8, House Energy & Commerce Committee Chairman Frank Pallone (D-NJ) revealed a proposal called the “Climate Leadership and Environmental Action for our Nation’s (CLEAN) Future Act” that sets 2050 as the target date for the U.S. to achieve net-zero greenhouse gas emissions. The plan proposes to accomplish this by reducing emissions from the power sector, the transportation sector, the

industrial sector, increasing building efficiency, and decreasing the use of super pollutants. Additionally, the plan proposes to establish a National Climate Bank that would help states, cities, communities, and companies transition to a clean economy. The House Energy & Commerce Committee is expected to hold additional hearings throughout the year to further develop and refine the CLEANFuture Act. Climate change will be a key issue among Democrat voters and an area of focus for several of the 2020 Democratic presidential candidates as well. Several of the candidates have already released plans detailing how they will address climate change should they win the presidency and the topic has come up on the debate stage multiple times.

Federal IT Modernization



Over the past few years, the federal government has undertaken a broad strategy shift toward upgrading data analytics and information technology systems, such as moving to cloud technology. In addition to the developments at FDA (see Agriculture & Food Safety section), the CDC is also embarking on a new data modernization effort across its public health systems. Congress allocated \$50 million for the CDC in the year-end spending package to improve data infrastructure. Additionally, several federal departments and agencies are upgrading their health information technology systems such as the Department of Defense, the Department of Veterans' Affairs, and agencies within the Department of Homeland Security such as Customs and Border Protection and the Coast Guard. Expect to see a continued policy trend of modernizing federal IT infrastructure in this administration. Additionally, over the past few years there has been significant IT consolidation efforts by the federal government that will continue through 2020 and over the next few years. Issues of importance for the Office of Federal Procurement Policy will likely be improving the acquisition workforce and developing better policy around federal agency use of IT.

Financial Services



Congress' activity in the financial services sector could largely be described by a contrast between the House and Senate. In 2019, House Financial Services Committee Chairwoman Maxine Waters (D-CA) held twice as many hearings Senate Banking, Housing, and Urban Affairs Committee Chairman Mike Crapo (R-ID). Chairwoman Waters marked up nearly seventy bills, while Chairman Crapo has yet to hold a markup, sticking to his plan to only consider bills that he knows will have a chance at being considered and passing on the Senate floor.

One bill on-deck in the Senate for 2020 is the national flood insurance extension which had full bipartisan support in the House Financial Services Committee, but Chairman Crapo will plan to move his own version of the bill. Flood insurance will likely face a tough road for a long-term authorization with two versions moving forward, and likely see a short-term extension again. Anti-money laundering and cannabis banking are expected to continue to be pushed in the Senate Banking Committee, as Chairman Crapo continues to weigh holding a markup. A cannabis banking bill, however, is unlikely for the Committee to even consider bringing this to a mark-up before several Republican Senators face tough primaries from the right, despite how it might help Senator Cory Gardner (R-CO) in a tough reelection campaign.

Much of the work for Congress in 2020, though, may be responding and interacting with regulators, rather than passing new laws. Chairwoman Waters is expected to continue to focus her efforts on oversight of the Community Reinvestment Act (CRA) implementation. In December, the FDIC voted to propose an overhaul of the CRA which prevents banks from discriminatory lending. The overhaul was led by the Comptroller of the Currency, Joseph Otting. Waters is critical of the proposed revisions, claiming it would lead to fewer loans for low-income borrowers. The Consumer and Financial Protection Bureau (CFPB) is also expected to complete its rewriting of the payday loan rule by April and is expected to receive challenges by Congress and in court.

Several other issues will be under a spotlight from the FDIC, including their Proposed Rule on Brokered Deposit Restrictions, an overhaul of the Volcker Rule, as well as industrial loan company (ILC) charters. ILCs must be approved by the FDIC and are a pathway for many financial technology companies to fully join the traditional banking ecosystem. These charters are facing some opposition in the House, including from legislation proposed by Rep. Chuy Garcia (D-IL) that would cut off this pathway.

Facebook's Libra launch has continued to struggle under regulatory and congressional scrutiny and that will likely go unchanged for 2020. CEO Mark Zuckerberg has stated that Facebook would not proceed with the cryptocurrency until regulator's concerns were assuaged, however, little has been done since his testimony to make progress toward that end. The Securities and Exchange Commission, the Federal Reserve, the Commodity Futures Trading Commission, and the Treasury Department all would have to grant Facebook's Libra a stamp of approval. There remains debate whether Libra would be regulated as a payment processor like other financial technology companies supporting transactions, or as an exchange-traded fund or security, and necessitate SEC regulation.

The one area that will press forward in payments with some concrete details is the Federal Reserve's recently approved plan for a real-time payments system, FedNow, by 2024. This network will stand in competition to the real-time network launched by The Clearing House, representing the largest banks. It remains to be seen how FedNow would reconcile their real-time payments system with other private sector efforts like The Clearing House's system.

Healthcare



Surprise Billing & Drug Pricing (Lower Healthcare Costs Act)

In the spending package passed at the end of 2019, Congress extended funding for healthcare programs such as the Community Health Center Fund and the National Health Service Corps, through May 22, 2020. Lawmakers are now hoping to attach more ambitious healthcare bills, such as drug pricing or surprise billing legislation, to the non-controversial funding extensions that now must pass by May 22.

In December, a group of House and Senate committee leaders, including House Energy & Commerce Committee Chairman Frank Pallone (D-NJ) and Senate HELP Committee Chairman Lamar Alexander (R-TN), introduced a bipartisan agreement called the Lower Health Care Costs Act. The agreement includes dozens of provisions that would address medical surprise billing and help lower the costs of prescription drug prices and increase competition, among several other healthcare related items. However, action before the end of 2019 was delayed due to policy concerns from other congressional leaders as well competition from several other bills in both the House and Senate committees of jurisdiction. The House, for example, passed the “Elijah E. Cummings Lower Drug Costs Now Act” (H.R. 3), in December, which was strongly touted by Speaker Pelosi as the House Democrats’ signature drug pricing bill. Only two Republicans voted for H.R. 3 in the House and it will not pass in the Republican-controlled Senate. In September, the Senate Finance Committee also passed out a bipartisan drug pricing bill, the “Prescription Drug Pricing Reduction Act” (S. 2543), which has not received full Senate consideration since. Finance Chairman Chuck Grassley (R-IA) is expected to pressure Senate leadership to get a vote on his drug pricing bill in the first half of 2020.

Drug pricing and surprise billing are also of key interest to President Trump and his administration, especially since they were a part of his 2016 campaign. Further complicating the administration’s progress on health policy are the current tensions among top health officials including Department of HHS Secretary Alex Azar, CMS Administrator Seema Verma, and White House domestic policy chief Joe Grogan.

Cures 2.0 & Health IT

In November, Reps. Fred Upton (R-MI) and Diana DeGette (D-CO) released a summary of their vision for new 21st Century Cures Act legislation, dubbed “Cures 2.0”, to improve access to digital health information and records and new medical therapies. Additionally, an area of focus is how “to harness data to empower patients and improve their health.” A two-page summary of the plan can be found [here](#). It is uncertain if Cures 2.0 will move quickly through the committee process, but there will likely be briefings and hearings on the various topics included in the summary.

Tobacco

Over the past few weeks, both Congress and the administration have taken steps to curb the epidemic of youth use of e-cigarettes and vaping. First, the FY 2020 spending package that Congress passed at the end of the year included a provision raising the minimum age to purchase tobacco to 21. The FDA updated its website on December 26 to reflect the change, although the agency is still expected to release implementing regulations and failed to say how it will exercise enforcement in the meantime. Then, on January 2, the FDA issued a “policy prioritizing enforcement against certain unauthorized flavored e-cigarette products that appeal to kids, including fruit and mint flavors.” The policy requires that companies cease the manufacture, distribution and sale of unauthorized cartridge-based e-cigarettes within 30 days or risk FDA enforcement actions.

Congressional Democrats criticized the administration’s new action and believe President Trump and the FDA did not go far enough to curb youth use of tobacco products. House Energy & Commerce Committee Chairman Frank Pallone (D-NJ) will likely continue to push for floor consideration of his broad flavored-tobacco ban and online sales ban legislation (H.R. 2339) that passed out of the committee in November. That bill is facing pushback from the Congressional Black Caucus, however, because it includes a ban on menthol cigarettes. Additionally, the bill will face staunch opposition in the Republican-controlled Senate if it passes in the House.

Health Information, Health Data Privacy & HIPAA

The Department of Health and Human Services (HHS) is expected to release several highly anticipated regulations in early 2020. HHS and the Office of Civil Rights (OCR), for example, was expected to release a Notice of Proposed Rulemaking (NPRM) regarding updates to Health Insurance Portability and Accountability Act (HIPAA) regulations at the end of 2019. HHS is now expected to release the NPRM in early 2020 that will focus on things such as value-based care new or expanded disclosures, the opioid crisis, and changes to HIPAA access requirements. Additionally, OCR recently announced an initiative that focuses on the rights of patients to access their health information by increasing their HIPAA enforcement activity. OCR recently acted against multiple health care providers/facilities for failing to provide timely access to health information, a trend that is likely to continue.

Additionally, HHS and the Office of the National Coordinator for Health Information Technology (ONC) are expected to release a final regulation focusing on the interoperability of electronic health records. That rule is currently under review at the Office of Management and Budget (OMB). The new rule will penalize actions such as information blocking, create new standards for data sets, provide for better patient access to their electronic health information and allow patients to share information with third-party apps.

Higher Education



There are currently two competing proposals for an overhaul of the Higher Education Act (HEA) in Congress. The first proposal, put forth by House Committee on Education and Labor Chairman Bobby Scott (D-VA), is the College Affordability Act (H.R. 4674). The bill is a comprehensive proposal that aims to cut the cost of college, improve the quality of higher education, and expand opportunities for students of all backgrounds, and contains similar provisions to the previously introduced bill, the Aim Higher Act (H.R. 6543). The Education Committee voted to advance the bill out of committee on October 31, but it has not received a vote by the full House. The second proposal, the Student Aid Improvement Act (S. 2557), was introduced by Senator Lamar Alexander (R-TN), the retiring chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee. Alexander's bill includes eight bipartisan proposals that would update portions of the HEA. The legislation would streamline FAFSA, simplify financial aid award letters, expand Pell grants for short-term training programs and give Pell eligibility to students in prison. The package has not been considered by the Senate HELP Committee. Over the year, it is possible both the House and Senate consider their respective HEA packages to show voters they are focusing on education issues, but the election may stall efforts once again.

Immigration



Last year, several high-profile news organizations and government watchdog group released the reports detailing investigations into inhumane treatment of migrants, including children, along the U.S. -Mexico border. The administration, particularly the Department of Homeland Security and the Department of Health and Human Services, received harsh public scrutiny. Over the course of the year, House Democrats held hearings and introduced several bills aimed at improving the conditions for detained migrants. Senate Democrats have also introduced legislation, but it is unlikely the Senate will act on the issue during the election year, though it will remain a hot-button issue on the campaign trail.

Impeachment



On December 18, 2019 the House of Representatives approved articles of impeachment against President Trump on charges of abuse of power and obstruction of Congress by a vote of 230-197-1 and 229-198-1, respectively. President Trump now is the third sitting President to be impeached by the House of Representatives in U.S. history. The articles and vote were the result of a months-long investigation by the House Judiciary, Oversight, and Foreign Affairs Committees that heard testimony from dozens of senior administration officials.

House Majority Leader Nancy Pelosi (D-CA) withheld sending the articles for a short period, but ultimately allowed them to be sent to the Senate on January 15. The Speaker wanted to provide time for Senate Democrats to negotiate with Senate Majority Leader Mitch McConnell to allow witnesses during the trial. However, McConnell had enough support from Senate Republicans to pass a resolution that will set the procedures for the trial without needing to compromise with Senate Democrats.

Under the rules, House impeachment managers and President Trump's defense team will each have 24 hours, but not more than three trial days, to lay out their opening arguments. Senators will then have 16 hours for questioning to be followed by 4 hours of debate and then a vote to see new evidence or hear from witnesses. Four Republican Senators would have to join the 47 Democrats to allow new witnesses or evidence to be admitted, which requires 51 votes.

If no new evidence or witnesses are agreed to, the Senate will move to end the trial and vote to either acquit or convict the President, which would require 67 votes. There is no expectation that President Trump will be convicted by the Senate and removed from office. However, the tone and messaging that results from the Senate process will have an impact on Congress' ability to deliver substantial bipartisan legislation in 2020.

Judicial Nominations



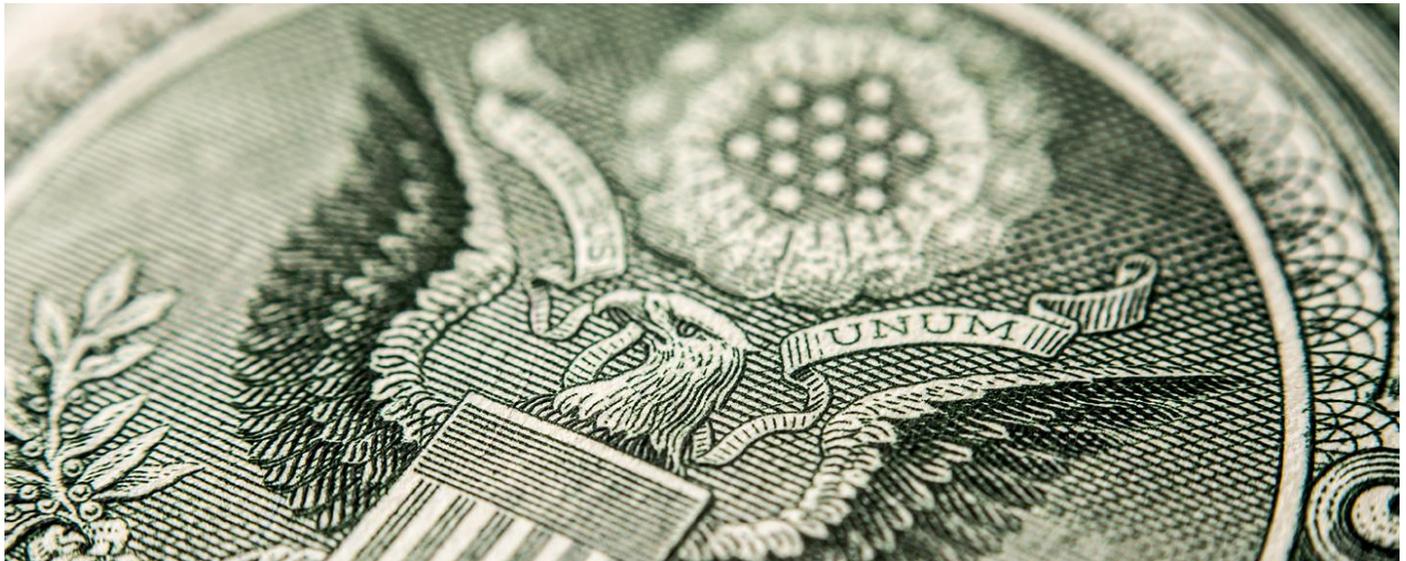
President Trump and the Republican-controlled Senate have had an enormous impact over the courts and judicial system over the last three years. By the end of 2019, the Senate had confirmed 187 lifetime judges nominated by President Trump since his inauguration, according to the American Constitution Society. That number includes 2 Associate Justices to the Supreme Court, 50 judges for the U.S. Courts of Appeals, 133 judges for the U.S. District Courts, and two judges to the U.S. Court of International Trade. More than one quarter of the judges on the U.S. Courts of Appeals are now Trump-appointed judges. In comparison, President Obama, only appointed 55 appeals court judges over his entire 8-year presidency. Senate Majority Leader Mitch McConnell will continue to bring President Trump's judicial nominees to the Senate floor throughout the year.

National Defense Authorization Act



On December 20, President Trump signed the FY 2020 National Defense Authorization Act (NDAA). The signing of the NDAA, which sets policy for the Department of Defense as well as national security activities for the Department of Energy, marks the 59th consecutive year that Congress has passed the sweeping legislation. Members of the Senate and House Armed Services Committees, however, will now quickly shift to writing the policy over again for FY2021. Typically, NDAA legislation is introduced in the House and Senate in the spring or early summer with passage in both chambers in middle to late summer. FY 2020's NDAA process was not as bipartisan or quickly agreed to as in previous years, which indicates possible challenges for FY 2021 with the impending election.

Taxes



The year-end spending package passed at the end of 2019 included several individual and business tax extenders, extending them through the end of 2020 (and retroactive to 2018 and 2019 in some cases). The biodiesel and the railroad maintenance tax credits were extended through 2022. The dozens of extenders were wide-ranging and included provisions such as incentives for retirement saving, medical and dental deductions, deductions for college tuition and expenses, and deductions for mortgage insurance premiums. Congress must now act on these extenders before they expire at the end of 2020. They are unlikely to act on it before the elections, however, and will probably be addressed during the lame-duck session.

Additionally, President Trump and White House economic adviser Larry Kudlow both recently said the administration is working on a second round of tax cuts to be released later this year. Although specifics have not been announced, the “Tax Cuts 2.0” will likely focus on middle class earnings and making permanent the individual rates from the tax package Republicans passed in 2017, which are set to expire at the end of 2025. However, unless Republicans take back the House in November, a tax package will face extreme scrutiny from House Democrats if they do not believe it does enough to help lower earners and address income inequality.

Trade



Digital Tax

Digital taxes are the newest trade issue facing large internet and digital technology companies. Countries around the globe are ramping up efforts to collect more taxes from these companies, most notably France's "digital tax", which imposes a 3% tax on companies with \$845 million in revenue and digital sales of at least 25 million euros in France. About 30 companies will be impacted by this new tax, of which, most are American. France makes the case for the "digital tax" because of the global economic shift toward data and that present tax systems are outdated to deal with global tech companies. The U.S. is considering imposing retaliatory tariffs that could be as high as 100% on wine, clothing, and other French exports. Congress may also enact a retaliatory tax on large foreign firms similar to the French digital tax. France has threatened that if the U.S. imposes tariffs, the European Union may be forced to retaliate, though a ceasefire seems to have been temporarily reached as French and U.S. officials discuss the issue at Davos.

The approach to taxing revenue, rather than profit, is being done because in a global economy it has become much more difficult to tax the profit of a sale that crosses borders. France is not alone in this effort to even the playing field in taxes paid by the global tech companies. Italy and Turkey have taken similar measures, while proposals in the U.K., Austria, Spain, and Belgium are also under consideration. The European Commission has conducted tax probes in the last few years seeking to ensure global companies are paying taxes correctly. Apple, Google, and Amazon have all been at the center of these probes with some resulting in orders to pay back taxes. It is likely that this will remain an issue throughout 2020 as the EU and the U.S. struggle with how to deal with a digital economy that has no borders, and no modern and agreed upon system to assess taxes.

United States-China "Phase One & Two"

The trade deficit with China has long been a key issue for President Trump. During his campaign in 2016, the President went as far as to say China was responsible for "the greatest theft in the history of the world,"

referring to intellectual property theft from U.S. businesses, and promised to force China to the negotiating table. Tensions reached a high when the U.S. started collecting a 25% tariff on \$34 billion worth of Chinese imports on July 6, 2018. That 25% tariff was eventually applied to a total of \$250 billion of Chinese imports with an additional 15% tariff applied to approximately \$120 billion by September 1, 2019.

Then, on December 13, the Office of the United States Trade Representative (USTR) and China formally announced a “Phase One” trade agreement after over two years of negotiations. The agreement requires China to modify its economic and trade practices in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. In return, the U.S. pledged not to impose a 15% tariff on the remaining \$180 billion of Chinese exports and to reduce the 15% tariff being collected on \$120 billion to 7.5%. The 25% tariff on \$250 billion remains in place.

U.S. and Chinese officials formally signed the “Phase One” agreement on January 15 at the White House. No date has officially been set to begin “Phase Two” of the trade negotiations, though White House economic advisor Larry Kudlow has said it will depend upon the success of the “Phase One” deal. Tariffs can always be reinstated if China doesn’t live up to the commitments in the initial deal. Additionally, much more difficult issues, such as state-owned enterprises, subsidies, and cybertheft will need to be addressed in future negotiations. As we learned in 2019, President Trump has no concerns with causing market disruption with his trade decisions. When it comes to China and President Trump, uncertainty will continue to prevail over predictability.

United States-India Agreement

U.S. and Indian trade officials may announce a trade agreement in the coming weeks that will likely be limited in scope on several tariff related issues. The two countries will continue negotiating into 2020 to address tougher issues that will likely remain unsolved, such as medical device and agricultural market access for the U.S. into India, and other tariff related concerns for Indian exports into the U.S.

United States-Japan Trade Agreement

The Trump administration also negotiated two smaller trade deals with Japan that went into effect on January 1, 2020; the U.S.-Japan Digital Trade Agreement and the U.S.-Japan Trade Agreement. The digital agreement established higher standards around digital trade while the other focused on reducing tariffs on agricultural and industrial products. Additional talks are scheduled for May to deal with more sensitive issues such as auto tariffs and currency manipulation. However, with the administration also focused on the next phase of a China deal, it is hard to predict the chances of another Japanese agreement wrapping up by the end of 2020.

United States-Mexico-Canada Agreement

On January 16, 2020, the Senate passed United States-Mexico-Canada (USMCA) trade agreement, President Trump’s replacement for the North American Free Trade Agreement (NAFTA). The House previously passed the implementing legislation on December 19. Several Senate Committees, including the Finance and Budget Committees, recently held hearings and markups on the implementing legislation. When President Trump signs USMCA into law, which he’s expected to do next week, it will be a landmark political, legislative, and economic achievement. President Trump has been promising to update NAFTA since before

his election. For more information about the new agreement, USTR has put out issue-specific fact sheets which can be found [here](#) as well as state-specific fact sheets found [here](#).

United States-United Kingdom Trade Agreement

President Trump's top economic adviser, Larry Kudlow, is expected to visit the United Kingdom (U.K.) in early 2020 to begin trade discussions on issues such as origin rules, agricultural standards, and intellectual property, among other topics. However, the U.K. is now expected to officially leave the European Union (E.U.) on January 31, 2020, pending final approval from European Parliament. This will trigger a transition period lasting until December 31, 2020, in which the U.K. and E.U. will need to negotiate a free trade agreement along with several other issues. The U.K. will have to reach a deal with the E.U. for before any meaningful agreement with the U.S. can be signed. In July 2017, the USTR established the U.S.-U.K. Trade and Investment Working Group to begin laying the groundwork for a potential deal after the U.K. and E.U. reach an agreement.

Transportation & Infrastructure



Infrastructure investment and development may be one of the few areas that has strong bipartisan support in both the House and Senate. House Transportation & Infrastructure Committee Chairman Peter DeFazio (D-OR) plans to release an infrastructure plan soon and make it a focus of his committee in 2020. DeFazio said his plan is ambitious and aims to rewrite the transportation policy that Congress has reused for decades. The Senate Environment and Public Works Committee, on the other hand, passed a \$287 billion authorization bill (S. 2302) for highway programs in July 2019. That bill is meant to be part of a larger package of authorizing measures for surface transportation programs that will expire at the end of fiscal year 2020. However, despite the bipartisan support for spending on infrastructure projects, the price tag remains the largest hurdle. The Highway Trust Fund, which is funded through gas taxes and pays for highway programs, is expected to become solvent somewhere between 2021 and 2022. Many Republicans in Congress are extremely reluctant to raise the gas tax to fund existing and new projects. New sources of funding will need to be found for any progress to be made in 2020.

Key 2020 Dates

Date	Event
Feb. 3	Iowa Caucuses
Feb. 4	State of the Union address
Feb. 10	President's FY21 Budget expected
March 3	Super Tuesday (Primary elections in AL, AR, CA, CO, ME, MA, MN, NC, OK, TN, TX, UT, VT, and VA)
May 22	Deadline for health programs designed by Congress to force action on surprise billing and drug pricing legislation
July 13 – 16	Democratic convention in Milwaukee, WI
Aug. 3 – Sept. 4	Scheduled House summer recess
Aug. 10 – Sept. 4	Scheduled Senate summer recess
Aug. 24 – 27	Republican Convention in Charlotte, NC
Sept. 29	First presidential debate
Sept. 30	Fiscal Year 2020 ends
Oct. 5 – Nov. 13	Scheduled House election recess
Oct. 7	Vice presidential debate
Oct. 12 – Nov. 6	Scheduled Senate election recess
Oct. 15	Second presidential debate
Oct. 22	Third presidential debate
Nov. 3	Election Day
Dec. 10	Target House adjournment
Dec. 18	Target Senate adjournment

TSS 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. Before becoming a government affairs professional, Lindsay worked for a member of Congress managing the Transportation and Infrastructure Committee and Small Business Committee assignments.



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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.



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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.

2020 Legislative Calendar

■ House only
 ■ Senate only
 ■ Both in session

January*						
Su	Mo	Tu	We	Th	Fr	Sa
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December						
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27	28	29	30	31		

Notes: The Senate has not announced its January 2020 schedule. Reflects changes announced by House leaders on Dec. 20, 2019.

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