MOVING FORWARD

THE TRUMP ADMINISTRATION & 115TH CONGRESS

THE ELECTION IS OVER. NOW WHAT? | NOVEMBER 2016

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THE ELECTION IS OVER. NOW WHAT?

In what has been described using a variety of adjectives, on November 8, Donald J. Trump was elected to serve as the 45th President of the United States. Given the outcome of the election combined with its surprising conclusions, the 2016 election is likely to be studied in political science classes for years to come.

Beyond this headline was the news that for the first time since 2004, post-election, the Legislative and Executive branches of government will be under the control of Republican leadership. With the start of any new administration comes a change in control among the Departments and agencies in government. While every new administration results in change, given President-elect Trump's lack of elected service, what his Administration will do, and who will be elevated to serve at the senior levels in the Trump administration are important questions. The answers to these questions will provide direction about what to expect over the course of the next four years.

This briefing is designed to describe what issues are likely to be priorities for the Trump Administration as well as an early look at the leaders President-elect Trump will appoint and work with in Congress to effect these priorities.

Likely issues in the first six months

1. FUNDING THE GOVERNMENT

While garnering much less attention than other campaign issues, the stop-gap fiscal year 2017 (FY17) funding bill expires on December 9. Typically, a new administration and Congress would want these issues resolved prior to the January 20 inauguration. However, in this instance, a number of Republican members have suggested that Congress pass another continuing resolution (CR) that would run through March or April. Recently, House Appropriations Chairman Hal Rogers has stated that the committee will work on a CR through March 31, yet Senate Democrats have also indicated a preference to complete the federal spending bills before the end of this Congress.

BOTTOM LINE: As Congress returns to Washington in late November and early December, and the new Trump administration has an opportunity to weigh in with congressional leadership, the fate of the FY17 appropriations bills will be determined.
2. TAX REFORM

One of the key agenda items for President-elect Trump and congressional leaders is tax reform. Speaker of the House Paul Ryan has already released an outline of the House’s tax plan that provides a high-level outline of how it would accomplish such a plan. Senate Majority Leader McConnell has also expressed interest in passing tax reform. Thus, while tax reform has been something often discussed, yet rarely moved on, one-party control of the Legislative and Executive branch of government makes the chances of accomplishing such legislation much higher. One wildcard is whether Republican lawmakers want to pass such legislation alone, without any Democratic support, something that is possible using a process known as reconciliation, or if they will want to enlist Democratic support for such legislation. Such support might be tied to the infrastructure legislation that President-elect Trump has promised, though such legislation has been met with some skepticism among some Republicans.

President-elect Trump and the House Republicans have proposed different tax plans, but both share similar principles. Both budgets would reduce the top tax rate for individuals to 33% from the current 39.6%, and reduce the top corporate rate to 15% (Trump) to 20% (House) versus the current top corporate rate of 35%.

**BOTTOM LINE:** Given that so many Republicans and the President-elect have campaigned for and promised tax reform, it is likely that such reforms will be a significant part of six to twelve months of the new Trump administration. The most significant question is how much the new Trump administration decides to negotiate with Democratic members.

3. IMMIGRATION ISSUES/BORDER CONTROL

President-elect Trump made border control and immigration a cornerstone of his campaign, including his repeated promise that he would build a wall on the U.S. southern border. While some in Congress share his views on border enforcement and immigration, congressional views on immigration have varied over the years. Thus, it is not clear that President Trump will have the support he needs to enact all of his promised plans. For example, in the past, Congress had already allocated significant resources to build a border wall, but logistical and engineering issues hindered its completion. These prior efforts required significant spending, and for President Trump to complete them, he will need cooperation from Congress.

Still, President Trump is likely to rescind or scale back President Obama’s immigration relief programs, such as the Deferred Action for Childhood Arrivals (DACA) and step up internal enforcement to remove current undocumented aliens. He could also see greater interest in a

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3. A part of the budget process, reconciliation would permit the Senate to get around its normal procedural requirements to obtain 60 votes for any bill to completion. http://www.politico.com/story/2016/10/paul-ryan-budget-congress-229216.
mandatory employee verification system, though such systems have been discussed in the past and have been problematic.

President-elect Trump included ending funding to so-called sanctuary cities in his pre-election commitments, and while this was vague, there has been support in Congress to limit spending to such cities in the past. In addition, given President-elect Trump’s stated commitment to immigration reform, we expect to see increasing funding for the Department of Homeland Security and the Department of Justice to effect this commitment.

**BOTTOM LINE:** Given that President-elect Trump campaigned so strongly on border control and immigration reform, it is likely that he will focus considerable resources on immigration enforcement and perhaps build a wall across the U.S. southern border and increase internal enforcement and removal. Moreover, it is likely that President Trump will reverse many of the immigration programs, like DACA, President Obama instituted, and he may seek to implement a more stringent employment verification system.

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4. **INFRASTRUCTURE**

President-elect Trump has long spoken about the need to focus on U.S. infrastructure. During his victory speech early Wednesday morning, he said, “We are going to fix our inner cities and rebuild our highways, bridges, tunnels, airports, schools, hospitals,” Trump said. “We’re going to rebuild our infrastructure—which will become, by the way, second to none—and we will put millions of our people to work as we rebuild it.”

Nevertheless, Senate Majority Leader McConnell, as well as some conservative groups, expressed skepticism toward a significant national infrastructure plan. Still, infrastructure is one area where the new administration could find bipartisan support given the continued issues facing U.S. infrastructure, which has been graded to be in poor condition.

**BOTTOM LINE:** Given the bipartisan support for infrastructure, and depending on President Trump’s commitment to it, a robust infrastructure bill is possible, though if it is to be bipartisan, such legislation will be more complex than some of his other agenda items.

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5. **REFORM OF THE AFFORDABLE CARE ACT**

Given that President-elect Trump and the Republican Congressional leadership have proclaimed a desire to repeal and replace the Affordable Care Act (ACA), it is likely that most, if not all, of the ACA will be repealed or significantly altered.

Still, President-elect Trump has indicated that he may be open to keeping some ACA provisions, such as allowing children to stay on their parents’ insurance until the age of 26 and guaranteeing coverage for pre-existing conditions. It is likely that the repeal and replace effort will take longer

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than anticipated. Congressional leaders have discussed using a budget tool, known as reconciliation, as the means to repeal/amend the ACA. The use of the reconciliation tool, by its nature and statutory limitations, will limit how much of the ACA can be repealed or changed without bipartisan support.

In addition, the health care community has undertaken significant investment and training to implement the ACA; it will take time to unwind these changes and implement any new system, and feedback from these stakeholders will affect the final product.

**BOTTOM LINE:** Change is coming to the ACA, but that change, necessary to both develop the new system as well as transition from the old, will take time. Engaging in discussions with stakeholders is the key to having one's voice heard and being a part of this change.

6. REGULATORY REFORM

President Trump will have significant opportunities to change and eliminate many of the regulations President Obama put in place. In particular, President-elect Trump has stated on numerous occasions that he will reverse Obama administration regulations regarding immigration and energy. Most of these efforts will not require Congressional action. The country may start to see some of these changes in the earliest days of the new administration when President Trump reverses, as he has repeatedly promised, President Obama’s executive orders. Other regulatory changes, undertaken through the rulemaking process, may take longer as the departments and agencies comply with the Administrative Procedures Act and its requirements.

It is also important to keep in mind that Congress may use its authority under the Congressional Review Act (CRA), which was enacted in 1996 and requires all final rules be submitted to both houses of Congress and the Government Accountability Office (GAO) before they can take effect. Congress has 60 days to introduce a joint resolution of disapproval. While the President would normally veto such a resolution, given the administration promulgated the rule, the CRA combined with a change in administrations (in this instance the Obama to Trump administration) provides an opportunity for Congress to assert its authority under the CRA with a degree of expected success. A Congressional Research Service note has suggested that any new rules finalized after May 16, 2016, could be reversed under the CRA, depending on the length of the Congress’s lame duck session.7

**BOTTOM LINE:** Significant regulatory changes are likely under the Trump administration and the new Congress. The depth and breadth of those changes will take time, but the individuals who are named to cabinet and other positions in the new administration will play a key role as these regulatory changes are made. In addition, Congress may assert its authority under the CRA and also work to reverse some of the Obama administration’s recent rulemakings.

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7 See [http://src.bna.com/cAk](http://src.bna.com/cAk)
7. The Supreme Court

The death of Justice Antonin Scalia has left an opening on the U.S. Supreme Court. Senate Majority Leader McConnell has indicated since Justice Scalia's death that he would wait to hold hearings until the new President was sworn in. President Trump will now have his opportunity to nominate Justice Scalia’s replacement, and possibly, others should any justices decide to retire.

This potential shifting of the Supreme Court could provide a longer-lasting legacy than any particular legislation, yet the country will not see that potential possibly for years to come.

**BOTTOM LINE:** Candidate Trump published a number of judges that he indicated he would select from for the Court. That list can be found here: https://www.donaldjtrump.com/press-releases/donald-j-trump-adds-to-list-of-potential-supreme-court-justice-picks. President Trump is expected to nominate a new justice relatively early, but the Supreme Court is likely to remain in its current 8 justice make-up for the next several months as the nominee works through the process, competing against legislative and other nominations for time on the Senate’s calendar.

8. Energy

President-elect Trump has repeatedly stated that he will lift any of President Obama’s executive orders and regulatory rules that restrict domestic energy production. Moreover, with Republicans retaining control of both houses of Congress, he is likely to be working with a Congress that agrees with his views. Based on the public release of information about his transition, it appears he will take a significantly different view on domestic energy than President Obama. In particular, the use of coal, nuclear, and natural gas are likely to receive a much more favorable audience versus renewables under the Trump administration. This point of view is likely to be reflected in President Trump's review of existing Obama administration executive orders and regulatory rules.

While President-elect Trump has stated his interest in such administrative changes, it is less clear what Congress can agree on in the first six months of the administration. In particular, if legislative changes are proposed, President Trump will need to work with Congress, and in particular the Senate, to obtain the necessary bipartisan legislation to make such changes.

**BOTTOM LINE:** Given President-elect Trump’s statements about increasing traditional domestic energy sources, we believe that these areas of energy are likely to see a more favorable regulatory environment, while renewable energy will likely see a less favorable environment.

The Cabinet

In the next few days and weeks, President-elect Trump will name individuals to serve in his cabinet. These individuals will assist the new President in effecting change at the Department and agency level. Moreover, over 4,000 presidential appointments will be made in the days and months ahead, and many of those will affect significant constituencies.

President-elect Trump’s selection of the Republican National Committee (RNC) Chairman, Reince Priebus, as his Chief of Staff and Steve Bannon as a chief strategist and senior counselor suggests that he will continue to rely on the same team that helped him win the election. Mr. Priebus, as the RNC chair also brings experience in dealing with members of the House and Senate as well as a grass-roots network that will assist President Trump in navigating Washington.
In addition to these picks, a number of individuals have been floated as members of the Trump cabinet, including various members of Congress and “outsiders.” The cabinet positions will start to be filled over the course of the next several weeks.

The Congress

In addition to the new administration, congressional leadership will also see changes. Here is what we expect to see in the House and Senate:

1. **Senate Leadership**

   **Republican**—Senator Mitch McConnell is expected to remain the Senate Majority Leader. In addition we expect to see Senators John Cornyn continue as Senate Republican Whip, John Thune as Senate Republican Conference Chairman, John Barrasso as Senate Republican Policy Chairman, and Roy Blunt as Senate Republican Vice Conference Chairman. A new National Republican Senatorial Committee Chairman will be selected to replace Chairman Roger Wicker.

   **Democratic**—Senator Harry Reid, the current Minority Leader, will retire after this Congress and Senator Charles Schumer will replace him in that role. Senator Dick Durbin will serve as the Majority Whip, Senator Patty Murray as Assistant Democratic Leader, Senator Debbie Stabenow as the Chair of the Democratic Policy and Communications Committee, Senators Elizabeth Warren, and Mark Warner as Vice Chairs of the Conference, Senator Bernie Sanders as Chair of Outreach, Senator Joe Manchin will serve as Vice Chair of the Policy and Communications Committee and Senator Tammy Baldwin as Conference Secretary. Senator Jon Tester, who is in cycle in 2018, is not expected to continue as the Chair of the Democratic Senatorial Campaign Committee.

2. **House Leadership**

   **Republican**—Rep. Paul Ryan was re-elected as the Speaker of the House. In addition, Majority Leader Kevin McCarthy, Majority Whip Steve Scalise, and Republican Conference Chairman McMorris Rodgers were also re-elected to continue their roles. Rep. Steve Stivers was elected to chair the National Republican Campaign Committee.

   **Democratic**—While Rep. Nancy Pelosi had been expected to continue as the Democratic Leader, with her team of Democratic Whip Steny Hoyer and Assistant Democratic Leader James Clyburn, there is no guarantee. Democratic leaders postponed leadership elections, at the request of some Democratic members, from November 15th to November 30th. This delay could give candidates time to mount an election challenge to the Democratic leadership team, an outcome that bears monitoring.

Congressional committees

1. **The U.S. Senate**

   **Aging:** Senator Susan Collins is expected to remain as the Chair. Senator Bob Casey is expected to replace Senator Claire McCaskill, who is expected to take over Homeland Security and Governmental Affairs, as Ranking Member.

   **Agriculture:** Senators Pat Roberts and Debbie Stabenow are expected to remain as the Chair and Ranking Member of the committee.
ARMED SERVICES: Senators John McCain and Jack Reed are expected to remain as the Chair and Ranking Member of the committee.

APPROPRIATIONS: Senator Thad Cochran is expected to remain as the Chair; Senator Patrick Leahy is expected to replace retiring Senator Barbara Mikulski as the Ranking Member of the committee.

SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS: Senator Mike Crapo is expected to replace Senator Richard Shelby, who is term limited, as the Chair. Senator Sherrod Brown is expected to continue as the Ranking Member.

SENATE BUDGET COMMITTEE: Senators Mike Enzi and Bernie Sanders are expected to remain as the Chair and Ranking Member of the committee.

COMMERCE COMMITTEE: Senators John Thune and Bill Nelson are expected to remain as the Chair and Ranking Member of the committee.

ENERGY AND NATURAL RESOURCES: Senators Lisa Murkowski and Maria Cantwell are expected to remain as the Chair and Ranking Member of the committee.

ENVIRONMENT AND PUBLIC WORKS: The current chair and ranking member will not return. The next EPW Chair is likely Senator John Barrasso. Shelley Moore Capito could become chair if Senator Barrasso passes on the opportunity. The Ranking Member is likely to be Senator Tom Carper.

SENATE FINANCE COMMITTEE: Senators Orrin Hatch and Ron Wyden are expected to continue in their roles as chair and ranking member.

SENATE FOREIGN RELATIONS COMMITTEE: Senators Bob Corker and Ben Cardin are expected to continue in their roles as chair and ranking member.

SENATE HEALTH, EDUCATION, LABOR & PENSIONS: Senators Lamar Alexander and Patty Murray are expected to remain as the Chair and Ranking Member.

SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE: Senator Ron Johnson is expected to continue as the Chair. Current Ranking Member, Tom Carper, is likely to claim the Ranking Member position on the EPW committee, in which case Senator Claire McCaskill would likely become the Ranking Member.

INDIAN AFFAIRS COMMITTEE: Senator John Barrasso could take the EPW Chair. If so, Senator John Hoeven could take the chair. Senator Jon Tester is expected to remain as Ranking Member of the committee.

INTELLIGENCE COMMITTEE: Senator Richard Burr is expected to remain as the Chair, while Senator Mark Warner may serve as the new Ranking Member, replacing Senator Dianne Feinstein who moves to Judiciary.

JUDICIARY COMMITTEE: Senator Charles Grassley is expected to remain as the Chair. Senator Dianne Feinstein will serve as Ranking Member.

RULES AND ADMINISTRATION: Senator Roy Blunt is expected to remain the Chair, while Amy Klobuchar will serve as Ranking Member.

SMALL BUSINESS AND ENTREPRENEURSHIP: Senator James Risch is in line to succeed retiring Chair David Vitter. If Senator Risch took another Chair, then Senator Mark Rubio would be in line to chair this committee. Senator Jeanne Shaheen is expected to remain as Ranking Member.
VETERANS AFFAIRS: Senators Johnny Isakson and Richard Blumenthal are expected to remain as the Chair and Ranking member.

2. THE U.S. HOUSE OF REPRESENTATIVES

APPROPRIATIONS: Reps. Rodney Frelinghuysen or Robert Aderholt are expected to serve as Chair; Rep. Nita Lowey is expected to continue to serve as the Ranking Member.

ARMED SERVICES: Reps. Mac Thornberry and Adam Smith are expected to continue as Chair and Ranking Member.

BUDGET COMMITTEE: Rep. David Price is expected to remain as the Chair, while Rep. John Yarmuth is likely to take over as Ranking Member.

EDUCATION AND WORKFORCE: Rep. Virginia Foxx is expected to take over for John Kline, while Rep. Bobby Scott is expected to continue to serve as the Ranking Member.

ENERGY AND COMMERCE: Reps. John Shimkus or Greg Walden are expected to become the Chair, while Rep. Frank Pallone is expected to remain as Ranking Member.

FINANCIAL SERVICES: Reps. Jeb Hensarling and Maxine Waters are expected to continue as Chair and Ranking Member.

FOREIGN AFFAIRS: Reps. Ed Royce and Eliot Engel are expected to continue as Chair and Ranking Member.

JUDICIARY: Reps. Bob Goodlatte and John Conyers are expected to continue as Chair and Ranking Member.

NATURAL RESOURCES: Reps. Rob Bishop and Raul Grijalva are expected to continue as Chair and Ranking Member.

RULES: Reps. Pete Sessions and Louise Slaughter are expected to continue as Chair and Ranking Member.

TRANSPORTATION AND INFRASTRUCTURE: Rep. Bill Shuster is expected to remain as Chair and Rep. Pete DeFazio is expected to remain as Ranking Member.

VETERANS AFFAIRS: Reps. Phil Roe, Gus Bilirakis, Doug Lamborn and Mike Coffman are expected to contend for the Chair, while Reps. Mark Takano and Tim Walz will contend for the Ranking Member position.

WAYS AND MEANS: Reps. Kevin Brady and Sandy Levin are expected to continue as Chair and Ranking Member.
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