



Special Report

The First 100 Days
of the Biden
Administration
and the 117th
Congress

January 20, 2021

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Introduction

This TFG Special Report provides an overview of what to expect during the first 100 days of the Biden Administration and how the new 117th Congress will interplay and work with that agenda legislatively. After their victories in the January 5 Senate runoff elections, Senators-elect Raphael Warnock (D-GA) and Jon Ossoff (D-GA), along with Senator-designate Alex Padilla (D-CA), will be sworn into office on January 20 (Padilla will assume Vice President Kamala Harris' Senate seat). At that point, the Senate will be split evenly with 50 members of the Senate Democratic Caucus and 50 Senate Republicans for the remainder of the 117th Congress (2021—2022), with Vice President Kamala Harris the tie-breaking vote. Incoming Senate Majority Leader Chuck Schumer (D-NY) and outgoing Senate Majority Leader Mitch McConnell (R-KY) are nearing a power-sharing arrangement to hash out how the evenly divided chamber will operate. [Reportedly](#), the negotiations between Schumer and McConnell have been built largely around how the Senate [operated](#) the last time the body was split 50-50, between January—June 2001.

House Speaker Nancy Pelosi (D-CA) and Leader Schumer have already vowed to work cooperatively with President Joe Biden to pass additional COVID-19 emergency relief legislation as quickly as possible. Other legislation that the House and/or Senate will likely consider within the first 100 days of the Biden Administration includes a massive infrastructure package, immigration reform, democracy reform/voting rights, health care, clean energy, tax reform, criminal justice reform, and Congressional Review Act (CRA) disapproval resolutions to nullify various final rules published by the Trump Administration between August 21, 2020 and January 20, 2021. The Biden Administration will also release its FY2022 budget proposal to Congress, kicking off the annual appropriations process for the House and Senate in 2021. The House and Senate Appropriations Committees may also bring back some form of Congressionally-directed spending (i.e., “earmarks”) for public entities and non-profits serving a public interest beginning with the FY2022 appropriations cycle.

The Senate will hold an [impeachment trial](#) beginning at some point in late January 2021 regarding whether former President Donald Trump should be convicted of the charge of “Incitement of Insurrection,” which the House passed on January 13 by a vote of 232-197. If a two-thirds majority of the Senate (i.e., 67 Senators) vote to convict former President Trump, a second vote would be triggered in which a simple majority in the Senate (i.e., 51 votes) could permanently disqualify Trump from holding federal office in the United States. A Senate impeachment trial could last as long as three weeks, ending in mid-February 2021.

President Biden has vowed, beginning January 20, to sign dozens of executive orders, presidential memoranda, and directives to Cabinet agencies in fulfillment of numerous promises he made in his presidential campaign. These [include](#) actions to address “four overlapping and compounding crises: the COVID-19 crisis, the resulting economic crisis, the climate crisis, and a racial equity crisis.” In President Biden's first ten days in office, he will “take decisive action to address these four crises, prevent other urgent and irreversible harms, and restore America's place in the world.”

The Senate will also fulfill its constitutional duty to advise and consent on President Biden's executive and judicial [nominations](#), particularly his Cabinet. On January 19, the Senate Finance, Intelligence, Homeland Security and Governmental Affairs, Foreign Relations, and Armed Services Committees held confirmation hearings for President Biden's nominees for Secretary of the Treasury (Janet Yellen), Director of National Intelligence (Avril Haines), Secretary of Homeland Security (Alejandro Mayorkas), Secretary of State (Antony Blinken), and Secretary of Defense (Lloyd Austin), respectively. On January 21, the Senate Commerce, Science,

and Transportation Committee will hold a confirmation hearing for President Biden's nominee for Secretary of Transportation (Pete Buttigieg) and on January 27, the Senate Veterans' Affairs Committee will hold a confirmation hearing for President Biden's nominee for Secretary of Veterans Affairs (Denis McDonough). This Report provides an overview of all of President Biden's announced Cabinet nominees, other Senate-confirmable nominees throughout various federal departments and agencies, and relevant political appointees at the White House and throughout the federal government who do not require Senate confirmation.

COVID-19 Emergency Relief Legislation

On January 14, President-elect Biden unveiled his \$1.9 trillion COVID-19 "[American Rescue Plan](#)," an emergency legislative package to "fund vaccinations, provide immediate, direct relief to families bearing the brunt of the COVID-19 crisis, and support struggling communities." President-elect Biden indicated his intention to get Republican support for the measure, although the \$1.9 trillion price tag is likely too high for many House and Senate Republicans. House Democrats will likely utilize the "[budget reconciliation](#)" process to pass the package, by late February or early March, which would allow the Senate to clear it with a simple majority of 51 votes (instead of the 60 votes usually needed to overcome a legislative filibuster). By utilizing the budget reconciliation process, the House will have to first draft and pass a budget resolution. The House Ways and Means and Energy and Commerce Committees will have jurisdiction over the COVID relief process, making Chairmen Richard Neal (D-MA) and Frank Pallone (D-NJ), respectively, key players regarding how the package will ultimately be crafted.

House Speaker Pelosi and Leader Schumer issued a [statement](#) praising the proposal – "House and Senate Democrats express gratitude toward and look forward to working with the President-elect on the rescue plan. [...] We will get right to work to turn President-elect Biden's vision into legislation that will pass both chambers and be signed into law."

Notable provisions in the package are outlined below, and more details on America's Rescue Plan can be found [here](#).

State and Local Aid

The plan includes \$350 billion in emergency funding for state, local, and territorial governments "to ensure that they are in a position to keep front line public workers on the job and paid, while also effectively distributing the vaccine, scaling testing, reopening schools, and maintaining other vital services." The plan does not detail how this funding will be distributed to local governments; however, TFG participated in a call with members from the Biden White House Intergovernmental Affairs Office and the National Economic Council on January 14 who confirmed that state and local government funding could be used in a flexible manner.

Of that \$350 billion, \$3 billion would be set aside for Economic Development Administration (EDA) grants to "provide resources directly to state and local government entities, tribal institutions, institutions of higher education, and non-profits to fund initiatives that support bottom's up economic development and enable good-paying jobs." It also includes \$20 billion for the hardest-hit public transit agencies and \$20 billion for tribal governments.

Housing

The plan includes \$25 billion for rental assistance to help renters and small landlords; \$5 billion for home energy and water costs and arrears through programs like the Low-Income Home Energy Assistance Program (LIHEAP); \$5 billion to help secure housing for people experiencing, or at risk of, homelessness; and funds that could be used by states and localities to convert hotels and motels to permanent housing. It also extends through September 30, 2021 the CDC's national eviction moratorium and an application period for forbearance on federally backed mortgages and provides funds for legal assistance for households facing eviction or foreclosure.

Health Care

The plan includes \$50 billion to expand testing, including through rapid testing and school testing protocols; \$30 billion for FEMA's Disaster Relief Fund to ensure sufficient supplies and to fully reimburse states, localities, and tribes for critical emergency response resources, including deploying the National Guard; and \$20 billion for a national vaccination program, including through community centers and mobile units, in partnership with states and localities. It also includes \$20 billion for veterans' health-care needs; \$4 billion for SAMHSA to expand mental health and substance use disorder services; and \$800 million for programs to support domestic violence survivors, among other health initiatives.

Business Support

The plan leverages \$35 billion to invest in state, local, tribal, and nonprofit programs to finance as much as \$175 billion in low-interest loans and venture capital funds for small businesses and entrepreneurs. It also includes \$15 billion for flexible, equitably distributed grants to small businesses.

Worker Support

Biden's plan would raise the federal minimum wage to \$15/hour (up from \$7.25/hour). Additionally, the Occupational Safety and Health Administration (OSHA) would be authorized to issue a standard to protect workers from the coronavirus, which would also cover public sector employees. Employers would be directed to provide hazard pay to frontline essential workers, including back payments for 2020. Pandemic-related unemployment benefit programs would be extended through September 30, 2021, and weekly benefits would increase to \$400/week (up from \$300/week). The plan would also extend emergency paid sick and family and medical leave through September 30, 2021. Notably, state and local governments would be reimbursed for the cost of this leave, and eligible workers would receive a maximum weekly benefit of \$1,400/week.

Aid for Individuals, Families

The plan also includes \$1,400 direct Economic Impact Payments to eligible individuals and dependents, and increases the Child Tax Credit, Earned Income Tax Credit, and Child Care Tax Credit for 2021. It also provides \$15 billion for the Child Care and Development Block Grant program; \$3 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) program; \$1 billion for the Temporary Assistance for Needy Families (TANF) program. Additionally, Supplemental Assistance Nutrition Program (SNAP) benefits would be increased by 15% through September 30, 2021.

Education Support

The plan also includes \$130 billion to support safely reopening school buildings and to facilitate distance learning; \$35 billion for the Higher Education Emergency Relief Fund; and \$5 billion to governors to mitigate the educational effects of the pandemic.

Infrastructure Legislation

On July 1, 2020, the House passed the \$1.5 trillion **Moving Forward Act** ([H.R. 2](#)) by a vote of [233-188](#). A detailed section-by-section summary of the legislation is available [here](#). Several House Democratic leaders have indicated that this legislation will very likely be a template for an infrastructure package that the 117th Congress will consider. With the 2015 surface transportation law, the FAST Act, set to expire on September 30, 2021, a multi-year reauthorization of the FAST Act will likely be part of an infrastructure package.

The five-year Moving Forward Act included the following:

- \$430 billion for transportation (including highways, bridges, transit, rail, airports, and ports/harbors)
- \$130 billion for schools and childcare facilities
- \$100 billion for housing infrastructure
- \$100 billion for broadband infrastructure
- \$83 billion for drinking water and wastewater infrastructure
- \$82 billion for clean energy and environmental infrastructure
- \$30 billion for healthcare infrastructure
- \$25 billion for the U.S. Postal Service
- Tax and finance provisions, including Build America Bonds, Advance Refunding Bonds, Private Activity Bonds, and expansions of the New Markets Tax Credit and Historic Tax Credit.

President Biden has repeatedly said that he wants Congress to pass a massive infrastructure package early in 2021. In his campaign for the Presidency in November 2019, Biden [released](#) a \$1.3 trillion [infrastructure plan](#) over ten years “to equip the American middle class to compete and win in the global economy, to move the U.S. to [net-zero greenhouse gas emissions](#), and to ensure that cities, towns, and rural areas all across our country share in that growth.” Like the Moving Forward Act, the plan includes billions of dollars in funding for transportation, energy, water, broadband, and school infrastructure, in addition to sections covering a National Community Development and Jobs Initiative, Revitalizing Manufacturing Across the Country, and Sparking Entrepreneurship and Small Business Growth in Every Community.

At some point in February 2021, President Biden is expected to release his Administration’s second detailed COVID-related legislative proposal, his **Build Back Better** plan, which will be focused on pandemic recovery. Biden has previously said that his plan, totaling \$2 trillion over four years, “will make historic investments in infrastructure, manufacturing, innovation, research and development, and clean energy. Investments in a care-giving economy with skills and training needed by our workers to be able to compete and win in a global economy.” First announced during the general election in July 2020, the plan [called](#) for spending trillions on American-made products, health services, and infrastructure updates.

It is likely that House and Senate Democratic leadership will utilize the budget reconciliation process to pass infrastructure legislation, which would only require 51 votes in the Senate instead of the 60 votes usually

needed to overcome a legislative filibuster by the minority party. This would allow the legislation to pass with only Democratic support in both chambers.

Immigration Reform Legislation

On January 20, President Biden rolled out a sweeping [proposal](#) overhauling the nation's immigration laws, including an eight-year pathway to citizenship for immigrants without legal status and an expansion of refugee admissions, along with an enforcement plan that deploys technology to patrol the border. Biden's legislative proposal also includes a heavy focus on addressing the root causes of migration from Central America, a key part of Biden's foreign policy portfolio when he served as vice president.

The centerpiece of the plan is the eight-year pathway, which would put millions of qualifying immigrants in a temporary status for five years and then grant them a green card once they meet certain requirements such as a background check and payment of taxes. They would be able to apply for citizenship three years later. To qualify, immigrants must have been in the United States as of January 1, 2021, a move meant to blunt any rush to the border. Beneficiaries of the Deferred Action for Childhood Arrivals (DACA) — which granted key protections for “DREAMers” — and the temporary protected status program for migrants from disaster-ravaged nations could apply for a green card immediately.

Biden's proposal includes three overarching pillars: provisions to address the causes of migration, border management and a path to citizenship. The focus on Central America reflects the message that Biden has relayed to senior officials in the region: that he will advocate for policy changes aimed at what drives scores of migrants there to come to the United States illegally to seek safe harbor. The Biden proposal also would put in place a refugee admissions program at multiple processing centers abroad that would better help identify and screen those who would qualify to be admitted as refugees into the United States.

As for border enforcement, the plan calls on the Department of Homeland Security to develop a proposal that uses technology and other similar infrastructure to implement new security measures along the border, both at and between ports of entry.

The legislation contains several revisions to the legal immigration process. It bolsters the number of key employment- and family-based visas available by recapturing unused visas from previous years and exempting spouses and children of green-card holders from quotas that restrict immigrants from varying countries from immediately entering the United States. It also grants work permits for spouses and children of temporary worker visa holders, although the number of available H-1B visas for high-skilled foreign workers and H-2B visas for lower-skilled non-agriculture workers will not be expanded.

Biden also released an immigration reform [plan](#) during his presidential campaign, which includes additional details that could be included in legislation considered by Congress. Additionally, on June 4, 2019, the House passed the **American Dream and Promise Act of 2019** ([H.R. 6](#)) by a vote of [237-187](#), which would grant DREAMers ten years of legal residence status if they met certain requirements. They would then receive permanent green cards after completing at least two years of higher education or military service, or after working for three years.

Democracy Reform and Voting Rights Legislation

One of the first major pieces of legislation that the House will consider in the 117th Congress is the **For the People Act of 2021** ([H.R. 1](#)), a “transformational anti-corruption and clean elections reform package.” The package [includes](#) sections on clean and fair elections; ending the dominance of big money in politics; and ensuring that public servants work for the public interest. The House passed a previous version of the legislation on March 8, 2019 by a vote of [234-193](#), and incoming Senate Majority Leader Schumer has [indicated](#) that this package ([S. 1](#)) will be the first bill introduced in the Senate by the new Democratic majority.

Additionally, on December 6, 2019, the House passed the **Voting Rights Advancement Act of 2019** ([H.R. 4](#)) by a vote of [228-187](#). The legislation [would](#) “amend the 1965 Voting Rights Act to restore that core civil rights statute to its full vitality, updating the coverage formula and strengthening other related provisions of the VRA.” President Biden has pushed for the passage of laws to strengthen the VRA, so it is likely that the House will pass a similar bill to H.R. 4 in the 117th Congress.

Health Care Legislation

A large part of President Biden's [health care proposal](#) released during his presidential campaign offers a new public option plan that builds on the existing Affordable Care Act (i.e., Obamacare). Additionally, President Biden has proposed increasing the value of tax credits to lower premiums and extend coverage to more working Americans; expanding coverage to low-income Americans; tackling market concentration across the health care system; lowering costs and improving health outcomes by partnering with the health care workforce; repealing the exception allowing drug corporations to avoid negotiating with Medicare over drug prices; limiting launch prices for drugs that face no competition and are being abusively priced by manufacturers; limiting price increases for all brand, biotech, and abusively priced generic drugs to inflation; allowing consumers to buy prescription drugs from other countries; improving the supply of quality generics; expanding access to contraception and protecting abortion access; reducing the maternal mortality rate; defending health care protections for all, regardless of gender, gender identity, or sexual orientation; doubling America's investment in community health centers; and achieving mental health parity and expanding access to mental health care.

During the 116th Congress, the House passed several major health care-related bills, which may form the basis of legislation the new Congress will consider within the first 100 days of the Biden Administration. This includes:

- The **Strengthening Health Care and Lowering Prescription Drug Costs Act** ([H.R. 987](#)), which passed on May 16, 2019 by a vote of [234-183](#). The legislation [included](#) four individual bills “that protect and strengthen access to affordable, quality health coverage,” and three individual bills “that address the rising cost of prescription drugs by increasing the availability of generic drugs.”
- The **Elijah E. Cummings Lower Drug Costs Now Act** ([H.R. 3](#)), which passed on December 12, 2019 by a vote of [230-192](#). The legislation [included](#) empowering the federal government to negotiate the price of prescription drugs, capping seniors' out-of-pocket costs on prescription drugs, reversing years of

price hikes above inflation across thousands of drugs in Medicare, and investing savings into improvements to Medicare.

- The **Patient Protection and Affordable Care Enhancement Act** ([H.R. 1425](#)), which passed on June 29, 2020 by a vote of [234-179](#). The legislation [includes](#) provisions which “provide much needed relief by making health care and prescription drugs more affordable [...] expands access to health care, strengthens protections for people with pre-existing conditions, reduces racial and ethnic health coverage disparities and reverses the Trump Administration’s harmful actions to sabotage the ACA.”

Clean Energy Legislation

On the campaign trail in July 2020, President Biden released a \$2 trillion [clean energy plan](#), which includes getting America to net-zero carbon emissions by 2050. The proposal calls for boosting reliance on clean energy and climate sustainable practices and Biden has said that 40% of the funding will be used to support communities disproportionately affected by climate change, as laid out in his [environmental justice plan](#).

The key elements of the “Biden Plan to Build a Modern, Sustainable Infrastructure and an Equitable Clean Energy Future” include:

- Building a Modern Infrastructure
- Positioning the U.S. Auto Industry to Win the 21st Century with technology invented in America
- Achieving a Carbon Pollution-Free Power Sector by 2035
- Making Dramatic Investments in Energy Efficiency in Buildings, including Completing 4 Million Retrofits and Building 1.5 Million New Affordable Homes
- Pursuing a Historic Investment in Clean Energy Innovation
- Advancing Sustainable Agriculture and Conservation
- Securing Environmental Justice and Equitable Economy Opportunity

There are many overlaps between Biden’s clean energy plan and his infrastructure plan, so it is possible that this proposal gets folded into a larger infrastructure package.

Additionally, the House passed the **Clean Economy Jobs and Innovation Act** ([H.R. 4447](#)) on September 24, 2020 by a vote of [220-185](#). The legislation included programs to develop and deploy clean energy resources; improve the efficiency of homes and businesses; electrify the transportation sector; modernize the grid and enhance its resiliency; prioritize the needs of environmental justice communities; reduce carbon pollution from industrial and traditional sources; and develop advanced nuclear energy technologies, among many other provisions. H.R. 4447 will likely form the basis of any major clean energy legislation that advances in Congress within the first 100 days of the Biden Administration.

Tax Reform Legislation

On the campaign trail, President Biden released a [tax reform plan](#) that “will ask wealthy Americans and big corporations to pay their fair share, including by:

- Raising the corporate tax rate to 28 percent.

- Requiring a true minimum tax on ALL foreign earnings of United States companies located overseas so that we do our part to put an end to the global race to the bottom that rewards global tax havens. This will be 21% — TWICE the rate of the Trump offshoring tax rate and will apply to all income.
- Imposing a tax penalty on corporations that ship jobs overseas in order to sell products back to America.
- Imposing a 15% minimum tax on book income so that no corporation gets away with paying no taxes.
- Raising the top individual income rate back to 39.6 percent.
- Asking those making more than \$1 million to pay the same rate on investment income that they do on their wages.”

Biden’s plan also includes policies “to bolster financial security and spur economic growth by reducing taxes on the middle class,” including:

- Expanding the Child Tax Credit for the duration of the pandemic and economic crisis.
- Tax credits that help working families afford health insurance.
- Tax credits that help working families afford childcare.
- Tax credits that help working families pay for the cost of caring for an aging loved one.
- Tax credits to help families buy their first homes and build wealth — up to \$15,000.
- Equalizing the tax benefits of retirement plans.

Criminal Justice Reform Legislation

In the wake of the killing of George Floyd on May 25, 2020 by a Minneapolis police officer, President Biden [promised](#) to support legislation and policies that “root out systemic racism across our laws and institutions.” The Biden [Plan](#) for Strengthening America’s Commitment to Justice is based on several core principles:

- Reduce the number of people incarcerated while also reducing crime.
- Rooting out racial, gender, and income-based disparities in the criminal justice system.
- Focus the criminal justice system on redemption and rehabilitation.
- Not allowing anyone to profit off the criminal justice system.

President Biden has also called for the immediate passage of Rep. Bobby Scott’s (D-VA) **Safe, Accountable, Fair, and Effective (SAFE) Justice Act**, [which](#) “takes a broad-based approach to improving the federal sentencing and corrections system, from front-end sentencing reform to back-end release policies.” The legislation would include taking steps to reduce the use of mandatory minimum sentencing for nonviolent offenses and institute policies geared at lowering recidivism.

Congress will also focus on police reform legislation in the first 100 days of the Biden Administration. On June 25, 2020, the House passed the **George Floyd Justice in Policing Act of 2020 (H.R. 7120)** by a vote of [236-181](#). The legislation [would](#) end the judicial doctrine of “qualified immunity,” an interpretation of the Reconstruction-era law, often called “Section 1983,” that allows individuals to sue police and other government officials for abusing their authority to violate a person’s constitutional or legal rights; directs the Department of Justice (DOJ) to establish a public National Police Misconduct Registry; require localities that receive various DOJ grants to meet use-of-force reporting and policy requirements, certify the elimination of racial, religious, and discriminatory profiling and the creation of policies to eliminate profiling, and utilize some of the funds to purchase body cameras and develop related policies and programs for the cameras; prevent

the Department of Defense from transferring surplus military equipment to localities; and bans federal police from using chokeholds and other dangerous restraints, as well as no-knock warrants in drug-related cases, among other provisions. H.R. 7120 will likely form the basis of a criminal justice reform-related package taken up by the 117th Congress.

Congressional Review Act Disapproval Resolutions

The [Congressional Review Act \(CRA\)](#) enables Congress to disapprove a final rule issued by a federal department or agency. A rule disapproved using this mechanism is not only nullified; the department or agency is also prevented from reissuing a “substantially similar” rule in the future unless Congress authorizes it to do so via subsequent legislation. Congress generally has 60 days to review rules, but there is a provision that also allows an incoming Congress to review the last 60 days of rules issued during the previous Congress. A simple majority in both houses of Congress is required for the measure to pass and be sent to the President, which means that the Democratic majorities in the House and Senate can pass CRA disapproval resolutions without any Republican support.

[According](#) to regulatory experts at The George Washington University’s Regulatory Studies Center, “all regulatory actions issued on or after August 21, 2020 are subject to expedited disapproval under the CRA. The definitive date is pending a formal opinion issued by the House and Senate Parliamentarians.” According to the Regulatory Studies Center, there are more than [1,450 final rules/regulations](#) published by the Trump Administration between August 21, 2020 and January 20, 2021 that could be nullified by Congress under the CRA in the early part of the 117th Congress.

Some controversial Trump Administration rules that could be subject to the CRA are:

- The Environmental Protection Agency’s (EPA) “transparency” final rule that limits the EPA’s ability to consider scientific research where the raw data is not completely public.
- EPA’s Lead and Copper rule which retains existing lead action level and relaxes schedule for replacing lead water lines.
- EPA’s final rule that allows a “major source” of hazardous air pollutants to reclassify as an “area source” after acting to limit emissions.
- EPA’s Oil and Natural Gas Sector: Emissions Standards for New, Reconstructed, and Modified Sources Review rule.
- EPA’s Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process rule.
- EPA’s Review of the Ozone National Ambient Air Quality Standards rule.
- EPA’s Review of the National Ambient Air Quality Standards for Particulate Matter rule.
- The Department of the Interior’s (DOI) Endangered Species rules for “Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat.”
- DOI’s Migratory Bird rule governing the take of migratory birds.
- The Federal Energy Regulatory Commission’s final rule on calculating energy rates pursuant to the Public Utility Regulatory Policies Act of 1978.
- The Department of Energy’s Efficiency Standards rule for residential dishwashers and showerheads.

- The Federal Communications Commission’s Order on Remand with respect to net neutrality.
- The Commodity Futures Trading Commission’s final rule amending regulations of speculative position limits for derivatives.
- The Comptroller of the Currency’s Fair Access to Financial Services Rule, which limits the ability of banks to cut off lending services to fossil fuel companies.
- The Department of Health and Human Services’ (HHS) Sunset rule that sunsets HHS regulations subject to the Regulatory Flexibility Act automatically after ten years unless specifically extended.
- The Department of Homeland Security H1-B Lottery Replacement rule, which modifies Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions.
- The Department of Justice Asylum Eligibility rules entitled “Procedures for Asylum and Withholding of Removal.”
- The Department of Labor’s (DOL) final rule that expands the definition of when an employee can be considered an independent contractor for purposes of benefits and labor laws.
- The Department of Transportation’s Gas Pipeline Safety Standards rule which withdraws enforcement discretion.

FY2022 Appropriations and the Potential Return of Earmarks

The Biden Administration is predicting a delay of the FY2022 budget request President Biden will formally send to Congress. The president is supposed to release a budget blueprint every year in early February, which showcases national priorities for the fiscal year ahead. However, President Biden’s budget request will likely be delayed, at a minimum, by several weeks. Once Biden’s FY2022 budget request is sent to Congress, the House and Senate Appropriations Subcommittees will begin to hold budget oversight hearings with various heads of federal departments and agencies. Subcommittee markups for each of the twelve FY2022 appropriations bills should begin in earnest beginning by mid-April/mid-May.

On October 14, 2020, the House Select Committee on the Modernization of Congress [released](#) its [final 295-page report](#) which details the Committee’s 97 recommendations and findings made during the 116th Congress to make Congress work better for the American people. The bipartisan report, approved unanimously by the Committee on September 24, 2020 includes an important [recommendation](#) within “Chapter 10: Reclaim Congress’ Article One Powers,” entitled: **“Reduce dysfunction in the annual budgeting process through the establishment of a congressionally-directed program that calls for transparency and accountability, and that supports meaningful and transformative investments in local communities across the United States. The program will harness the authority of Congress under Article One of the Constitution to appropriate federal dollars.”**

This recommendation proposes parameters for a limited return to earmarks beginning in the 117th Congress. Under the panel’s proposition for a **“Community-Focused Grant Program”** (CFGP), public entities, including local, tribal, and state governments and not-for-profit entities that serve a public interest, would send their requests to a member of Congress for funds to tackle a local priority. Members would then choose which projects to support and submit an application to the corresponding committee. The total grant program would be restricted to one percent of discretionary spending. For-profit firms and relatives of members of Congress would be barred from applying.

The new House Appropriations Committee Chairwoman, Rep. Rosa DeLauro (D-CT), has indicated her support for a return of earmarks, as has incoming Senate Appropriations Committee Chairman Patrick Leahy (D-VT), significantly increasing the likelihood of their return. The specific details of the parameters of a new earmark system, including whether it will look like the proposed CFGP, will likely not be known until later in the spring of 2021. Additionally, the House and Senate Democratic caucuses would likely need to approve of a new earmark program for it to return.

President Biden's Executive Actions

On January 16, 2021, President Biden's Chief of Staff, Ron Klain, sent a [memo](#) to incoming White House senior staff regarding an "Overview of the First Ten Days of the Administration." The memo outlines executive actions that President Biden will take to "change the course of COVID-19, combat climate change, promote racial equity and support other underserved communities, and rebuild our economy in ways that strengthen the backbone of this country: the working men and women who built our nation."

According to an additional [memo](#) provided by the Biden Administration, on Inauguration Day (January 20), President Biden will sign 17 Executive Orders, Memoranda, and Directives, including:

- Launching a "100 Days Masking Challenge" by asking the American people to mark up for the next 100 days and issuing an Executive Order requiring masks and physical distancing in all federal buildings, on all federal lands, and by federal employees and contractors. He will also ask the Department of Health and Human Services and Centers for Disease Control and Prevention (CDC) to engage with state, local, Tribal, and territorial officials to implement masking, physical distancing, and other CDC public measures to stop the spread of COVID-19.
- Rejoining the World Health Organization.
- Creating the position of COVID-19 Response Coordinator, who will report directly to the President and be responsible for coordinating all elements of the COVID-19 response across government, including managing efforts to produce, supply, and distribute personal protective equipment, vaccines, and tests.
- Extending the CDC's nationwide evictions moratorium from January 31 to March 31, 2021 and asking the Departments of Veterans Affairs, Agriculture, and Housing and Urban Development to extend the foreclosure moratorium for federally guaranteed mortgages and continuing applications for forbearance for federally guaranteed mortgages until at least March 31, 2021.
- Requiring the Department of Education to extend the existing pause on student loan payments and interest for millions of Americans with federal student loans until at least September 30, 2021.
- Re-joining the Paris Agreement on Climate Change.
- Signing an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," which includes:
 - Directing all executive departments and agencies to immediately review and take appropriate action to address federal regulations and other executive actions taken during the last four years that were harmful to public health, damaging to the environment, unsupported by the best available science, or otherwise not in the national interest, including agency actions identified on the attached [list](#);

- Directing agencies to consider revising vehicle fuel economy and emissions standards, methane emissions standards, and appliance and building efficiency standards to ensure that such standards cut pollution, save consumers money, and create good union jobs;
- Directing the Department of Interior to protect our nation's treasures by reviewing the boundaries and conditions of the Grand Staircase-Escalante, Bears Ears, Northeast Canyons, and Seamounts Marine National Monuments and placing a temporary moratorium on all oil and natural gas leasing activities in the Arctic National Wildlife Refuge;
- Re-establishing the Interagency Working Group on the Social Cost of Greenhouse Gases (GHG) and directing the issuance of an interim social cost of GHG schedule to ensure that agencies account for the full costs of GHG emissions, including climate risk, environmental justice and intergenerational equity; and
- Revoking, revising, or replacing additional Executive Orders, Presidential Proclamations, Memoranda, and Permits signed over the past 4 years that do not serve the U.S. national interest, including revoking the Presidential permit granted to the Keystone XL pipeline.
- Signing an Executive Order beginning the work of embedding equity across federal policymaking and rooting out systemic racism and other barriers to opportunity from federal programs and institutions. The Executive Order will define equity as the consistent and systematic fair, just, and impartial treatment of all individuals. The E.O. will also rescind the Trump Administration's 1776 Commission and will revoke President Trump's executive order limiting the ability of federal government agencies, contractors and even some grantees from implementing important and needed diversity and inclusion training.
- Signing an Executive Order to revoke the Trump Administration's orders setting out a plan to exclude non-citizens from the 2020 Census and apportionment of Congressional representatives. The E.O. will also ensure that the Census Bureau has time to complete an accurate population count for each state.
- Signing a Presidential Memorandum directing the Secretary of Homeland Security, in consultation with the Attorney General, to take all appropriate actions under the law to preserve and fortify protections for individuals eligible to receive protections under the Deferred Action for Childhood Arrivals (DACA) program. The Memorandum will also call on Congress to enact legislation providing permanent status and a path to citizenship for people who came to this country as children and have lived, worked, and contributed to our country for many years.
- Rescinding the Trump Administration's travel ban on several majority-Muslim countries.
- Revoking a Trump Executive Order that directed harsh and extreme immigration enforcement.
- Declaring an immediate termination of the national emergency declaration that was used as a pretext to justify some of the funding diversions for the wall along the southern border. The proclamation directs an immediate pause in wall construction projects to allow a close review of the legality of the funding and contracting methods used, and to determine the best way to redirect funds that were diverted by the prior Administration to fund wall construction.
- Signing a Presidential Memorandum to extend until June 30, 2022 the long-standing Deferred Enforced Departure (DED) designation for Liberians who have been in the United States for many years.
- Signing an Executive Order that builds on the U.S. Supreme Court's decision in *Bostock v. Clayton County* (2020) and ensures that the federal government interprets Title VII of the Civil Rights Act of 1964 as prohibiting workplace discrimination on the basis of sexual orientation and gender identity. This E.O. will also direct agencies to take all lawful steps to make sure that federal anti-discrimination

statutes that cover sex discrimination prohibit discrimination on the basis of sexual orientation and gender identity, protecting the rights of LGBTQ+ persons.

- Signing an Executive Order banning senior presidential appointees from accepting special bonuses akin to “golden parachutes” from former employers for joining the federal government, while putting in place other expanded revolving-door restrictions on lobbyists joining the Biden Administration and members of the Administration who leave to become lobbyists.
- Signing a Presidential Memorandum withdrawing the Trump Administration’s regulatory process executive orders to remove those needless obstacles to regulating in the public’s interest. The Memorandum will direct the Director of the White House Office of Management and Budget (OMB) to develop recommendations for improving and modernizing regulatory review. On January 20, the White House Chief of Staff, Ron Klain, will also issue a regulatory freeze memo that will pause any new regulations from moving forward and give the incoming Administration an opportunity to review any regulations that the Trump Administration tried to finalize in its last days. The memo directs all agencies to confer with the OMB Director before renewing any regulatory activity.

On January 21, President Biden will sign a number of executive actions “to move aggressively to change the course of the COVID-19 crisis and safely re-open schools and businesses, including by taking action to mitigate spread through expanding testing, protecting workers, and establishing clear public health standards.” On January 22, President Biden will “direct his Cabinet agencies to take immediate action to deliver economic relief to working families bearing the brunt of this crisis.”

Between January 25 and February 1, President Biden will sign additional executive actions, memoranda, and Cabinet directives. According to Chief of Staff Klain’s memo, President Biden will “fulfill his promises to strengthen Buy American provisions so the future of America is made in America. He will take significant early actions to advance equity and support communities of color and other underserved communities. He will take action to begin fulfilling campaign promises related to reforming our criminal justice system. The president-elect will sign additional executive actions to address the climate crisis with the urgency the science demands and ensure that science guides the administration’s decision making. President-elect Biden will take first steps to expand access to health care - including for low-income women and women of color. He will fulfill his promises to restore dignity to our immigration system and our border policies, and start the difficult but critical work of reuniting families separated at the border. And, President-elect Biden will demonstrate that America is back and take action to restore America’s place in the world.” The list of executive actions outlined is not exhaustive and Klain has promised that “more items and more details will be forthcoming in the days ahead.”

On January 15, President Biden released the details of his Administration’s [COVID-19 Vaccination Plan](#). Key highlights of the plan include taking action to:

- **Get more people vaccinated:**
 - Encourage states to allow more people to be vaccinated including individuals 65 and older as well as frontline workers.
 - Ensure equity throughout the vaccination process to reach those in hard-to-reach, marginalized communities.
- **Create more vaccination sites:**
 - Stand up new, federally-supported community vaccination centers across the country.
 - Fully reimburse state deployment of the National Guard to support vaccinations and provide additional FEMA assistance.

- Launch mobile vaccination clinics and provider partnerships to reach underserved urban areas and rural communities.
- Make vaccines available in pharmacies.
- Launch a new partnership with Federally Qualified Health Centers nationwide.
- Launch new models to serve high-risk individuals.
- **Increase supply and get it out the door as quickly as possible:**
 - Ensure a robust vaccine supply and spur manufacturing.
 - Be a reliable partner for states by providing actionable data on vaccine allocation timelines and delivery.
 - Increase vaccine availability while maintaining a commitment to the two-dose schedule.
- **Mobilize more personnel to get shots in arms:**
 - Surge the public health workforce to support the vaccination effort.
 - Mobilize a public health jobs program to support COVID-19 response.
- **Ensure the American people have the information and confidence they need to get vaccinated:**
 - Launch a federally led, locally focused public education campaign.

Other [executive actions](#) that President Biden will likely take during the remainder of his first 100 days include:

- Reforming the U.S. asylum system and the treatment of people at the border with Mexico, specifically ending the Trump administration’s Migrant Protection Protocols as well as to the policy of “metering” asylum cases.
- Instituting a national policing oversight commission and reinstating Obama-Biden policies governing the transfer of military-style equipment to local law enforcement.
- Taking steps to improve prison conditions and begin to eliminate the use of private prisons.
- Planning an international summit where democratic leaders will discuss ways to push back against corruption and authoritarian practices as well as expand human rights.
- Organizing a “Climate Leaders’ Summit” on April 22 to assist nations with high carbon emissions to take climate action.
- Asking Congress to close the “loopholes” in the gun background check system, and also repeal liability protection for gun manufacturers, which would allow Americans to sue the gun industry if a gun is used in a crime, and “restructure” federal agencies that oversee gun laws.
- Asking Congress to update the Violence Against Women Act by including greater protections for transgender women.
- Pushing Congress to pass the “Equality Act,” a bill to add more protections for LGBTQ Americans.
- Directing the U.S. Department of Housing and Urban Development to take steps to promote equitable housing politics.
- Signing Executive Orders regarding U.S. Department of Justice (DOJ) prosecutorial and sentencing guidelines and one regarding voting rights/civil rights.
- Directing federal agencies to “recruit and retain employees to confront 21st Century challenges, including through reskilling, professional development, and possible reserve corps to fill mission-critical gaps.”
- Signing a “forever wars” executive order, which will initiate a “review of CT operations and options to [responsibly] reduce such operations; reinstates transparency measures on civilian casualties; reinstates the policy of closing GITMO; initiates a process to migrate substantial use of force operations to Title 10.”

- Signing a Presidential Memorandum to strengthen U.S. efforts to promote human rights of LGBTQ people overseas.

President Biden's Nominees and Appointees

As of January 20, President Biden has [announced](#) all the members of his Cabinet, in addition to dozens of other department and agency nominees and political appointees throughout the federal government. Here are the 15 nominees who will serve in President Biden's Cabinet, in addition to 10 Cabinet-level officials:

Position	Name
Secretary of Agriculture	Tom Vilsack
Attorney General	Merrick Garland
Secretary of Commerce	Gina Raimondo
Secretary of Defense	Lloyd Austin
Secretary of Education	Miguel Cardona
Secretary of Energy	Jennifer Granholm
Secretary of Health and Human Services	Xavier Becerra
Secretary of Homeland Security	Alejandro Mayorkas
Secretary of Housing and Urban Development	Marcia Fudge
Secretary of the Interior	Deb Haaland
Secretary of Labor	Marty Walsh
Secretary of State	Antony Blinken
Secretary of Transportation	Pete Buttigieg
Secretary of the Treasury	Janet Yellen
Secretary of Veterans Affairs	Denis McDonough
White House Chief of Staff	Ron Klain
U.S. Trade Representative	Katherine Tai
Director of National Intelligence	Avril Haines
Administrator of the Environmental Protection Agency	Michael Regan
Administrator of the Small Business Administration	Isabel Guzman
Director of the Office of Management and Budget	Neera Tanden
U.S. Ambassador to the United Nations	Linda Thomas-Greenfield
Chair of the Council of Economic Advisors	Cecelia Rouse

Science Advisor to the President and Director of the Office
of Science and Technology Policy [Eric Lander](#)

Special Presidential Envoy for Climate [John Kerry](#)

All of President Biden’s additional nominees and appointees for non-Cabinet positions, White House Senior Staff, and other White House personnel can be found [here](#).

TFG will engage with you, the Biden Administration, and Members of the 117th Congress in the first 100 days of the new Administration and Congress and beyond and will monitor and report on the issues of interest to you.