

To: Interested Parties

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At the end of a presidential election cycle that included historic fundraising and turnout and was administered under the shadow of a global pandemic, voters have decided to change direction, paving the way for president-elect Joe Biden to win control of the White House. Assuming pending lawsuits or other major events do not materially change the results, President Donald Trump is set to become just the 11th president who failed to win in a bid for re-election to a second term.

Success at the top of the ticket did not extend down ballot, however, as Republicans' strong overperformance helped defend against most Democratic challenges in Senate races and narrowed the gap in the House. Though four Senate races remain uncalled as of writing, Republicans appear poised to carry a 50-48 advantage in the chamber with control of the Senate coming down to January runoffs for the two Senate seats in Georgia. Meanwhile, Republicans have secured a net gain of five seats in the House, helping to close the gap in that chamber even while Democrats are expected to retain control.

Outcomes and Implications

Administration

In his third official campaign for the White House in a decades-long career in politics, former Vice President Joe Biden has secured the electoral college votes necessary to win the presidency. Biden's victory comes amid a campaign that coalesced support from moderate and progressive Democrats as well as Republicans disaffected with President Donald Trump's leadership, giving him the upper hand against an incumbent president but perhaps setting the stage for internal divisions as Biden will almost certainly be pulled in all directions by these groups now that he is in power.

President-elect Biden ultimately prevailed in the election by holding on to all states won by Hillary Clinton in 2016, recreating the "Blue Wall" by flipping Wisconsin, Michigan, and Pennsylvania, and expanding the map for Democrats with a win in Nebraska's 2nd Congressional District and potential wins in Arizona and Georgia. The result was a victory over an incumbent who maintained a strong base of support despite historically low approval ratings.

Biden's victory is likely to mark a dramatic shift away from the governing style of President Donald Trump to what is expected to be a more traditional approach to running the Executive Branch. In general, Biden is an institutionalist who is likely going to support legislative over regulatory action. While there are going to be some exceptions, it seems likely that Biden will want to try to be collaborative with Congress where possible. Additionally, Biden will likely follow "regular order" in

the regulatory and legislative space far more so than the Trump Administration. This likely means that actions are going to be forecasted well in advance and affected entities (community representatives, industry, etc.) will all have their chance to be heard.

One of the major outstanding determinants of Biden's agenda upon taking office is the makeup of the Senate. Heading into Election Day, Democrats were hopeful that a "blue wave" would usher Biden into the White House and Democratic majorities in both chambers of Congress, giving a Biden Administration wide latitude to take both executive and legislative action. While control of the Senate remains in play (outlined below), Republicans are currently favored to keep their majority. If this remains the case, the Biden Administration will be required to secure at least some Republican support for any legislative items as well as nominations—including nominations to Biden's cabinet.

Senate

Control of the Senate remains in limbo as votes continue to be counted, though Republicans' chances of retaining their majority continue to look good. Heading into Election Day, Republicans maintained a 53-47 advantage in the Senate. To gain control, Democrats need a net gain of three seats for a 50-50 split, in which case Vice President-elect Kamala Harris would serve as a tiebreaker.

As it currently stands, both parties have secured 48 seats apiece with seats in Alaska, Georgia (2 seats), and North Carolina outstanding. While Democrats have achieved a net gain of one seat, Republicans have successfully fended off insurgent challengers in a number of states that make Democrats' path to the majority very difficult. Republicans' sustained lead in Alaska and North Carolina are expected to put those out of reach, meaning Democrats' hopes of a 50-50 split rests on winning both runoffs in Georgia, set to take place on January 5. This window of opportunity is dramatically narrower than Democrats' chances heading into Election Day, when seven seats were rated "Toss Ups" and six were rated "Lean Republican"—none of which Democrats have won so far.

Democrats' two flips came in Colorado and Arizona—the only two Republican held seats rated by the Cook Political Report as "Lean Democrat." Republicans have also flipped a seat, winning in Alabama in the only Democratic held seat rated by the Cook Political Report as "Lean Republican."

Notably, among the races that have been called, the only divergence between the result at the top of the ticket and the Senate race has been in Maine, where Biden won three of the state's four electoral votes but incumbent Sen. Susan Collins (R) kept her seat.

Competitive Senate Race Results

STATE	DEMOCRAT	REPUBLICAN	RESULTS
<i>COOK POLITICAL REPORT RATING: TOSS UP</i>			
GA	Raphael Warnock	Kelly Loeffler*	Runoff (Jan. 5 th)
GA	Jon Ossoff	David Perdue*	Runoff (Jan. 5 th)
IA	Theresa Greenfield	Joni Ernst*	Ernst
ME	Sara Gideon	Susan Collins*	Collins
MT	Steve Bullock	Steve Daines*	Daines
NC	Cal Cunningham	Thom Tillis*	Pending
SC	Jaime Harrison	Lindsey Graham*	Graham
<i>COOK POLITICAL REPORT RATING: LEAN DEMOCRAT</i>			
AZ	Mark Kelly	Martha McSally*	Kelly
CO	John Hickenlooper	Cory Gardner*	Hickenlooper
MI	Gary Peters*	John James	Peters
<i>COOK POLITICAL REPORT RATING: LEAN REPUBLICAN</i>			
AK	Al Gross	Dan Sullivan*	Pending
AL	Doug Jones*	Tommy Tuberville	Tuberville
KS [Pat Roberts]	Barbara Bollier	Roger Marshall	Marshall
TX	M.J. Hegar	John Cornyn*	Cornyn

Competitive Democratic-Held Seats

Alabama (Jones) – Tommy Tuberville won handily over incumbent Sen. Doug Jones (D) by more than 20 points. Tuberville, a retired football coach and former football player, beat out former Attorney General Jeff Session in the Republican primary with the backing of President Trump and portrayed himself as a close ally to the President with the slogan “stand with President Trump” on the campaign trail. Sen. Jones, who won his Senate seat during the 2017 special election against

GOP candidate Roy Moore, branded himself as a pragmatic moderate but was considered the most vulnerable incumbent Senator to face reelection this year.

Michigan (Peters) – Incumbent Sen. Gary Peters (D) successfully fended off a challenge from businessman and former Army veteran John James to retain his seat. The race was rated as a “Lean Democrat” by the Cook Political Report and was one of two major pickup targets for Republicans this cycle. Republican stakeholders eagerly courted James to run earlier this year and his victory would add a second African American to the ranks of Senate Republicans.

Competitive Republican-Held Seats

Alaska (Sullivan) – The race between incumbent Sen. Dan Sullivan (R) and Democratic challenger Al Gross remains undecided as of writing. Though Sen. Sullivan maintains a large lead currently, only 56 percent of precincts are reporting. The Cook Political Report rated the race as Lean Republican. While Sen. Sullivan said he expected a close race prior to polls closing, he has grown increasingly confident in his ability to hold on to his seat.

Arizona (McSally) – Senate Democrats made a historic gain in Arizona after Mark Kelly, former astronaut and wife of former Rep. Gabby Giffords (D), beat Sen. Martha McSally (R), winning the seat formerly held by the late Sen. John McCain (R). With the influx of young, Latino voters in key suburban counties coupled by the growing disenchantment of white suburban women against President Trump, Arizona voters came out in record numbers with both candidates spending more money than in any campaign in history.

Colorado (Gardner) – Democratic challenger John Hickenlooper (D) has beaten incumbent Sen. Cory Gardner for the Colorado Senate seat. The race was one of two held by Republicans which were rated “Lean Democrat” by the Cook Political Report heading into Election Day and was considered critical to Democrats’ push to close the gap with Republicans in the chamber.

Georgia (Loeffler) – The Georgia special election—one of two Senate races in Georgia—advances to a January 5 runoff after no candidate secured 50 percent of the vote. Facing off in two months will be incumbent Sen. Kelly Loeffler (R) and Democratic challenger Raphael Warnock. Representative Doug Collins (R), who came in a close third in the race, has conceded and endorsed Sen. Loeffler. While Warnock came out of the race in first place with 32.9 percent of the vote, he faces a major uphill battle in a head-to-head race with Sen. Loeffler where Republicans’ votes won’t be split.

Georgia (Perdue) – The race between incumbent Sen. David Perdue (R) and Democratic challenger Jon Ossoff will also advance to a January 5 runoff. Though Sen. Perdue was above the 50 percent threshold for much of the post-election vote counting, the late tabulation of mail ballots dropped him below that threshold. The race is rated Lean Republican by the Cook Political Report and Sen. Perdue currently carries a 1.9 point lead.

Iowa (Ernst) – Incumbent Sen. Joni Ernst (R) defeated challenger Theresa Greenfield (D) to keep her Senate seat by a 51.8 to 45.2 margin. The freshman Senator notably serves in Republican Senate leadership as Vice Chairman of the Senate Republican Conference. While perhaps not one of the earliest targets by Democratic stakeholders in the 2020 cycle, tightening polls in recent months led the race to be rated a Toss Up by the Cook Political Report.

Kansas (Open) – Former Representative Roger Marshall (R) has beaten Democratic challenger Barbara Bollier for the Kansas Senate seat. The race for the open seat to replace retiring four-term Republican Sen. Pat Roberts (R) was rated Lean Republican by the Cook Political Report and was the most competitive Senate race in the state in decades. Campaign filings show that the race was estimated to be the most expensive contest in recent history with roughly \$65 million spent in the lead up to November 3.

Maine (Collins) – Incumbent Sen. Susan Collins (R) has won the race against Democratic challenger Sara Gideon by over seven points. The race was rated Lean Republican by the Cook Political Report and is thus far the only instance this year of a split between the top of the ticket and the Senate race, with Biden projected to carry the state by over ten points.

Montana (Daines) – Incumbent Sen. Steve Daines (R) will retain his seat in his race against Montana Governor Steve Bullock (D) with an eight point margin. Gov. Bullock was term-limited as governor and challenged Sen. Daines after a brief foray into the Democratic presidential primary. While Montana has regularly gone Republican in presidential races in recent years, the state has a history of statewide Democratic office holders, including current Sen. Jon Tester (D), and the race was rated a Toss Up by the Cook Political Report.

North Carolina (Tillis) – Incumbent Sen. Thom Tillis (R) remains locked in a tight race with Democratic challenger Cal Cunningham, though he is widely expected to retain his seat. With the state remaining too close to call, Sen. Tillis leads Cunningham 48.7 to 46.9 with 97 percent of precincts reporting. North Carolina was rated as a Toss Up by the Cook Political Report and was targeted by Democrats as a key pickup target in the 2020 election cycle.

South Carolina (Graham) – Incumbent Sen. Lindsey Graham (R) has beaten Democratic challenger Jaime Harrison to retain his Senate seat. Though the race was rated a “Toss Up” by the Cook Political Report, Sen. Graham handily won by nearly 14 points with 92 percent of votes counted.

Texas (Cornyn) – Incumbent Sen. John Cornyn (R) prevailed over Democratic challenger M.J. Hegar for the Texas Senate seat. The race was largely expected to go in Sen. Cornyn’s favor despite its rating as Lean Republican by the Cook Political Report. President Trump’s victory in the state likely supported Sen. Cornyn’s success during this election as both candidates won roughly the same percentage of the overall vote in the state.

House of Representatives

While 26 House seats remain contested as of writing, a majority of major news publications estimate that Democrats will retain control of the House of Representatives. Democrats currently hold 214 seats compared to Republicans' 195 (218 seats are needed for control).

Heading into Election Day, Democrats were projected to expand the majority they picked up in the 2018 elections. An overperformance against polls, however, has flipped the narrative and opened the door for Republicans to narrow their margin in the chamber. Highlighting Republicans' surprising success in House races this election is the fact that, as of writing, Republicans have won all states rated "Toss Up" or better while also securing victories in four "Lean Democrat" races. This has allowed Republicans to flip eight seats, with a significant number of close races remaining. Democrats, on the other hand, have flipped just three seats, netting Republicans five seats in the race so far.

Of notable races called, House Agriculture Committee Chairman Collin Peterson (D-MN) lost his seat to former Lieutenant Governor Michelle Fischbach (R). Chairman Peterson had represented the 7th District for 30 years, even winning amongst President Trump's significant margin of victory in 2016.

Elsewhere, Republicans enjoyed success against a number of freshmen Democrats who were first elected in the 2018 wave. This includes two seats in South Florida—an area where President Trump significantly overperformed this year—as well as seats in New Mexico (held by Rep. Xochitl Torres Small), South Carolina (held by Rep. Joe Cunningham), Oklahoma (held by Rep. Kendra Horn), and Iowa (held by Rep. Abby Finkenauer). Two of Democrats' flips came in North Carolina following redistricting in that state, with pickups in the 2nd and 6th Congressional Districts where in both instances the incumbent vacated the seat, while the third flip came in the hotly contested Georgia 7th Congressional District previously held by Rep. Rob Woodall (R).

Biden Administration Transition

Transition Efforts

With the presidential election now complete, pending the status of lawsuits, president-elect Biden's campaign will shift quickly into full preparation mode to staff the new administration in order to hit the ground running after Biden's inauguration.

Biden has promised to increase representation of women and minorities in cabinet positions and other high-ranking administration roles and move rapidly with certain key White House positions that do not require Senate confirmation. While Biden has not named selections to any positions yet, stakeholders expect selections to be a mix of moderates and progressives comprised of long-time Biden advisors, former Democratic presidential rivals, members of the Biden campaign team and outside advisers, and potentially officials drawn from the unity "task forces" that helped sketch some potential policy priorities during the campaign.

Timing for when Biden will be able to fill out his cabinet remains to be seen—particularly if Republicans hold their majority in the Senate and can delay or force compromise on potential nominees—though each of the past five presidents have successfully filled out their cabinets within the first 100 days of office and all but President George H.W. Bush had at least two nominees confirmed on their first day (the highest being seven under President George W. Bush and the lowest being two under President Trump). On the longer end of the timetable, neither Presidents Trump and Obama had a full cabinet in place until late April. Comparatively, President George W. Bush's cabinet was finalized by January 30 and President Bill Clinton's was finalized in mid-March, though in President Clinton's case all but one pick was confirmed by his second day in office and the final position (Attorney General) was the outlier that stretched into March. All four presidents also suffered from at least one nomination (President Obama had three), which could also inject uncertainty into the process.

In filling the top echelons of Biden's team, observers expect pressure from the moderate and progressive wings of the party as each push for officials who more closely align with their priorities. The Biden transition team has also reportedly vetted several Republicans for potential roles in an effort to position Biden as a unifying figure. While this follows similar transition efforts by Presidents Barack Obama and George W. Bush, progressives may attempt to prevent this style of bipartisan official in favor of more left-wing candidates. Senate Republicans could also hold some sway over the selection process, as any pick could require at least some bipartisan support if Republicans hold on to the chamber.

The Biden team already has an established transition team working to ensure a smooth process. Former Senator Ted Kaufman (D-DE) has been leading the campaign's transition efforts alongside four co-chairs, including former director of the National Economic Council Jeff Zients, New Mexico Governor Michelle Lujan Grisham (D), Representative Cedric Richmond (D-LA), and Biden campaign senior advisor Anita Dunn.

Biden Administration Priorities

Within president-elect Biden's first 100 days, he will likely oversee the beginnings of a complete overhaul of the Executive Branch. While turnover among the political ranks always occurs under a new administration, the shift from the Trump Administration to the Biden Administration will likely be more stark than normal given the approach to staffing the federal government taken by President Trump wherein many non-political, career officials were pushed out in favor of those who more closely align with the President. In general, this would be a drawn-out process, the speed of which would impact the Biden Administration's ability to act on policy priorities.

One of the first policy priorities for president-elect Biden will be containing the COVID-19 pandemic. It is expected that the Biden transition team will very publicly begin pushing their COVID-19 response plan immediately after the election, including by naming a 12-member COVID-19 task force as soon as next week, to begin driving the conversation nationwide before even assuming

office. Biden's COVID-19 plan, which will flip from a state-based model to one that is federally standardized and mandated, includes increasing the number of drive-through testing sites, investing in technology to allow for at-home testing, mandating mask-wearing, and using presidential powers to manufacture personal protective equipment. Biden has also called for widespread distribution of a COVID-19 vaccine to everyone in the U.S. free of charge once one is developed and is expected to make broad efforts to restore faith in science and in regulatory bodies such as the Food and Drug Administration (FDA) and Centers for Disease Control and Prevention (CDC). Whether or not the Biden Administration considers additional COVID-19 relief could depend on what action Congress takes during the lame duck period.

Other health care matters will also be a top priority for the Biden Administration. For example, president-elect Biden has promised to bolster the Affordable Care Act (ACA)—including to either preempt or fix aspects of the law to address the pending Supreme Court case and to potentially add a public option, broaden the scope of Medicare and ACA coverage, and reduce Medicare eligibility from age 65 to 60. Other initiatives, such as taking action to reduce the cost of prescription drugs, could also figure prominently in his health care plans.

Addressing the COVID-19-induced economic downturn is also expected to figure prominently in the Administration's early agenda, likely through a legislative package that includes infrastructure, energy/climate change, and strong labor provisions.

Finally, president-elect Biden has indicated he would seek to return the country to a global posture more closely matching that under President Obama's tenure, including by engaging on the world stage on issues such as climate change and by likely taking a hardline approach to countries who have opposed the U.S., like Russia. The Biden Administration may also seek to implement more favorable immigration policies that could encourage more individuals to come to the U.S. and, with the backing of Congress, potentially impose higher corporate taxes and greater regulation on certain industries, which may impact decisions made by those affected companies.

Lame Duck Priorities

Schedule

The Senate is set to reconvene for the lame duck session on November 9 while the House will follow on November 16. The 117th Congress will be sworn in on January 3.

Policy Priorities

History has shown that Congress can pass major legislative items during a lame duck session. Following the 2016 election, for example, Congress averted a government shutdown by extending federal funding from December 9 to April 28 of the next year while passing into law sanctions on Iran, the National Defense Authorization Act (NDAA), and the 21st Century Cures Act.

In the upcoming lame duck session, Congress has three major items on its agenda before closing out the year: government funding, COVID-19 aid, and this year's NDAA. With most election results now in hand and the balance of power in the Senate in flux until January, legislators have signaled some willingness to move on all three items. Though roadblocks could arise at any time once negotiations resume, signs are more positive than they have been in recent weeks that Congress could find bipartisan paths forward.

One of the only true, must-pass items on Congress' schedule for the lame duck period is fiscal year (FY) 2021 government funding, which is set to expire at midnight on December 11. Though legislators of either party could use an impending government shutdown as leverage to pass other priorities during the lame duck, it seems unlikely that either party would be motivated to do so. As such, the primary debate will likely center on the duration of any funding measure with a choice between punting into the first half of 2021 or securing funding for the remainder of the fiscal year (ending September 30). The latter option was given a boost this week when Senate Majority Leader Mitch McConnell (R-KY) said that he and House Speaker Nancy Pelosi (D-CA) agree on an omnibus appropriations bill that would cover the remainder of the fiscal year.

Beyond government funding, there are a number of major legislative items which have been the subject of extended negotiations and which may advance in a lame duck session. One such item is a COVID-19 relief package. Speaker Pelosi and Treasury Secretary Steven Mnuchin have led the on-again, off-again discussions on the matter over the course of several months and are reportedly inching closer to a deal. The likelihood of such a relief package was also given a boost when Majority Leader McConnell put his weight behind a package "before the end of the year" and said more funding for state and local governments—a key Democratic demand—is a "possibility." However, as has been the case with negotiations over COVID-19 aid for months, negotiations on a package could hit a wall once legislators start work on it.

Finally, another major legislative item which could pass during the lame duck is the FY 2021 National Defense Authorization Act (NDAA). Though both chambers have passed their own versions of the NDAA, conferees won't be named until after the election when real negotiations on a compromise bill is expected to take place. Indications are strong that Congress will pass an NDAA before the end of the year with little fanfare.