

January 2021

Dear Friends,

On Wednesday, January 13th, the House voted to impeach President Trump for the second time, charging him with "incitement of insurrection" after the violence and rioting last week at the Capitol, where five people tragically died. With that vote, he is the only President in history to be impeached twice. The final vote tally was 232 to 197, with 10 Republicans in support. The timing and next steps of a possible Senate trial are unclear, though Leader McConnell indicated that there will be no trial before Mr. Biden is inaugurated next week. See below for more on the impeachment vote and what's next.



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With the Democratic challengers prevailing in both Georgia runoff races on January 5th, the Democrats will have de facto control of the U.S. Senate with Vice President-elect Kamala Harris casting a tie-breaking vote. For more on how a 50-50 Democratic-Republican Senate split works, and what it could mean for President-elect Biden's agenda and cabinet appointments, see below.

If you have questions on any of the issues referenced below, or need additional details or help, please don't hesitate to email or call us.

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I. Impeachment Vote: What's Next

The final vote on impeachment in the House was [232-197](#), with 10 Republicans and every Democrat voting in favor. The text of the impeachment article approved by the House can be found [here](#). The Republican 'yea' votes were: newly-elected Representative Peter Meijer (MI-3), Representative John Katko (NY-24), Representative Dan Newhouse (WA-4), Representative Tom Rice (SC-7), Representative Anthony Gonzalez

¹ January's month-ahead policy review is courtesy of *PoliticoPro's* (Pro) monthly "CEO Report," a "high-level outlook on the policy issues driving the month ... and beyond." This month, Pro takes a look at some of the key "power players" in the incoming Biden Administration and on Capitol Hill in the New Year.

(OH-16), Representative Fred Upton (MI-6), Representative Liz Cheney (WY-at large), Representative Jamie Herrera Beutler (WA-3), and Representative Adam Kinzinger (IL-16). Note that no House Republican supported [either](#) of the two [impeachment](#) articles against President Trump in late 2019. However, it is greater than the five (5) [Democratic votes](#) for three of the four articles of impeachment against President Bill Clinton in December 1998.

The most notable member among the group of ten Republicans was Representative Liz Cheney, the GOP Conference Chair – the third ranking member of the House GOP leadership – and the daughter of former Vice President Dick Cheney. On a GOP conference call earlier in the week, Representative Cheney called the upcoming impeachment vote a conscience vote for members. A copy of Representative Cheney's statement, cited by a few Democrats during floor debate, is [here](#).

It was an incredibly consequential vote for members. Representative Kinzinger, an Air Force veteran, stated about his yes vote, "This is one of those that you're going to look back on when you're 80 and this will be the one you talk about...I don't know what the future is, you know, I don't know what that means for me politically, but I know I'm at peace right now." Some Republicans, though condemning the president's actions and rhetoric leading up to the violence on January 6th, cited due process and [timing](#) considerations in casting 'nay' votes; others saw [censure](#) as a more appropriate step.

The question now, with only days left in President Trump's term is, what's next? Senate GOP Leader Mitch McConnell issued a statement shortly after the vote indicating that "given the rules, procedures, and Senate precedents" there would be no way for a trial to conclude before President-elect Biden is sworn in next week. His [statement](#) went on to note that the three presidential impeachment trials held by the Senate have "lasted 83 days, 37 days, and 21 days respectively."

Senator Chuck Schumer, the incoming Democratic Senate Leader, indicated the Senate is required to act and will proceed to a trial, even after President-elect Biden is sworn in. An impeachment trial in the Senate could be disruptive to President-elect Biden's policy agenda and personnel picks in the first 100 days in office, but in a [statement](#) released by the transition, he encouraged the Senate to "find a way to deal with their Constitutional responsibilities on impeachment, while also working on the other urgent business of this nation," e.g., walk and chew gum at the same time. It is an open [Constitutional question](#), however, and a point that Trump's lawyers are likely to raise, whether a president can be impeached after he leaves office.

II. December Omnibus Bill – Government Funding and COVID Relief

Late in December, after a months-long political stalemate, Congress passed another COVID-relief bill. It was passed as part of a larger omnibus bill to fund the federal government for the remainder of the fiscal year. After initially raising concerns about the measure, including that the \$600 relief payments to individuals were insufficient, the President relented and signed the bill into law late on Sunday, December 27th. As with the CARES Act enacted in March, this bill, the "Consolidated Appropriations Act, 2021," passed the House and Senate overwhelmingly, on a bipartisan vote of 359-53 in the House, followed swiftly by a 92-6 vote in the Senate.² With an official price tag of approximately \$900 billion, it is the second largest stimulus measure ever enacted by Congress.³ For more details on the bill, see [here](#).

III. Georgia Senate Runoffs – a 50-50 Senate Split

After the November 3rd election, the partisan split in the Senate stood at 50 Republicans, 48 Democrats, with the two remaining seats to be determined in a January runoff election in Georgia. Neither of the two Republican incumbents in Georgia had reached the 50 percent-plus-one threshold required under state law, and so they each faced a head-to-head runoff against their Democratic challenger. Traditionally a "red" state, Republicans had never lost a statewide runoff in Georgia. But the state, if not quite purple, is definitely

² The Consolidated Appropriations Act, 2021, P.L. 116-260, passed the House and Senate on Monday, December 21st and was signed into law by President Trump on December 27, 2020.

³ The American Recovery and Reinvestment Act of 2009, passed in response to the financial crisis and subsequent economic downturn, injected \$831 billion into the U.S. economy through a combination of spending and tax cuts.

"purpling," and the changing demographics, along with the Democrats' registration and outreach efforts there since their 2018 gubernatorial loss, resulted in a close Joe Biden victory on November 3rd.

Both Democratic challengers, Jon Ossof and Raphael Warnock, ultimately prevailed on January 5th in very tight elections, resulting in a 50-50 Senate split and giving Democrats de facto control of the U.S. Senate (with Vice President-elect Kamala Harris set to be the tie breaking vote). What does a 50-50 Senate really mean in practice? While Democrats have the ability to break tie votes with the incoming Vice President - who also serves as President of the Senate under Article I, Section 3 of the Constitution - casting a deciding vote, a 50-50 Senate tie is still not the same as a 51-49 true Senate majority. The last time the Senate faced a similar situation was in 2001 when each party held 50 seats and then-Vice President Cheney was the deciding vote.

Back then, as Case Western Reserve University Law Professor Jonathan Adler explains in this [piece](#), the two sides negotiated a power sharing agreement that gave Republicans an advantage, but was short of true control. [Here](#) is a Congressional Research Service (CRS) report on the details of the 2001 agreement. In essence, because the Vice President has other duties, she cannot be there to break every vote. It therefore behooves both sides to decide the rules of the road for how the Senate will be managed day to day. At a minimum, Democratic Leader Chuck Schumer should have the ability to determine which bills and nominations get to the Senate floor and to prevent committee stalemates, but the committee margins and resources will likely be split evenly and Senate Republicans will still have a great deal of influence. It will be interesting to watch the discussions over the coming weeks to see if there is a power sharing arrangement, and if so, what it will look like.

IV. Policy Look-Ahead – January

A. Quick Fix

If you believe the old Washington, D.C. (Washington) saw that personnel is policy, then Joe Biden's administration is supposed to be low on drama, high on Washington experience, and will emphasize diversity more than any previous presidency. But Biden has picked a few fights for his cabinet — notably Xavier Becerra for Health and Human Services and Neera Tanden to run the Office of Management and Budget.

Beyond the cabinet nominations, there are dozens of committee chairmen, staffers on Capitol Hill, and key people within the West Wing who fall into the category of power players in the New Year.

— **All eyes on health care jobs.** Nothing is more important to the incoming administration than controlling the pandemic. Watch the nomination battles for policy and messaging in the coming weeks.

— **Don't sleep on the environmental agenda.** Biden has lined up one of the most aggressive groups of environmental advocates at the cabinet level of any president in history.

B. Health Care

Incoming Cabinet: Biden's health secretary will have one of the most consequential jobs in the new administration as he copes with a raging pandemic and must defend Obamacare. Health and Human Services (HHS) Secretary-designate Becerra doesn't have an extensive health policy resume, but mounted dozens of legal challenges to the Trump Administration's most divisive policies on Obamacare, reproductive health, and safety-net programs while he was California Attorney General. As a House lawmaker, Becerra also sat on the Ways and Means health subcommittee and aided the Affordable Care Act's passage in 2010.

Becerra, 62, emerged as a contender for the HHS spot late in the process, after several other candidates the Biden transition courted passed on the job, including New Mexico Governor Michelle Lujan Grisham and Rhode Island Governor Gina Raimondo. If confirmed, Becerra has vowed to focus on health disparities

that have left disadvantaged communities especially vulnerable during the pandemic. He will be surrounded by a team of experts who will drive the new administration's pandemic response and messaging on mask-wearing and other public health practices — including Surgeon General-designate and Biden confidante Vivek Murthy, National Institutes of Health (NIH) Infectious Disease Specialist, Anthony Fauci, and Jeff Zients, who will coordinate the pandemic response out of the White House.

Becerra's past vocal support of "Medicare for All" also makes him stand out with an administration that's decidedly centrist. Sources within Biden's team are confident Becerra will support Biden's pledge to create a public insurance option that will compete with private plans.

Chair/Ranking Committee in House: New Jersey Democrat Frank Pallone returns for another Congress at the helm of the Energy and Commerce Committee, where he's expected to shepherd a biomedical research bill known as Cures 2.0. It aims to build on the 21st Century Cures Act enacted six years ago by making breakthrough treatments more accessible. The ranking Republican is Cathy McMorris Rodgers of Washington, who replaces the retired Greg Walden of Oregon and may bring a more conservative edge than her predecessor. The other House committee with jurisdiction over health policy is Ways and Means, where Chairman Richard Neal of Massachusetts and ranking Republican Kevin Brady of Texas both return. Neal, not very known for heavy involvement in health policy, became a key participant in the debate over "surprise" billing during the just-concluded Congress, helping steer a final compromise more in the direction of doctors and hospitals.

Others to Know: Biden has taken surprisingly long to fill out his health team. As of deadline, he has yet to reveal his picks to head the Food and Drug Administration (FDA) and the Medicare and Medicaid programs. His half-dozen initial appointments include Zients, an economic policy expert who'll coordinate the pandemic response, Murthy, who spent three years as the Obama Administration's surgeon general and will reprise his role, Marcella Nunez-Smith, a public health expert with no political experience as head of the White House's Covid-19 Equity Task Force, and Rochelle Walensky, a physician with no prior political experience to be the new director of the Centers for Disease Control (CDC). — Adriel Bettelheim

C. Defense

Incoming Cabinet Official: Retired Army General Lloyd Austin is Biden's pick to lead the Pentagon. Austin, who developed a close relationship with Biden while leading U.S. troops in the Middle East, beat out Pentagon insider Michele Flournoy, who was long seen as the favorite for the job. While the defense secretary job is typically among the least controversial presidential picks, Austin's confirmation could get rocky. Austin, who retired from the Army in 2016, requires a waiver from Congress to take the job. Lawmakers approved a waiver for Jim Mattis to serve as Trump's defense chief four years ago, and the prospect of yet another recently retired general leading the Pentagon has lawmakers in both parties on edge. Lawmakers are also likely to question Austin, whose experience leans heavily towards the Middle East, on how he'd refocus the military on competition with China and Russia.

Top Staff: Congressional concerns might be smoothed over by Biden's selection of several experienced civilians for some of the Pentagon's most senior posts. The president-elect has tapped Kathleen Hicks, a former Pentagon official and think-tank expert who is leading his transition team at the Defense Department, to be deputy secretary. Hicks would be the first woman to hold the post if she's confirmed. Colin Kahl, who was Biden's national security adviser when he was vice president, will be undersecretary of defense for policy. And Kelly Magsamen, a former principal deputy assistant secretary of defense for Asian and Pacific Security Affairs, who is now at the left-leaning Center for American Progress, will be Pentagon chief of staff.

Top House and Senate Leaders: The Senate Armed Services Committee will retain its leadership in Senators Jim Inhofe (R-Okla.) and Jack Reed (D-R.I.). The conservative Inhofe has led the committee since late 2018. Reed has been the panel's top Democrat since 2015. In the House, Armed Services Chair Adam Smith (D-Wash.) will keep his gavel for the next two years. He'll be joined atop the committee by Representative Mike Rogers (R-Ala.), who won out in the race to replace retiring Representative Mac Thornberry of Texas

as the panel's ranking Republican. — Connor O'Brien

D. Education

Incoming Cabinet Officials: Connecticut Education Commissioner Michael Cardona was tapped to lead the Education Department. The state education chief pressed schools to reopen for in-person learning during the pandemic. A former public school teacher, Cardona is a stark contrast from Education Secretary Betsy DeVos and has been well-received so far.

Chair/Ranking in the House: House Education and Labor committee leadership will remain the same in the 117th Congress. Representative Bobby Scott (D-Va.) will serve as chairman and Representative Virginia Foxx (R-N.C.) will be the ranking member. — Bianca Quilantan

E. Financial Services

Incoming Officials: Biden has nominated former Federal Reserve Chair Janet Yellen as his Treasury Secretary and Adewale "Wally" Adeyemo to be her deputy overseeing the department's operations. Brian Deese, a veteran of the Obama White House, has been tapped to lead the National Economic Council. Once confirmed, Yellen would be the first woman to lead Treasury. Adeyemo, who also served in the Obama Administration, would be the first Black American to serve as deputy secretary. Yellen, Adeyemo, and Deese's key task would be to steer the economic recovery as the U.S. combats a resurgent Covid-19 pandemic. Representative Marcia Fudge (D-Ohio) is Biden's nominee to head the Department of Housing and Urban Development, an agency that will also grapple with the effects of the pandemic. Biden has not selected a nominee to head the consumer bureau yet, but he is expected to pick someone who would restore the agency to the aggressive posture it took during the Obama Administration. While current Consumer Financial Protection Bureau (CFPB) Director Kathy Kraninger has completed just two years of her five-year tenure, a 2020 Supreme Court ruling gave the President more power to fire the head of the agency. Biden will name Democrats to lead the government's securities and commodities regulators in a sharply different direction than under President Donald Trump.

Top Staff: David Kamin, who worked as a senior budget official under Obama, will be Deese's deputy National Economic Council (NEC) director, and Bharat Ramamurti, a former aide to Sen. Elizabeth Warren (D-Mass.), will be deputy NEC director for financial reform and consumer protection. Fudge's deputies at Housing and Urban Development (HUD) have not been named yet, but they will be critical in restoring two key Obama-era fair housing rules dismantled by Trump appointees, a top priority for the incoming administration.

Chair/Ranking in the House: Representative Maxine Waters will remain head of the House Financial Services Committee, while Representative Patrick McHenry of North Carolina will serve another term as the panel's top Republican. Waters, a California Democrat, is expected to place a priority on affordable housing and consumer protection in the new session of Congress, and she's likely to hold considerable influence over the direction of Biden's bank regulators. Fudge will work with Waters and McHenry to hash out the details of any further rental relief package to help millions of struggling tenants who have lost income as a result of the pandemic. Waters and McHenry will also have oversight of the next CFPB director. Waters has repeatedly called on the agency to renew its focus on fair lending laws as the Trump Administration pulled back enforcement.

Likely Chair in the Senate: Senator Sherrod Brown of Ohio will chair the Banking Committee. An unabashed liberal with a populist streak, Brown would bring a watchdog approach to overseeing the finance industry. Like Waters, he would have sway over Biden's regulatory nominees and would press them to crack down on the largest financial institutions. Brown has also said that promoting affordable housing would be a top goal if he leads the committee, and repeatedly prodded the CFPB to take a less business-friendly stance under Trump appointees.

Other Key Staffers to Know: Incoming White House Legislative Affairs Director Louisa Terrell will work with

Congress on a new aid package — including rent subsidies — that the new administration is expected to push lawmakers to pass. And Walensky, Biden's pick to head the CDC, will be in charge of renewing and potentially expanding the federal ban on evictions, due to expire January 31st. The CDC imposed the ban in September to prevent the spread of Covid-19 by newly homeless tenants. Congress recently extended the moratorium. Patrice Ficklin, the founding director of the bureau's Office of Fair Lending and Equal Opportunity, will likely see her power restored in the Biden Administration. Ficklin's office was sidelined in a reorganization spearheaded by former acting director Mick Mulvaney. Some consumer advocates who could move into regulatory roles include Lev Bagramian, policy adviser at the Better Markets watchdog group, as well as Tyler Gellasch of Healthy Markets, a former counsel in the U.S. Senate.

Capital Markets, Derivatives Regulators: Both of Trump's top appointees, Securities and Exchange Commission (SEC) Chair Jay Clayton, an independent who usually sided with Republicans, and Heath Tarbert, a Republican who heads the Commodity Futures Trading Commission (CFTC), helped advance pro-business proposals during their time at the two independent agencies. The SEC moved to make it easier for companies to raise capital on public and private markets and set new conflict-of-interest restrictions on brokers, which progressives said were too weak. The CFTC concluded negotiations between the European Union and the U.K. related to cross-border swaps regulation. Clayton has already stepped down from the SEC, while Tarbert says he will resign as CFTC chair in early 2021. One aspect of Biden's financial regulatory approach that's expected to dramatically diverge from Trump involves environmental, social, and governance — or ESG — issues. Biden has pledged to require public companies to disclose climate risks and greenhouse gas emissions in their operations and supply chains. Likely nominees for SEC chair include former Democratic SEC Commissioner Robert Jackson, who criticized moves to promote private markets and limit the clout of shareholder advocates; Preet Bharara, the former U.S. Attorney for the Southern District of New York who prosecuted high-profile Wall Street cases; and onetime Democratic SEC Commissioner Kara Stein, an ally of Warren. Another name said to be in the running to head the markets regulator is former CFTC Chair Gary Gensler, who is a key player on the Biden transition team. Potential CFTC chair nominees include Georgetown University law professor Chris Brummer; and Democratic CFTC Commissioners Dan Berkovitz or Rostin Behnam. — Zachary Warmbrodt, Katy O'Donnell, and Kellie Mejdrich

F. Technology

The New Tech Players in 2021: The tech world is watching closely the way new appointees will tackle the industry's prized liability protections, enshrined in Section 230 of a decades-old law and under threat from both sides of the aisle. Republicans argue it allows social media companies to make politically biased decisions on content, while Democrats say it gives them too much leeway to allow hate speech and misinformation.

Top Staff: Bruce Reed, who will be Biden's deputy chief of staff, has both called for revamping Section 230 and pushed for increased data privacy protections for Americans.

Chair/Ranking in the House: McMorris Rodgers will become the top Republican on the House Energy Committee, where she has said the number one item on her tech agenda will be to take aim at Section 230.

G. Trade

Officials Shaping Tariff and China Policies: Biden's trade team will have to find ways to roll back some of Trump's more disruptive trade actions, without creating an opening for Trump and his allies to attack Biden for being too weak. The team members will also be on the front lines of crafting China policy.

Incoming Cabinet Officials: Biden's United States Trade Representative (USTR) nominee Katherine Tai has toiled in the background of U.S. trade policy for over a decade, first at the Office of the USTR and then as chief international trade counsel for Democrats on the House Ways and Means Committee.

Chair/Ranking in the House: Tai is expected to work closely with her soon-to-be former boss, House Ways

and Means Committee Chair Richard Neal. Neal played a key role in negotiating changes that paved the way for congressional approval of the U.S.-Mexico-Canada Agreement. The House panel's ranking Republican, Representative Kevin Brady, is a former chair of the committee and has a keen interest in trade.

Likely Chair/Ranking in the Senate: Over on the Senate side, Senator Ron Wyden (D-Ore.) will lead the Senate Finance Committee. Wyden and Neal are likely to take their cues from Biden on early renewal of "trade promotion authority," rather than rush into a debate on legislation that most Democrats have opposed in the past.

Other Key Staffers to Know: Former Obama Administration economic guru Jason S. Miller has been leading Biden's landing team for the Office of the USTR and is expected to play a continued role either at the trade office or in the White House. Biden has not yet named a Commerce secretary, but the person will also be expected to be involved with trade policy. — Doug Palmer

H. Energy and Environment

Incoming Cabinet Officials: Biden has selected his team for carrying out an ambitious climate change agenda. If confirmed, Representative Deb Haaland will lead the Interior Department; North Carolina Regulator Michael Regan will top the Environmental Protection Agency (EPA); and former Michigan Governor Jennifer Granholm will head the Energy Department. Longtime environmental lawyer Brenda Mallory will lead the White House Council on Environmental Quality, which is expected to elevate environmental justice issues. Within the White House, former Secretary of State John Kerry will coordinate international climate efforts and former EPA Chief Gina McCarthy will lead the domestic climate push. Ali Zaidi, New York's deputy secretary for energy and environment, will be McCarthy's deputy.

Committee Chairmanships: There's significant chair shuffling of committee chairs in the energy and environment space on Capitol Hill. Senator John Barrasso becomes the top Republican at the Energy Committee, pairing up with returning top Democrat Senator Joe Manchin. Senator Shelley Moore Capito is expected to lead Republicans on the Environment and Public Works Committee, while Senator Tom Carper returns as top Democrat. In the House, Pallone and Grijalva return as chairs of the Energy and Commerce (E&C) and Natural Resources committees, respectively, but their ranking members are new. McMorris Rodgers is the new ranking member at E&C, while Representative Bruce Westerman becomes ranking member at Natural Resources. The leaders of the House Science Committee — Chair Eddie Bernice Johnson and Ranking Member Frank Lucas — are unchanged. — Anthony Andragna

I. Transportation

Incoming Cabinet Official: Biden's most serious competitor for the prized "center lane" in the primary, Pete Buttigieg, has now been welcomed into the fold as Transportation Secretary. He'll have a discretionary budget of \$75 billion with the potential to make him friends all over the country and the possibility that a major infrastructure package will balloon that number and give him the opportunity to show he can manage significant national initiatives — all good fodder for his 2024 résumé. Buttigieg's deputy and undersecretary for policy have not yet been named; nor have other transportation mode administrators. Those nominations usually come in the spring or summer of a president's first year and often go to people with more technical expertise than the secretary.

Chair/Ranking in the House: Representative Peter DeFazio (D-Ore.) will have another term to try to get his legacy-defining surface transportation reauthorization passed, with strict limits on highway building and major expansions planned for zero-emission transit, electric charging infrastructure, and streets that are safe for biking and walking. Representative Sam Graves (R-Mo.), himself a pilot, takes an active interest in aviation matters and has been a close partner to DeFazio on many issues, though the surface bill's big spending on climate initiatives — and the Pelosi-driven bill-crafting process that shut out the other side — did cause a rift.

Chairs/Ranking in the Senate: Senator Tom Carper is expected to be the chairman of the Senate

Environment and Public Works Committee, which has jurisdiction over highway funding and policy. Senator Shelley Moore Capito of West Virginia will be the lead Republican. The Senate Commerce Committee, which rules over aviation, rail, safety, and automobiles — including a driverless car bill the committee's been fighting to pass for the last few years — will keep its leaders from the 116th Congress: Senator Maria Cantwell (D-Wash.) and Senator Roger Wicker (R-Miss.). Also key to passing a major transportation bill will be the Finance and Banking committees.

Other Key Staffers to Know: House Transportation and Infrastructure Staff Director Kathy Dedrick, a 20-year veteran of transportation policymaking, will be the primary staffer through whom all transportation and infrastructure ideas and bills must pass, with Democrats controlling the House and White House. — Tanya Snyder

J. Agriculture

Incoming Cabinet Official: Tom Vilsack will return to run United States Department of Agriculture (USDA) after having already held the job for eight years during the Obama Administration. No one doubts whether the former Iowa Governor is qualified for another spin running the sprawling department, which oversees farm policy as well as nutrition assistance for millions of low-income households. But Vilsack has faced criticism about whether he's the right pick for a department that's under pressure to aggressively fight consolidation and right the department's long history of discrimination and civil rights abuse. Vilsack is expected to be confirmed easily in the Senate where he'll find a fair amount of bipartisan cooperation on food and farm policy, even on thornier issues like climate change.

Chair/Ranking in the House: Representative David Scott (D-Ga.) will be chairman of the House Agriculture Committee, the first African-American and Georgian to hold the post. Representative G.T. Thompson (R-Pa.) will be ranking member of the committee.

Chair/Ranking in the Senate: The Senate Agriculture Committee is expected to be led by Senator Debbie Stabenow (D-Mich.) with Sen. John Boozman (R-Ark.) as ranking member. — Helena Bottemiller Evich