



2020 CONGRESSIONAL POLICY OUTLOOK *A Look Ahead*

OVERVIEW

Perhaps not since former Speaker John Boehner’s “cleaning out the barn” deal with then-President Barack Obama has Congress seen the type of year-end legislative deal-making we experienced last month.

Congress adjourned on December 19th after both chambers advanced legislation to fund the government through the remainder of the fiscal year; President Trump signed the legislation into law the following day, thus avoiding a repeat of the record-long partial government shutdown that occurred one year prior.

Despite this bipartisan accomplishment, Members left town on a less amicable note following the House of Representatives’ almost entirely party-line vote on articles of impeachment. Now, the 116th Congress reconvenes for its second session this week under the cloud of President Trump’s forthcoming impeachment trial in the Senate.

While the upcoming congressional agenda undoubtedly will be complicated – and largely overshadowed – by impeachment proceedings and the 2020 presidential election, lawmakers have a number of policy priorities on their radar, including final passage of the United States-Mexico-Canada Agreement (USMCA) and legislation to address drug pricing and surprise billing, privacy, and climate change.

Below, we have outlined a recap of December, as well as the state-of-play for the upcoming year in Congress.

Dates to Watch*

January 6th/7th
First votes of 2020 scheduled in Senate/House

January 21st-24th
World Economic Forum Annual Meeting

February 3rd
Expected release of POTUS FY 2021 budget request

February 4th
State of the Union address

March 15th
A number of FISA authorities expire

May 22nd
TANF, community health centers funding, and several Medicare, Medicaid, and public health programs expire

July 13th-16th
Democratic National Convention

August 24th-27th
Republican National Convention

September 30th
FY 2020 ends. NFIP and FAST Act, among other items, expire

November 3rd
Election Day

December 10th/18th
Target House/Senate adjournment

December 31st
Numerous tax extenders expire

**List of debates, primaries, and caucuses included at end*

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DECEMBER WRAP-UP

✓ USMCA	✓ Paid family leave credit (through 2020)
✓ U.S.-China "Phase One" Trade Deal	✓ Biodiesel Tax Credit (through 2022)
✓ Government Funding	✓ Alcohol Taxes (through 2020)
✓ Nominations	✓ Medicare/Medicaid/Public Health Extenders (through May 22)
✓ NDAA	✓ Health Insurance Tax Repeal
✓ Ex-Im Bank Reauthorization (7 years)	✓ Medical Device Tax Repeal
✓ TANF Reauthorization (through May 22)	✓ Cadillac Tax Repeal
✓ NFIP Reauthorization (through Sept. 30)	✗ Turkey Sanctions
✓ TRIA Reauthorization (7 years)	✗ Russia Sanctions
✓ STELAR	✗ Healthcare Surprise Billing Restrictions
✓ SECURE Act	✗ Qualified Investment Property (QIP)

Impeachment

Prior to adjourning for the year, the House approved two articles of impeachment against President Trump for abuse of power and obstruction of Congress. The House voted 230-197 to approve Article I (two Democrats joined all Republicans in opposition) and 229-198 to approve Article II (three Democrats voted in opposition). Notably, 29 Democrats from districts President Trump won in 2016 voted in favor of at least one article of impeachment, inviting scrutiny ahead of the 2020 general election. Following the House vote, Speaker Pelosi left open the possibility that the House could delay sending articles of impeachment to the Senate until she receives assurances the upper chamber will hold a fair trial. This effort to obtain more favorable trial terms introduces an additional wrinkle into the already contentious impeachment process.

Before the break, Senate Minority Leader Chuck Schumer (D-NY) sent a [letter](#) to Majority Leader Mitch McConnell (R-KY) proposing a framework for the scope and timeline of a Senate trial beginning January 7th. Leader McConnell rejected the proposal, criticizing provisions that would authorize senators to

subpoena specific documents and witnesses as an attempt to “search desperately for ways to get to ‘guilty.’” When determining a path forward, Leader McConnell also must reconcile the White House’s request that the Senate call controversial witnesses who did not provide testimony during House hearings. Senate Republicans have expressed concern such conditions would extend the trial and expose the president to potentially unfavorable testimony during questioning. Leader McConnell may therefore seek to facilitate a shorter trial, which could reach a conclusion this month.

Regardless of how the trial unfolds, it appears unlikely President Trump will be removed from office, as Senate Republicans have given no indication that House proceedings have shifted their view of impeachment. On the contrary, Leader McConnell recently [remarked](#) there is “zero chance” of the president being removed. Moderate Senate Democrats have been reserved on the topic, with Senator Joe Manchin (D-WV) notably [stating](#) he is “torn” on the prospect of impeaching the president. Given these dynamics, President Trump is expected to prevail in the final Senate vote, potentially with some Democratic support.

Government Funding

Before leaving town in December, lawmakers reached an agreement to fund the government through the remainder of fiscal year 2020 (avoiding a repeat of last year’s holiday shutdown). Congress passed two minibus packages containing all 12 appropriations bills, which the president signed into law on December 20th. The \$1.37 trillion spending package received bipartisan support as a result of several compromise provisions, including:

- \$1.375 billion for construction of a border wall;
- \$25 million for gun violence research;
- \$425 million in election security grants;
- A requirement that EPA report to Congress within 60 days on its work to address per- and polyfluoroalkyl substances (PFAS) as well as an additional \$20 million for state-level PFAS clean-up efforts;
- Seven-year extensions of the Export-Import Bank and Terrorism Risk Insurance Program;
- Nine-month reauthorization of the National Flood Insurance Program;
- Extensions of lapsed and expiring tax extenders, including the biodiesel tax credit, the short-line railroad credit, and the wind energy production tax credit (PTC);
- Short-term extension until May 22nd of Medicare, Medicaid, and public health programs; and
- Permanent repeal of the ACA’s 40 percent excise tax – known as the Cadillac tax – on expensive employer plans, the medical device tax, and the health insurance fee.

National Defense Authorization Act

On December 9th, leaders of the House and Senate Armed Services Committees released the text of the [conference report](#) for the FY 2020 National Defense Authorization Act (NDAA). The House passed the bill by a vote of 377-48, while the Senate passed the measure by a vote of 86-8. President Trump signed the 2020 NDAA into law on December 20th. The compromise bill authorized \$738 billion in defense spending and contained several notable provisions, including:

- The establishment of a new armed service, the Space Force;
- 12 weeks of paid parental leave for federal workers;
- More than \$23 billion in funding for nuclear programs at the Department of Energy (DOE);
- A five-year phaseout of the use of PFAS in military firefighting foam and reporting requirements for releases of the chemicals;

- Sanctions on companies aiding in the construction of the NordStream 2 and Turk Stream pipelines; and
- A required assessment of the impact any proposed border wall construction would have on the volume of illegal narcotics entering the United States.

Nominations

In December, the Senate processed 62 nominations, 23 of which were judiciary appointees. Upon returning in January, the chamber is slated to continue consideration of a number of nominees. There are 46 nominations pending on the Executive Calendar, including nine judicial nominees, while 94 judgeships remain vacant.

Court	Authorized Judgeships	Vacancies	Nominees Pending	Nominees Pending for Future Vacancies
US Court of Appeals	179	1	1	1
US District Courts	677	83	42	2
US Court of International Trade	9	2	1	0
US Court of Federal Claims	16	8	7	0
US Supreme Court	9	0	0	0
Total	890	99	51	3

Leader McConnell has remained focused on maintaining the Senate’s historic pace of processing judicial nominations. President Trump’s judicial appointments have had the largest impact on the Courts of Appeal, where the president already has named a total of 48 judges. This figure far surpasses the pace of filling vacancies on the federal appellate bench by previous presidents in their first three years: President Barack Obama (24), President George W. Bush (30), President Bill Clinton (27), President George H.W. Bush (31), and President Ronald Reagan (23).

To date, the Senate has confirmed 515 key executive branch nominations. Currently, three Cabinet-level positions have acting status: the Department of Homeland Security, the Office of the Director of National Intelligence, and the Small Business Administration.

2020 CONGRESSIONAL AGENDA

Budget

Having passed two minibuses to fund the government through September 30, 2020, lawmakers now turn to FY 2021 negotiations. They have the benefit of a head start, as the two-year budget and debt ceiling agreement reached in 2019 already established this year’s topline spending allocations and removed the threat of a default. Additionally, the 2020 congressional calendar, which includes several long recesses in the lead up to the November elections, could prompt appropriators to reach agreements more quickly.

The process will begin in February or early March, when President Trump submits to Congress his FY 2021 budget request. The administration could seek cuts to several discretionary programs, as was the case in last year’s request. This scenario appears increasingly likely given the expanding federal deficit. In this case, House Democrats undoubtedly would push back on efforts to cut funding to several of their priorities (e.g., environmental programs, foreign aid, etc.).

Cybersecurity

Lawmakers are expected to continue scrutinizing supply chain security, particularly with respect to threats posed by China and Russia, with a focus on 5G and other emerging technologies. The Senate could begin by advancing the bipartisan House-passed [H.R. 4998](#) (the Secure and Trusted Networks Act), which bars the use of federal funds for purchase of communications equipment deemed to pose a national security risk. Furthermore, the House and Senate Homeland Security Committees can be expected to continue inquiries into supply chain security associated with critical infrastructure. Lawmakers also may seek to investigate related issues of American companies' association with foreign adversaries – most notably China – and threats posed by foreign data storage and access to emerging technologies. These concerns are the subject of forthcoming Commerce Department export restrictions.

The upcoming election likely will reignite calls for congressional action on election security issues. Senate Democrats already have [voiced](#) concerns the NDAA lacks stringent election security requirements, including paper ballots and post-election audits. Committees of jurisdiction may seek hearings regarding conditions associated with allocation of the \$425 million in election security funding approved in the recent spending deal. Furthermore, Members could push for action on long-stalled election-related bills, such as the bipartisan [S. 1356](#) (the Honest Ads Act), which addresses campaign advertising.

Of note, the House Oversight Committee's bipartisan efforts to limit government use of facial recognition technologies will be revisited this session. New Chairwoman Carolyn Maloney (D-NY) has promised the committee will hold its third hearing on the subject later this year, though legislative text has yet to be drafted. A broader White House executive order on digital identity also is expected early this year.

We can expect to see the rollout and release of the Cyberspace Solarium report in March with hearings to begin during the month of April. The report, which is currently being reviewed by Solarium Commissioners, is expected to detail short- and long-term legislative and policy proposals and take a strategic approach to cybersecurity by the U.S. government. The 2021 NDAA would be the vehicle for any cyber provisions contained within the report, although jurisdictional conflicts would need to be resolved by committee chairs.

Energy and Environment

While combatting climate change remains a top priority for Democrats in Congress, a growing number of Republicans have expressed interest in reducing greenhouse gas (GHG) emissions as well—though the two parties' respective proposals diverge significantly. Accordingly, Members in both chambers are expected to continue debating a number of energy-related bills aimed at curbing GHG emissions this year. In late November, Democrats on the House Energy and Commerce (E&C) Committee introduced the first major piece of legislation to support their goal of achieving net-zero carbon emissions by 2050: the [100 Percent Clean Economy Act](#), which already has been co-sponsored by more than 160 Members. The bill directs each federal agency to develop and implement a plan to rapidly achieve the national goal, while EPA is tasked with monitoring and reporting on their progress. Democrats are expected to introduce a discussion draft on more comprehensive legislation in early 2020, but such an ambitious goal is unlikely to garner much Republican support.

We also expect continued debate on legislative proposals to promote carbon capture, utilization, and storage (CCUS) technology, update and bolster cybersecurity protections for the electric grid, and increase R&D support for advanced nuclear technology—all of which have received notable support

from Republicans. The outlook for a carbon tax bill remains uncertain, as most carbon pricing legislation in the House lacks Republican support, with the exception of retiring Rep. Francis Rooney (R-FL).

Generally, energy-related bills in the House have been more partisan than efforts in the Senate—particularly relative to those in the Energy and Natural Resources Committee, which is led by two moderate members: Chairman Lisa Murkowski (R-AK) and Ranking Member Joe Manchin (D-WV). After reporting out 52 energy bills and 25 public lands measures on a mostly bipartisan basis in 2019, the Committee leaders are working to negotiate an energy package to bring to the Senate floor in early 2020. Of note, a new bipartisan caucus was formed by Senators Chris Coons (D-DE) and Mike Braun (R-IN) that seeks to find bipartisan solutions to address climate change.

Following the exclusion of more stringent PFAS regulations in the 2020 NDAA, PFAS advocates have set their sights on addressing PFAS contamination in 2020. As such, House Majority Leader Steny Hoyer (D-MD) has indicated he intends to bring the [PFAS Action Act of 2019](#) to the floor this week, which was approved by E&C in November on a near party-line vote. The legislation is considered a non-starter for most Republicans due to a provision that would designate two PFAS chemicals – perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) – as hazardous for the purpose of cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. Notably, a CERCLA provision was not included in PFAS legislation in the Senate.

Financial Services

The House Financial Services Committee, under Chairwoman Maxine Waters (D-CA), likely will continue to conduct aggressive oversight of financial regulators and focus its attention in 2020 on housing affordability, diversity and inclusion, and ensuring consumer protections. Chairwoman Waters also has suggested the Committee will evaluate a joint proposal promulgated by the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency to reform the Community Reinvestment Act (CRA). Moreover, the Committee is expected to hold hearings on the Trump Administration’s changes to the Consumer Financial Protection Bureau (CFPB), management of large banks such as Wells Fargo, as well as hearings expressing concerns about cryptocurrency and private equity.

While the Senate is scheduled to hold President Trump’s impeachment trial for most of January, committees may still meet and conduct business. As such, the Banking Committee’s schedule has yet to be determined. Nevertheless, we expect Chairman Mike Crapo (R-ID) will continue to hold hearings in 2020 with regulators on agency initiatives, as well as implementation of [S. 2155](#), the Economic Growth, Regulatory Relief, and Consumer Protection Act. Chairman Crapo and Ranking Member Sherrod Brown (D-OH) also have demonstrated interest in taking up an anti-money laundering bill, which would address beneficial ownership requirements for the first time in years. The Committee also could consider the Secure and Fair Enforcement (SAFE) Banking Act ([H.R. 1595](#)), which would provide protections to financial institutions that work with state-licensed cannabis businesses. That said, before the recess, Chairman Crapo outlined [changes](#) that must be made to the legislation in order for the Committee to move forward.

While much of the activity in the Financial Services Committee will continue to be conducted on a partisan basis (less so in the Banking Committee, which generally has been more bipartisan in the 116th Congress), there are a few possible agenda items which could garner support from both sides of the aisle. Members on both Committees have expressed interest in financial technology (fintech), regulating cryptocurrencies, tackling real-time payments, and addressing measures to ensure data privacy, in

addition to the aforementioned anti-money laundering/beneficial ownership bill that is being put together on a bipartisan basis.

Following a one-year extension of the program in the year-end spending bill passed in December, lawmakers also must reauthorize the National Flood Insurance Program (NFIP) before it expires on September 30, 2020.

Healthcare

2019 was another busy year in healthcare, including ongoing debates over surprise medical bills and prescription drug pricing, major regulatory moves by the Trump Administration, and a sweeping year-end healthcare legislative package that permanently addressed some issues while also teeing up more activity in 2020.

In Congress, we expect all eyes will be on the new May 22nd deadline, when funding for community health centers, a delay in Medicaid hospital cuts, and a host of other Medicare, Medicaid, and public health programs expire. Supporters of efforts to address surprise medical bills and prescription drug pricing created this new deadline, hoping it will provide a must-pass legislative healthcare vehicle to carry any agreements reached on these controversial issues. However, there is much work to do on both issues before any consensus legislation can pass both chambers and be signed by the President.

On drug pricing, the House has passed Speaker Pelosi's "[Elijah E. Cummings Lower Drug Costs Now Act](#)," which, among other things, requires the Secretary of Health and Human Services to negotiate the cost of prescription drugs. However, the legislation appears dead on arrival in the Republican-controlled Senate and currently lacks the support of the Trump Administration. Senators Chuck Grassley (R-IA) and Ron Wyden (D-OR) passed the "[Prescription Drug Pricing Reduction Act](#)" through the Senate Finance Committee, which has the support of the White House, but continues to be unpopular among mainstream Senate Republicans. The wildcard here likely will continue to be President Trump, who has been noticeably silent on congressional drug pricing efforts in recent months, but may take a stronger position leading up to May 22nd.

Legislation to address surprise medical bills appears to be equally complicated, with a handful of competing proposals and muted engagement from the Trump Administration. While leaders of the Senate Health, Education, Labor, and Pensions (HELP) and House E&C Committees have reached a [bipartisan agreement](#) on the issue, the influential House Ways and Means Committee prefers a [different approach](#). These committees and other stakeholders will have significant work to do between now and May if they hope to reach an agreement.

Other issues that could come up in Congress include, among other items, an expansion of the 21st Century Cures Act, reactions to the recent *Texas v. Azar* decision, opioids, vaping, marijuana/CBD, healthcare cybersecurity, and improved access to rural and mental healthcare.

The Trump Administration also will have a busy 2020 on the healthcare front. It has a number of highly controversial regulatory proposals that could move forward—most notably, the International Price Index Model to address drug pricing, and new price transparency requirements for hospitals and insurance companies. Other regulatory proposals that could finally be released address issues ranging from health information technology interoperability, to 2021 rules governing ACA plans and exchanges, to requirements for Medicare Advantage and Medicare Part D plans. Lastly, we expect continued efforts

to move forward on value-based care with enrollment in direct contracting demonstrations opening and other models likely in the works for the coming year.

Immigration

Immigration remains a contentious issue in Washington with little room for compromise between Republicans and Democrats. As such, any comprehensive overhaul package of the nation's immigration system remains unlikely.

In the House, Democratic committee leaders are expected to continue oversight of and investigations into numerous agencies, including leadership at the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE), the Department of Health and Human Services' (HHS) role in family separations, and detention conditions at Border Patrol stations and Customs and Border Patrol (CBP) facilities.

Importantly, the Supreme Court decision addressing efforts by the Trump Administration to dismantle the Deferred Action for Childhood Arrivals (DACA) program is expected in late spring or early summer this year. Democratic lawmakers insist congressional action is necessary in case the Court ultimately sides with the Administration; accordingly, the House advanced the [American Dream and Promise Act](#) last June. Despite pressure from Senate Democrats, the legislation will not be taken up by the full chamber. Under Judiciary Chairman Lindsey Graham's (R-SC) leadership, the Senate has focused on immigration policy that would ramp up border security and strengthen the asylum system. Though the Judiciary Committee favorably reported the [Secure and Protect Act](#) last year, the legislation is unlikely to be taken up by the full Senate, as it would be considered dead-on-arrival in the House.

The Senate also may take action on the [Fairness for High-Skilled Immigrants Act](#), which would increase the per-country cap on family-based immigrant visas and eliminate the 7 percent cap for employment-based immigrant visas. The bill was advanced by the House last summer by a vote of 365-65, and Senators Dick Durbin (D-IL) and Mike Lee (R-UT) have been working to reach a deal on the legislation for several months. If their negotiations are successful, the bill could be added on to must-pass legislation this year.

Infrastructure

Infrastructure has long been cited as potential area of compromise between Republicans and Democrats in Washington, but talks between President Trump and Democratic leadership broke down last spring due to, among other factors, ongoing congressional investigations into the Trump Administration. While a comprehensive infrastructure package is not expected, Congress must take up infrastructure-related measures to address expiring provisions in 2020, including surface transportation and water resources infrastructure bills.

The Fixing America's Surface Transportation (FAST) Act of 2015 is set to expire on September 30, 2020, and the reauthorization process already is underway. Last July, the Senate Environment and Public Works (EPW) Committee unanimously approved a \$287 billion surface transportation [measure](#). The Senate Banking, Commerce, and Finance Committees are responsible for the transit, highway safety, and revenue components of the reauthorization, respectively. In the House, the Transportation and Infrastructure (T&I) Committee holds jurisdiction over the majority of the reauthorization, with the exception of revenue, which falls to the Ways and Means Committee. Senate Finance Committee Chairman Grassley has indicated a gas tax increase would not be a revenue option for the new surface transportation bill. Also of note, House Transportation and Infrastructure Chairman Peter DeFazio (D-

OR) has expressed his intent to push for a more climate-friendly bill with an electrification title to support electric vehicles as well as provisions to encourage infrastructure resiliency.

The most recent Water Resources Development Act (WRDA) was enacted in October 2018 through the America’s Water Infrastructure Act. Congress enacts WRDA bills on a biennial basis, and the committees of jurisdiction in both chambers – Senate EPW and House T&I – already have held hearings to kick off the WRDA 2020 process. WRDA bills authorize key U.S. Army Corps of Engineers (USACE) authorities and other programs and projects that are critical to maintaining and improving the nation’s water-related infrastructure, including ports, dams, inland waterways, drinking water, and wastewater. We expect Congress to proceed with the regular two-year WRDA authorization cycle in 2020.

Also of note, Congress must continue efforts to reach an agreement on legislation to reauthorize pipeline safety measures, which expired at the end of September. While both the Senate and House currently have legislation in varying stages of review, there are notable differences between the bills, and neither has been taken up by the entire chamber.

Tax

Lawmakers were able to reach an agreement on a \$426 billion year-end [tax plan](#) to add on to legislation to fund the government in December. The deal represents the one of the largest tax measures in history as well as the last major tax bill Congress is expected to pass before this year’s presidential election.

Notable provisions included in the agreement:

- Permanent repeal of three major ACA taxes: the Cadillac tax, the medical device tax, and the health insurance tax (HIT)
- Setting Every Community up for Retirement Enhancement ([SECURE](#)) Act
- Disaster tax relief
- Numerous tax extenders (outlined below)

ENERGY PROVISIONS
<p>Retroactively extended through 2022:</p> <ul style="list-style-type: none"> • Biodiesel <p>Retroactively extended through 2020:</p> <ul style="list-style-type: none"> • Energy-efficient homes • Energy-efficient commercial buildings • Certain nonbusiness energy property • Alternative motor vehicle credit for qualified fuel cell vehicles • Alternative fuel vehicle refueling property • Two-wheeled plug-in vehicles • Second-generation biofuel credit • Electricity produced from nonwind renewable resources • Production of Indian coal • Special depreciation allowance for second-generation biofuel plant property • Special rule for sales or dispositions to implement Federal Energy Regulatory Commission (FERC) or state electric restructuring policy • Modified incentives for alternative fuel and alternative fuel mixtures • Black-Lung Disability Trust Fund • Wind energy production tax credit (PTC) – credit phase-out amount for projects undertaken in 2020 is 40%
BUSINESS PROVISIONS

<p>Retroactively extended through 2022:</p> <ul style="list-style-type: none"> • Short-line railroads <p>Retroactively extended through 2020:</p> <ul style="list-style-type: none"> • Multinational corporation look-thru rule • Modifications to excise tax rates on beer, wine, and distilled spirits • Indian employment tax credit • Mine rescue team training • Empowerment zones • American Samoa economic development • Employer credit for paid family and medical leave • Work opportunity tax credit • New markets tax credit (credit allocation for 2020 is \$5 billion; carryover period for unused credits is extended through 2025)
COST RECOVERY PROVISIONS
<p>Retroactively extended through 2020:</p> <ul style="list-style-type: none"> • Race horses • Motorsports • Indian reservation business property • Advanced mine safety equipment • Theatrical productions
INDIVIDUAL PROVISIONS
<p>Retroactively extended through 2020:</p> <ul style="list-style-type: none"> • Gross income exclusion for discharge of indebtedness on a principal residence • Treatment of mortgage insurance premiums as deductible qualified residence interest • Above-the-line deduction for qualified tuition and related expenses • Reduced AGI threshold for medical expense deduction • Credit for health insurance costs of individuals receiving a trade readjustment allowance or a benefit from the Pension Benefit Guaranty Corporation

Notable provisions excluded from the agreement:

- Electric vehicles
- Energy technologies investment tax credit (ITC)
- Energy storage
- Child tax credit (CTC)
- Earned-income tax credit (EITC)
- Qualified improvement property (QIP) technical correction to Tax Cuts and Jobs Act (TCJA)

Technology

Following several congresses of discussion, both chambers are moving toward a more robust debate on federal privacy legislation. In November, Senate Commerce Committee Chairman Roger Wicker (R-MS) and Ranking Member Maria Cantwell (D-WA) unveiled separate proposals ([Wicker](#), [Cantwell](#)) after failing to reach an agreement on compromise legislation. In the House, E&C Committee leaders released a [draft privacy bill](#) in December. The measure is somewhat less comprehensive than Senate proposals, as Members prioritized a bipartisan product. These vehicles are expected to serve as the basis for action on a federal privacy law, likely with input from Senate Judiciary and Senate Banking Committee Members (who have been working on their own proposals). Ultimately, any legislation would require lawmakers to resolve differences with respect to private rights of action and preemption seen in a variety of high-level privacy proposals introduced in both chambers. Importantly, Chairman Wicker has indicated he remains open to incorporating a limited private right of action into bipartisan legislation,

which could facilitate progress. That said, it remains to be seen whether Senate Republican leadership and/or the Members of the Republican Conference could support it. A comparison chart of several noteworthy proposals may be found [here](#). Of note, the California Consumer Privacy Act ([CCPA](#)) took effect on January 1st.

Policymakers also appear poised to continue bipartisan efforts to expand broadband connectivity and the development of 5G technologies. Senate broadband champions may advocate for action on several House-passed broadband measures, including [H.R. 4229](#) (the Broadband DATA Act) and [H.R. 4227](#) (the MAPS Act). Both of these bills are intended to address inaccurate broadband mapping data and its impact on broadband connectivity, which was a topic of concern in several Senate hearings last year. Broadband bills are particularly relevant given the U.S. Department of Agriculture's (USDA) recent [announcement](#) that it will direct \$550 million in broadband funding through the Reconnect Pilot Program. In addition, the FCC will initiate its [planned](#) public auction of C-Band spectrum, which is intended to support 5G expansion. Lawmakers in both chambers will continue to oversee the impact this and other spectrum auctions may have on incumbent spectrum users (e.g., broadcasters, emergency services, etc.).

Competition issues are expected to receive attention as part of the ongoing "techlash," and likely will continue to serve as topics on the campaign trail for several Democratic presidential candidates. Senators Elizabeth Warren (D-MA) and Amy Klobuchar (D-MN) have made competition issues a staple of their legislative work, and have introduced 2020 proposals on the subject ([Warren](#), [Klobuchar](#)). In addition, the House Judiciary Committee will continue its "[Investigation of Competition in the Digital Markets](#)." This likely will include additional hearings, a report at the conclusion of the investigation, and potential legislation. Furthermore, it has been reported that both the Department of Justice and the Federal Trade Commission also are conducting investigations related to tech platforms.

Other items that may see some type of action include: autonomous vehicle legislation (additional sections of a House draft bill were circulated in December); Communications Decency Act; Section 230 modifications; limitations on device and end-to-end encryption; patent eligibility legislation; and copyright office modernization oversight conducted by the Senate Judiciary Committee.

Trade

Last month, President Trump's top two trade priorities came to fruition, and we expect trade to continue to be at the forefront of the Administration's agenda in 2020.

On December 10th, House Speaker Nancy Pelosi (D-CA) announced an agreement with the Administration to move forward with a revised USMCA, which incorporated a number of Democrats' top priorities. The House passed the agreement by a vote of 385-41 on December 19th, but its path in the Senate has yet to be determined. Previously, Leader McConnell suggested the Senate would vote on the agreement following the President's impeachment trial; however, Speaker Pelosi is holding the articles to demand certain conditions in the Senate trial. As such, the Senate likely will conduct legislative business as usual. The Senate Finance Committee intends to hold a markup of the USMCA Implementation Act ([H.R. 5430](#)) on Tuesday, January 7th, potentially teeing up ratification in early or mid-January.

Additionally, the U.S. and China reached an agreement on a "phase one" trade deal on December 13th. The text of the agreement is comprised of nine chapters to address intellectual property, technology transfer, financial services, dispute settlement, and agriculture, among others. As part of the deal, the

U.S. indefinitely suspended a 15 percent tariff on Chinese goods originally set to go into effect on December 15th, and also agreed to remove tariffs on Chinese products “phase by phase.” President Trump and “high level representatives from China” are expected to sign the agreement on January 15th at the White House, and President Trump suggested he will travel to Beijing “at a later date” to commence “phase two” discussions. The U.S.’ trade negotiations with China are expected to remain a priority throughout the year, as the Administration seeks “phase two” and “phase three” agreements. Treasury Secretary Steven Mnuchin has suggested “phase two may be a 2a, 2b, 2c [deal].”

The trade landscape in 2020 also will be characterized by forthcoming negotiations with the European Union (EU) and the United Kingdom (UK) post-Brexit. We also expect Senate Finance Chairman Grassley and House Ways and Means Chairman Richard Neal (D-MA) to continue to hold oversight hearings around these negotiations as well as the President’s trade authority.

RETIREMENT WATCH

House

- ▶ CA-25 VACANT
- ▶ CA-53 Davis
- ▶ HI-02 Gabbard (President)
- ▶ IA-02 Loeb sack
- ▶ IN-01 Visclosky
- ▶ NM-03 Lujan (Senate)
- ▶ NY-15 Serrano
- ▶ NY-17 Lowey
- ▶ MA-04 Kennedy (Senate)
- ▶ MD-07 VACANT
- ▶ WA-10 Heck
- ▶ AL-01 Byrne (Senate)
- ▶ AL-02 Roby
- ▶ CA-08 Cook
- ▶ FL-03 Yoho
- ▶ FL-17 Rooney
- ▶ GA-07 Woodall
- ▶ GA-14 Graves
- ▶ IL-15 Shimkus
- ▶ IN-05 Brooks
- ▶ KS-01 Marshall (Senate)
- ▶ MI-10 Mitchell
- ▶ MT-AL Gianforte (Governor)
- ▶ NC-02 Holding
- ▶ NC-11 Meadows
- ▶ NY-27 VACANT
- ▶ NY-02 King
- ▶ OR-02 Walden
- ▶ TN-01 Roe
- ▶ TX-11 Conaway
- ▶ TX-13 Thornberry
- ▶ TX-17 Flores
- ▶ TX-22 Olson
- ▶ TX-23 Hurd
- ▶ TX-24 Marchant
- ▶ UT-01 Bishop
- ▶ WI-05 Sensenbrenner
- ▶ WI-07 VACANT

Senate

- ▶ Udall (D-NM)
- ▶ Alexander (R-TN)
- ▶ Enzi (R-WY)
- ▶ Roberts (R-KS)

2020 ELECTION DATES

Democratic Primary and Caucus Dates	
February	IA Caucus (3 rd), NH (11 th), NV Caucus (22 nd), SC (29 th)
March	AL (3 rd), AR (3 rd), CA (3 rd), CO (3 rd), GA (3 rd), MA (3 rd), MN (3 rd), NC (3 rd), OK (3 rd), TN (3 rd), TX (3 rd), UT (3 rd), VT (3 rd), VA (3 rd), LA (7 th), ME Caucus (8 th), ID (10 th), MI (10 th), MS (10 th), MO (10 th), OH (10 th), WA (10 th), ND Caucus (10 th), AZ (17 th), FL (17 th), IL (17 th)

April	AK (4 th), WY (4 th), HI (4 th), WI (7 th), NY (28 th), CT (28 th), DE (28 th), MD (28 th), PA (28 th), RI (28 th)
May	KS (2 nd), IN (5 th), NE (12 th), WV (12 th), KY (19 th), OR (19 th)
June	MT (2 nd), NJ (2 nd), NM (2 nd), SD (2 nd), DC (16 th)
Debate and Convention Dates	
Jan. 14th	Seventh Democratic primary debate
Feb. 7th	Eighth Democratic primary debate
Feb. 19th	Ninth Democratic primary debate
Feb. 25th	Tenth Democratic primary debate
March	Eleventh Democratic primary debate
April	Twelfth Democratic primary debate
July 13th-16th	Democratic National Convention
Aug. 24th-27th	Republican National Convention
Sept. 29th	First presidential debate
Oct. 7th	Vice presidential debate
Oct. 15th	Second presidential debate
Oct. 22nd	Third presidential debate
November 3, 2020 – Election Day	

CONCLUSION

Soon after reconvening on January 7th, the Senate is expected to begin an impeachment trial. Following the presumed acquittal, the Senate likely will turn its attention to passing USMCA. We also expect lawmakers in both chambers to continue to work to advance their legislative priorities, including appropriations measures for FY 2021 and a number of additional agenda items

The 2020 congressional agenda also will be influenced by the expanding focus on the 2020 presidential election, as the still-crowded Democratic primary field inevitably narrows and fully transitions into the general election campaign by summer.

As always, we stand ready to assist you to provide in-depth coverage and analysis of events as they unfold; please feel free to contact us if you have any questions.