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# 2017 Federal Outlook

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if a certain regulation is not addressed in a CRA, Republicans may still use the normal legislative process or appropriations riders to overturn a rule or block agencies from using funds to implement regulations.

Trump, on the other hand, will have three primary methods at his disposal to halt or eliminate Obama-era policies. First, using executive orders, Trump can immediately revoke, modify, or suspend other executive orders by his predecessor. Second, Trump can utilize discretionary agency directives and guidance documents to implement new policies or to withdraw old ones. One example of an agency directive under President Obama is the Department of Justice's non-enforcement of federal marijuana laws in states that have legalized the drug for medicinal or recreational purposes. Executive orders and agency directives, however, do not require complex procedures and are thus easily changed from administration to administration. Third, an executive agency may issue a repealing rule or regulation. This method is often time consuming because it requires agencies to comply with the proper notice and comment process. Additionally, agency repeals are subject to the same standards of review as new rules. As such, an agency must demonstrate repeal of a rule is not "arbitrary and capricious," and must provide a reasoned analysis for the repeal if the repealing regulation is challenged by an injured party and brought to court.

## **Debt Ceiling**

Addressing the nation's debt ceiling will be the first hard deadline that Congress and the Trump administration face next year. The current debt limit expires on March 16, but the Treasury can use "extraordinary measures" to keep the government afloat until next summer as it did in 2015. The current borrowing authority is capped at \$20.1 trillion.

The last time Congress reached an agreement to raise the debt ceiling was in October of 2015, just before former House Speaker John Boehner resigned from office. Congress will undoubtedly have to raise the limit again to fend off a crisis. Republicans will likely use the opportunity to speak out against unsustainable government spending and the need for immediate budgetary and spending reductions. Intense spending debates preceded the 2011 and 2013 debt limit showdowns as well.

## **Education**

On the campaign trail, Trump stated that he would drastically reduce the size of the Department of Education and return elementary and secondary education policy control back to the state and local levels. He has also said he would roll back several of the Department's regulations, such as the gainful employment requirement. Additionally, Trump and Republican lawmakers will do what they can to roll back the Department of Labor's overtime rule, which universities and colleges across the country have said is burdensome and will increase costs for students seeking a higher education.



Betsy DeVos, Trump's nominee for Secretary of the Department of Education who currently serves as the Chairwoman for the American Federation for Children, is expected to support that agenda. That national advocacy group works to promote school choice along with the use of school vouchers. While it's clear from her background what DeVos' priorities for primary and secondary education are, it remains to be seen where she stands on higher education issues and if she will completely back Trump's promises of regulatory rollback.

Additionally, lawmakers and institutions of higher education are awaiting a long overdue reauthorization of higher education policy. Senate HELP Committee Chairman Lamar Alexander (R-TN) had hoped to complete a reauthorization of higher education legislation in the 114<sup>th</sup> Congress, but that effort was side-tracked by other legislative priorities. The House and Senate education committees held dozens of hearings throughout the last Congress related to higher education policy. The Senate HELP Committee also released a series of white papers focusing on accreditation, consumer information, and university involvement in lowering student loan burdens. Higher education legislation was last authorized in 2008. Additionally, Virginia Foxx (R-NC) will be the new Chairwoman of the House Education & the Workforce Committee. In the past she has supported amendments to ban the Department of Education from collecting data on individual students. She may support this ban as well as other conservative educational priorities in the future.

## **Energy & Environmental Policy**

Although there was hope for a compromised energy policy bill to pass through in the 114<sup>th</sup> Congress in the lame-duck session, the issue will now be pushed to 2017. House and Senate energy policy negotiators worked on their respective packages for two years. Both chambers finally passed bills in the 114<sup>th</sup> Congress, but conference negotiators were unable to reach an agreement with enough time to get the bill through Congress this year. Although the conference report may be used as a starting block next year, Republicans will likely rewrite portions of the bill to boost support for fossil fuels and limit bill sections dealing with climate change. LNG export language, the Land and Water Conservation Fund, and forest management provisions were also major sticking points according to Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski (R-AK).

Trump is expected to vigorously oppose the energy and environmental policies and regulations put in place by the Obama administration, especially the Clean Power Plan, the EPA's Waters of the U.S. rule, and ozone standards. On the campaign trail, Trump criticized the Paris climate agreement, though he has since softened his stance and may allow the agreement to stay in place. A Trump administration will also likely put an end to the EPA's work on methane regulations for oil and gas companies. Trump has appointed Oklahoma Attorney General Scott Pruitt to become Environmental Protection Agency Administrator. In this post, Pruitt is tapped to oversee the regulatory overhaul of the EPA. Pruitt's Senate confirmation promises to face vocal challenges from environmental organizations, left-leaning groups and Senate Democrats. Pruitt has been a vocal and legal opponent to the Obama administration's environmental agenda. His arguments against the agency's aggressive administrative actions were an underpinning of the Trump-Pence energy

platform as Pruitt often referred to EPA regulations implemented during the Obama years as "unconstitutional, job-killing and costly." Additionally, Trump's pick to lead the Department of Energy, former Texas Governor Rick Perry, highlights an "all-of-the-above" approach to the nation's economic and energy issues, a mantra Trump has echoed in the past.

## **Government Funding**

On December 10th, President Obama signed into law a continuing resolution (CR) to fund the federal government until April 28, 2017. The CR funds the government at the fiscal year 2017 cap of \$1.07 trillion which was set by the Bipartisan Budget Act of 2015. The House and Senate cleared the measure just before adjourning for 2016. Some members of Congress wanted a CR to extend only until March of next year, however, congressional leaders decided on the later date to allow the Senate more time to focus on holding hearings and confirming President-elect Trump's cabinet and agency nominees. The CR will also provide congressional appropriators with more time to reshape FY 2017 spending legislation to reflect the funding and policy priorities of the new administration.

It is highly likely that Republicans will want to use the next round of appropriations bills to rollback or defund several regulations promulgated during the Obama administration's final months. Regulations that are not repealed using the Congressional Review Act (see Regulatory Rollback section) early in the year are vulnerable to attack within the annual spending bills.

## **Healthcare Policy**

### ***Affordable Care Act Repeal***

Repealing and replacing President Obama's signature healthcare law has been a top legislative priority for Republicans since it was passed and signed into law in early 2010. Senate Majority Leader Mitch McConnell (R-KY) has said that an Obamacare repeal resolution will be the first item on the Senate's agenda next year.

Republicans will likely pass a Fiscal Year 2017 budget resolution early next year (Congress did not pass one last year) for the sole purpose of including reconciliation instructions to repeal and possibly replace parts of Obamacare. In order to do that, Republicans must first pass a budget resolution in both chambers of Congress containing reconciliation instructions. Then, the Senate or House Committees with jurisdiction over the issues would draft legislation implementing the reconciliation instructions. Finally, the reconciliation bills pass back to the Budget Committee, get combined into a single bill, and then voted on by the full House and Senate. Reconciliation bills are useful because they only require a majority vote to pass in the Senate, thus preventing the opportunity for Democrats to filibuster and stop an Obamacare repeal.

However, reconciliation can only repeal the parts of Obamacare that affect spending and revenue, and thus cannot be used to repeal the entire law. A November [announcement](#) by the

Senate Republican Policy Committee stated that “a starting place for repeal and replace is the reconciliation [package](#) passed by the House and Senate last December, but vetoed by the president”. That package would have repealed the individual and employer mandates, repealed several of the law’s Medicaid expansion provisions, repealed several new taxes that Obamacare imposed on employers, companies and individuals, among dozens of other provisions. President-elect Donald Trump will undoubtedly sign any repeal legislation that can pass through both chambers of Congress. Trump has said that he would call a special session of Congress just to push through repeal legislation.

Furthermore, Trump has nominated Rep. Tom Price (R-GA), a former doctor and strong supporter of repeal legislation in the past, to head the Department of Health and Human Services, the agency will be responsible for implementing any changes to the law that passes through Congress. Price is currently the Chairman of the House Budget Committee and was a key figure in drafting the last Republican reconciliation bill. His experience and knowledge of the issues will greatly influence the next administration’s healthcare policy.

Although the healthcare focus in the next congress will revolve around repeal and replace, the Precision Medicine Initiative, the 21<sup>st</sup> Century Cures Act, and the Cancer Moonshot Initiative are likely to continue to be considered and implemented in the next administration. Members from both parties will look for opportunities to improve upon these advancements as Congress weighs its legislative options.

### ***Children’s Health Insurance Program***

The Children’s Health Insurance Program (CHIP) is a must-address agenda item for congress next year. CHIP funding is set to expire at the end of September 2017, and its entire legislative authority will end in 2019. Despite its popularity, the funding level for the program will still face scrutiny from fiscally conservative member. Obamacare gave states a 23% increase in federal funding for the program that will expire in 2019 without congressional action. In December, the Medicaid and CHIP Payment and Access Commission voted almost unanimously to recommend that congress renew the program through fiscal year 2022.

### ***Medicare & Medicaid Reforms***

Republican lawmakers are also planning an overhaul of Medicare and Medicaid, a process that could be completed using budget reconciliation instructions as well. Many Republicans, including Trump and Price, have called for more flexibility for the states to implement their individual Medicaid programs. Senate Finance Committee Chairman Orrin Hatch (R-UT) is planning to hold a roundtable in January and has invited the Republican Governors Association to provide input and recommendations for potential program changes. Possible changes to the program include distributing federal funds via block grants to states, using per capita payment caps, implementing stricter work requirements or shifting the program back to being a temporary safety net. Vice President-elect Pence has indicated he would prefer the state block grant approach to revising Medicaid.

To help with this process, Trump has nominated Seema Verma to be the administrator for the Centers for Medicare and Medicaid, a crucial agency for implementing changes to the program.

Verma previously worked with Pence on Medicaid reform and the implementation of Obamacare in Indiana. Verma will undoubtedly play a key role as changes to Medicaid or Medicare are considered, and is expected to work closely with state governors as she has successfully done in the past.

## **Immigration & Border Security**

On the campaign trail, Trump repeatedly emphasized the need to improve the nation's border security and fix the broken immigration system. He has proposed creating a biometric visa tracking system and using more intense vetting techniques for refugees and immigrants from countries with ties to terrorism. His boldest proposal was to build a wall along the country's border with Mexico; a proposal that will likely meet resistance from both sides of the aisle due to its costs.

Trump will likely work with the Department of Homeland Security to tighten border protection and provide border protection forces with more resources. He may also work with congressional Republicans and the Department of Justice to find ways to punish jurisdictions that do not enforce federal immigration laws, known as "sanctuary cities". Trump is also expected to work with the Department of Labor to reshape and investigate abuses within immigrant visa programs. There is concern among some industries that Trump's plans will harm their ability to hire enough workers. For example, on December 14th, Trump held a meeting with top executives from tech companies like Amazon, Tesla, Apple, and Facebook. Those executives highlighted the importance of protecting the visa program (H-1B) that helps fill the high-skilled positions their companies require.

## **Infrastructure Investment**

Trump has said that his infrastructure investment plan would unlock nearly \$1 trillion worth of investment over a period of 10 years. Part of his proposal includes creating a tax break for private investors who lend to state and local governments for infrastructure projects. Approving private sector energy infrastructure projects are also a key part of his plan to boost jobs and economic growth. Trump has also suggested creating an infrastructure bank and providing more flexibility to the states. The Department of Transportation has also suggested creating an infrastructure bank to support public-private partnerships as well as raising the federal fuel tax to fund projects.

A transportation and infrastructure spending package could have broad support from members of both parties in Congress. However, progress on a large spending package will largely depend on finding a "pay-for". One method which has wide support is to use repatriation, the taxing of profits of American companies held overseas, to fund government infrastructure projects. The need to fund domestic infrastructure spending, therefore, could incentivize lawmakers to complete an international tax reform package early next year.

## Military Spending

Trump campaigned on increasing border security, strengthening the U.S. military, and taking a tougher stance on terrorism. To deliver on those objectives, Trump and a unified GOP will likely fight to increase defense and military spending. Republicans have spoken out against the damages that spending caps and sequestration have done to the country's military might for several years. Democrats, as they have done in the past, will likely push back that any increase in defense spending will have to be matched by a similar increase in spending on domestic programs. Current budget caps only permit a slight increase in defense spending for the next fiscal year, though Congress can raise the cap as it has done before.

## Net Neutrality

Overriding the Federal Communications Commission's (FCC) net neutrality rules will be an early priority for the House Energy & Commerce Committee next year according to the committee's vice-chairman, Rep. Marsha Blackburn (R-TN). In February 2015, the FCC passed rules classifying the internet as a "common carrier" or utility and limited how internet service providers can give access to the internet. Blackburn has argued that the FCC's net neutrality rules have stalled investments in broadband. President-elect Trump has also spoken out against net neutrality, calling it a power grab by the Obama administration.

The FCC may roll back its existing net neutrality rules on its own without congressional action during the next administration. If not, Republicans could potentially use a draft bill by Senator John Thune (R-SD) and Rep. Fred Upton (R-MI) from early 2015 as a starting point for new legislation. Senator Bill Nelson (D-FL) and Rep. Frank Pallone (D-NJ) have both expressed openness to working with Republicans on net neutrality legislation. Rep. Greg Walden (R-OR), the new chairman of the House Energy & Commerce Committee for the 115<sup>th</sup> Congress, has strong ties to the cable and telecommunications industries and is openly against net neutrality. Proponents of net neutrality argue that undoing the rules could harm smaller internet content providers.

## Supreme Court Nomination

One of the most significant and enduring decisions President-elect Trump will make during the beginning of his presidency will be his nomination to fill the Supreme Court seat left by the late Antonin Scalia. Trump will likely nominate a conservative Justice, tilting the court back to the right. Earlier this year, Trump released a list of several people he would consider nominating to fill the seat. It is also probable that Trump will be able to nominate an additional Justice, maybe even two, during his tenure, given Justice Ruth Bader Ginsburg and Justice Stephen Breyer's seniority. If that situation becomes a reality, Trump will cement a conservative hold on the Supreme Court for decades to come. There has not been a clear liberal majority on the Supreme Court since the early 1970s.

## Tax Reform

Another top priority for Republicans, particularly for Speaker Paul Ryan (R-WI), in the next Congress will be to rewrite the tax code. House Ways and Means Committee Chairman, Kevin Brady (R-TX), held multiple meetings with House leadership and members in December to begin discussing tax proposals. Brady has also indicated that his committee will have a bill ready for Trump within his first 100 days in office. Furthermore, Brady has also signaled that tax reform would be based in principle on the House GOP's "Better Way" proposal, released earlier this year. That plan, for example, would establish a 20% corporate tax rate, a 25% rate for pass-through businesses, and individual rates of 12%, 25%, and 33%. A reform package will also likely address dozens of tax breaks, or "tax extenders" that will expire at the end of 2016.

Trump has also proposed a revised and simplified tax code. His plan eliminates the income tax for singles who earn less than \$25,000 and for married couples who jointly earn less than \$50,000. All other incomes are taxed at a 10%, 20%, or 25% rate. Trump's plan also states that "no business of any size" will pay more than 15% of their business income in taxes and it includes a one-time repatriation of cash held overseas by U.S. companies at a rate of 10%. Additionally, his plan eliminates the death tax.

Senate Majority Leader Mitch McConnell and incoming White House Chief of Staff Reince Priebus have both indicated that Republicans will use a basic Fiscal Year 2017 budget resolution to repeal parts of Obamacare early in 2017, and then use a more detailed Fiscal Year 2018 budget resolution to pass reconciliation instructions on tax reform later in the year. However, it is possible congressional tax writers attempt to draw up reform legislation that has bipartisan support in both chambers and can pass using the normal legislative process.

A major part of tax reform discussions will include the need to fund infrastructure spending. If a tax reform package restructuring the domestic tax code fails, there is agreement on both sides of the aisle to change the international system. To fund infrastructure projects, lawmakers may revamp the international tax code and tax profits held overseas by U.S. companies. Under current law, companies do not pay taxes on offshore earnings until it is brought back into the United States, a process commonly known as repatriation.

## Trade

A large part of Trump's campaign rhetoric focused on the negative aspects of President Obama's signature trade deal, the Trans Pacific Partnership (TPP), and the harm that the North American Free Trade Agreement (NAFTA) has caused American workers and the economy. Trump pledged to immediately withdraw the U.S. from the TPP and to begin renegotiating NAFTA with Canada and Mexico upon taking office. Although there was speculation the TPP could get a vote in the lame duck, it never came up and it is now obvious that the 12-nation pact will not get a vote in the next congress or a signature from Trump without significant changes. Going forward, the Trump administration will likely pursue trade agreements on a bilateral basis, as opposed to the multi-nation agreement route the Obama administration took with the TPP.

Trump's intentions with NAFTA are less clear. Complete withdrawal from the trade agreement would require Congress to pass a bill repealing the legislation that put NAFTA in place to begin with; an undertaking for which there appears to be little appetite. If Trump intends to put tariffs on Canadian and Mexican products, both countries will undoubtedly retaliate. Increase tariffs would likely be detrimental to all parties involved. A renegotiation would likely produce limited results, since a large portion of trade between the three partners already qualifies for duty free rates.

Other Trump trade priorities include a proposal to reorganize all trade related aspects of federal agencies into one "American Desk" within the Department of Commerce. That would also include the office of the United States Trade Representative, whom Trump has yet to nominate. Trump has also said he would instruct the Treasury Department to label China a currency manipulator, impose high tariffs on Chinese imports and direct the Commerce Department to bring trade cases against China under both American and international trade law.

## 115<sup>th</sup> Senate & House Leadership

### **Senate**

- Ø Senate President – Vice President Mike Pence
- Ø Senate President Pro Tempore – Senator Orrin Hatch (R-UT)
- Ø Senate Majority Leader – Senator Mitch McConnell (R-KY)
- Ø Senate Majority Whip – Senator John Cornyn (R-TX)
- Ø Senate Republican Conference Chairman – Senator John Thune (R-SD)
- Ø Senate Republican Policy Committee Chairman – Senator John Barrasso (R-WY)
- Ø National Republican Senatorial Committee Chairman – Senator Cory Gardner (R-CO)
  
- Ø Senate Minority Leader – Senator Charles Schumer (D-NY)
- Ø Senate Minority Whip – Senator Dick Durbin (D-IL)
- Ø Senate Democratic Caucus Vice Chairs – Senators Mark Warner (D-VA) & Elizabeth Warren (D-MA)
- Ø Senate Democratic Policy Committee Chairwoman – Senator Debbie Stabenow (D-MI)
- Ø Democratic Senatorial Campaign Committee Chairman – Senator John Tester (D-MT)

### **House of Representatives**

- Ø Speaker of the House – Rep. Paul Ryan (R-WI)
- Ø House Majority Leader – Rep. Kevin McCarthy (R-CA)
- Ø House Majority Whip – Rep. Steve Scalise (R-LA)
- Ø House Republican Conference Chairwoman – Rep. Cathy McMorris Rodgers (R-WA)
- Ø House Republican Conference Vice-Chair – Rep. Doug Collins (R-GA)
  
- Ø House Minority Leader – Rep. Nancy Pelosi (D-CA)
- Ø House Minority Whip – Rep. Steny Hoyer (D-MD)
- Ø House Assistant Minority Leader – Rep. Jim Clyburn (D-SC)
- Ø House Democratic Caucus Chairman – Rep. Joe Crowley (D-NY)
- Ø House Democratic Caucus Vice-Chair – Rep. Linda Sanchez (D-CA)



## 2017 CQ Congressional Calendar



# 2017 Congressional Calendar



- Both chambers in session
- Both chambers in recess
- Senate only in session
- House only in session

### January

M	T	W	T	F
2 <small>New Year's Day (Observed)</small>	3 <small>98th Congress Commences</small>	4	5	6
8	10	11	12	13
16 <small>M.L.K. Jr. Day</small>	17	18	19	20 <small>Inauguration Day</small>
23	24	25	26	27
30	31			

### February

M	T	W	T	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20 <small>Presidents' Day</small>	21	22	23	24
27	28			

### March

M	T	W	T	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

### April

M	T	W	T	F
3	4	5	6	7
10	11	12	13	14 <small>Good Friday</small>
17	18	19	20	21
24	25	26	27	28

### May

M	T	W	T	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29 <small>Memorial Day</small>	30	31		

### June

M	T	W	T	F
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

### July

M	T	W	T	F
3	4 <small>Independence Day</small>	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

### August

M	T	W	T	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30	31	

### September

M	T	W	T	F
				1
4 <small>Labor Day</small>	5	6	7	8
11	12	13	14	15
18	19	20	21 <small>Start Recess</small>	22
25	26	27	28	29 <small>Non-Paper Ingress</small>

### October

M	T	W	T	F
2	3	4	5	6
9 <small> Columbus Day</small>	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30	31			

### November

M	T	W	T	F
		1	2	3
6	7	8	9	10 <small> Veterans Day (Observed)</small>
13	14	15	16	17
20	21	22	23 <small> Thanksgiving</small>	24
27	28	29	30	

### December

M	T	W	T	F
				1
4	5	6	7	8
11	12	13 <small> Hanukkah Begins</small>	14	15
18	19	20 <small> Hanukkah ends</small>	21	22
25 <small> Christmas</small>	26	27	28	29

## **Troutman Sanders Strategies**

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Troutman Sanders law firm recognized the evolving complexities in the interface between business and government; and clients were bringing issues before the firm that required interaction with government beyond legal representation. As demands increased and the client list grew, the firm formed a dedicated team of specialists who could concentrate exclusively on government matters. Our government affairs practice has expanded from a single-office operation into a comprehensive, national issue and project management firm. Today, with offices in [California](#), [Georgia](#), [North Carolina](#), [Virginia](#) and [Washington, D.C.](#), Troutman Sanders Strategies serves clients all across the country.

Our team consists of consultants, lobbyists, and policy and procedural experts. We advance our clients' interests by tailoring each strategy and action in response to the ever-changing political and policy landscapes. Troutman Sanders Strategies has a national reputation for honesty, integrity and dedication to clients' needs and services.

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