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The First 100 Days: Biden's Big Plans

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After every president wins their election, the focus quickly shifts to who will be in their Cabinet and speculation around their first 100 days in office.

Winning presidents and their corresponding political party want to hit the ground running. They are further incentivized to move quickly if their victory is a product of defeating a one-term president, with increased urgency in undoing many of the predecessor's policies. Add to that a unified Congress under control of the president's political party, and there is a clear mandate for swift and comprehensive action to start implementing a new policy agenda.

The idea of a United States 100-day benchmark is often attributed to President Franklin Delano Roosevelt's (FDR) first term when he and his Cabinet wrestled with combatting the Great Depression. They rushed to act by addressing the banking crisis with the passage of the Emergency Banking Act as well as 15 other major pieces of legislation in just over three months. FDR accomplished this not just by waiting for congressional action but by utilizing Executive Orders and national addresses to restore confidence in the country's psyche.

Of course, there are other examples beyond FDR and his 100-day benchmark where Congress and a new president rose to the occasion to address a national crisis. For example, President Barack Obama successfully signed the American Recovery and Reinvestment Act (ARRA) of 2009 into law in his first 100 days despite Congress' initial recalcitrance.

President-elect Joe Biden is a man of history and will likely look to use a playbook similar to FDR and Obama with forward-looking, positive speeches to bolster faith that the United States will "build back better." But will Biden have the same level of legislative success when his 100-day clock expires? It's not impossible, but it's unlikely.

Today's Congress does not resemble the one FDR skillfully navigated. Rather, today's Congress is one where compromise is often equated with capitulation, and the appearance of negotiations between political parties could inspire a primary challenge for a member in their next election. However, the recent Senate results in Georgia certainly will improve Biden's chances of signing additional pieces of priority legislation that reach his desk.

FDR used the crisis of the Great Depression to light a fire under senators and representatives and bullied his own Democratic-controlled Congress to get things moving by passing big bills to form the New Deal. Biden will have the House of Representatives in his corner (with a razor-thin margin) and will be dealing with a deadlocked Senate split at 50-50 as he tries to cajole members into addressing the current crisis. Biden will enter office as health care systems remain overwhelmed, COVID-19 cases are skyrocketing, and businesses are shuttering. Those variables could be the ingredients to drive Congress to hold hands with the new president and deliver major pieces of legislation in his first 100 days to help right the ship.

So, what should we look for in Biden's first 100 days? There are several things to keep an eye on:

A new COVID-19 relief package is expected in Q1.	Renewed efforts for diplomacy, including a "Summit for Democracy" and rejoining the Paris Accord and the World Health Organization (WHO).
A pledge that Americans will get 100 million vaccines in 100 days, as well as a 100-day mask mandate and a commitment to open schools with confidence in those same 100 days.	Establishment of a police oversight commission.
A new COVID-19 vaccine plan, with a pledge to commit \$25 billion on production and, if necessary, utilize the Defense Production Act (DPA) for manufacturing and distribution.	A \$2 trillion infrastructure, climate and clean energy investment to chart a path for the United States to be carbon net-zero by 2050.
A new COVID-19 task force that will be up and running on day one.	A push for Voting Rights Act reform legislation.
Executive Orders addressing racial justice, immigration, education, health care and foreign policy.	A commitment to United States leadership in manufacturing with a "Made in America" initiative.
A comprehensive immigration proposal addressing Deferred Action for Childhood Arrivals (DACA) and a path to citizenship will be on the table.	A pledge to raise the corporate tax rate from 21% to 28%.

These are all big-ticket items. While some can be achieved via Executive Orders, agency memorandums, and morale-boosting proclamations, many will require Congress to take action. Congress is often compared to a slow-moving aircraft carrier that takes time to turn around when required to change course. It is likely that Biden will lock in some early wins in his first 100 days, but it's unlikely he will achieve the same levels of success seen by FDR. The clock starts on January 20; historians - and all Americans - will be watching.

02

Personnel Is Policy: The Nomination and Confirmation Game

When it comes to staffing an administration, it is often said that “personnel is policy.” So, with Washington ringing in 2021 with a new Congress and a new president, it’s worth taking a look at the politics of nominations and confirmations.

The federal government employs more than two million people, of which roughly 4,000 are political appointees, meaning they are chosen by the administration and serve in established political positions within the various federal agencies and departments. Of those 4,000 political posts, roughly 1,200 positions require the president to nominate the individual for the Senate to confirm.

As of January 14, President-elect Joe Biden had announced his intent to nominate a few dozen key individuals, including every Cabinet-level official and other senior roles that will require Senate confirmation. Five Cabinet-level picks are expected to have their confirmation hearings prior to the Inauguration (Treasury, State, Defense, Homeland Security, and Director of National Intelligence).

After a historic and hard-fought campaign in Georgia, Democrats have seized control of the Senate and will alone determine the fate of personnel that Biden will be able to place throughout the administration. Traditionally, the Senate defers to a president’s judgment as to who should advise them and who should lead the executive branch agencies - until recently. The heated political environment, which seemingly has a grip on everything in Washington, will still be a factor in Biden’s ability to fill key positions, just as it was for Presidents Barack Obama and Donald Trump.

While each nominee is, in theory, considered on his or her own merits, the evolving trend is unmistakable. The American history of deference to a president in staffing their administration is being eroded by politics. Biden will have to navigate a 50-50 Senate where a single Democrat combined with unified Republican opposition can force a nominee to walk away from the process. Given this dynamic, it will be interesting to see if Republican senators who generally support a president’s choice, regardless of whether they are in the minority or majority, will stick to that deference or whether they will lock arms in solidarity and form the loyal opposition. If that reflexive opposition materializes and Majority Leader Chuck Schumer (D-New York) is forced to carry each nominee with exclusively Democratic votes, it could force Biden to adjust his slate of nominees.

Regardless of that dynamic, it should be expected that the result of the runoffs in

Georgia will mean the remaining Cabinet slots without a nominee can be filled by more controversial picks, should Biden choose. Additionally, it is likely that timelines for confirmation will be extended, with most appointments forcing Schumer to use valuable time on the Senate floor.

Recent history has several examples of initial nominees (first 100-days) that never even made it to a vote on the Senate floor. President Bill Clinton had to find a new pick for attorney general when Zoe Baird withdrew due to questions about payments to undocumented workers. President George W. Bush’s first choice for labor secretary withdrew for the same reason, and President Barack Obama lost Tom Daschle as health and human services secretary over questions of unpaid taxes. Most recently, President Donald Trump had to withdraw the nomination of Andrew Puzder for labor secretary due to a variety of bipartisan concerns.

It is noteworthy that both Obama and Trump, like Biden, found themselves in a unified party government for the first two years of their administration.

The establishment of a new government always takes longer than one would think, and the incoming Biden administration will have its challenges getting a footing in the face of reflexive Republican opposition and political bad blood. Any true evaluation of the effects of personnel on policy will likely need to wait until the spring or summer, given all the fights to come.

Key Trends in Presidential Appointments



Clinton had 11 Cabinet officials in place within a week of his inauguration, with each and every one supported unanimously.



Bush had 11 Cabinet officials in place within a week of his inauguration, with all but two receiving unanimous support. Picks that were opposed included:

Secretary of Interior **Gale Norton** (75-24),
and Attorney General **John Ashcroft** (58-42).



Obama had 10 Cabinet officials in place within a week of his inauguration, with only half receiving unanimous support. Picks that were opposed included:

Secretary of State **Hillary Clinton** (94-2),
Secretary of Labor **Hilda Solis** (80-17),
Attorney General **Eric Holder** (75-21),
Secretary of Health & Human Services **Kathleen Sebelius** (65-31),
and Secretary of the Treasury **Timothy Geithner** (60-34).



By contrast, Trump had only two Cabinet officials in place within a week of his inauguration, with only one of his initial selections receiving unanimous support (Veteran's Affairs). Picks that were opposed included:

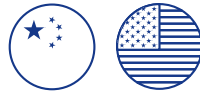
Secretary of Defense **James Mattis** (98-1),
Secretary of Transportation **Elaine Chao** (93-6),
Secretary of Homeland Security **John Kelly** (88-11),
Secretary of Agriculture **Sonny Perdue** (87-11),
Secretary of Commerce **Wilbur Ross** (72-27),
Secretary of the Interior **Ryan Zinke** (68-31),
Secretary of Energy **Rick Perry** (62-37),
Secretary of Labor **Alexander Acosta** (60-38),
Secretary of Housing & Urban Development **Ben Carson** (58-41),
Secretary of State **Rex Tillerson** (56-46),
Secretary of the Treasury **Steven Mnuchin** (53-47),
Attorney General **Jeff Sessions** (52-47),
Secretary of Health & Human Services **Tom Price** (52-47),
and Secretary of Education **Betsy DeVos** (51-50).

03

China Policy: Many Choices for the New Administration

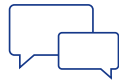
When Joe Biden assumes office on January 20, he will inherit an enormous range of issues involving China. From trade and tariffs to banning the use of Chinese social media apps; from kicking Chinese companies off US exchanges to the ongoing challenges of Hong Kong, President-elect Biden faces a series of significant choices involving China policy early in his administration. Here is a look at a few of the most consequential.

Trade and Tariffs



The US-China trade deal agreed to a year ago has largely kept the peace, at least as far as additional tariffs are concerned, but China fell short of its promise to purchase \$200 billion worth of US goods. According to the Petersen Institute for International Economics, through November 2020, China had purchased only \$82 billion (although China also made “commitments” to purchase \$141 billion worth of goods and services). On the campaign trail, candidate Biden was critical of the agreement, calling it “hollow.” However, Biden later said that he would leave the trade deal in place while his administration conducts a thorough review of China policy.

TikTok and WeChat



President Donald Trump issued Executive Orders banning US citizens from doing business with either TikTok or WeChat, but those orders have been blocked in the courts and efforts by Oracle and Walmart to buy TikTok’s US business appear to be going nowhere. There are also threats from China to prevent the tech companies from selling the algorithms that power the apps. President-elect Biden has said he will review the security threats posed by the apps, but also put together a global coalition to develop international rules on cyber-theft, artificial intelligence, and data privacy.

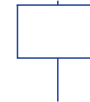
Delisting Chinese Companies



Congress passed, and Trump signed, the Holding Foreign Companies Accountable Act. That law will require foreign companies to demonstrate that they are not owned or controlled by a foreign government and that the Public Company Accounting Oversight Board (PCAOB) has access to certain audit papers. If the PCAOB is blocked from accessing audit papers for

three years, the company in question cannot be listed by US stock exchanges. In addition, Trump issued an Executive Order barring US investment in certain companies owned or controlled by the Chinese military. In response, the New York Stock Exchange announced that it would delist three Chinese telecommunications companies whose American Depository Receipts trade on the exchange. The incoming Biden administration is unlikely to reverse any of these steps and has threatened to block companies that steal US technology from accessing American capital markets.

Hong Kong



China’s crackdown on democracy activists in Hong Kong has caused both the Trump administration and Congress to act. Congress has passed the Hong Kong Autonomy Act, which required the secretary of state to identify and sanction individuals who aided the crackdown and Treasury to identify foreign financial institutions that knowingly supported efforts to restrict democracy. While the secretary of state has identified roughly a dozen Chinese and Hong Kong officials, the Treasury Department declined to identify a single foreign financial institution. Biden has promised to be tougher on China regarding human rights issues and has proposed a “Summit for Democracy” designed to strengthen democratic nations, combat corruption, and advance human rights.

Where to Now?

Don’t look for big changes in direction on China early in a Biden administration. Many of the policies that Trump put in place enjoy bipartisan support in Washington. For example, Biden will face pressure on tariffs from businesses that view them as anticompetitive and from unions that view them as protecting their members. Concerns regarding Chinese technology companies have been expressed by members of both parties for more than a decade. The legislation delisting Chinese companies sailed through Congress with bipartisan support. And members from both sides will want Biden to be tougher on human rights, as he has promised. Look instead for nuanced changes in tone, greater efforts to recruit allies, and a rollout later in 2021 of a comprehensive China policy.

04

The Legacy and Future of Executive Orders

There has been plenty of speculation regarding what President-elect Joe Biden will focus on in the first 100 days of his administration. This includes heightened attention on what Executive Orders he may issue on day one to set the tone and course of his presidency.

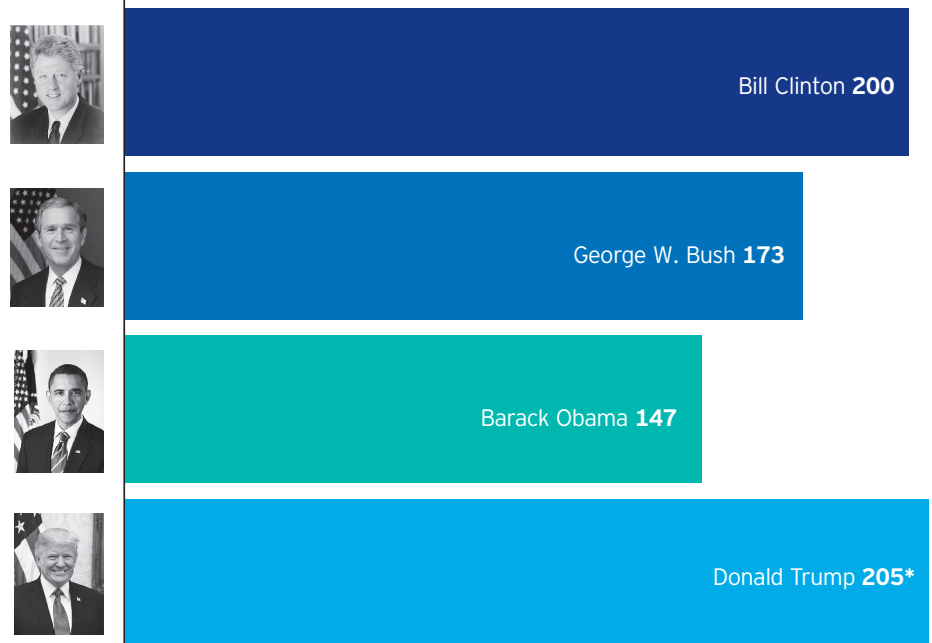
An Executive Order is a directive issued by the president instructing the management or operations of the federal government. As has become customary of late, the newly elected president will issue Executive Orders to undue or alter policies issued under their predecessors. Executive Orders are often criticized by Congress as a power grab by the sitting president but are by no means a new tool. Every president since George Washington has issued at least one, and there have been nearly 14,000 issued since 1907 (the year Executive Orders began being numbered).

Presidents have come to enjoy using Executive Orders as they allow them to take actions important to helping achieve policy objectives while simultaneously pleasing the constituent base that helped

elect them. In short, Executive Orders demonstrate action and provide press opportunities. While Executive Orders can be broadly used under the powers of Article II of the Constitution, they cannot create new powers for the president. Executive Orders can be challenged in the courts, and Congress can try to hamstring them with legislation, but they remain a very powerful tool both in practice and symbolism for the president.

Presidential candidate Donald Trump criticized President Barack Obama's use of Executive Orders on the campaign trail in 2016, saying, "The country wasn't based on Executive Orders...Right now, Obama goes around signing Executive Orders. He can't even get along with the Democrats, and he goes around signing all these executive orders. It's a basic disaster. You can't do it." Despite this criticism, Trump has issued 205 Executive Orders since taking office, with likely several more to come in the final days of his term. President Franklin D. Roosevelt currently holds the Executive Order record with a whopping 3,271.

First-Term Presidential Executive Orders



Source: American Presidency Project

*As of January 5, 2021

But what Executive Orders can we expect from Biden once he is sworn in? Biden spent 36 years in the Senate and has said he would like to work with Congress to move meaningful legislation to help respond to the pandemic, address climate change, end racial inequities, and get the economy back on track, among other priorities. If he issues too many Executive Orders and is seen as usurping the power of Congress, he could burn bridges with the congressional partners he needs to secure big legislative packages that he aspires to sign. That said, it's unlikely he shies away from issuing a suite of Executive Orders right out of the gate. Early contenders include:



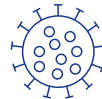
Energy: Reversing efforts by Trump to roll back Obama's energy and environmental policies, including drilling on federal lands, car emissions standards, power plant regulations, and rejoining the Paris Accord.



Immigration: Reversing immigration policies on the Deferred Action for Childhood Arrivals (DACA), travel bans, and public charge policies for immigrants.



Health Care: Easing access to Medicaid, rolling back Affordable Care Act (ACA) limitations set by the Trump administration, and rejoining the World Health Organization (WHO).



Others: Reopening schools safely, imposing mask requirements on federal lands or buildings, easing access to COVID-19 testing, introducing ethics requirements for Biden administration officials, limiting gun and gun parts sales, and ending housing discrimination policies.

The 117th Congress will be controlled by Democrats, albeit with the smallest of margins, and bipartisanship will still be required for many pieces of legislation to achieve success. Biden will still need to broker many deals like he did when he roamed the Senate halls, as he seeks sustainable and durable legislative victories. But if those efforts fail, he has the power of the pen to issue Executive Orders – a time-honored and much-maligned tradition, but one that works.

Invesco US Government Affairs



Andy Blocker
Head of US
Government Affairs

Andy Blocker serves as Head of US Government Affairs for Invesco. In this role, he drives Invesco's legislative and regulatory advocacy initiatives with policymakers, engages with clients and opinion leaders on public policy developments, and seeks to maximize the company's political footprint. Previously, Mr. Blocker served as executive vice president of public policy and advocacy for the Securities Industry and Financial Markets Association, where he led a team engaging lawmakers on international, federal, and state issues impacting the financial services industry. Mr. Blocker spent five years as managing director for the US Office of Public Policy for UBS. He also served as vice president of government relations for the New York Stock Exchange, as managing director of government and international affairs for American Airlines, and for the White House as special assistant to the president for legislative affairs.

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Jennifer Flitton is Vice President of Federal Government Affairs with the US Government Affairs team, where she advocates on behalf of Invesco's policy initiatives with policymakers and regulators and ensures the firm is an influential part of the Washington conversation. Ms. Flitton joined Invesco from the Securities Industry and Financial Markets Association, where she led lobbying initiatives on behalf of the asset management and broker dealer industries. Ms. Flitton spent 16 years on Capitol Hill, last serving as the deputy chief of staff and legislative director for Congressman Patrick McHenry, and as Congressman McHenry's designee to the House Financial Services Committee's Oversight and Investigations Subcommittee.



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