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What a unified Democrat government could accomplish

By Angelo Katsoras

Introduction

Not too long ago, it was widely assumed that the Senate would remain under Republican control and that the Biden administration would be forced to advance its agenda largely through executive orders and appointments to regulatory agencies. The surprise Democratic sweep of the two Senate races in Georgia upended this scenario. In addition to controlling the House of Representatives (222 to 212), the Dems now also have a working majority in an evenly split Senate where the Vice-President will be called upon to cast the tie-breaking vote when needed.

The presidency and narrow control of both chambers of Congress puts the Democrats in a much stronger position to advance significant parts of their legislative agenda, which includes providing further stimulus, expanding the healthcare safety net, investing massively in infrastructure, and increasing taxes.

However, to advance their agenda, the Democrats will need to remain united, attract Republican support for certain bills, and avoid having their legislative priorities bogged down by the impeachment process.

Democrat control of Senate: opportunities and limits

While the Democrats have regained control of the Senate, they did not win enough seats to escape the Senate rule requiring 60 votes to close endless debate on most legislation (otherwise known as filibustering).

There are two ways to get around this 60-vote threshold. One is to lower the bar to 51 votes for all legislation. This could be achieved through a simple majority vote. Doing so would provide an unprecedented opportunity to pass major legislation.

However, a simple majority requires the support of all 50 Democrat Senators, which is currently not a given. This means that, for the foreseeable future, bipartisan support will still be necessary to pass certain pieces of legislation, such as infrastructure.

Budget reconciliation

The other option is to employ a process called budget reconciliation. This allows passing certain tax and spending measures with a simple majority. However, where spending measures are concerned, changes can be made only to entitlement programs (i.e., Medicare), which, barring changes to underlying laws, are renewed automatically year after year.

However, budget reconciliation cannot be applied to most types of discretionary spending where funding must be approved on a yearly basis. This includes legislation pertaining to defence and certain environment measures.¹ Further, any legislation passed through this method cannot add to the deficit beyond a 10-year window, which is why parts of President Trump's tax cuts are set to expire in 2025.

Passing legislation via reconciliation can also be more time consuming. Each attempt at reconciliation requires the House and Senate to adopt a budget resolution that sets the size and scope of the plan and then soon after to follow up with details.

Typically, Congress can only resort to budget reconciliation once a year, but because it never approved a budget for the current fiscal year, the Biden administration could use the procedure twice in the coming months, once for this fiscal year and again for 2022.²

Congress has passed more than 20 budget reconciliation bills since 1980, including for parts of the Affordable Care Act (Obamacare) in 2015 and Trump's tax overhaul in 2017.³

It is important to note also that with narrow control of both chambers of Congress, Democrat leaders will need virtually unanimous support from congressional Democrats to pass legislation via reconciliation.

A small group of moderate Democrats in the Senate will be particularly important in deciding the fate of certain pieces of legislation. The group includes Jon Tester of Montana, Joe Manchin of West Virginia, Kyrsten Sinema of Arizona, and Angus King of Maine (an independent who caucuses with the Democrats).

¹ "Budget reconciliation, explained," VOX, November 23, 2016

² "Biden Presidency to Be Shaped Before It Starts by Georgia Races," Bloomberg, January 5, 2021

³ "Which Parts of Biden's Stimulus Can Get Enacted Fast?" Washington Post, January 17, 2021



Another stimulus package

First on the agenda is Biden's proposed \$1.9-trillion stimulus plan. This would be in addition to the approximately \$4 trillion that Congress already approved to address the pandemic. The broad contours of the plan are as follows:

- \$1 trillion: direct payments and beefed-up unemployment benefits
- \$350 billion: states and localities
- \$416 billion: national vaccination program
- \$50 billion: grants and loans for small businesses
- Increase of federal minimum wage to US\$15 an hour⁴

We do not feel that the Biden administration will be able to garner enough bipartisan support in the Senate (at least ten Republicans needed) to overcome the 60-vote threshold. Many Republicans are opposed to various parts of the plan, including the hefty price tag, the \$1,400 in direct payments, and plans to more than double the current federal minimum wage to \$15 an hour.

Consequently, Democrats will likely resort to budget reconciliation to pass a stimulus package with a simple majority of votes in the Senate, rather than the 60 normally required for approval.

However, reconciliation could limit what Democrats are able to include in the bill for the reasons explained above. Experts are divided, for instance, over whether raising the federal minimum wage or passing one-off aid packages to the states can be done via this mechanism.

Because of the potential limitations to reconciliation and the fact that the support of virtually all the Democrats in Congress (both moderates and progressives) is required to pass legislation, we feel that the stimulus package that gets approved will be closer to the \$1 trillion range.

Expansion of healthcare coverage is another priority

President Biden's proposals for healthcare includes increasing subsidies for health insurance, controlling drug costs by among other measures allowing Medicare to directly negotiate prices, offering a government option for coverage, and lowering the Medicare eligibility age from 65 to 60. We feel that the Biden administration will succeed in getting certain of these proposals, starting with health insurance subsidies, approved via budget reconciliation.

Another important factor working in favour of greater healthcare coverage is that periods of major economic and health-related stress have often led to strengthening of the social safety net. For example, today's pension system and unemployment insurance emerged in reaction to the depression of the 1930s.

Furthermore, history shows that once a social benefit has been extended, in this case temporary financial support to COVID-19 patients lacking insurance, it is nearly impossible to claw back. In 1961, Ronald Reagan warned that if Medicare passed into law (this occurred in 1965), Americans would lose their economic freedoms. Needless to say, that when he became president in 1980, he dared not abolish it. Also, despite Republican efforts, much of the Affordable Care Act still stands, including the rule prohibiting insurance companies from penalizing people with pre-existing health conditions.

Has infrastructure's time finally arrived?

Despite many years of false hopes, the stars might finally be aligning for the approval of an infrastructure bill worth anywhere from \$1 trillion to \$2 trillion. Both parties support an increase in borrowing to rebuild the country's crumbling infrastructure and get people back to work, particularly those without college degrees. **The fact that updating America's infrastructure is being widely touted as necessary to stay competitive with China also significantly boosts its chances for approval.**

This infrastructure bill will likely include funds for roads, bridges, ports, solar and wind energy generation capacity, electric vehicle charging stations, and 5G networks.

In 2010, the Harper government in Canada succeeded in negotiating a reciprocity agreement that largely avoided the risk of Canadian firms being excluded from U.S. infrastructure projects financed under the American Recovery and Reinvestment Act.⁵

⁴ CNBC, January 2021

⁵ "Canada - U.S. Agreement on Government Procurement," Government of Canada, 2017

However, the odds of negotiating a similar agreement this time around are lower on account of the more difficult economic situation and greater cross-party support for protectionism in the United States.

Environment

While getting environmental legislation approved seems unlikely on account of the 60 votes required in the Senate, Biden will be able to make significant changes via executive orders. This includes rejoining the Paris Agreement on climate change, halting permits for new oil/gas drilling on federal lands, setting national limits on emissions for power plants and automobiles, and reviving the mandate that requires government agencies to factor in climate change considerations in their actions.

Some analysts feel that, like Trump who cited national security concerns to implement tariffs via executive order, Biden would have the legal authority to do the same regarding one of his major policy proposals: carbon border taxes on imports from countries with lesser environmental standards. The implementation of this tax could be a double-edged sword, however. While it levels the economic playing field for companies based in countries with stricter climate regulations, developing countries would argue that they are being unfairly penalized, especially as their per-capita greenhouse gas emissions are much lower than those of their Western trade partners. Under this scenario, major developing countries could respond with counter tariffs.

Will taxes go up?

The Biden administration plans to push for tax hikes after various spending bills have been passed. It is hoped that following this timetable would not only will cushion the economic impact of tax hikes, it will also reduce the risk of a major political backlash.

Some of Biden's tax proposals include:

- raising corporate taxes from 21% to 28%;
- restoring the top tax rate for people making over \$400,000 to 39.6% from its present 37%; and
- taxing capital gains for those making over \$1 million per year at 39.6% instead of 23.8%.

Unlike COVID-relief legislation, which some Republicans might support, there will be little bipartisan backing for tax increases. Consequently, Democrats will likely have to resort to reconciliation. **This means that the main challenge will be navigating the divisions among Democrats over how much taxes should be raised.**

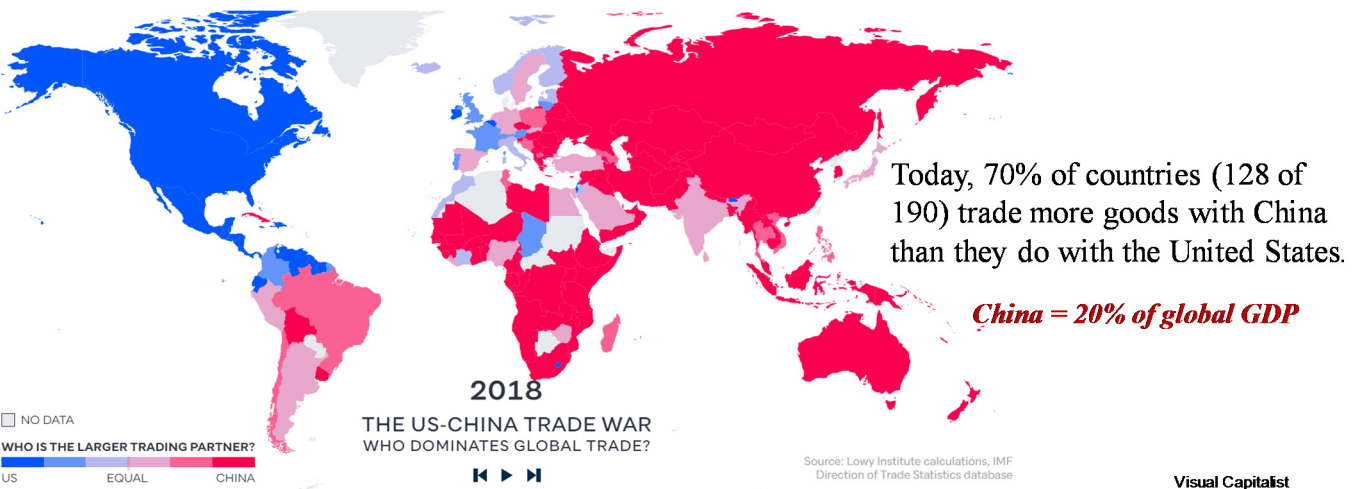
Ultimately, then, any tax bill will likely include a much more modest hike in corporate and capital gains taxes than originally proposed. However, Biden's proposal to increase the top tax rate for people making over \$400,000 to 39.6% will likely be included as the measure enjoys strong Democrat support.

Tough line on China to continue under Biden presidency

Taking a tough line on China is one of the few matters for which there is overwhelming bipartisan support. For instance, President Trump recently signed legislation with unanimous congressional support that makes it possible for companies that refuse to allow their audits to be inspected for three consecutive years to be delisted from U.S. financial markets. Chinese companies are the prime targets of this legislation. For most other legislation not involving China, gridlock is the norm.

During the campaign, Biden proposed that any company moving production abroad and planning to sell it back to the U.S. market should pay a 10% offshoring tax penalty. Biden also declared that he would not ease trade tariffs on China immediately. Further, any such reduction could be more than offset by the potential imposition of a carbon border tax.

On the diplomatic front, Biden has promised to form an alliance with other countries against China's business practices. However, given the growing trade relationship that many states have with China, there could be a great deal of reluctance to joining this alliance.



Visual Capitalist

China has already taken advantage of the fact that the United States is distracted by internal unrest and political division to advance its geopolitical interests. This includes tightening control of Hong Kong, exerting further pressure on Taiwan, promoting its model of governance as being superior to the American model, and signing major trade agreements. Indeed, since Biden's victory in November, China has signed onto a 15-country Asia Pacific trade deal and struck an investment deal with the European Union.

Will the impeachment process hinder Biden's agenda?

Democrats have impeached Trump for the second time in less than a year, setting the stage for a Senate trial. However, two thirds of the 100-member Senate need to vote to convict Trump, a threshold not likely to be attained.

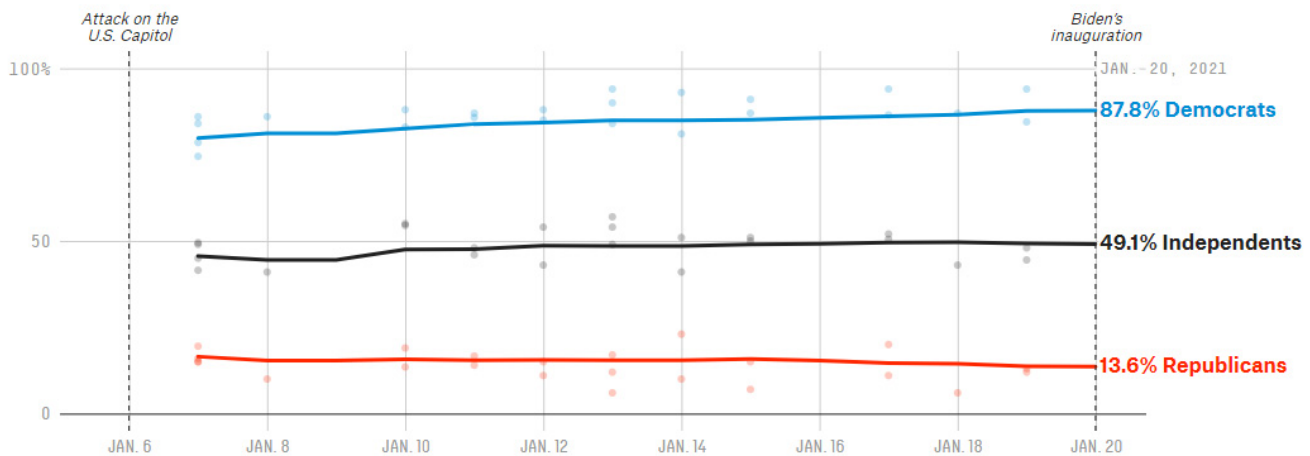
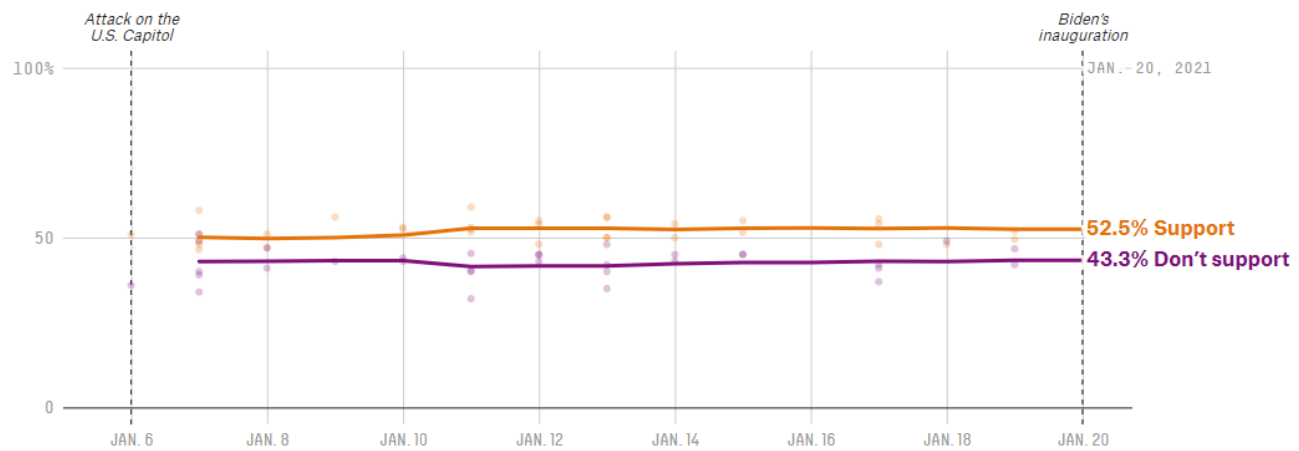
No president has ever been impeached and convicted. Nixon is the one who came closest, but the process was dropped when he resigned. Legal scholars are divided over whether a president can be tried once he has left office.

Rules dictate that the Senate must stay in session six days a week until the impeachment process, which could last several weeks, is completed. The Senate would require unanimous consent (a near impossibility) for it to consider legislation while an impeachment trial is ongoing.⁶ This means that once the Senate trial begins, all other business would likely be placed on hold.

Finally, polling averages show that, while a majority Americans want Trump impeached and convicted, they are still largely split along party lines.

⁶ "Democrats grapple with how to impeach Trump without hindering Biden's agenda," NBC news, January 11, 2020, and the Congressional Research Service.

Do Americans support impeaching and convicting Trump?



Source: "Polling Averages," FiveThirtyEight, January 2021

Conclusion

With control of the presidency and both chambers of Congress, Democrats are in a strong position to advance significant parts of their agenda. Their top priorities will be getting approval for further stimulus, expanding healthcare coverage, and passing an infrastructure bill. Once these areas have been addressed, efforts will focus on pushing for tax increases.

The Democrats' greatest challenges in realizing their goals are the following:

- Getting enough Democrats (from moderates to progressives) to support key legislation. Their narrow hold on both chambers of Congress means virtually every Democrat vote is needed to get legislation approved. This suggests that some of this administration's most ambitious proposals could fall by the wayside.
- Efforts to impeach and convict President Trump could derail them from plans to nominate people to key positions and get legislation approved in a timely manner. Impeachment proceedings could heighten tensions further between Republicans and Democrats and thus make it more difficult to approve bills requiring bipartisan support.
- Aside from emergency stimulus packages in times of crisis, getting significant bipartisan support for most major legislation has become increasingly difficult over the past two decades. Not a single Democrat voted in favour of Trump's 2017 tax cut, while only one Republican congressman voted in favour of Obamacare when it passed in 2010.

Finally, if history is any indication of the future, the Democrats have about two years to pass major legislation before the next midterm elections. In the past, the sitting president's party has tended to lose control of at least one chamber of Congress. For example, both Obama and Trump lost control of the House of Representatives two years into their terms and were forced to govern largely by way of executive order.



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