

WHY 2020 COULD BE A PRODUCTIVE YEAR IN CONGRESS

EXECUTIVE SUMMARY

As 2019 comes to a close, America is at the crescendo of three major political processes: (1) the **2020 Presidential primaries**; (2) the **impeachment** of President Donald Trump; and (3) the fight to avert a **government shutdown**. Each of these three initiatives is of the highest political gravity and under normal circumstances, any could define a month (or year) of U.S. politics on their own. Together, they make this winter among the busiest political seasons in recent years.

With the headlines dominated by these high-profile endeavors, narratives both on television and around the kitchen table have painted a picture of “**gridlock**” — the notion that nothing substantive can get done in today’s Washington. To some, it seems that 2020 is just not the year to pursue legislative priorities. However, given our ears to the ground in Washington, we know that this isn’t quite true. While heightened political tensions certainly complicate the passage of policy goals, **work continues behind the scenes to reach meaningful outcomes**.

If anything, the current political environment only makes smart stakeholder engagement, consensus building, and political narratives more important for achieving desired outcomes in Washington — or avoiding undesirable ones. With this in mind, we’ve provided the following memo outlining the upcoming year’s obstacles, as well as a high-level overview of meaningful legislative projects that could **disprove this narrative of gridlock**.

2019 YEAR IN REVIEW

2019 is testament to the political reality that policymaking still gets done in contentious political environments. Driven by conflict between House Democrats and President Trump — not to mention new intra-party tensions for Democrats — 2019 was among the most politically chaotic years on record. Despite this, the President still signed 78 bills into law and lawmakers made progress towards solutions on other complex topics. To this end, the past year provides a favorable case study for why advocacy is important even in challenging times.

At no time has the paradox of 2019 been more apparent than this week, when lawmakers reached a bipartisan, bicameral deal to fund the government through the remainder of the fiscal year. That massive package serves as a vehicle for major initiatives ranging from retirement savings reform to health extenders and is set to be signed into law by Christmas. Perhaps most importantly, its juxtaposition with the House impeachment of President Trump sums up the 116th Congress's trend of policymaking running side-by-side with political standoffs.

Avoiding an election-year government shutdown is a notable statement about the productivity of a Congress that began amid one. Between this week's legislative landrush and the rest of the year, Congress has now cleared a number of major legislative items, or is imminently ready to do so. 2019's legislative highlights include:

- The TRACED Act, bipartisan, bicameral legislation cracking down on illegal robocalls.
- The SECURE Act, a package intended to incentivize retirement savings.
- A reauthorization of Satellite TV provisions.
- Relief for distressed health care and pension programs for miners.
- The repeal of health care taxes relating to medical devices, health insurance, and "Cadillac" premium health plans.
- Increasing the nationwide tobacco age limit to 21.
- A 10-year reauthorization of the Patient-Centered Outcomes Research Institute (PCORI).
- A seven-year reauthorization of the Export-Import Bank.
- A seven-year reauthorization of the Terrorism Risk Insurance Program.
- Supplemental funding for recovery from recent hurricanes, wildfires, and other natural disasters.
- A reauthorization of pandemic and all-hazard preparedness programs.
- The PACT Act, which makes egregious forms of animal cruelty a federal crime.
- Legislation extending the Emergency Medical Services for Children Program.
- Autism CARES Act reauthorization providing \$1.8 billion for autism services and research.
- Legislation extending and improving the process for pesticide registration programs.
- A bill improving environmental stewardship of the Colorado River.
- Reauthorization of Veterans Affairs programs.

In addition to these new legislative developments, lawmakers overcame ideological and policy differences to pass short-term extensions preventing costly lapses in authority for the National Flood Insurance Program (NFIP), health "extenders," the Temporary Assistance for Needy Families (TANF) program, and others. Additionally, hearings and discussions have begun on critical topics including the highway bill, a consumer data privacy standard, and health care costs. While a solution was not reached on these topics this year, the work that happened on them sets the stage for 2020 (see below) and confirms that lawmakers are still working on difficult issues.

If this much can get done in 2019, the same is possible in 2020.

2020: THE ART OF THE POSSIBLE

Presidential elections traditionally signal slow years for policymaking and given how much bandwidth will be occupied by elections and impeachment, some would say that 2020 will be no exception to this generalization. At the end of the day, however, most lawmakers recognize that they were sent to Washington to pass legislation and appetites for bipartisan, problem-solving wins are greater than they appear. The top-level political narrative is only the tip of the iceberg and

ignores the very real work to pass laws that goes on in even the most contentious political environment.

Importantly, we know that even the slowest legislative years are crucial to building narratives on Capitol Hill. Even in situations where legislation faces barriers to passage, champion and narrative development certainly continues to set the stage for what happens when a solution takes shape. One doesn't have to look any further than 2017's tax reform to see how advocacy conducted during preceding years of "gridlock" can pay dividends. While the Tax Cuts and Jobs Act was the crowning achievement of Republican unified government that year, it was largely based on a tax reform blueprint that took shape during previous Congress's "gridlock." The best advocacy strategies take advantage of the narrowest openings.

With this in mind, 2020 is as important a year as any for Congressional advocacy. Here are some of the areas that could see important legislative debates over the next year:

- **Trade** — Last week, the White House and Congressional Democrats announced a deal to pass a revised version of the Trump Administration's landmark United States-Mexico-Canada Agreement (USMCA) through Congress. The House will advance the North American Free Trade Agreement (NAFTA) replacement deal this week, with the Senate preparing to bring up the measure after concluding a likely impeachment trial in January. Regardless, USMCA is set to clear Congress with broad bipartisan support this winter, a reminder that big ticket priorities can still move in even the most challenging political environments.
- **Infrastructure** — 2015's FAST Act set to expire at the end of this fiscal year, setting surface transportation reauthorization up to be among the most notable bipartisan endeavors of 2020. The key obstacle to a 2020 highway bill will be funding, with a gas tax increase and other potential funding mechanisms lacking a path forward as a bipartisan payfor. For this reason, a significant highway funding hike is unlikely in 2020, but Senate legislation on the matter does foreshadow promising new programs, including a new competitive grant program for bridges, grants for charging and fueling infrastructure, an increase in funding for the INFRA grant program, and a focus on resiliency provisions. Together with the biannual Water Resources Development Act (WRDA) reauthorization, surface transportation will also form a new starting point for repeatedly stalled conversations around a bipartisan infrastructure package, which could become particularly pertinent if the 2020 elections result in any shift in Washington's balance of power.
- **Health Care** — The key health committees in Congress have spent most of 2019 cooking up solutions to prescription drug pricing and surprise billing issues, and with the outcome of this week's government funding deal, those discussions are poised to come to a boil in 2020. Lawmakers agreed to push their work on over a dozen key health "extenders" to next May, setting up a key deadline that Speaker Pelosi has promised to leverage in support of a major bipartisan health care package. Meanwhile, the lead authors of the 21st Century Cures Act are in the early stages of developing a second iteration of their landmark health care and

health information technology bill, a process that nearly every health care stakeholder will be looking to get their hands in. In the health IT space, telehealth, patient identification, and health care privacy issues will remain in the spotlight. And with the Affordable Care Act (ACA) likely headed to the Supreme Court in 2020, both parties will be staking out their vision for the future of health care reform — whether it be Medicare for All or Republican's alternative to the ACA.

- **Education and Workforce Development** — A trio of measures under the Senate Health, Education, Labor, and Pensions (HELP) and House Education and Labor Committees are already up for reauthorization or will expire by the end of this fiscal year: the Higher Education Act (HEA), the Elementary and Secondary Education Act, and the Workforce Investment Act (WIA). All three bills pertain to bread and butter issues whose passage would be major wins for their sponsors and offer broad rider opportunity for any issue relating to education or workforce development. While their passage won't be easy — significant partisan difference remain in particular on HEA, which has occupied most of this legislative bandwidth — HELP Chairman Lamar Alexander's (R-TN) retirement and long history of pragmatism could set the stage for a surprise compromise deal on any of these items.
- **Telecommunications** — Data privacy and the rollout of 5G technologies are two topics that remain on the agenda for 2020. While efforts to craft a federal data privacy standard went slower than expected this Congress, scrutiny of online platforms remains and a recent uptick in legislative proposals — as well as the imminent implementation of state data privacy legislation in California — has reignited the issue heading into the new year. Similarly, in addition to the possibly imminent passage of broadband mapping and infrastructure bills, debate will continue next year on spectrum allocation and broadband infrastructure issues. Combined with the time crunch provided by the international "Race to 5G," bipartisan interest in the topic could fuel legislative movement next year.
- **Financial Services** — While financial services has been a ground zero for progressive-conservative tensions this Congress, the industry's broad footprint means that there will always be areas for bipartisan compromise. One major topic with the potential to see legislative movement in the coming Congress is banking for state-legal cannabis businesses. Another is the reform and reauthorization of the National Flood Insurance Program (NFIP), which despite abundant policy sticking points, offers bipartisan appeal and has engendered substantial legislative debate. Although much less likely to yield bipartisan legislative outcomes, oversight activities and top-level topics such as housing finance reform will also continue to have repercussions on the political narrative for years to come.
- **Foreign Affairs** — Foreign policy is one of the standout areas that has united Democrats and Republicans over the last few years, even if sometimes at the expense of the Trump Administration. In particular, Congressional involvement in the Syrian Civil War, responses to Russian election interference, and Chinese interference in Hong Kong have engendered

bipartisan Congressional coalitions this year and should continue to generate robust legislative debate in 2020.

As the above examples demonstrate, business will continue as usual in many corners of Capitol Hill. 2020 is as good a year as any for stakeholders to present their case in Congress.