



The Big Casino

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The 119th session of Congress begins today followed 17 days later by the second inauguration of President Trump. Republicans will control Congress and the White House, but the slim margin in the House will be challenging to navigate for a restless GOP majority eager to enact an ambitious legislative agenda. As with any new presidential administration, reconciling those ambitions with the hard realities of passing legislation will serve as the organizational principle for Washington, D.C. in 2025.

Political Environment

In becoming the first Republican presidential candidate in 20 years to win the popular vote, Trump has not only completed his takeover of the GOP but he has become the Republican establishment while simultaneously acting as the ultimate disruptive force in politics. His broad, deep win also confers an air of legitimacy that Democrats refused to recognize after his first election. Undergirding that legitimacy is the fact that Trump improved upon his 2020 performance

in all 50 states, by an average of 3.3% in the critical swing states and 6.6% points in other states. At the final count, Trump won by 1.48%, 77.3 million votes to Harris's 75 million. In focusing so sharply on the seven electoral swing states, Harris actually garnered more votes than Biden in 2020. But her underperformance elsewhere contributed to larger margins and relative improvement for Trump across the board.

At the congressional level, House Democrats' strong financial advantage led to a small net gain of seats and helped them to withstand the broader Trump onslaught. Democrats outspent Republicans in 18 of the 20 most expensive races, and in the end won 13 districts where Trump prevailed. Meanwhile, only three Republicans hold Harris-won districts. Likewise in the Senate, strong candidates and superior funding helped four Democrats win in Trump states, proving the Trump coalition is not necessarily transferable to down-ticket races as well as bucking the recent trend against split-ticket voting. The cost of running a House or Senate campaign also continued to spiral upward. For instance, just over \$50 million, candidate and third-party efforts combined, was spent on CA45. The Ohio Senate race became the most expensive non-presidential effort in history, with a mind-boggling \$480+ million in total spending.

Conventional wisdom has coalesced around several reasons for Trump's win: the continuing trend against incumbents, both at home and abroad; voters' frustration with inflation and rising prices; and, the sharp turn of Democratic elites toward radical policies far from the mainstream. In several previous memos, we touched upon the political lethality of inflation and the fact that decades of relative price stability dulled politicians' sense of danger about the issue. Perhaps a better question is

whether the Harris campaign failed to fully recognize the challenge or whether there was little they could do to overcome it effectively? Now the focus will be on if Trump can capitalize on the moment and build upon the multi-racial coalition of working class, low-propensity, and change-motivated voters to earn legislative victories. Outgoing Senate Republican Leader McConnell likes to say that campaigns are written in poetry, but legislating is written in prose. For the Trump campaign that communicated effectively with appearances at McDonalds and with garbage trucks, his administration will now grapple with more mundane legislative machinations.

Since Election Day the Trump transition has worked at a breakneck pace, setting records for the number of nominee announcements and providing a flurry of activity that has all but driven Biden from the public consciousness. While this transition has been frenetic and produced some out-of-the-box, already failed, nominees, we have heard from many on the Hill how the broader effort has been more organized and effective than Trump's first term. Will that trend carry over to the White House?

For now, Trump seems to have embraced the ethos of Elon Musk and others that an unresponsive, overly bureaucratic federal government is badly in need of a systemic shock. This approach compliments Trump's natural proclivity toward disruption and his deep suspicion of the Washington establishment. Musk is not the first private sector executive to come to Washington aiming to upend the regular order. For instance, see the "eggheads" of the Eisenhower Administration, or Robert McNamara and the other "whiz kids" of the Kennedy White House. But given Musk's history of diving deeply, but for a limited period of time, into a project before eventually moving on, it is a valid question to ask how much staying power DOGE has? We think there are more questions than answers about how he and his DOGE effort will affect actual change.

Legislative Agenda

Because Trump ran ahead of almost every down ticket Republican, he starts the year with a stockpile of political capital. In fact, only three GOP senators (Barrasso, Curtis and Wicker) won more votes than Trump, along with just a handful of House Republicans. Trump will need every bit of that capital to move legislation through an unruly and raucous House where the GOP majority will be smaller than in the Senate. We will get the first glimpse of

this dynamic today when the election of the Speaker is held.

Republicans will also need to overcome a sense of legislative inertia. Keep in mind the previous Congress passed fewer bills (158) than any other in recent decades, and that it is always easier to vote "no" than to grind out legislative text. The lack of legislative "muscle memory" and institutional knowledge means Republicans will probably end up focusing on passing a small number of "big" bills, a scenario that raises the stakes on legislation. This strategy will obviously be a real challenge in the House where so many Republicans have an aversion of omnibus legislation, but it will play to Trump's love of deal-making. Get ready to hear often the phrase, "don't let the perfect be the enemy of the good."

It should not take too long for House Democrats to coalesce into an effective minority, but Leader Jefferies and his team have their own internal challenges to manage as the Democratic Caucus continues to transition to a new generation of chairs and leadership. In the Senate, Democrats have seemed relatively chastened and subdued since Election Day, but a series of pointed debates about Trump nominees and rollbacks of Biden regulatory efforts will help Senate Dems find their footing. For Senate Republicans, following the first new Leader in 18 years will probably lead to some early missteps. Every new Majority Leader makes mistakes in what is often referred to as the second most difficult job in town (Mike Johnson would surely disagree). But Sen. Thune is a seasoned veteran whose competitive nature will drive him to learn quickly from any missteps.

In terms of a legislative agenda, the unpredictable and disruptive style Trump brings to the table makes it difficult to predict outcomes, but there are some realities we can rely on for the coming months.

Nominations

The Senate will focus almost exclusively on moving Trump Administration nominations in the early part of 2025. Eventually, judicial nominations will become a priority as well, but it will take several months for that selection process to really kick into gear. In the meantime, Senate Republicans will follow a path of least resistance in beginning work on the 1,200+ Senate-confirmable posts in the executive branch, queuing up whichever nomination is ready to avoid wasting floor time. In the early months of 2025, we will see how Sen. Thune's effort to keep the Senate in session for longer periods of time holds up. Right after the election, there was a lot of public chatter about recess appointments and how quickly Trump's team could be put into place. In recent weeks, talk of recess appointments has died off. But it is probably only a matter of time before Trump loyalists become disappointed at the pace of the Senate and revisit the discussion about what presidents can and cannot do when the House and Senate are out of session. Not long ago, recess appointments were commonplace: Clinton made 139, Bush43 made 171. But the number dropped sharply for Obama (32) and the norm is now against a president making such appointments. Will this be another standard that Trump tries to disrupt?

Congressional Review Act

In the first Trump Administration, Republicans used the CRA 16 times to strike down Obama Era regulations. The Biden team has been aware of the CRA threat and worked quickly to finalize rules and to protect them from Republican review. But a Trump team eager for early victories and to keep a sense of momentum will push Hill Republicans to act on the dozens of regulations that will still be eligible for action under the CRA. These items will be at the front of the queue in the House, and in the Senate, Republicans will probably toggle between CRA efforts and executive calendar nominations.

Trade and Tariffs

The president's ability to act unilaterally makes the levying of new tariffs one of the biggest unknowns of the Trump Administration. Thinking of Trump on trade policy, we are reminded of the adage many of his supporters use: take him seriously but not literally. This seriousness is backed up by the broad discretion a president has to act unilaterally on trade matters. For instance, it seems highly unlikely he is going to levy immediately 25% tariffs on Canada and Mexico or 60% tariffs on China. The systemic shock to the markets would be immense, especially for a new president who campaign so intently on the economy. But after watching his trade fights with China, the European Union, and the United Kingdom in the first term, we cannot imagine Trump moderating his approach. Sen. Hagerty recently articulated what will be at the core of the coming Trump actions:

"Access to our economy is a privilege. If you think about it, we've made access to this economy a strategic tool ever since World War II. ... Right now, the United States has the most open market of any major economy in the world. We need to take a very hard look at countries that don't have our best interests at heart, countries that are allowing our borders to be violated, and use those tariffs as a tool to achieve our ends."

Trump loyalists will argue that this bravado and proclamations serve as a useful negotiating tactic, citing first-term successes such as the USMCA, the Abraham Accords, increased European investment in defense, increased global awareness to the threat from China and accelerated work at the Energy Department on hydrogen and nuclear research. But there is no doubt that in the time between the Trump proclamations and any ultimate outcomes there will be a of upheaval and unease.

FY25 Appropriations

At the risk of falling into a “famous last words” category, we tend to think there is a good chance work on FY25 spending could be relatively straightforward. Much of the grunt work on the measure was completed in December, and making some minor policy changes to allow Trump to claim credit for a “better” bill would help clear the decks for FY26 efforts as well as keeping lawmakers focused on the bigger reconciliation/tax prize. As with many other matters in 2025, earning the votes of spending-averse Republicans in the House could be the key to passing a re-jiggered bill.

Executive Orders

Expect to hear a lot of references President Obama's “phone and pen” comment in the coming days from Trump staff explaining early executive orders. So far there have been surprisingly few leaks about what may happen, although we expect that to change as the inauguration draws nearer. Immigration seems a leading contender for executive action, although the Trump team will eventually want to enshrine as much as possible into federal statute. Changing asylum rules, re-started wall construction, restricted funds for “sanctuary” cities all seem like plausible ideas. Beyond immigration, energy production is another early candidate; for instance, beginning to re-open federal lands to oil and gas exploration and loosening natural gas export rules. Finally, making changes to the federal workforce is also a certainty. Mandating workers return to office will kick off a firestorm inside the Beltway but will be a political winner in the rest of the country. A longer-term struggle will be reclassifying more Civil Service workers under a Schedule F system that makes them more beholden to elected leadership, something sure to be challenged in court by organized labor.

Some Thoughts on Budget Reconciliation

Budget reconciliation will obviously be key to legislative activity this year. While it is too early to know how Republicans will stage one or two bills and what policies one or both measures may carry, it is worth reviewing some history and a few aspects of the process that will be relevant no matter the GOP strategy.

While reconciliation obviates the Senate filibuster and sets time limits on House and Senate floor debate, that does not mean it is either simple or a silver bullet for passing legislation. In fact, the complexity of reconciliation seems lost on many in the giddy post-election atmosphere. For instance, at this time in 2017, some GOP claimed Congress would pass a “repeal and replace” health care bill by the end of February. Eventually, legislation died in the Senate in early August. To their credit, congressional Republicans have been preparing for budget reconciliation, but remember there are many requirements to use the process:

- House and Senate passage of a budget resolution and potentially a difficult-to-reach compromise between two competing versions.
- Committees charged with reconciliation instructions in both Houses must write legislation, which then must be debated and passed on the floor.
- The House will inevitably chafe at the Senate's Byrd Rule requirements in the Senate, before eventually acquiescing. This takes time and usually engenders some ill will and consternation.
- Like every majority that uses reconciliation, Republicans will test the limits of the process and argue with CBO and the Senate Parliamentarian about restrictions. Again, this will take time and energy. For instance, how much of the president's energy and immigration agenda can be shoehorned into a budgetary bill framework?
- The Senate will inevitably hold several multi-day Vote-a-Ramas where both parties will have to face politically difficult votes.

- The scant House majority – potentially as low as 217-215 in the coming weeks – means strict discipline will be needed for the GOP to act. When it comes to issues like SALT relief, there will be no margin for error.
- As far as we can determine, Congress has never passed a final budget reconciliation bill before Memorial Day.

Worth a Read

Is [this](#) an early foundation for Resistance 2.0?

Here are [two](#) last [looks](#) at the breadth of Trump's victory.

If you ever wondered how data and calls are routed around the world, look at this [map](#).

Why would anyone want to be the [President](#) of South Korea?

This is the [dumbest](#) thing in 2024.

[No no no no no!](#)

Yet another [reason](#) to hate collard greens.

State and local governments have been [growing much faster](#) than the federal workforce.

Calendar

January 20	College football championship.
January 24	March for Life.
January 25	Washington Mardi Gras.
February 9	Super Bowl LIX.
February 10	Pitchers and catchers report to MLB spring training.
February 16	Daytona 500.
March 4	Fat Tuesday.
April 1	Special elections for FL01 (Gaetz) and FL06 (Walz).
April 5	NCAA Men's Final Four.
May 3	Kentucky Derby 15.

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