

August 6, 2020

Dear Friends,

Negotiations over the next phase of COVID-19 relief legislation are continuing in Washington, D.C. Indeed, they have disrupted the House and Senate's traditional month-long August district and state work periods. The House of Representatives was supposed to begin its August recess this week, but members were told last week to be prepared to return to Washington, D.C. for a potential vote with 24-hours' notice. The Senate, which is scheduled to begin its recess next week, is already expecting to be in session at least into next week, and some members are [calling](#) for recess to be cancelled entirely to provide Congress time to finish the bill. See below for a recap of the discussions and other issues on tap in Washington, D.C. the rest of this month.

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**Derek N. Harley**

Senior Vice President of Federal Affairs  
Shumaker Advisors  
419.321.1256 direct  
dharley@shumakeradvisors.com



**Jared E. Holt**

Director of Government Relations  
Shumaker Advisors  
614.628.4434 direct  
jholt@shumakeradvisors.com

- I. [Status of the Phase 4 COVID-19 response bill](#)
- II. [Issue to watch: "Corporate Transparency Act of 2019"](#)
- III. [Policy look-ahead – August<sup>1</sup>](#) -- With the Democratic National Convention (largely virtual) slated for later this month (August 17 – 20), increasing anticipation over Joe Biden's potential vice presidential pick, and questions surrounding what a Biden Administration policy agenda might look like, this month's "look ahead" focuses on some key policy areas where the Biden campaign has taken a strong stand, which may provide some clarity on specific policy issues:
  - A. "Quick Fix"
  - B. Health Care
  - C. Climate
  - D. Education
  - E. Defense
  - F. Tech and Cybersecurity
  - G. Agriculture and Trade
  - H. Tax Watch
  - I. Housing and the Fed
  - J. Minimum Wage
  - K. Cannabis

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<sup>1</sup> The month-ahead policy review is provided courtesy of [PoliticoPro](#)'s monthly "CEO Report." This month features a summary look at the potential policy prescriptions of a possible Biden Administration.

## I. Status of the Phase 4 COVID-19 response bill

As of today, the administration and congressional negotiators remain apart in their discussions on a larger "Phase 4" COVID-19 relief package. House Democrats passed their proposal in May on a party-line vote, a \$3-plus trillion measure called the [HEROES Act](#). The House-passed bill was quickly rejected by Senate Republicans who preferred at the time to take more of a "wait-and-see" approach. Recently, however, with COVID-19 cases increasing in many parts of the country and continued economic uncertainty nationally, Senate Republicans presented their counter proposal, a \$1 trillion dollar plan dubbed the HEALS Act. The measure consists of several separate elements, summaries and text of which are as follows:

- **Small business provisions, including an extension and revamp of the Paycheck Protection Program (PPP), originally authorized in the CARES Act.** Senator Rubio (R-FL) and Collins' (R-ME) "Continuing Small Business Recovery and Paycheck Protection Program Act," as it's called, can be found [here](#), and a section-by-section is [here](#).
- **Temporary liability limitations for health care providers, schools, charities, and small businesses for COVID-19 related claims.** A summary of the "SAFE TO WORK Act," introduced by Senator Cornyn (R-TX), can be found [here](#) and the text is [here](#).
- **Continuation, albeit at a lower level, of the federal supplemental unemployment relief authorized in the CARES Act, as well as various other tax and health care provisions under the jurisdiction of the Senate Finance Committee.** The "American Workers, Families, and Employers Assistance Act," introduced by Senate Finance Chairman Grassley (R-IA), is [here](#) and a section-by-section is [here](#).
- **Supplemental appropriations for federal agencies, initiatives, and programs, including additional money for the Provider Relief Fund (PRF) and increased testing.** Introduced by Senate Appropriations Committee Chairman Richard Shelby (R-AL), the text of the bill is [here](#), and a section-by-section is [here](#).
- **A measure introduced earlier last year by Senator Romney (R-UT), the "Trust Act," which creates congressional "Rescue Committees" tasked with developing legislation to strengthen at-risk federal trust funds.** The text of the bill is [here](#) and the section-by-section is [here](#).
- **Legislation introduced by Senator Lindsey Graham (R-SC) to provide incentives to move Personal Protective Equipment (PPE) production from China to the U.S.** A summary of the "Restoring Critical Supply Chains and Security Act" is [here](#) and the text is [here](#).
- **Education and related provisions on student loans, school choice, and child care.** The text of the "Safely Back to School and Back to Work Act," introduced by Senate HELP Chairman Lamar Alexander (R-TN), is [here](#).
- **Full deductibility of business meal expenses.** Senator Tim Scott's (R-SC) "Supporting America's Restaurant Workers Act," which provides a 100 percent deduction for business meals through the end of 2020. The text is [here](#).

Unlike the CARES Act passed in March, the initial version of which was born of bipartisan discussions in the Senate, the HEALS Act, is a Republican product. Senate Democrats support the House-passed bill, and House Democrats have criticized the Senate proposal as "[not enough](#)."

With the federal unemployment supplement expiring at the end of July, much of the focus of the negotiations has been on an extension, though Republicans and Democrats disagree on how much and how long. Senate Republicans remain concerned that extending the existing \$600 payment disincentivizes work, while House Democrats continue to insist on extending the \$600 payment through January. Senate Republicans have offered several short-term and other pared-down options during the negotiations (outside of their base bill) to address the unemployment issue and provide additional time to reach a compromise – indeed, the Senate may hold one or more votes this week to force the issue. But House Democrats have thus far insisted on a longer-term

extension at \$600 and on considering a package in full. As discussions continue, here are other issues to watch:

- The PPP lending authority, which was extended in July, expires on August 8. The small business program enjoys broad bipartisan support, and could be a deadline that helps force some kind of compromise.
- The July unemployment numbers are slated to be released on Friday, August 7. Depending on how the numbers look, it could change the political dynamic and provide added pressure for action.
- The liability protections in the Senate bill, which Leader McConnell has called a “red line” in the negotiations, continue to pose a potential obstacle to a larger compromise, but aren't receiving a lot of attention in the press. Some people closely following the issue insist a compromise can be found, and some House Democrats have hinted at such, but the question is whether the changes necessary to garner Democrat support would go too far for the Senate GOP members who see adequate liability protections as critical to the economic recovery.
- One potential outcome, if talks continue to drag on: a temporary extension of the federal unemployment supplement (at a level to be determined), and maybe a PPP extension, until September when Congress faces yet another deadline. Specifically, they must pass a funding bill (most people believe it will be a continuing resolution (CR)), by the end of the fiscal year, September 30, to keep the government open. That could present another must-pass vehicle (and a deadline by which to act) on which a compromise COVID-19 relief bill, and other issues, could be attached..

## II. Issue to watch: “Corporate Transparency Act of 2019”

One issue to watch in the coming months is the potential passage of a bill called the “[Corporate Transparency Act of 2019](#)” (H.R. 2513, the “Act”), or similar legislation. Supported by many as an important measure in the fight to combat money laundering and terrorism, the legislation – which is moving as part of a separate defense bill – would create new reporting burdens on small businesses. Specifically, it creates a new regulatory database within the Financial Crimes Enforcement Network (FinCEN), a law enforcement unit within the U.S. Department of Treasury. When submitting an initial charter to the relevant state agency, the applicant must also file a new form with FinCEN to disclose information about the “beneficial owners” (broadly defined and not necessarily requiring equity ownership). Penalties for failure to file are a \$10,000 fine or up to three years in prison. Existing entities will have additional time to comply.

The House passed [H.R. 2513](#) in October 2019 on a bipartisan vote, though the vast majority of House Republicans opposed it. The bill stalled in the Senate though, reportedly, conversations have been ongoing among Senate Banking Committee leaders toward a compromise on a similar reporting framework. In late July, in an effort to push the legislation forward in the House, the bill's sponsor, Representative Carolyn Maloney (D-NY), successfully offered a measure virtually identical to H.R. 2513 as an amendment to another bill, the National Defense Authorization Act (NDAA). That NDAA – one bill that is enacted each year without fail – passed overwhelmingly in the House and is now in a joint House-Senate negotiating committee, raising the likelihood that H.R. 2513, or some version thereof, could make it into law this year.

For more information on the bill, and what will be required, see the Shumaker [Client Alert: Proposed Federal Beneficial Ownership Reporting](#) on the issue and co-authored by [Regina Joseph](#) and [Derek Harley](#).

### III. Policy look-ahead – August<sup>2</sup>

#### A. Quick Fix

**Biden is expected to focus on a host of tax provisions in his plan** to raise some \$4 trillion in revenue over a decade. Among them, he would undo some changes from 2017's Tax Cuts and Jobs Act, like raising the corporate tax rate to 28 percent from 21 percent and increasing the highest individual income tax rate from 37 percent to 39.6 percent, for people earning more than \$400,000 annually.

**Biden is trying to maintain party unity on health care**, an issue that fueled Democratic gains in 2018 and remains a prominent concern for voters. But his leftward shift still may not be enough for some progressives. Still, Biden advisers believe they can draw a clear contract on health care with Trump, who's urging the Supreme Court to overturn Obamacare and hasn't offered a viable replacement plan.

**Federal support for small businesses would continue under a Biden Administration**, with the former vice president making it a key element of his agenda for narrowing racial gaps in the economy. Biden has pledged to reserve half of emergency small-business relief during the pandemic to businesses with 50 employees or fewer, including sole proprietorships and microbusinesses. He has outlined plans to direct \$50 billion in public-private venture capital to minority entrepreneurs and expand access to \$100 billion in low-interest business loans.

#### B. Health Care

**Biden moves left on health care:** Since sewing up the nomination, [Biden has been tacking to the left on health care](#), embracing a more vigorous government-run public health insurance option and proposing to expand Medicare to nearly 23 million older adults by lowering the eligibility age from 65 to 60. While he still opposes the sweeping single-payer system championed by Senator Bernie Sanders (I-Vt.), Biden advisers say the pandemic has demanded stronger action as millions of people lose their jobs and health insurance.

On drug pricing, Biden's plan follows the traditional Democratic playbook. He's called for direct government negotiation of drug prices and importation of cheaper medicines from abroad — a policy that Trump also supports. Republicans have strongly opposed drug price negotiations, and Trump has abandoned his support for the idea since campaigning on it in 2016. — *Jason Millman*

#### C. Climate

**Biden pivots to climate justice, calls for corporate responsibility:** In July, Biden revamped his climate and economic platforms to excite the progressive wing of the Democratic Party and advance racial equity in the wake of Black Lives Matter protests. He's promised to spend more money on renewable energy, with new targets like zero-emissions from American-made buses by 2030 and setting a clean-electricity standard to neutralize emissions from the power sector by 2035.

The goals are accompanied by an environmental justice plan, which pledges to target 40 percent of clean energy benefits to communities of color most exposed to industrial pollution. He's also pledged to create a \$30 billion small business fund for minority entrepreneurs. — *Catherine Boudreau*

#### D. Education

**More federal aid for education:** A centerpiece of Biden's education plan is drastically increasing federal spending on K-12 schools and colleges and universities — a stark contrast to Trump, who

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<sup>2</sup> Courtesy of [PoliticoPro](#)'s monthly "CEO Report."

has repeatedly proposed scaling back education spending (though his budget proposals have been largely ignored by Congress).

- **K-12:** Biden has touted a plan to nearly triple funding for low-income school districts under the Title I program. The proposal calls for boosting teacher pay and providing universal preschool for all three- and four-year-olds.
- **Higher education:** Biden has proposed tuition-free public colleges and universities for all students from families earning below \$125,000 annually, and he'd double the maximum Pell grant award. He's backed a one-time loan cancellation of up to \$10,000 for each student loan borrower during the Coronavirus pandemic, as well as a more expansive program to forgive the undergraduate tuition-related federal student loan debt from public colleges and private historically black colleges and universities (HBCUs) for borrowers earning up to \$125,000 annually.

**Reopening schools this fall:** Biden says he'd use the Defense Production Act to ramp up production of PPE to make sure there are enough masks for each school. He also says he'd develop national guidelines for school reopening in collaboration with unions and parents, but he would still leave it up to local officials to decide how or whether to reopen. Trump has threatened to take away federal funds from states that don't physically reopen their classrooms this fall, though his authority to do so is unclear. — *Michael Stratford*

**Boosting child care:** The caregiving and education plank of Biden's economic recovery plan aims to bolster the U.S. child care industry by creating three million additional jobs and allowing an estimated two million people — mostly women — to return to the workforce, according to his campaign. It would pay for the construction and renovation of child care facilities both within workplaces and without. It would also create sliding-scale subsidies for low-income and middle-class families. And it would support informal caregivers via a new tax credit and more.

## **E. Defense**

**A Biden Pentagon:** Defense analysts predict the Pentagon under a Biden Administration would be in line for at least a modest budget cut after a Trump build-up, especially cuts on nuclear weapons spending. There would likely be, however, more investment in cutting-edge technology.

Biden would be more hawkish in Ukraine by sharply increasing lethal aid to the country, including weapons, such as patrol boats and anti-ship missiles to defend against Russian coastal attacks. Biden's campaign says that increasing weapons shipments to Ukraine would be part of "holistic" effort to push back on Russian influence in the eastern European country.

Progressives are also trying to push Biden leftward, urging him to oversee a fundamental rethinking of U.S. national security policy away from what they view as an over-militarized foreign policy.

Progressive groups are also pressing Biden to staff his transition team and administration with personnel with those views. — *Connor O'Brien*

## **F. Tech and Cybersecurity**

**Investing in breakthrough tech:** Biden has pledged to invest in 5G wireless technology, artificial intelligence, electric vehicles, and other "breakthrough technologies" as part of a \$300 billion research and development fund he's proposing to stimulate the economy. Those were some of the most tangible technology proposals he's offered after a primary season in which some of his rivals seized on these issues more explicitly — leaving his stances on some prominent tech debates still a bit of a puzzle. Among them: Does he still believe that the tech industry's much-prized shield against lawsuits over user-posted content "should be revoked immediately," as he told [The New York Times in January](#) — a stance that puts him in some agreement with the president? Would he

push the Federal Communications Commission (FCC) to restore its Obama-era net neutrality policies? More broadly, would his regulators attempt to break up big tech companies like Facebook — something his former primary rival Elizabeth Warren explicitly promised — or continue to press the antitrust lawsuit against Google that prosecutors in Trump's Justice Department expect to file in the coming months?

Biden also has yet to explain how he'll approach a range of cybersecurity issues, including the tug-of-war on encryption — a debate that Trump's attorney general and congressional allies like Senate Judiciary Chair Lindsey Graham (R-S.C.) have recently revived by demanding that law enforcement gain easier access to the scrambled communications in people's smartphones and messaging applications.

Cyber-watchers are also waiting for more details from Biden on protecting the U.S. telecommunications supply chain from China and other adversaries; waging offensive cyber operations against malicious actors in Iran and elsewhere; and building a global consensus around responsible digital behavior.

Even on the issue of election security — an issue with which he is intimately familiar from the searing experience of 2016 — Biden has said little about what he would do as president.

On July 20, his campaign released a [statement about foreign election interference](#), but it offered few specifics. The unknowns include what the former vice president thinks about issues, such as internet voting, the federal government's role in election administration, and oversight of the highly concentrated election technology industry. — *Bob King and Eric Geller*

## **G. Agriculture and Trade**

**Deals dependent on U.S. priorities:** Don't expect in a Biden presidency a quick return to the free-trading days of the Obama Administration, when the U.S. spearheaded global efforts like the Trans-Pacific Partnership. Biden's campaign says Biden would not negotiate any new trade deal until he persuades Congress to pass spending on his domestic priorities, particularly his plan to [revamp the Buy American program](#) to make the federal government buy more U.S.-made products.

**China pressure:** The campaign insists Biden would reengage U.S. allies spurned by Trump's go-it-alone trade policy to combat China on technology issues and its use of state subsidies to support its domestic industry. But those efforts would be "distinct" from any multi-country agreement, a senior campaign official said. And it's still unclear whether Biden would rescind some of the Trump Administration's tariffs or sanctions on China.

Domestic analysts say there's still internal contention in the Biden camp between those who want to liberalize trade, some who still favor the Trans-Pacific Partnership (TPP) as a tool to confront China and more populist proponents who want to push deep revisions to global trading agreements and institutions like the World Trade Organization.

**Agricultural trade:** Expect Biden to leverage the U.S. relationship with allies to negotiate a trade deal with China that doesn't hurt American farmers. Republicans continue to urge producers to remain patient with Trump's aggressive approach to trade relations with China as they stick to their promise that agricultural exports will recover as China commits to buying more U.S. farm goods.

**Expand public research dollars:** Biden would also likely boost investment in agricultural research programs at land grant universities so that more public institutions own patents to innovations instead of private institutions.

**Net-zero emissions:** Additionally, a Biden Administration would likely partner with farmers to use agriculture to capture carbon and fight climate change, in part by investing in USDA's flagship conservation program that would financially reward farmers for sustainable practices like planting cover crops. Corporate agriculture has been wary of proposals to reduce agriculture's carbon footprint, such as the Green New Deal. — *Liz Crampton*

## H. Tax Watch

**A Biden tax scorecard:** For those who earn more than \$1 million, Biden would tax capital gains as ordinary income. Other changes he's proposed for higher-income taxpayers would phase out a deduction for small businesses and partnerships and put limits on itemized deductions they can take.

In response, Republicans have generally argued that Biden would increase taxes across the board and sap the economy of growth potential in the process, which they label particularly problematic in the current recession. — *Aaron Lorenzo*

**Tax clampdown:** Biden plans to pay for his \$640 billion housing investment through a new tax on corporations and large financial institutions. His campaign specifies another proposed fee on asset management firms handling more than \$50 billion.

## I. Housing and the Fed

**War over the suburbs:** One of the biggest fault lines between Biden and Trump is over expanding low-income housing in the suburbs. The former vice president would restore the original version of the 2015 Affirmatively Furthering Fair Housing rule, a sweeping regulation developed by the Obama Administration to crack down on housing segregation. The Trump Administration suspended the rule in 2018 and last month replaced it with a much weaker regulation.

**Affordable housing:** Biden would funnel \$640 billion into housing over 10 years. He would create a \$100 billion fund to build and upgrade affordable housing and expand the Low-Income Housing Tax Credit to offer an incentive to build more affordable units. He would also create a new refundable tax credit of up to \$15,000 to help people buy their first home.

To help renters, he would dramatically boost funding for the Section Eight housing voucher program, expanding it to cover "every eligible family so that no one has to pay more than 30 percent of their income for rental housing." And he would bolster legal protections for tenants facing eviction.

**Expanding Fed mandate:** Biden wants to add another element to the Federal Reserve's congressional mandate, requiring the central bank to regularly provide data on racial inequality. He says the Fed should "aggressively enhance its surveillance and targeting of persistent racial gaps" throughout the economy, as well as increase diversity within its ranks.

**Direct payments:** As part of a "unity" plan developed with Sanders, Biden has indicated his support for allowing consumers to have direct accounts at the Fed, which could allow for faster transfer of the kind of relief checks Congress has been sending out during this crisis, as well as allowing the U.S. Postal Service to provide certain financial services. — *Mark McQuillan*

## J. Minimum Wage

**More for minimum wage:** Biden says he'd push to raise the federal minimum wage to \$15 an hour and eliminate the so-called tipped wage, which allows employers to count tips toward servers' mandated wages. The federal minimum wage hasn't gone up since 2009, when it was hiked to \$7.25.

Republicans have long been opposed to raising the minimum wage, arguing any increase in payroll costs would lead to job cuts.

The U.S. Chamber of Commerce says it won't support a \$15 minimum. Still, it told lawmakers last year, it would back a "double-digit" minimum if lawmakers agree to make changes to the Fair

Labor Standards Act (FLSA), keep the lower minimum for tipped workers, and make other technical changes to protect employers from litigation.

**The right to organize:** Biden would also sign into law the Protecting the Right to Organize Act, or PRO, which would strengthen workers' ability to unionize, and the Domestic Workers Bill of Rights Act, which would extend overtime, health, and safety protections. The Democratic measures would cement childcare and other workers' right to participate in collective bargaining, as well as aim to improve their conditions at work. — *Rebecca Rainey and Eleanor Mueller*

## **K. Cannabis**

**Biden's mixed messaging on weed:** Biden is out of step with Democratic voters when it comes to marijuana policy. They overwhelmingly support legalization, but he's pushing a more incremental — and somewhat confusing — approach. Biden wants to eliminate criminal penalties for marijuana possession, expand research, and reclassify marijuana from the most restrictive category of the Controlled Substances Act. But those proposals conflict with each other: Thousands of Americans would still go to prison for possessing narcotics under the category Biden proposes, which includes cocaine and methamphetamines.

Party insiders have aligned themselves with Biden's stance. The "unity" platform, crafted by a mix of supporters of Biden and Sanders, largely backed Biden's views. And an effort to amend the party's official platform to support marijuana legalization failed by a more than two-to-one vote. Biden hasn't taken a stance on the industry's No. 1 priority: cannabis banking legislation. Lack of access to loans and other financial services has stymied the industry's growth. The [SAFE Banking Act](#) passed the House last September by an overwhelming bipartisan vote, but stalled in the Senate. — *Paul Demko*