

# Congress is on the same team as the White House: So whom will they target?

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The dust has finally settled from the storm that was the November 2024 election. While the big headline was the election of former President Donald J. Trump to a second term, the country also elected a new Congress. Its makeup, priorities, and goals will have a significant influence on the national dialogue for at least the next two years.

One thing is clear though: Congress will continue to exercise increasing oversight over companies across a broad spectrum of the economy, albeit perhaps with different political ends in mind. Corporations should begin preparing for it now.

As part of its legislative duties, Congress is charged with oversight authority, which is the power to investigate facts and issues to help inform its legislative activities. In practice, this has led to many high profile investigations over the years on issues such as Watergate, January 6th, and the attempted assassinations of President-elect Trump, as well as inquiries into particular companies and industries.

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Each house of Congress has one general oversight body; in the House it is the Committee on Oversight and Accountability and in the Senate it is the Permanent Subcommittee on Investigations. However, every significant congressional committee also has oversight authority in its area of jurisdiction, whether finance, the environment, or homeland security for example.

What can we expect from the 119th Congress, as it prepares to take office on Jan. 3, 2025? Where will its many oversight committees turn their klieg lights as they launch new investigations, led by their ambitious, new chairs? To answer these questions, we need to first take note of one key outcome of this year's election.

## Unified party control and what it means for oversight

Traditionally, congressional oversight is seen primarily as a check on the power and policies of the President and his Cabinet. For example, for the past two years, Republican control of the House has led its committee chairs to conduct aggressive oversight of the Biden administration's policies on everything from the southwest border to infrastructure spending.

But in November, something happened that has only occurred once in the last 18 years — Republicans took control of both houses of Congress, as well as the entire Executive branch of government. This means that Congress will not be pursuing its normal target — the President and his administration.

So what's an ambitious committee chair to do? To find the answer, we can look to what a Democratic Senate has done under a Democratic President for the past four years. Because the Senate had little interest in criticizing an administration from its own party, it has turned elsewhere, increasingly focusing its oversight activities on corporate America rather than the Executive branch. With Congress and the White House now both held by Republicans, congressional scrutiny is likely to focus on targets outside of the usual political arena, specifically on companies that may not be used to responding to an influx of congressional inquiries and investigations.

## Scrutiny of disfavored countries and industries

While the Trump administration will not be in the crosshairs, a Republican-controlled Congress will find a target-rich environment for its oversight by focusing on places, policies, and practices that it suspects of failing or endangering the American public, and launching oversight investigations in these areas.

One such area will be China. The Trump administration will continue the Biden administration's suspicion and disfavor of China. This will manifest itself in scrutiny of not only Chinese companies, but also American and other companies that do business with China, particularly in the core technology sector, but also across other innovative areas of the U.S. economy, including life sciences, biotech, and other industries with valuable intellectual property.

Because China is such a major economic power in today's world — and because of an openness to China that existed as late as 10

years ago — many industries and companies could face oversight and public criticism for the business they conduct with that country, whether they have facilities there, utilize Chinese products in their supply chain, or sell their technologies into China.

Like China, Ukraine may well become a target of congressional oversight. Unlike China, however, the war in Ukraine is a subject that will almost certainly see a significant policy shift from Biden to Trump, as Trump is far more critical and skeptical of American aid to the country and involvement in its war with Russia. This will incentivize enterprising congressional committee chairs to conduct investigations of the assistance that has been sent to Ukraine, and the companies and advocacy organizations that have been instrumental in delivering that assistance. If your organization is one of those entities, that oversight is coming and you should be steeling yourself for it now.

But the oversight will not just be about foreign policy. We can expect to see aggressive oversight of industries that Republicans view with disfavor. At the top of that list will likely be the green energy industry. President-elect Trump repeatedly criticized the wind and solar energy sectors during his campaign, as well as elements of the electric vehicle industry.

We can expect committee chairs to take a cue from those criticisms and launch investigations of companies in these fields. We can expect to see similar activity relating to the education industry, the media, and the vaccine sector, among others.

Similarly, Republican congressional leaders may aim their letters and subpoenas at corporate policies and practices that they find disdainful or questionable. Such targets may include corporate diversity, equity, and inclusion initiatives, which Republicans have often questioned, along with transgender policies and social media content moderation, among others.

And congressional oversight does not always have to be partisan. For example, Republicans and Democrats have launched bipartisan investigations into the role of private equity in health care and medicine. We can expect to see a continued emphasis on this issue and perhaps more broadly on the role of private equity in corporate America.

Similarly, congressional committee chairs may continue to see bipartisan agreement in investigating the American health care system. Just this year, in a rare bipartisan move, the Senate voted unanimously (<https://cbsn.ws/30VMH2H>) to refer former Steward Health Care CEO Ralph de la Torre to the U.S. Department of Justice for refusing to appear under subpoena after Steward filed for bankruptcy earlier this year. The move came amid a bipartisan investigation by the Senate's Health, Education, Labor, and Pensions Committee into Steward's collapse. congressional oversight in these areas may be particularly fierce.

### Looking back on the Biden administration

When you don't want to criticize the current administration, you can always go back to the last one. That philosophy is well

established in congressional oversight, whether it be congressional investigations of the events of January 6 or congressional lookbacks at the Iraq war a couple of decades ago. That is why, in the upcoming Congress, we are likely to see increased oversight of the Biden administration's conduct.

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One manifestation of this will be scrutiny of governmental inefficiency. Elon Musk's and Vivek Ramaswamy's new Department of Government Efficiency, or "DOGE," has garnered attention in recent weeks, as they make public statements about their plans and begin to assemble a team.

What has gotten less attention is the announcement that Congresswoman Marjorie Taylor Greene will lead a subcommittee of the House Committee on Oversight and Accountability devoted to congressional oversight supporting the DOGE. This will mean hearings, subpoenas and reports emanating from Rep. Greene and her subcommittee; but we should not expect her to focus solely on government and government employees. She can be expected to quickly turn to private sector actors that support government projects, particularly government contractors. If you do business with the government, you should be thinking about what your vulnerability to such oversight may look like.

Similarly, we can expect the new Congress to turn its sharp eye toward perceived policy failures by the Biden administration. Renewed investigations into the Biden administration's ill-fated withdrawal from Afghanistan can be expected, as well as scrutiny of economic initiatives such as the Inflation Reduction Act. If you are a military contractor that supported efforts in Afghanistan, or a company that received assistance under the IRA, now is the time to prepare for what is coming: document requests, transcribed interview requests, subpoenas, public hearings and scathing legislative reports.

### Conclusion

Republican control of both houses of Congress will be a boon to the Trump administration, but it will not make congressional oversight go away. Rather, we can expect to see Congress train its sights on companies and industries that Trump or congressional allies are critical of, as well as the prior administration's policies and disfavored industries. Executives and GCs are well-advised to start preparing for these changes now.

## About the authors



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