

## **How Businesses Should Navigate a Tightly Divided New Congress**

Sam Gandhi, Michael Borden, Pattie DeLoatche, and Brittany Bolen

February 2023

### **Sam Gandhi:**

After a contentious State of the Union address, President Biden faces off against a divided congress over the debt ceiling, and the business world is paying particular attention. Will Speaker McCarthy be able to corral his slim House majority? Are any compromises possible? Can any legislation actually pass? In today's podcast, we'll find out just how much chaos to expect from the new Congress.

### **Brittany Bolen:**

Clients are looking for a long-term certainty. For them, this pendulum swing in Washington can stifle innovation. It can stifle progress, our economic recovery. It's a big challenge.

### **Michael Borden:**

Defaulting on the debt, it's never happened. We've come really close, particularly in 2011 and so we don't actually know what the consequences are.

### **Pattie DeLoatche:**

There are a lot of bills where there is bipartisan agreement. We just don't hear about those bipartisan bills. It just doesn't generate a lot of news.

### **Sam Gandhi:**

From the international law firm Sidley Austin, This is *The Sidley Podcast* where we tackle cutting-edge issues in the law and put them in perspective for businesspeople today. I'm Sam Gandhi.

Hello and welcome to this edition of *The Sidley Podcast*, episode number 32. Today, we speak with three of Sidley's thought leaders on the state of the United States Congress. All three are veterans of *The Sidley Podcast*--Michael Borden, Pattie DeLoatche--and Brittany Bolen, and we're talking about congressional priorities for 2023, legislation that may pass, and the potential impact on businesses.

Michael leads Sidley's Government Strategies group. He offers counsel to clients facing complex and high-stake challenges involving congressional investigations, legislation, and government regulation. He focuses his practice on matters relating to the financial services industry, but he represents clients in virtually every economic sector. Michael joined the firm after working for almost a decade on Capitol Hill, including as senior counsel to the House Financial Services Committee during the financial crisis and the enactment of Dodd-Frank.

Pattie's a senior policy advisory in the Government Strategies practice. She provides strategic advice to the firm's clients on legislative and regulatory issues before the administration, U.S. Congress, and federal state agencies. Her deep experience and vast network on Capitol Hill uniquely equip her to advocate on behalf of our clients. Pattie joined the firm after more than 25 years as a leading health policy advisor to key members of Congress, serving on health-related committees in the Congress.

Brittany is counsel in the firm's Environmental and Government Strategies practices and advises clients on a wide range of environmental, regulatory, and policy matters across the executive branch and on Capitol Hill. Brittany joined Sidley after nearly a decade in the federal government, where she most recently served as the associate administrator for policy at the U.S. EPA, and previously served in both the U.S. Senate and House, including as counsel on the Senate Environmental and Public Works Committee.

Michael, Pattie, Brittany, great to have you back on the podcast.

**Michael Borden:**

Thanks. It's great to be back.

**Pattie DeLoatch:**

Thanks, Sam. Good to be back.

**Brittany Bolen:**

Thanks, Sam. Looking forward to the discussion.

**Sam Gandhi:**

Most observers of the U.S. Congress would generally say, “What is going on?” In an article on Biden’s State of the Union address *The Washington Post* said, “Biden delivered some tough lines on the upcoming debt ceiling debate and pointed at high deficits under Donald Trump and accusing Republicans of attempted hostage taking. That drew audible protests, including some stunned looks from some of the Republican senators.” Michael, how would you characterize the dynamic between the President and the new House GOP?

**Michael Borden:**

It's new. House Republicans have been fighting and have animated their governing philosophy in opposition to President Biden. At this point, they don't know precisely how they're going to work with him and whether they really want to work with him. However, the one thing they do know that they have to do, and it's been conceded by everyone, including the Speaker of the House, is they are going to have to raise the debt ceiling. They don't know how they're going to do it, but they're absolutely certain, and they've made it very clear they're committed to raising the debt ceiling.

**Sam Gandhi:**

Let me just follow up on that. Historically, we used to think the gridlock is good for business. Is gridlock really good and what are the major concerns if they just fail to agree, especially on the debt ceiling?

**Michael Borden:**

So the debt ceiling is, I think, a unique circumstance. What happens if the debt ceiling is hit? No one really knows. Once the government hits the debt ceiling and exhausts all available extraordinary measures, it means it's no longer allowed to issue debt and soon after is going to run out of cash on hand. At that point, given annual deficits, incoming receipts would be insufficient to pay millions of daily obligations as they come due. It's never happened. We've come really close, particularly in 2011 to defaulting on the debt.

So, we don't actually know what the consequences are of defaulting on the debt. We have a perception that it will be really bad. There seems to be a consensus from both sides, which didn't exist back in 2011 with the most significant fight over the debt ceiling in recent memory. But everyone at this point agrees the consequences are just too stark. Now, the Democrats are

saying they want a clean debt ceiling increase with no policy riders attached to it. So it just increased the debt ceiling without doing anything else because the debt ceiling, of course, really only applies to money that's already been spent, not new spending.

On the other hand, Republicans see this as the only must-pass thing that they have to do in this Congress. So, they're trying to extract some sort of concessions, legislatively or on policies, that they otherwise couldn't extract from the Democrats. The timing of this now seems to be it looks as though we're going to reach the moment of truth at some point in late-June or early-July. I think you're going to have a lot of jawboning until that point where both sides are going to dig in their heels as they try to setup the negotiations in their favor.

I believe that the debt ceiling will be raised. I don't have any idea precisely how they're going to do it, because Kevin McCarthy in the House leads a Republican majority that's only four seats. So far, what he's said is he's tasked the GOP's five families, a *Godfather* reference that has been used to describe the different factions of House Republicans. That includes the far-right Freedom Caucus, the RSC, the Republican Study Committee, which has been traditionally very conservative members of the House. The Tuesday Group of moderates, the Main Street Partnership and the Main Street Coalition also of moderates, and the Problem Solvers Caucus, another small group of moderates.

The Freedom Caucus and the RSC dwarf the other three groups, however in a four-seat majority everyone matters. Given that there have been enough members of that moderate group who have said they're going to raise the debt ceiling, it's incumbent upon the most conservative members to try to get on the same page.

So right now, the five families are meeting to develop and discuss what their priorities are going to be. We don't know and I don't think they know what their ask is going to be of the President. There's going to be a lot of noise and potentially a lot of brinksmanship, but ultimately I think they're going to figure out a way to raise the debt ceiling. So, is this uncertainty or inaction good for business? Well, if they fail it will be very bad for business. If they're successful it means that either we've raised the debt ceiling without concessions or the Republicans have gotten some concessions

either to reduce spending or cut regulations, which certainly could be seen as a positive for business.

**Sam Gandhi:**

Pattie, we've talked about the House being narrowly divided but so is the Senate, even though Democrats did win an extra seat this time around with a 51 to 49 majority with John Fetterman in Pennsylvania flipping what had been a Republican seat. How do you see the power dynamics in the Senate playing out even though the House is the other way?

**Pattie DeLoatch:**

Yeah. One thing with gaining a seat in the Senate for the Democrats, the committee ratios are more in the Democrats favor, therefore they can get the President's nominees through the committee easier. Vice President Kamala Harris is no longer needed to be a tie breaker in the Senate in most instances. I think what's going to be interesting is how the House Progressive Caucus and the conservative block will interact.

I think on the House side it's going to be a little more difficult to get bills through the House Rules Committee, which is the committee that governs how a bill is considered on the House floor. For example, there may be some weird alliances, both the conservative and progressive wings may be opposed to certain bills for different reasons. For example, involving defense spending money for the Ukraine.

One point I do want to make that is, I believe not really thought of by the general public, is there are a lot of bills where there is bipartisan agreement. We just don't hear about those bipartisan bills because that type of news doesn't create acrimony and disdain, and I think it's a shame because I think the general public has no idea that there are a few things that Republicans and Democrats actually agree on. It just doesn't generate a lot of news.

**Sam Gandhi:**

Let's talk about what the Republicans and the Democrats allegedly agree upon. Pattie, I'll go to you with your experience in healthcare-related committees. After the State of the Union address and the back and forth between the president and Republicans actually on the floor, is it fair to say that Social Security and Medicare are no longer in the crosshairs of the

Congress? Or is that just an exclusively political issue or do you think that's still in play?

**Pattie DeLoatch:**

So first and most important, Medicare and Social Security were never in the crosshairs of the Republicans. I worked for Republicans for close to 26 years and eliminating Medicare and Social Security was never a policy that the Republican Party endorsed. Republicans always looked at slowing the future growth rate of the Medicare program, which is a lot different from eliminating the program completely.

In the State of the Union, President Biden was referencing a proposal by one Republican Senator that called for the sunset of all federal programs, including Medicare and Social Security, and requiring that they be approved by the Congress and signed into law every five years. The Republican leader of the Senate, Mitch McConnell, even spoke out against this policy well before the State of the Union. Speaker McCarthy has come out in opposition to this proposal as well.

That's one of the reasons that the President received such a visceral reaction from GOP members of Congress during the State of the Union when he raised that issue.

**Sam Gandhi:**

Michael, in your experience handling a number of House and Senate investigations for clients, what could we expect from congressional watchdogs?

**Michael Borden:**

One of the significant powers of the Congress is to investigate companies and the administration. It informs the legislative function. So, what people often forget is that Congress doesn't just pass laws or kill laws, they also look into...they use investigative powers, including subpoena powers to investigate businesses and other branches of government. What we've seen so far with the House Republicans is with a slim majority and a diverse caucus ideologically, the one thing that they absolutely agree on is that they want to investigate the Biden administration and also certain business sectors that they have seen as either hostile to their interests or against the American public.

So already you have a number of committee chairs who have begun significant congressional oversight hearings. In the House Oversight Committee, for example, they've held hearings on COVID and on Twitter and big tech and anti-conservative bias. In the House Financial Services Committee they've begun and continued investigations into the crypto sector and others. They also have been looking at providing oversight of federal agencies, including the SEC. So I think you're going to see sort of a two-pronged approach to the investigations. One will be of the private sector looking at institutions and their businesses and the way that they've been operating.

They're going to be looking at a number of industries. At the top of their list is big tech and close behind will be Chinese companies that operate in the United States.

On the government side, they're going to be looking at federal government regulators to see if they've overstepped and abused their power. Popular targets over the next year-and-a-half are almost certainly going to be the SEC and the FTC. You're going to see Gary Gensler in the House Financial Services Committee a lot. And you're going to see Lina Khan in the House Committee on Energy and Commerce a lot having to explain and justify the decisions they've made.

**Sam Gandhi:**

Brittany, what's your perspective on that from your experience?

**Brittany Bolen:**

Sure, Sam. My experience is informed by time with the House Oversight Committee at a time where there was divided government and as counsel in the Senate. In both instances, oversight is a core function for the Congress, and it's also good politics, particularly following a midterm election, going into a presidential campaign. I mean these members even in the midst of gridlock could at least show that they're holding whether it's private sector parties or the government accountable.

So what I think, building off of what Michael said, I mean, we're going to see the House very focused on the Executive Branch. When I talk about oversight, Sam, it's not just the hearings. It's letters. It's informal inquiries

from staff. It's requests potentially for transcribed interviews. Then there's the next level up which is depositions. I think you're going to see a really active House. We're also seeing active Senate. The Senate has already taken up oversight hearings. Joe Manchin held a hearing with the DOE because he's looking at oversight of the recently enacted Inflation Reduction Act. So, I think you'll see some of those moderate Democrats in the Senate, too, that are going to want to show that they're holding the administration accountable, they're asking questions. I think you'll see a lot of teaming up across the chambers.

For instance, House Republicans, because they're in the majority they'll have more influence in getting documents. They have that subpoena threat. I think you'll see a lot of ranking members in the Senate join the House chairman in letters so then the Senate staff can get access to documents and information. You'll see, for instance, in the Senate some oversight that was done in the House shift to the Senate. So for example, last Congress, the House Oversight Committee there was a big focus on fossil fuel companies and oversight related to climate change. We've already seen now Senator Whitehouse, whose taken over the Senate Budget Committee has committed to carrying on those oversight efforts.

I know right now there's some disputes over what documents Senate Budget can get from the House, subpoenas from last Congress but you can at least expect that they will be picking up where it was left off. I know there's been staff transitions where staff that were part of those investigations in the House are now shifting over to the Senate.

**Sam Gandhi:**

Pattie, what's your perspective?

**Pattie DeLoatch:**

Well, one thing that I just wanted to add is the House and the Senate Primary Health Committees also have oversight subcommittees. So those committees also are investigating. For example, the Senate Health Committee is now chaired by Senator Bernie Sanders. He recently subpoenaed the CEO of Starbucks because he views Starbucks as a union-busting company.



Sidley had House Majority Leader Steve Scalise as a guest speaker back in December, and he talked a little bit about the House's agenda as far as investigations are concerned. He said that the House was going to be investigating the origins of COVID. He also talked about pharmacy benefit managers, which they're the middlemen between the pharma companies and health insurers. The House Energy and Commerce Committee Oversight Subcommittee just held a hearing regarding the federal response to the COVID-19 pandemic and also border security. The Afghanistan withdrawal. I think those are all issues that are going to be reviewed in the 118th Congress.

**Sam Gandhi:**

I want to address regulatory issues but before I do that I want to ask all three of you, these investigations, given the divided House and Senate, can also be bipartisan. Senator Tester has just come out and said that not only does he want to investigate what's going on with the Pentagon and these balloons that are flying over the country but also introduce legislation to basically restrict foreign ownership of farmland throughout the country to ensure food security. Do you see some of these investigations leading to more bipartisan legislation as a result?

**Pattie DeLoatch:**

Definitely. Interestingly, the Senate Health Committee Chair Bernie Sanders and its ranking member Bill Cassidy just came out and said that they are in agreement that one of the bipartisan priorities of the committee is drug pricing. We fully expect some sort of investigation on pharma companies, potentially drug pricing, which could generate legislation.

**Brittany Bolen:**

I'd say similarly for the energy sector. I mentioned the hearing that the Senate Energy and Natural Resources Committee recently had with the DOE's deputy secretary that Chairman Joe Manchin leading some oversight, trying to make sure that some of the tax credit for electric vehicles that they're following the text of the Inflation Reduction Act.

We saw a letter just last week issued where his colleague in West Virginia, Senator Shelley Moore Capito had joined that letter to the administration asking about certain battery technologies that could qualify for that tax credit. So, I do think you'll see some bipartisanship within oversight.

**Michael Borden:**

Sam, I would also add there's one issue that definitely unites Republicans and Democrats and it is they all believe the U.S. is in a strategic, perhaps even an existential strategic competition with China. In the House, they've created a new select committee called the Select Committee on Strategic Competition between the United States and Chinese Communist Party that is led by perhaps one of the most strident anti-China hawks in the Congress.

Members in both parties agree that the only policy solution is to be even tougher on China. So, the balloon has led to already a consensus that more needs to be done to protect U.S. national security. So for example, as you've said, inbound investment restrictions perhaps on farmland is going to be a priority for senators from the Midwest. You have questions about security and whether or not surveillance technology needs to be limited in the United States. That's a concern that's been ongoing now for the last four or five years. Whether Chinese businesses like Tik Tok will be allowed to continue to operate in the United States remains a very open question.

Apparently, the CEO of Tik Tok is going to be testifying in the House Energy and Commerce Committee at the end of March. There are big questions related to China, and it's an issue where if you're looking to find bipartisan consensus or legislation that comes from tough oversight hearings look at China.

**Sam Gandhi:**

Brittany, let's talk about regulatory priorities. Based on your time in the Executive Branch during a divided Congress, how does all this affect agency priorities and what can clients expect from regulatory agencies with the new Congress?

**Brittany Bolen:**

I think of it in my experience and talking to those that have served multiple administrations in a time of divided government, it's more of a distraction than a roadblock. I mean folks that go in and take these jobs and serve at senior political jobs in the Executive Branch, they have a mission and an agenda, and I think that they do everything that they can to fully execute that. But when you have a divided Congress and you start to receive, as we

were talking about, some of these oversight inquiries. Like I said, it could take different forms. It could be hearings. When you're in an agency there's a lot of work that goes into preparation for a hearing. Just as I know Michael and all of us prepping a client. But for these government officials, it does require a lot of prep. You do mock hearings and then there's also the follow-up after a hearing with questions for the record.

Then you have a lot of these letters that require document production and going through documents. There's briefings. I mean for every major regulation you're getting requests to go up for briefings and follow-up questions. It is a distraction. I mean it eats into your day and the time that you've allotted to be really moving forward your agenda. So that's substantively how it can distract you.

You also have the Congressional Review Act. The Congressional Review Act, it's not just at the beginning of a new administration in Congress like we saw with the incoming Biden administration and the Democratic Congress in 2021 or with Trump and the Republican Congress at the beginning of 2017 vacating Obama era rules. I mean you could see this used throughout the Congress anytime you have a final regulatory action. That is something where there are expedited procedures where you can have a simple majority that can pass a resolution of disapproval, and we're already seeing efforts underway and talk. For instance, the SEC's Climate Disclosure Rule where it's all but guaranteed that of course the House will have enough votes to disapprove that regulation in the Senate. Again, under these certain procedures we could see where there's a majority because there's already been a few moderate Democrats that have already come out with concerns over the proposed rule.

But of course, the President will not sign a resolution disapproving one of his administration's rules. I don't believe that there is enough to get that veto proof majority for any of those major regulations. But it still is a threat and it still is something that the agencies will need to respond to.

Then I just lastly, Sam, I point to just the toll that oversight can take on these senior officials. We're already seeing really big names and senior folks in the administration and in the White House that have now left. That's expected. These jobs take a toll on you, and it's expected after two years or so that people will leave. A lot of that can slow the productivity of some of

the regulatory actions just because you have this turnover. Part of that is some of the concern over the House and the toll that that may take on being responsive to those oversight inquiries. Others it's just the nature of the job.

What I tell clients because my primary practice is regulatory. We're really now working back from about an April, May 2024 timeline where that's generally around the timeline that you think of getting your regulations finalized to avoid a potential CRA. That's the Congressional Review Act, resolution and disapproval with a potentially new administration and new Congress at the beginning of 2025. So I think it will be a sprint and we'll see how much gets done. I can speak from experience that all the rules that you have on your regulatory agenda will not get completed in time, and a lot of them will slip into that second half of that election year and we'll certainly be vulnerable to a CRA resolution and disapproval.

**Sam Gandhi:**

You're listening to *The Sidley Podcast*, and we're speaking with three of Sidley's thought leaders on the new Congress, Michael Borden, Pattie DeLoatche, and Brittany Bolen, about the power dynamics at play, potential legislation, oversight tools and how clients are responding to GOP control of the House.

So, Senator Elizabeth Warren of Massachusetts kicked off 2023 with a focus on cryptocurrency. And despite the issues of crypto over the last few months she's recently outlined in a speech where she believes regulators and lawmakers need to strengthen safeguards around the digital asset market. Her next move on crypto is to reintroduce a bill with GOP Senator Roger Marshall of Kansas to crack down on crypto money laundering.

Michael, will this difficult and tightly divided government be able to show the way forward for areas like crypto, which is arguably in a huge moment of crisis. Probably if there's anything that's in desperate need of some level of order if not regulation it's probably that industry.

**Michael Borden:**

Congress certainly can show the way, but I don't think that Congress has figured out what the way is. Part of that is ideological. Part of that is territorial. The ideological side is whether or not the government should be

regulating this new startup technology. It falls along some of the traditional Republican/Democratic lines. But territorially this gets into strange turf wars that exist in the Congress that are hard to understand or hard to really explain.

But almost like gangs, when you're on a committee in the Congress you have jurisdiction over certain issues, and you're very reluctant to give up your turf. On the issue of cryptocurrency, the question of who should regulate them, whether it's the CFTC or the SEC is one that's both substantive and procedural as any. The agriculture committees have jurisdiction over the CFTC and want the CFTC to be the regulator so they can oversee the sector.

The Financial Services Committee and the Senate Banking Committee have jurisdiction over the SEC and generally their members fall in the latter. So, I think it's going to be very difficult absent a significant crisis in the sector for Congress to reach a consensus. And whether they can or should set rules for crypto markets. Congress wants to get involved. The problem is they just don't know how to do it yet.

They will be looking without question to the administration for guidance but even then there will not be a clear consensus anytime soon.

**Sam Gandhi:**

So speaking of the administration, Pattie, what do businesses think about the chance of additional Executive Branch regulation to potentially bypass congressional gridlock?

**Pattie DeLoatch:**

Businesses are taking note of what can be done by the Executive Branch. For example, the FTC recently announced a policy initiative that proposed to ban non-compete clauses for all workers, no exceptions. These contracts bind tens of millions of workers today across nearly all occupations. President Biden gave the effort a big boost when he encouraged the FTC to regulate non-compete clauses in a July 2021 executive order.

As a matter of fact, the FTC will be hosting a public forum examining this proposed rule to let people share their experiences with noncompete

clauses. So that's just an example. It's got businesses very concerned. You know another thing, too, is this is a while back but when the Affordable Care Act passed Congress the bill was never...there was never a conference report between the House and the Senate and there were literally incomplete provisions in that bill when it was signed into law. So the administration was able to kind of fill in the blanks through regulatory action with several components of the Affordable Care Act.

I think that makes businesses very nervous because of the unpredictability that it could create.

**Sam Gandhi:**

Brittany, you've been leading work for clients on two major laws from the last Congress that President Biden featured prominently in the State of the Union. That's the bipartisan infrastructure law and the Inflation Reduction Act. So despite broad industry and apparently public support for the laws, reports now suggest Congress may be trying to rescind or pare back some of them. What does the new Congress mean for implementation of these laws and what happened to the prospects of bipartisan permitting reform? What do you think our clients are concerned about the most?

**Brittany Bolen:**

The bipartisan infrastructure laws, the Infrastructure Investment Jobs Act, the IIJA and then the Inflation Reduction Act, the IRA, those are the two flagship bills of the last Congress. It's something that the President talked about repeatedly at the State of the Union and now we're already seeing just in the last week a number of administration officials hitting the road, using this I think as we're gearing up for this 2024 election cycle.

I think what we are seeing, we're seeing House members that are looking to pare back those laws. I think it's mostly focused on the IRA, the Inflation Reduction Act, which I mean was historic spending for climate and clean energy initiatives. I think we are seeing, as we talked about earlier, a lot of oversight of the agency implementation of those laws. You know, I think for clients of course there's certain aspects of any piece of legislation that you're not fully supportive of. But on the whole, most clients are thrilled in the energy sector for those laws.

It gives a lot of long-term certainty, particularly with the tax credits. Here at Sidley we've got a great cross-firm team that does a lot of these carbon capture projects. I think that's something that there was needed certainty and extension in the way in which the IRA modified those. That's the 45Q tax credits that has now given industry some certainty in the long-term for them to get these investments and to actually get projects underway. We're seeing this not just in carbon capture but across the board with different forms of energy, and it's something that across sectors, for the automotive sector, too, and the transition to EVs that is welcomed.

So, I think you've got this little bit of a tension here where industry is generally supportive, and they are focused on agency implementation. I think it'll be interesting to see how Republicans, which are pro-business but also want to hold the administration to account and are looking at ways of curbing excess spending. How they'll ultimately navigate it. In my opinion, I think these laws, they're already underway. Agencies are making, particularly on the Infrastructure Bill, they've already made significant progress in terms of issuing grants for battery manufacturing in the U.S., critical mineral development and EV infrastructure.

So, I think you're already seeing so much that's already underway and progressed it's going to be a little too late to now pare that back. But I do think permitting reform was supposed to be one aspect of the IRA. You may recall that for Senator Joe Manchin's partnership with Senator Chuck Schumer in supporting the IRA because recall he was the one hold out with the Build Back Better Act. Part of that deal was that he was to get permitting reform through.

Now, there were multiple efforts last Congress to try to get permitting reform through. Ultimately, Republicans were not interested in joining those efforts, even though there were some elements of that permitting reform legislation that Republicans would support. I think this Congress that may be some area for potential bipartisanship. I know just recently Senator Joe Manchin and House Natural Resources Chairman Bruce Westermann of Arkansas, they did meet to talk about bipartisan permitting legislation. This is something, Sam, that clients do want. I mean they need it particularly in the clean energy sector.

We talk about carbon capture. For the EPA, my old agency, to approve a carbon capture sequestration well it's currently five, six years. I mean to take the benefit of the tax credits that the IRA has provided you do need some permitting reform to streamline that process for transmission. So, I think that we may see some middle ground there, but I think it's a long ways away.

**Sam Gandhi:**

We started talking about global issues earlier with the Chinese surveillance balloon, as well as the select committee on competition between the U.S. and the Chinese Communist Party. On the global stage, we've heard the Republican Congress push back pretty substantially and maybe even wavering in their monetary support for the Ukraine. How do you see this playing out?

**Michael Borden:**

I think that it's a lot more noise than actual substance. So 11 House Republicans have backed a bill calling for the immediate halt of U.S. aid to Ukraine. The 11 includes some of the most conservative and extreme members of the House conference: Matt Gaetz, Lauren Boebert, and Marjorie Taylor Greene. But a recent poll found that nearly two-thirds of Americans support continued aid to Ukraine. So, I believe that the overwhelming bipartisan majority in Congress will continue to support Ukraine for the immediate future. I don't think that it's a blank check, and I don't think it lasts forever, but I do think that given the current circumstances there is no end in sight to U.S. support for Ukraine.

**Sam Gandhi:**

Let me end the podcast with asking the three of you, what are you hearing from clients? What are your clients asking you about and what are their main concerns? Pattie, let me start with you and then I'll go to Brittany and Michael to end the podcast.

**Pattie DeLoatch:**

Sam, most of my clients are interested in health-related issues, and they're deeply concerned about what Senator Sanders will do as chair of the Senate Health Committee. The Health Committee has a broad agenda. It has jurisdiction over health, education, labor, and pensions. While he may not be able to...his bills will not pass the House of the Representatives for



the most part, but he will still be able to shine a spotlight on some of these issues, particularly drug pricing. There's a lot of concern about drug pricing and what he's going to be doing.

The primary staff person handling the drug pricing issues for Senator Sanders comes from Public Citizen, which has really alarmed some of the pharma industry folks. That's what I keep hearing about is what is the Senate Health Committee going to be doing in the 118th Congress?

**Sam Gandhi:**

Brittany, your perspective?

**Brittany Bolen:**

Clients are looking for a long-term certainty. For them, this pendulum swing in Washington can stifle innovation. It can stifle progress, our economic recovery. It's a big challenge, and they want certainty. So what does that mean in a divided government? It means allowing the agencies to implement some of these major laws that we were talking about earlier. The consensus around taking climate action has just grown. Our clients have set forth their own climate targets and emissions reduction goals, and they do view these flagship laws as key to meeting those targets, whether through the tax credits or other funding opportunities or just these shifts in the market that can help further grow the clean energy development in the United States.

So, I think what they're looking for from Congress is support to help implement those laws and help them achieve those ultimate goals. By way of legislation, the clients that I work with, permitting reform is their top priority.

**Sam Gandhi:**

Michael?

**Michael Borden:**

A significant portion of my practice involves working with China, Chinese companies, and U.S. institutions that are interested in doing business with China. I think that what we're going to see over the next two years and what my clients are asking about every day is what kind of restrictions are going to be imposed? There has been a lot of discussion that the Biden

administration is planning some form of outbound investment restriction. You have Congress perhaps discussing ways to strengthen the CFIUS process to limit Chinese investments in critical sectors of the United States.

The Chinese companies are wondering whether Congress is going to investigate them, their business, and their operations, and they're expecting new restrictions on Chinese technology. They're curious as to whether or not additional Chinese firms will face some form of sanction, whether it be an export control or something more serious. U.S. policymakers are really trying to challenge the high-tech economy in China and are looking for a way forward. I think that my clients are trying to understand that to determine how restrictive the U.S. government's going to be and whether or not we're going to see a further decoupling of the U.S. and Chinese economies or whether it's possible for some sort of thaw in the relationship.

Unfortunately, it feels like the balloon incident has certainly dealt a critical blow to improving the relationship between the two countries, but nothing is forever. So right now everyone is asking how bad is it going to be between the U.S. and China? And hoping that there can be some sort of way forward.

**Sam Gandhi:**

We've been speaking with three of Sidley's thought leaders on Congress and its impact on business. Michael Borden, Pattie DeLoatche, and Brittany Bolen. Michael, Pattie, Brittany, great look at the new Congress and thanks for sharing your insights.

**Michael Borden:**

Thanks for having me, Sam.

**Pattie DeLoatche:**

It's our pleasure. Thanks, Sam.

**Brittany Bolen:**

Thanks, Sam.

**Sam Gandhi:**

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