



The First 100 Days: The Biden administration's impact on the employee benefits industry



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This content is not to be considered legal advice. We recommend Clients speak with legal counsel specializing in labor, employment, and tax law to ensure your organization meets requirements.

Paycheck Protection Program (PPP) Round 2 – for 2021

- **Eligibility changes:** Businesses with under 300 employees who had seen a 25% revenue decrease in a quarter from 2019 to a quarter in 2020
- **Payroll cost changes:** Businesses can now include employer-paid premiums for group life, disability, dental and vision premiums in determining their average monthly payroll costs



PAYROLL COSTS ARE NOW DEFINED AS:

- **Employer-paid group life, disability, dental, and vision premiums**
- Salary, wage, commission or similar compensation
- Payment of cash tip or equivalent
- Payment for vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation
- Payment required for provision of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of state or local tax assessed on compensation

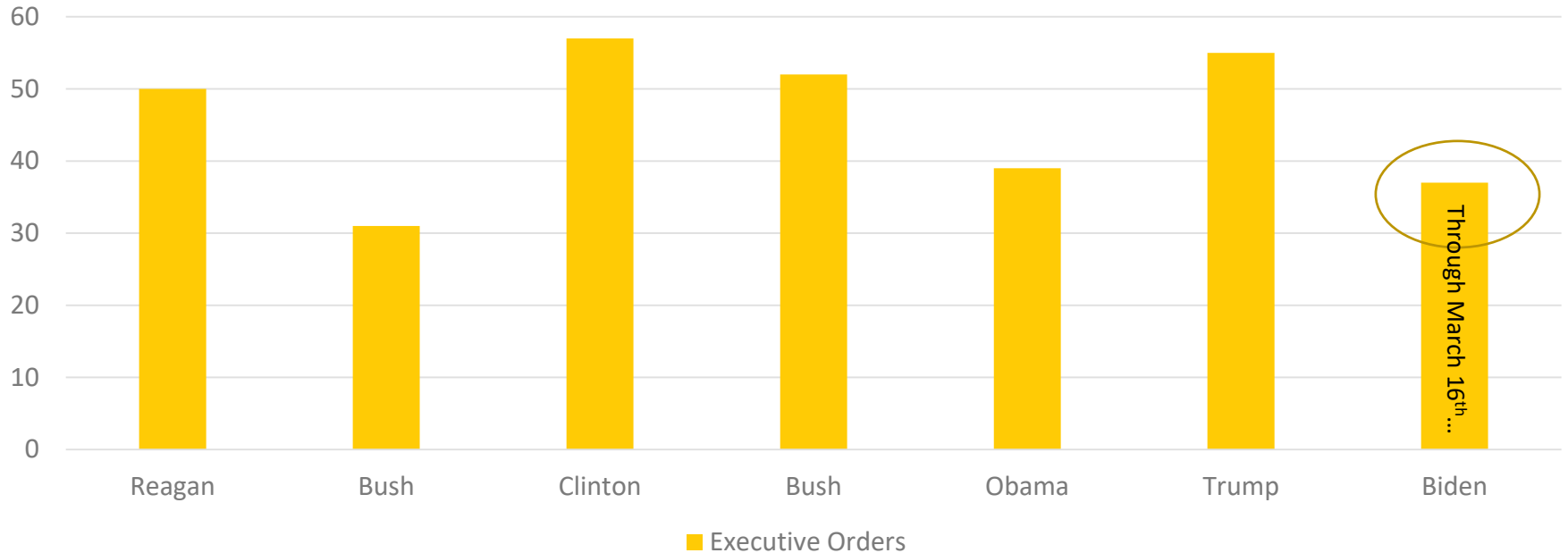
Agenda

- First 100 days realities
- Biden administration priorities
- The 2022 mid-terms



Tactics available to the Biden administration

Executive Orders First Year In Office



Tactics available to the Biden administration

Administrative rule-making process

- Currently in-place, final rules can be replaced by new rules
- Timeframe: President Biden's administration would likely be unable to reverse any Trump-era rules until April
- As Cabinet Secretary's confirmed, this process can begin (currently 17 Cabinet Secretaries confirmed)
- Congressional Review Act: Congress can rescind final rules put in place since September 2020

Legislation

- Slim Democratic Senate majority will make passing any partisan legislation very difficult
- Only exception would be through the "Budget Reconciliation" process
 - Must meet a series of requirements, including changes in federal spending or revenue
 - President Trump leveraged Budget Reconciliation twice in 2017, with Tax Reform passing
 - President Obama leveraged Budget Reconciliation in constructing the ACA

Agenda

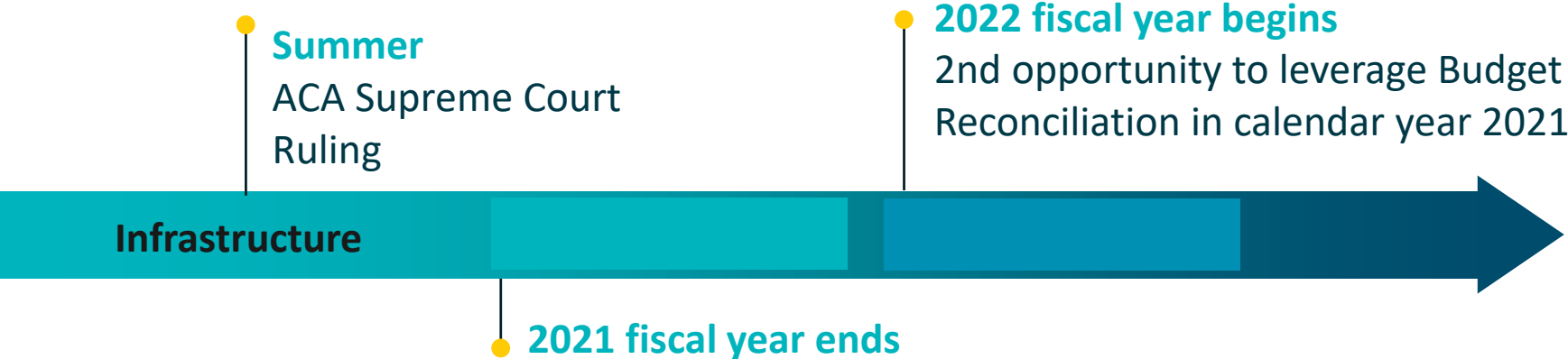
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American Rescue Plan – Notable Items

- **\$1,400 “Recovery Rebate”**
- **Extension of \$300 federal unemployment benefit**
- **100% COBRA Subsidies**
 - April 1st – September 30th
 - Government covers 100% of the COBRA premium amount
 - Medical, Dental, and Vision
- **FFCRA Paid Leave Tax Credits Extended & Enhanced**
 - U-500 Employers (generally) can continue to offer COVID Paid Leave Benefits through September 30th
 - Paid Sick Leave now includes time to receive vaccine
 - Paid FMLA now includes time to care for self or family member with COVID

2021 Timeline



Lowering Medicare eligibility age to 60

- Appear to be possible through Budget Reconciliation



Tax reform

- Increase Corporate Rates
- Increase Individual Rates On \$400k+
 - Both could leverage Budget Reconciliation



Comprehensive Paid Family & Medical Leave

- FAMILY Act?
- American Rescue Plan Model?



National Paid Family & Medical Leave Landscape

- **PFML Advocates**

- Provide all Americans with PFML through a national, government run, PFML program
 - National program should be a floor, not a ceiling

- **Multistate Business Community**

- Create a national PFML standard that pre-empts state programs
 - Deal with 1 program vs. 10 (9 + DC)

- **Insurers**

- Have expertise and experience to service as the foundation for a national program / standard
 - At worst, create a “private option” alongside any government programs

Legislative Considerations

- Budget Reconciliation
 - Has a direct impact on revenue and spending
 - Doesn't change Social Security's OASDI
- Raising Taxes For Those Under \$400,000
 - Is it a “net” tax increase?
- Key Players:
 - Finance Committee
Chairman Ron Wyden (D-OR)
 - HELP Committee
Chairwoman Patty Murray (D-WA)
 - Ways & Means Chairman
Richie Neal (D-MA)

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Results from Presidents' first mid-term

Year	President	Approval rating	Senate	House
1982	Ronald Reagan	43%	1	-26
1990	George Bush	58%	-1	-8
1994	William J. Clinton	46%	-8	-52
2002	George W. Bush	63%	+2	+8
2010	Barack Obama	45%	-6	-63
2018	Donald J. Trump	43.6%	+2	-41

Summary



Governing more difficult than campaigning



Bi-partisanship ahead?



Mid-terms already coming into focus



Q&A!

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