



10 Things to Expect Next Year If Republicans Win the Senate

By Tony Carrk October 24, 2014

With the midterm elections less than two weeks away, the focus of most national coverage is which party will control the U.S. Senate next year. Predictions have gone back and forth between the Democrats retaining their majority¹ and Republicans taking control of the upper chamber.² Ultimately, the outcome will be determined by a handful of races that are currently too close to call.³ However, perhaps a more important question to ponder is not who will win, but rather: What will a newly constituted Senate do? While some have criticized candidates in both parties for not articulating a clear agenda for this year's election,⁴ those who have been paying attention to the politics playing out over the past year have a very good idea of what the Republicans will have in store should they retake the majority in the Senate.

If the Republicans gain control of the Senate, here are the 10 things to expect.

1. Additional attempts to use the budget process to advance a conservative ideological agenda

Senate Minority Leader Mitch McConnell (R-KY) told *Politico* in August that he intends to use the appropriation process to push his conservative agenda should he become the Senate majority leader. "We're going to pass spending bills, and they're going to have a lot of restrictions on the activities of the bureaucracy. ... That's something [the president] won't like, but that will be done. I guarantee it," he said.⁵

Congressional Republicans have followed this strategy before. When President Barack Obama and Congress were debating raising the debt ceiling in 2011, House Republicans refused to increase the debt limit without getting draconian spending cuts as part of the deal. If Congress had failed to raise the debt limit, the United States would have defaulted on its debt for the first time in the nation's history and destabilized the world economy. Both parties reached an 11th-hour agreement that cut the deficit by more than \$2 trillion⁶ but also put in place sequestration, or automatic spending cuts that would go into effect if Congress could not reach an agreement regarding further deficit reduction.⁷ After reaching the summer 2013 agreement, Sen. McConnell said, "I think some of our members may have thought the default issue was a hostage you might take a chance at shooting. ... Most of us didn't think that. What we did learn is this — it's a hostage that's worth ransoming. And it focuses the Congress on something that must be done."⁸

Congressional Republicans again employed the strategy of using spending bills to hold the government hostage when House Republicans attempted to use a continuing resolution to defund or delay the Affordable Care Act, or ACA, in fall 2013. They ended up shutting down the government for the first time in a generation, costing the economy \$24 billion in the process.⁹

In other words, when Sen. McConnell promises to pass spending bills with restrictions, he is promising more of the same brinkmanship and political gridlock Congressional Republicans have used in the past few years should they win the majority in next month's election.

2. More tax cuts for the wealthy and further spending cuts for middle- and working-class families

Most legislation needs 60 votes in order to break a filibuster in the Senate, but a congressional budget resolution can establish parameters for subsequent legislation to be enacted through the reconciliation process, which only requires 51 votes to pass a measure.¹⁰ The budget resolution itself cannot be filibustered and also only requires 51 votes to pass the Senate.¹¹ As a result, it is easier for the majority to pass a budget resolution and a reconciliation bill than most other legislation.

The current conservative economic and fiscal roadmap is the fiscal year 2015 budget put forward by former vice presidential nominee and House Budget Committee Chairman Paul Ryan (R-WI). The Ryan budget would provide those with incomes of at least \$1 million another \$200,000 per year in tax cuts¹² while cutting nondefense spending by \$4.8 trillion. Roughly \$3.3 trillion of those cuts, or nearly 70 percent, target programs that help low-income and middle-class families, such as Medicaid—which provides health coverage for low- and moderate-income families—and Pell Grants, which help students pay for college.¹³

When given the opportunity, Senate Republicans voted for the various Ryan budgets in 2011,¹⁴ 2012,¹⁵ and again in 2013.¹⁶ Previous Senate Republican actions make it clear that the budget that would result from a Republican majority would most likely feature many of the same components as Rep. Ryan's past budgets.

If the Senate flips to Republican control, there will be an attempt to dramatically cut the corporate tax rate in a way that would adversely affect working- and middle-class families. House Republicans, including Committee on Ways and Means Chairman Rep. Dave Camp's (R-MI) tax reform plan, have called for reducing the corporate tax rate from 35 percent to 25 percent.¹⁷ In reality, the average effective U.S. corporate tax rate is currently about 27 percent after taking into account tax deductions and other loopholes.¹⁸ Republicans argue their tax reform would be revenue neutral—meaning it would not increase the budget deficit—and have typically opposed raising revenue elsewhere. Their solution is to close these corporate tax loopholes.

However, the truth is that revenue-neutral corporate tax reform is impossible with a 25 percent rate, even with the elimination of nearly all major corporate tax loopholes, unless there are additional cuts to nondefense spending or increases in other taxes.¹⁹ Rep. Camp attempted to disguise this fact through extensive use of budget gimmicks and was still forced to resort to a new tax on banks.²⁰

If Republicans take control of the Senate, look for a return to the same old top-down, trickle-down economic philosophy that benefits the wealthy few at the expense of everyone else. Those who advocate for this philosophy contend that America can cut its way to prosperity, but the evidence is clear: Austerity cost the economy 2.4 million jobs between December 2010 and October 2013²¹ while also damaging the nation's long-term economic potential.²²

3. Obstruction of well-qualified judicial nominees, leaving vacancies on federal courts

No matter the issue—from marriage equality to voting rights to health care to immigration—the federal courts play a vital role in the lives of all Americans. Instead of judges who side with corporate interests and whittle away at laws that protect our rights, the United States needs judges who support equality, protect access to health care, and are committed to safeguarding the Constitution. In an effort to keep the judiciary as conservative as possible, Republicans have filibustered at record levels to obstruct a progressive agenda.²³ Case in point: Over the eight years of the George W. Bush administration, only 16 judicial nominees were filibustered.²⁴ As of September, GOP filibusters have obstructed 77 of President Obama's judicial nominees.²⁵

Fortunately, the pace of judicial nominations has recently improved, as the Senate changed its rules to require a simple majority vote to impose reasonable debate times for judicial nominees.²⁶ Thanks to these reforms, 9 of the 13 U.S. courts of appeals had an active majority of judges appointed by Democratic presidents as of 2014, up from just one in 2009.²⁷

If the Senate flips, GOP leadership will likely change the rules in order to slow judicial confirmations to a crawl and reinstitute obstruction by filibuster. Instead of filling judicial vacancies with qualified judges who understand the issues affecting ordinary Americans, a GOP Senate would be able to block these judicial nominees with the hope that a Republican president would appoint ideologically conservative judges in 2017. This is significant because there are currently 63 vacancies in federal courts and 32 judicial nominees waiting for approval.²⁸ The stakes would rise even higher if a vacancy were to open on the U.S. Supreme Court.

4. A vote to repeal the Affordable Care Act

Senate Republicans have indicated one of their first votes, should they be in the majority, would be to repeal the ACA.²⁹ This would most likely occur during the first months of 2015, the same time that millions of Americans will be shopping in the state and federal marketplaces to sign up for health coverage.

Moreover, Senate Republicans would be voting to repeal the ACA when the law is working: The uninsured rate has dropped to a record low, according to a Gallup poll.³⁰ 7.3 million people were enrolled and paying their premiums in the marketplaces as of August,³¹ and another 8 million people have health coverage through Medicaid,³² not to mention the 5 million people who signed up for ACA-compliant plans outside the marketplace.³³ In addition, millions of Americans benefit from the consumer protections that ban insurers from denying coverage because of a pre-existing condition and from putting both lifetime and annual coverage limits on their care.

For some reason, congressional Republicans want to return to old political fights at a time when the rest of the country is ready to move forward. Having a substantive debate on how to improve the ACA and the nation's health care system is one thing. Scoring political points on a law that is delivering for Americans is another.

Even more striking, a potential Republican Senate would most likely have this repeal discussion right in the middle of the next open enrollment period, which is from November 15, 2014, to February 15, 2015.³⁴ In other words, they will want to talk about taking people's health care away as millions of people are shopping on the marketplaces and choosing coverage that works for them.

5. Attempts to roll back women's health gains

Although Republican senators and senatorial candidates are trying to distance themselves from their records in order to appeal to women voters in this year's election, they would most certainly vote for legislation that would roll back progress in women's health if they were to control the Senate.

Sen. McConnell said he would push a bill that would ban abortions after 20 weeks with narrower exemptions than the Supreme Court has typically allowed.³⁵ Sen. Lindsey Graham (R-SC) introduced the bill in 2013, and it currently has 40 co-sponsors.³⁶

Before the Supreme Court ruled in the *Hobby Lobby* case—essentially allowing employers to decide what birth control employees could access—48 senators voted for a similar amendment sponsored by Sen. Roy Blunt (R-MO) that would have allowed businesses to refuse to cover contraception coverage.³⁷

Women have benefited greatly from the ACA in several ways, and these benefits would end if Republicans were successful in their quest to repeal the law. Before the ACA, women in the individual market were charged as much as 150 percent more than men for the same coverage.³⁸ Under the ACA, premiums must be the same for men and women.³⁹ More than 48 million women are receiving preventive care without having to pay deductibles or co-payments.⁴⁰ In 2013, women saved \$483 million on birth control pills alone—a savings of \$269 per woman who uses this popular form of contraception.⁴¹

6. Use of the Congressional Review Act to weaken environmental rules, jeopardizing public health

Under the Congressional Review Act, once the administration submits a major rule to Congress, Congress can pass a joint resolution disapproving of the administration's rule.⁴² If a joint resolution disapproving the rule is enacted, the rule would not go into effect and the administration would be prohibited from issuing a substantially similar rule in the future. The Congressional Review Act allows the Senate to expedite consideration of a joint resolution disapproving of a final administrative rule within 60 days, and this consideration is not subject to the filibuster.⁴³

Sen. James Inhofe (R-OK)—who would be the chairman of the U.S. Senate Committee on Environment and Public Works if Republicans were to control the Senate next year—has already said he would challenge every Environmental Protection Agency rule under the Obama administration using the Congressional Review Act.⁴⁴ One rule in Republican sights is the proposal to cut carbon pollution from existing power plants by up to 30 percent by 2030 compared to 2005 levels.⁴⁵ This rule, which is still in the comment phase and not yet final,⁴⁶ would not only curb dangerous pollution that is warming the planet, but it would also save American families money on their energy bills and improve public health by avoiding up to 6,600 premature deaths and 150,000 asthma attacks in children annually.⁴⁷ When fully implemented, the rule is expected to save as much as \$93 billion in 2030.⁴⁸ For every dollar invested in the rule, the American people will see \$7 in benefits.⁴⁹

7. Action to dramatically expand people's ability to carry concealed, loaded guns

The number one goal of the National Rifle Association, or NRA, and its allies in Congress for the past five years has been expanding individuals' ability to carry concealed guns via proposed legislation called the National Right-to-Carry Reciprocity Act.⁵⁰ Currently, states establish their own laws and standards regarding who is permitted to carry guns, and while every state allows some individuals to carry firearms, states take widely different approaches to determining eligibility and fitness for gun-carry permits. Many states, such as Nevada, Texas, and California, have enacted relatively

strong laws that bar individuals with a history of violent misdemeanor offenses, drug and alcohol abuse, or domestic violence from carrying guns in their communities. At the other end of the spectrum, a number of states, such as South Carolina, Kansas, and Arizona, have relatively weak concealed carry permitting laws that allow anyone who is legally entitled to own a gun under federal or state law to carry a concealed firearm.

The right-to-carry legislation would undermine individual state laws regarding who may carry a gun and would mandate that states honor concealed carry permits issued by every other state.⁵¹ In effect, this legislation creates a race to the bottom in which states with the weakest requirements would set the national standard for such permits, and individual states will be unable to control who is authorized to carry guns within their borders.

The dangers created by such a law are best illustrated by the case of George Zimmerman, who—despite a lengthy history of violence that includes an arrest for assaulting a police officer, numerous instances of domestic violence, and the shooting death of unarmed Florida teenager Trayvon Martin—is still permitted to carry a concealed gun under Florida law.⁵² National right-to-carry legislation would mandate that people like Zimmerman be entitled to carry a gun in every state in the country, and local law enforcement would have no recourse even though he would be ineligible for a carry permit in many states. This legislation has come very close to passing the Senate: It failed by only two votes in 2009.⁵³ In April 2013, when it was included in the package of gun amendments voted on as part of the compromise measure developed by Sens. Joe Manchin (D-WV) and Pat Toomey (R-PA)—better known as the Manchin-Toomey amendment—the national reciprocity conceal carry measure received 57 votes, just three votes shy of breaking the filibuster.⁵⁴

8. Legislation that adversely affects the LGBT community

Over the past few years, Americans have seen courts and state legislatures across the country knock down bans on same-sex marriage and embrace marriage equality. Marriage equality received another boost in October when the U.S. Supreme Court decided not to take up the issue, thereby letting rulings allowing marriage equality to stand in Indiana, Oklahoma, Utah, Virginia, and Wisconsin.⁵⁵ Other states have followed, bringing the number of states that provide marriage equality to 32 as of this writing.⁵⁶

While many Republicans remained silent after the Supreme Court's ruling, it is clear that the party and its elected officials still overwhelmingly oppose equality for lesbian, gay, bisexual, and transgender, or LGBT, people and their families. For example, after the Court's ruling, Sen. Ted Cruz (R-TX) issued a statement saying he will be “introducing a constitutional amendment to prevent the federal government or the courts from attacking or striking down state marriage laws.”⁵⁷ Reince Priebus, the chairman of the Republican National Committee, reiterated the party's support for a constitutional amendment that would unmarry loving and committed same-sex couples.⁵⁸

While it is unlikely that a constitutional amendment would pass the Senate, Republicans have been considering other methods that would restrict the rights of the LGBT community. The Marriage and Religious Freedom Act currently pending in Congress would, if passed, allow for government-sanctioned discrimination against the LGBT community and would gut existing workplace protections for the now thousands of legally married same-sex couples.⁵⁹ As Allison Herwitt, then-legislative director of the Human Rights Campaign, explained:

The purpose of the legislation introduced today is simply to let federal employees, contractors, and grantees refuse to do their jobs or fulfill the terms of their taxpayer-funded contracts because they have a particular religious view about certain lawfully married couples — and then to sue the federal government for damages if they don't get their way. ... If passed, the Marriage and Religious Freedom Act would permit a federal worker processing tax returns, approving visa applications, or reviewing Social Security applications to walk away from their responsibilities whenever a same-sex couple's paperwork appeared on his or her desk. It would also allow a federally funded homeless shelter or substance abuse treatment program to turn away LGBT people.⁶⁰

9. Legislation to deport DREAMers

Facing an obstructionist Congress that failed to pass comprehensive immigration reform, the Obama administration took executive action called Deferred Action for Childhood Arrivals, or DACA, in 2012.⁶¹ DACA provides those who came illegally to the United States as children—a group most commonly referred to as DREAMers—and meet strict criteria the opportunity to remain in the United States and work legally. DACA is a temporary program for a specific population and does not lead to permanent status in the United States. Since 2012, nearly 581,000 individuals have received deferred action through the program.⁶²

Democrats and Republicans in the Senate—including potential 2016 presidential contender Sen. Marco Rubio (R-FL) and 2008 Republican presidential nominee Sen. John McCain (R-AZ)—came together in 2013 and passed a bipartisan comprehensive immigration reform bill by a vote of 68 to 32.⁶³ The bill reformed the U.S. immigration system, provided additional resources for border security, and established a 13-year path to citizenship for most of the 11 million undocumented immigrants who are currently in the United States. Many believe that a bipartisan majority in the House would vote for comprehensive immigration reform that included earned citizenship if House Speaker John Boehner (R-OH) and the House Republican leadership allowed a vote on such a measure.⁶⁴ Speaker Boehner's unwillingness to hold a vote on a comprehensive solution appears to be more a political decision than a policy one.

One year later, many Senate Republicans are distancing themselves from the bipartisan solution they passed and are now moving in the opposite direction. Following in the footsteps of the House Republicans, some in the Senate, led by Sen. Cruz, want to block the Obama administration from carrying out DACA and deport DREAMers.⁶⁵ Sen. Cruz said he wanted to “use any and all means necessary”⁶⁶ to prevent the administration from allowing undocumented immigrants who came to the United States as children to stay in the only country many of them know as home.

10. New cuts to programs and rules that increase college access, affordability, and readiness

While the cost of college soars and the nation’s students fall behind their peers in other countries in math, science, and reading,⁶⁷ a Republican Senate would most likely make it harder for students to afford higher education. One example would be their fiscal policies. As stated before, given their willingness to support previous iterations of Rep. Ryan’s budget, a Republican Senate would most likely pass his budget or something similar. Rep. Ryan’s budget cuts Pell Grants by \$90 billion,⁶⁸ makes monthly student loan payments higher, and eliminates \$107 billion from early education and K-12 education programs over the next decade.⁶⁹

Along with the cuts to schools and federal student aid, Senate Republicans will most likely try to block regulations on for-profit colleges—institutions that have a history of predatory practices that saddle students with higher rates of debt and low-quality degrees. On average, for-profit colleges charge 3.5 times more than public institutions in the same state for the same degree.⁷⁰ Nearly all students enrolled in a for-profit college take out a student loan.⁷¹ For-profit colleges make up just 13 percent of higher-education enrollment nationally but make up the largest share of students who default on their loans.⁷² Nearly half—46 percent—of borrowers who began repaying their loan in 2010 and defaulted by 2012 attended a for-profit college.⁷³

In March, the Obama administration proposed draft rules cracking down on for-profit colleges, requiring colleges to show that graduates’ debt does not exceed 20 percent of the institution’s discretionary earnings or 8 percent of its total earnings. In addition, colleges must show that their default rate on student loans does not exceed 30 percent.⁷⁴ If a program fails these earnings standards in any two of three consecutive years, or if the default rate exceeds the limit for three consecutive years, the program would become ineligible to receive student federal aid.⁷⁵ Responding to the new rules, House Education and the Workforce Committee Chairman John Kline (R-MN) said, “At a time when demand is great and the stakes are high, government should focus on increasing education opportunities, not unjustly penalizing institutions that are trying to prepare students and workers for a changing economy.”⁷⁶

Conclusion

With the fate of the U.S. Senate less than two weeks away from being determined, speculation about the Election Day outcome has media coverage of the political horse race in overdrive. This brief examines the upcoming election through a different lens, not merely focusing on potential winners in the game of politics, but more importantly on who will be affected and how if the Senate changes hands. Based on recent political history, it is safe to assume a Republican majority would pursue the same failed economic policies that benefit the wealthy at the expense of everyone else. Moreover, a Republican-led Senate, in tandem with a House already controlled by the GOP, would work to roll back progressive policies such as the ACA, immigration reform, and the protection of clean air. Not content to stop there, a Congress with Republicans at the helm would try to push their conservative social agenda on women's health and marriage equality and would gum up the works when it comes to confirming President Obama's qualified judicial nominees to the nation's courts.

While none of the legislative proposals mentioned have a significant chance of surviving a presidential veto, it is still instructive to examine the likely priorities of a Republican Senate and the stakes of such an outcome for American families. Elections have consequences, and this year's midterm election is no different.

Tony Carrk is Vice President for Policy and Research at the Center for American Progress Action Fund.

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