



Midterm Election Update



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ON WASHINGTON

With many of the state primaries now behind us, I'm writing to update my March white paper on the midterm elections.

The House

My March paper explained why members of the House of Representatives have little incentive to compromise on legislation:

As a result of this gerrymandering [the redrawing of Congressional districts in the wake of the 2010 census], most House members do not need to be concerned about winning the general election; the bulk of their districts votes the same way they do. What House members instead must worry about are the primaries. If a Republican incumbent is not viewed as sufficiently conservative, then he or she may face a successful primary challenge from a rightwing candidate (say, a member of the Tea Party).

That analysis received poignant reinforcement earlier this week as Majority Leader Eric Cantor, the second ranking Republican in the House leadership, lost to a primary challenger. Until the last few years, Cantor served with the strong backing of the more conservative (Tea Party) wing of the Republican party. But more recently, the Tea Party grew wary of Cantor's willingness, as Speaker Boehner's lieutenant, to compromise on fiscal measures that reopened the government and raised the debt ceiling, as well as his stated desire to advance an immigration reform

measure. This election, the Tea Party threw its support behind a poorly funded political newcomer who defeated Cantor in a stunning upset.

The House will remain in Republican hands regardless, but Cantor's loss suggests that the Tea Party might assert more control over the positions the Leadership takes.

The Senate

Regarding the Senate, I said in my white paper:

Whether Republicans can gain a majority of the Senate seats this fall will depend on the candidates that emerge from the primary contests. If the bulk of these candidates are ideologues [who are less willing to moderate their views as necessary to attract Independent voters in the general election], then the Republicans are unlikely to gain in the Senate. But if moderates are able to capture the primaries, then the Republicans could indeed become the majority party there.

With many of the state primaries now behind us, the news is good for Republicans seeking a Senate majority. The candidates who have emerged in many states — Kentucky, North Carolina, Georgia, Colorado and New Hampshire, among others — are moderate Republicans who bested their Tea Party primary opponents. (One exception is Mississippi, where a Tea Party candidate has forced a long-term Republican incumbent into a runoff, but that state will remain in Republican hands regardless

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and, so, does not factor into any shift in the Senate majority.)

The re-emergence of more moderate candidates puts the Republicans in a strong position to gain a majority of the Senate in the fall election. But it does not mean the conservative wing has stopped fighting. As one prominent Tea Party leader recently said, “Conservatives ought not to delude themselves that if Republicans win the Senate majority, it will somehow be a conservative majority. We should have no expectation whatsoever that they will listen. That’s why we’re fighting.” L. Brent Bozell III, President, Media Research Center (May 2014).

Post-election Politics

Whether Republicans or Democrats win the Senate is unlikely to influence greatly the legislation that emerges from the post-election Congress. Almost certainly, neither party will gain the 67 seats in the Senate needed to overrule a presidential veto. In fact, neither party is likely

to gain 60 Senate seats, the number needed to end a filibuster and move legislation through that body. With the House in Republican hands and a Democratic White House, the country is facing at least two more years of split government. As a result, Congress will act only when faced with more “forcing events,” such as raising the debt ceiling again in 2015, responding to a domestic terrorist attack or coming to the aid of a longtime U.S. ally.

There is one area where gaining a Senate majority will make a difference for Republicans, however. Last year, the Senate Democrats eliminated the filibuster rule that had required a 60-vote majority to confirm presidential appointments, such as Cabinet officials and federal judges. As a result, the Senate now can confirm federal appointees with a simple majority (51 votes). If the Republicans assume a majority of the Senate, they will be able to block Obama’s nominations for the remainder of his term.



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Andrew H. Friedman is the principal of The Washington Update LLC and a former senior partner in a Washington, D.C. law firm. He speaks regularly on legislative and regulatory developments and trends affecting investment, insurance and retirement products. He may be reached at www.TheWashingtonUpdate.com.

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