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### November Midterm Elections May Dramatically Alter Federal Legislation

by Michele Hale DeShazo



Unless you are in the midst of a sixth-month trial or have found a way to completely disconnect from all forms of media, you are probably aware that the Congressional and Senate midterm elections are scheduled to take place in November. While midterm elections are not new to politics, what is noteworthy this election cycle is the extreme level of interest found in many voters.

The rise of the Tea Party movement already has resulted in noteworthy upsets of more moderate candidates at the primary level. See, for example, long-serving Rep. Mike Castle (R) of Delaware, who was overtaken in his bid for the Senate by Tea Party favorite and political novice, Christine O'Donnell, or incumbent Sen. Lisa Murkowski (R) of Alaska, who was defeated by another Tea Party candidate, Joe Miller. Both Joe Miller and Christine O'Donnell were endorsed by former Alaska Governor, Sarah Palin, who has weighed in on many other hotly

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contested races across the country. The current political climate has many expecting major Republican pick-ups in both houses.

All 435 House seats will be decided in the upcoming election, in addition to 36 out of the 100 total Senate seats. The Cook Political Report, a non-partisan authority on elections, forecasts that 70 House seats are in jeopardy. Republicans, which currently hold 41 seats in the Senate, are also expected to gain 6 to 7 seats there. They need to win 10 Democratic-held seats to take control of the Senate. The likely outcome is that the midterm elections create a divided Legislature, with Republicans controlling the House, and Democrats holding a slim majority in the Senate which would prevent them from having the 60 votes necessary to stop a filibuster in order to move legislation to the floor for a vote.

The net effect of a divided House and Senate is that certain legislation, particularly bills deemed "partisan," face difficult odds at ever making it out of the committee level. Another possible outcome is that President Obama will be forced to make certain concessions to Republicans in order to secure votes for legislation. This happened to President Bill Clinton early in his administration after Democratic midterm losses, and is generally credited as the force behind the passage of the Welfare Reform Act.

Initially, the legislation thought to be most affected by a potential Republican-controlled House and/or Senate is climate change legislation. Earlier this year, efforts to pass a cap and trade bill never gained enough traction for passage due to the midterm elections and the potential risks associated with voting in favor of such a bill. If a midterm shift occurs, cap and trade legislation will most certainly meet its demise. Republicans may also attempt to thwart efforts by the Environmental Protection Agency (EPA) to promulgate rules concerning climate change. They could block funding for the EPA through the appropriations process by inserting language into budgets to bar the use of EPA funds for certain purposes.

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[The Contract Specifications Defense: Litigation Strategies for Defense Counsel](#)

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Other hot-button legislation which could be impacted by a House or Senate takeover is immigration reform. One of the major talking points for Republican candidates is the desire to usher in comprehensive immigration reform at the federal level. Even assuming Republicans garner enough votes to regain control of Congress, they will be faced with the probable challenge of attempting to pass this type of legislation with a Democratic Senate. Immigration reform appears to be a particularly polarizing issue that may face significant difficulties of passage at the federal level in the foreseeable future.

The midterm elections will be, at the very least, a potential harbinger of the Presidential election in 2012. What happens before then is anyone's guess.

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