



## Congressional Update – November 17, 2016

By Roxanne Perugino

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### (1) Congressional Elections

#### *Senate Results:*

The failure by the Democrats to gain control of the Senate is a bitter loss for the Democratic Party. A few short weeks ago Democrats were poised to pick up five to seven seats. Estimates were then revised by noted pollsters like Charlie Cook and Larry Sabato to four to six seats. By election day it was clear the best Democrats could hope for was a tied Senate, with Vice-President Elect Tim Kaine breaking a tie. At the end of the day, Democrats faced a catastrophic loss of the White House and a gain of only two seats in the Senate, the only consolation being no incumbent Democrat lost. The new make-up of the Senate in the 115<sup>th</sup> Congress will be 48 Democrats and 51 Republicans. This number could change, depending on the results of the Louisiana run-off election on December 10.

Democrats have one final chance to capture a Republican Senate seat, if they support the Democratic candidate in Louisiana, a red state. Public Service Commissioner and cattle farmer Foster Campbell (D) will face State Treasurer John Kennedy (R) in a run-off December 10. Kennedy has lost two previous Senate races. In Louisiana, Election Day is a primary. A candidate must win 50 percent plus one, otherwise the two top candidates will face each other in a run-off election.

*New in the Senate:* The Senate will welcome six new members when the 115<sup>th</sup> Congress convenes in January, 2017.

**Kamala Harris (D-California)**, won the Senate seat vacated by Senator Barbara Boxer's (D) retirement. She is the second Africa-American woman to be elected to the Senate – the first was Carol Moseley Braun (D-Illinois) in 1993. She has served as California's Attorney General since 2011. Like Boxer, she is a liberal Democrat.

**Todd Young (R-Indiana)**, is a former congressional aide and mainstream Republican. He defeated former Senator Evan Bayh (D) in a hard-fought campaign. Young has few legislation accomplishments in the House. In 2015, he voted with President Obama for Trade Promotion Authority paving the way for the Obama Administration to negotiate the Trans-Pacific Partnership trade accord. It is not clear, however, if he will vote to approve the agreement.

**Tammy Duckworth (D-Illinois)**, is one of the two pick-ups for the Democrats, having defeated incumbent Senator Mark Kirk (R). Duckworth is an Iraq war veteran, who lost both legs in combat. She has criticized those who want to limit the entry into the US of Syrian refugees. As a combat veteran, she is likely to focus on veterans' issues.

**Chris Van Hollen (D-Maryland)**. This race was always assured for the Democrats since Maryland is 2:1 Democratic. Van Hollen ran for the Senate seat vacated by retiring Senator Barbara Mikulski (D). Van Hollen has a deep understanding of budget issues as the ranking member of the House Budget Committee and a political savvy about campaigns and elections as the former head of the Democratic Congressional Campaign Committee. He is likely to play a key role in budget negotiations in the 115<sup>th</sup> Congress.

**Maggie Hassan (D-New Hampshire)**, is the second pick-up for the Democrats in a dismal performance by Democrats. Hassan was the first Democratic governor to call for ending the resettlement of Syrian refugees until tougher screening policies were in place. She has the potential to be a foreign policy hawk in the next Congress.

**Catherine Cortez Masto (D-Nevada)**: Cortez Masto is Minority Leader Harry Reid's (D-Nevada) hand-picked successor, and her defeat would have been a major embarrassment for Reid. Cortez Masto is the first Latina to serve in the Senate and has pushed for immigration overhaul.

### **The House Races:**

There were few bright spots for Democrats in the House races. Democrats defeated nine Republican incumbents, but lost three seats for a net gain of six seats, a far cry from the projected pickup of 10-20 seats. The winners of **three House special elections** have been sworn in. Depending on a few outstanding races, the make-up of the House is 193 Democrats to 239 Republicans.

#### Defeated House Incumbents

Winner	Defeated Incumbent	State/District
Neal Dunn (R)	Gwen Graham (D)	Florida-02
Stephanie Murphy (D)	John Mica (R)	Florida-07
Val Demings (D)	Daniel Webster (R)	Florida-10
Charlie Crist (D)	David Jolly (R)	Florida-13
Brian Mast (R)	Patrick Murphy (D-open seat)	Florida-18
Brad Schneider (D)	Robert Dold (R)	Illinois-10
Don Bacon (R)	Brad Ashford (D)	Nebraska-02
Jacky Rosen (D)	Joe Heck (R-open seat)	Nevada-03
Ruben Kihuen (D)	Crescent Hardy (R)	Nevada-04
Carol Shea-Porter (D)	Frank Guinta (R)	New Hampshire-01
Josh Gottheimer (D)	Scott Garrett (R)	New Jersey-05
A. McEachin (D)	Randy J. Forbes (R)	Virginia-04

***Ryan Nominated Speaker for Another Term:*** On Tuesday, House Republicans unanimously nominated Representative Paul Ryan (R-Wisconsin) for a second term as Speaker. The Republican Conference nominated Ryan by voice vote, instead of the usual secret ballot that probably would have shown how many members opposed Ryan's leadership, largely because of his lukewarm support for President-elect Trump. Ryan still must win a floor vote in January to officially retain his gavel, which will require him to garner the support of a majority of the House – 218 Republicans.

## **(2) Issues for the Lame Duck Congress**

Congress returns to Washington next week for a “lame duck” session, facing a crowded legislative agenda and little time to finish it. Now that Republicans have won the White House as well as the House and Senate, some issues may be put off until the 115<sup>th</sup> Congress convenes in January and President-elect Trump is sworn in on January 20. In the meantime, Congress is expected to consider several crucial issues in the lame duck session.

***Fixing JASTA Legislation:*** One day after overriding the President's veto of the Justice against State Sponsors of Terrorism Act (JASTA) last September, 28 Senators had second thoughts and now want to “fix” the legislation although it is unclear at present what that fix will be. Reportedly, one suggestion was to grant the President the authority to waive the lawsuit provisions if he determined that it was in the national security interests of the US. Senator Charles Schumer (D-New York), the sponsor of the legislation opposes any waiver authority and according to congressional sources is “dug in” on his opposition to the waiver. Secretary of State John Kerry, who has held discussions with the congressional leadership, made clear that any remedy to JASTA would have to include reaffirming the continuing existence of sovereign immunity. According to Kerry, the “fix” should respect and honor the needs and rights of the 9/11 victims, but not expose US Troops and US partners and US individuals who may be involved in another country to the potential of a lawsuit for those activities. One suggestion would be the creation of a special claims tribunal to handle lawsuits, but details are not clear.

There is considerable pressure to fix the JASTA legislation during the lame duck session. Whether Congress is successful remains uncertain. Whether a Presidential waiver or some other language is to be a part of the amended bill, Trump's recent election for presidency could cause an unexpected impact on any proceedings. Trump has come out in support of JASTA as the provisions currently stand.

***Continuing Resolution:*** The current Continuing Resolution (CR) funding the US Government expires on December 9, 2016. Congress was to consider and pass a longer-term CR in the lame duck session – that is, until the November elections. Now it appears that any spending bill will not be considered until the 115<sup>th</sup> Congress convenes in January, 2017. Reportedly, there is discussion of passing another short-term CR that will fund the US government through February 28, 2017. According to congressional sources, House Appropriations leaders are waiting for word from President-elect Trump on whether the spending bills should be completed now or wait until

January. House Appropriations Defense Subcommittee Chairman Rodney Frelinghuysen (R-New Jersey), who is the next likely Chairman of the full Appropriations Committee, also said the process is currently on “hold.” Not all House Republicans, however, are on board for waiting until January, including it seems, House Majority Leader Kevin McCarthy (R-California). Many do not like the idea of putting off crucial spending decisions until next year, but many members of the Republican Caucus are pushing for a delay until next year. The Obama Administration opposes any delay, fearing that the delay could adversely affect US defense and intelligence agencies’ decision-making process.

On November 16, Senator David Perdue (R-Georgia) member of the Budget Committee, reportedly said that the incoming Trump Administration has requested extending the continuing resolution to March 2017. On November 17, House Appropriations Chairman Harold Rogers (R-Kentucky), said that his committee will begin working on a continuing resolution that would extend through March 31, nothing that the decision was made by House and Senate leadership.

### **(3) Legislation Passed by the House**

***Iran Sanctions Act:*** On Tuesday, November 15 the House passed [HR6297](#), a bill extending the Iran Sanctions Act (ISA) through 2026 by a vote of 419 to 1. Representative Thomas Massie (R-Kentucky) was the lone “no” vote.

The ISA is set to expire at the end of 2016. The Act authorizes sanctions against third-party investment in Iran’s energy sector and other industries. It was intended to restrain Iran’s support for terrorism and its proliferation of weapons. Congress intends to consider extending the Act later this week.

Most of the provisions of the ISA have been waived as part of the implementation of the Joint Comprehensive Plan of Action (JCPOA). Under the terms of JCPOA, all sanctions on Iran with respect to its nuclear and ballistic missile programs are to be lifted in a series of stages by 2023. However, if Iran does not adhere to the agreement, sanctions can be re-imposed. As a result, the Obama Administration has consistently asserted that ISA need not be extended. Experts disagree on whether it makes a difference if the sanctions are imposed by Executive Order or by congressional mandate.

Extending ISA has been a congressional priority for some time. House Foreign Affairs Chairman Ed Royce (R-California) and Senate Foreign Relations Chairman Bob Corker (R-Tennessee) both have introduced legislation to extend the Iran Sanctions Act.

Royce’s bill is a straight extension of the Iran Sanctions Act. On Tuesday, November 15, the yet to be introduced House bill has the support of Committee Democrats. Supporters of the Royce bill are confident that the House bill should be able to pass the Senate by unanimous consent.

Corker's bill would extend the Iran Sanctions Act to 2026 and add additional sanctions on Iran for its ballistic missile program. The draft bill also would target assets of the Iranian Revolutionary Guard and entities involved in cyber espionage. Only two Democrats are currently supporting the bill: Senators Bob Menendez (D-New Jersey) and Joe Manchin (D-West Virginia).

**Syria:** On Tuesday, November 15 the House passed [HR5732](#) by voice vote, a bill to halt the wholesale slaughter of the Syrian people, encourage a negotiated political settlement, and hold Syrian human rights abusers accountable for their crimes.

*\*Click [here](#) for a separate report on the background and prospects for enactment of this legislation.*

The bill states that it is the policy of the United States that all diplomatic and coercive economic means should be utilized to compel the government of Bashar al-Assad to immediately halt the wholesale slaughter of the Syrian people and actively work towards transition to a democratic government in Syria, existing in peace and security with its neighbors.

- Title I of the bill would impose sanctions on Syria's Central Bank and on foreign individuals that engage in transactions with the Central Bank.
- Title II of the bill would impose sanctions on certain persons who are responsible for or complicit in human rights abuses committed against Syrian citizens or their family members.
- Title III of the bill requires a report to Congress on monitoring and evaluating ongoing assistance programs in Syria and to the Syrian people, and shall provide an updated list of persons who are responsible for human rights violations in Syria.
- Title IV of the bill would allow for the suspension of sanctions if the US President determines that internationally recognized negotiations to resolve the violence in Syria have concluded in an agreement or are likely not to conclude in an agreement. If the US President determines that internationally recognized negotiations to resolve the violence in Syria have not concluded in an agreement or are likely not to conclude in an agreement, the President may suspend, as appropriate, in whole or in part, the imposition of sanctions otherwise required under this Act or any amendment made by this Act for a period not to exceed 120 days, and renewable for additional periods not to exceed 120 days, if the President submits to the appropriate congressional committees in writing a determination and certification that the Government of Syria has ended military attacks and gross violations of the human rights of the Syrian people.

**Prohibiting Commercial Passenger Aircraft to Iran:** On November 16, by a vote of 231-181 the House passed [HR5711](#), legislation prohibiting the Secretary of Treasury from authorizing certain transactions by a US financial institution in connection with the export or re-export of a

commercial passenger aircraft to Iran. The House agreed to an amendment changing the title of the bill to “No US Financing for Iran Act.”

The bill was introduced last July by Representative Bill Huizenga (R-Michigan) and approved by the House Financial Services Committee on July 13 by a vote of 33-21.

#### **(4) At the Think Tanks**

***A New President and the Middle East:*** On November 10, 2016, the Washington Institute for Near East Policy (WINEP) held a panel discussion with Dennis Ross, counselor at WINEP; Norman Ornstein, resident scholar at the American Enterprise Institute; Jamal Khashoggi, a Saudi journalist and editor-in-chief of Al-Arab News Channel; David Horowitz, founding editor of the *Times of Israel*; and Jumana Ghunaimat, editor-in-chief of the Jordanian newspaper *al-Ghad*. The discussion addressed the future of US-Middle East relations in light of the impending Donald Trump presidency and Republican control of Congress. All panelist stressed that Trump’s future role as President is unclear, with Ross stating that the “uncertainty is unwelcome internationally.”

In Saudi Arabia, Khashoggi said that officials are going “back to the drawing board” to plan for a Trump presidency, arguing that Saudi Arabia will have more difficulties with Trump than it had with President Obama, citing the Justice against Sponsors of Terrorism Act (JASTA) as the first of many litmus tests that will measure the future of US-Saudi relations. On the other hand, Ghunaimat of Jordan affirmed her faith in American institutions which she believes remain powerful at keeping the President in line. She thinks that the strategic relationship between Jordan and the US will not change, and that no progress will be made regarding the Palestinian conflict, since, in her view, the US administration is always against the Palestinian cause.

Horowitz said most Israelis would have preferred Democratic nominee Hillary Clinton over Trump. However, he thinks that Trump will understand the “real challenges that Israel faces” and that most Israelis think Trump will support Israel but are unsure of how dependable he will be. He also predicted that Israel might become even more right-wing as its political system tries to mirror the Trump message. Dennis Ross voiced skepticism over Trump’s ability to launch a successful campaign against ISIS in Syria. He noted that a campaign to defeat ISIS is useless without supporting Sunnis in the region, who see Russian involvement in Syria as affecting the balance of power in the entire region. Trump’s desire to improve relations with Russia, Ross worries, might become a one-way street, empowering Russia and leaving little incentive for implementing hard consequences against Russian aggression.

***Tackling the Root Causes of Conflict in the Middle East:*** On October 27, the Atlantic Council hosted a discussion with a groups of Middle East experts. Of note were remarks by panelists Michele Dunne, Director of the Middle East Program at the Carnegie Endowment for International Peace and Anne Patterson, Assistant Secretary of State for Near Eastern Affairs.

The panelists agreed that economic changes have caused a social breakdown of public confidence in the regimes of the Middle East, and that political leadership in the Arab world is perpetuating an increasingly untenable status quo. Nonetheless, the panelists all recognized the reality of recent [polls](#) that demonstrate that the people of the Middle East do not want US intervention to facilitate political reform. With this in mind, the panelists argued that there must be significant rethinking of what role the US should play when engaging with the Middle East.

One of the main policy suggestions for western countries is to focus on education, foreign direct investment, and entrepreneurship as ways to initiate economic reform. This must nonetheless be done in way that does not simply give new opportunities to those connected to elite power networks. If economic reform is to succeed, “wasta” style patronage must be minimized and new opportunities diffused as widely among the low-income jobless youth as possible. If possible, foreign aid must be contingent on lessening corruption.

While economic stagnation has a role in fomenting unrest, it is simplistic to say that sectarian conflict is caused by poverty and lack of opportunity. Rather, lack of opportunity combined with promises of change and failed expectations are the main causes of resentment. As the popular demands of the Arab Spring have not subsided, it is likely that unless major structural reforms are initiated, sectarianism and extremism will not end. In the short run, the panelists agreed that more can be done to give jobs to refugees and internally displaced people, which will be important for long-term economic development.