

December 31, 2014

The Hill has an important warning for the GOP. The next election cycle will find many more Republicans than Dems defending seats. A list of 10 most vulnerable, on both sides, is provided.

Senate Republicans will have to work hard to retain their recently won majority as they face a tough 2016 electoral map.

They have 24 seats up compared to Democrats' 10, including seven in states President Obama carried twice. Democrats won't have any red-state senators facing reelection and could be buoyed by a favorable presidential-year electorate.

Republicans do have some margin for error after their sweeping 2014 win netted them nine seats for a 54-seat Senate majority. Democrats won't have it easy either, with Senate Leader Harry Reid (Nev.) facing a strong challenge.

But Democrats are cautiously optimistic they can win back control just two years after losing it — and Republicans admit that they have a fight on their hands.

"It'll be tough but it's definitely not impossible. We only need four seats if we win the White House and we start off with four very vulnerable Republicans," said one national Democratic strategist.

"There are just some hardcore blue presidential states," said a national Republican strategist.

Here are 10 senators in danger of losing in 2016. ...

Of course, we have to depend on the Supreme Court to rein in the lawless president, otherwise we don't need the congress. [Victor Davis Hanson](#) writes on the one man revolution.

Until now there were two types of peaceful American change. One was a president, like Franklin D. Roosevelt or Ronald Reagan, working with Congress to alter American life from the top down by passing a new agenda. The other was popular-reform pressure, as happened in the 1890s or 1960s, to change public opinion and force government to make new laws or change existing ones.

Barack Obama has introduced a quite different, third sort of revolution. He seeks to enact change that both the majority of Americans and their representatives oppose. And he tries to do it by bypassing Congress through executive orders and presidential memoranda of dubious legality.

Take so-called climate change. Even when Obama enjoyed a Democrat-controlled Congress, he could not ram through unpopular cap-and-trade legislation. Now he promises to reduce carbon emissions through executive orders. He just signed a climate-change "accord" with China, bypassing the U.S. Senate, which by law must approve treaties with foreign powers.

Polls show that a majority of Americans oppose amnesties and want immigration laws enforced. The 2014 midterm elections were a reminder of those realities. No matter. Obama just did what for six years he warned was illegal: bypass immigration law and grant millions exemptions from enforcement through what he once called "a pen and a phone." ...

USA Today OpEd by Cornell law prof William Jacobson highlights three areas of presidential lawlessness.

... Three areas of the Obama administration going it alone stand out: Immigration, Obamacare and the environment. Immigration is perhaps the most dramatic example.

Legalizing and eventually providing a path to citizenship for the estimated 10-12 million illegal immigrants is a top administration priority. But that priority hit a roadblock in the form of the Republican-controlled House of Representatives, and soon, Senate. Out of frustration, Obama has taken unilateral action to evade the immigration laws.

Prior to 2014, the administration already had imposed non-repatriation policies at the border, and established the "mini-dream" policy, precluding deportation of people who were brought to the country illegally as minors and met certain other criteria. These policies, however, only applied to a relatively small portion of the total illegal immigrant population. So more was needed, and that "more" would not be coming from Congress.

Accordingly, soon after the 2014 midterm elections, Obama announced executive action to extend legalization for up to 5 million more immigrants, focusing on those who were in the country illegally but whose children were U.S. citizens by virtue of their birth here. Nearly two dozen times in the past Obama had stated publicly that he could not constitutionally undertake such actions, but he did it anyway. ...

For the most part, the media and the academy have been cheer leaders for the president as law breaker. Prof Jacobson, above, is an example of one who has not been corrupted. And now comes Laurence Tribe, once a law professor of the president, who claims in a WSJ OpEd the EPA is using unconstitutional edicts to control coal used in electric generating plants.

As a law professor, I taught the nation's first environmental law class 45 years ago. As a lawyer, I have supported countless environmental causes. And as a father and grandfather, I want to leave the Earth in better shape than when I arrived.

Nonetheless, I recently filed comments with the Environmental Protection Agency urging the agency to withdraw its Clean Power Plan, a regulatory proposal to reduce carbon emissions from the nation's electric power plants. In my view, coping with climate change is a vital end, but it does not justify using unconstitutional means.

Although my comments opposing the EPA's proposal were joined by a major coal producer, they reflect my professional conclusions as an independent legal scholar. I say only what I believe, whether I do so pro bono, or in this case having been retained by others. After studying the only legal basis offered for the EPA's proposed rule, I concluded that the agency is asserting executive power far beyond its lawful authority.

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target. If the agency approves the package, the state would then have to impose those laws on electric utilities and the public. ...

Byron York outlines what the GOP congress could do to stop unilateral presidential actions. It's not enough. We need the Supreme Court to issue forceful unambiguous decisions.

Give Barack Obama credit for keeping his promise. "This is going to be a year of action," the president pledged last January. And indeed, with a series of unilateral executive actions in the last few months of the year, he made it so.

Now, as a new year arrives, the job for the new Republican majority on Capitol Hill is to keep Obama in check as he strives to bypass lawmakers and make 2015 another year of (unilateral) action.

Obama's original promise was entirely understandable. He entered 2013 fresh from a solid re-election victory, determined to score legislative wins on gun control, immigration, spending, and other knotty issues. It all ended in disappointment. As 2014 dawned, Obama promised — to Republicans, threatened — to take a new path.

He did, by using executive fiat to confer quasi-legal status on millions of illegal immigrants, to reshape relations with Cuba, and to make a climate deal with China, among other actions. As 2015 arrives, Obama and his Democratic supporters are drawing one key lesson from the experience: take executive action, make it broad and far-reaching, and do it sooner rather than later. ...

The Hill

[10 senators who could lose in 2016](#)

by Cameron Joseph

Senate Republicans will have to work hard to retain their recently won majority as they face a tough 2016 electoral map.

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Republicans do have some margin for error after their sweeping 2014 win netted them nine seats for a 54-seat Senate majority. Democrats won't have it easy either, with Senate Leader Harry Reid (Nev.) facing a strong challenge.

But Democrats are cautiously optimistic they can win back control just two years after losing it — and Republicans admit that they have a fight on their hands.

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“There are just some hardcore blue presidential states,” said a national Republican strategist.

Here are 10 senators in danger of losing in 2016.

1. Sen. Mark Kirk (R-Ill.)

Kirk narrowly defeated a scandal-plagued Democratic candidate by less than 2 points in the 2010 Republican wave election. In the 2016 presidential election year, he will likely face a much more Democratic electorate.

The senator has worked hard to bolster his bipartisan credentials, backing immigration reform, gun control and environmental protections. He was also the second Republican senator to embrace gay marriage.

His hard-fought battle to return from a debilitating stroke could also earn him sympathy from voters.

Kirk told The Hill in November that [he’s running](#) “come hell or high water,” seeking to dispel rumors he might retire.

But in deep-blue Illinois even the strongest Republicans face uphill battles. Democrats are eyeing Illinois Attorney General Lisa Madigan (D) and Reps. Tammy Duckworth (Ill.), Cheri Bustos (Ill.) and Bill Foster (Ill.) as potential challengers.

2. Sen. Ron Johnson (R-Wis.)

Polls show Johnson isn’t that well-known or well-liked in Democratic-leaning Wisconsin, where he won by 5 points in the 2010 GOP wave.

He may face a rematch against Sen. Russ Feingold (D-Wis.) in a high-turnout election year. Adding to his worries: No GOP presidential nominee has carried Wisconsin in more than three decades.

Johnson has done little to build bipartisan credentials in the Democratic-leaning state, and Feingold is giving serious consideration to another run.

The big question is whether the former senator has learned his lesson after refusing outside money in 2010, letting Johnson outspend him by a wide margin, and declining to air any attack ads. If Feingold is the nominee and runs a smarter campaign this time around, Johnson could face an uphill battle to hold his seat.

3. Sen. Harry Reid (D-Nev.)

Polls show Reid’s approval numbers are underwater in his home state. Strategists in both parties say he’d be the underdog if popular Nevada Gov. Brian Sandoval (R), who just won reelection with more than 70 percent of the vote, decides to run against him.

Even if Sandoval doesn’t run, Democrats admit Reid may have a tough fight on his hands if Republicans can find a strong candidate.

But Nevada has been trending Democratic due to its fast-growing Hispanic population, and the party tends to do much better there in presidential years. Reid also won by a surprisingly comfortable margin in 2010 against a deeply flawed Republican candidate, and has proven to be a scrappy campaigner.

His numbers, though, just aren't that good in Nevada — and the soon-to-be Senate minority leader is likely to face a tough fight.

4. Sen. Pat Toomey (R-Pa.)

Toomey faces a potential rematch against former Rep. Joe Sestak (D-Pa.), who he defeated by a narrow margin in 2010.

The senator has worked hard to shed his image as an unyielding Tea Party candidate, working with Democrats on fiscal issues and taking the lead in crafting gun-control legislation with Sen. Joe Manchin (D-W.Va.).

Democrats admit he'll be a tough out — but they believe Pennsylvania's blue lean in presidential years means Toomey's in trouble.

5. Sen. Kelly Ayotte (R-N.H.)

Ayotte hails from more of a swing state than Toomey, Kirk and Johnson, and Republicans believe she's done well to shore herself up in New Hampshire.

But Democrats think she's beatable if they find the right candidate — and are hoping they can convince Gov. Maggie Hassan (D-N.H.) to run.

6. Sen. Richard Burr (R-N.C.)

Polls show Burr isn't that well-known in North Carolina, a tremendously difficult state to build name recognition because of its 15 distinct media markets. He also has little money in the bank for his reelection bid.

Burr has worked hard to establish himself as an even-tempered lawmaker and while North Carolina has moved Democratic in recent years it still leans slightly Republican overall.

Democrats are hoping they can find a top-tier candidate to challenge him — potentially outgoing Sen. Kay Hagan (D-N.C.), who lost a close race last month. They concede that the quality of their candidate and the national political climate will likely determine whether or not they can compete in North Carolina.

7. Sen. Michael Bennet (D-Colo.)

Bennet narrowly won in 2010 against a gaffe-prone Republican and is coming off a rough cycle as chairman of the Democratic Senatorial Campaign Committee. He also just lost his home-state colleague, outgoing Sen. Mark Udall (D-Colo.), defeated by Sen.-elect Cory Gardner (R-Colo.).

Colorado has trended Democratic but remains a pure toss-up state — as Gardner's win shows. The big question is whether Republicans can find another candidate of Gardner's quality, as strategists admit they have a relatively thin bench in the state.

Rep. Mike Coffman (R-Colo.) could be a top recruit that could put the seat in play.

8. Sen. Marco Rubio (R-Fla.)

Rubio has said he won't run for both reelection and the presidency, and the swing-state seat would become a tossup if he decides to focus on a White House bid.

Democrats contend they have an outside shot at Rubio even if he runs for reelection, and tout potential candidates including Rep. Patrick Murphy (D-Fla.) and Rep.-elect Gwen Graham (D-Fla.). Both are fresh-faced members who won in Republican-leaning districts. Democratic National Committee Chairwoman Debbie Wasserman Schultz (D-Fla.) is another possibility.

9. Sen. Rob Portman (R-Ohio)

Portman recently declared he'll run for reelection instead of making a White House bid, and strategists in both parties say he'll be tough to beat. Portman is a fundraising powerhouse and has done little to stir controversy while in the Senate.

But Democrats are hopeful they can compete in swing-state Ohio if they land a top recruit — and are mentioning former Ohio Gov. Ted Strickland (D) as the type of candidate who could give him a tough fight.

10. Sen. Lisa Murkowski (R-Alaska)

Murkowski is by far Alaska's most popular politician, and has been preparing for reelection ever since her surprise 2010 primary loss and subsequent write-in general election victory.

But her old foe, 2010 Senate nominee Joe Miller (R), may give her another challenge, and her support for abortion rights, gay marriage and centrist fiscal and energy positions gives him fodder to again attack her in a primary.

Democrats also mention outgoing Sen. Mark Begich (D-Alaska) as a candidate who could compete with her and Miller in a theoretical three-way race. She's unlikely to lose a reelection bid — but her race is one to closely watch.

National Review

Obama, a One-Man Revolution

In his "fourth quarter," he feels free to ignore popular opinion, the rule of law, and Congress.

By Victor Davis Hanson

Until now there were two types of peaceful American change. One was a president, like Franklin D. Roosevelt or Ronald Reagan, working with Congress to alter American life from the top down by passing a new agenda. The other was popular-reform pressure, as happened in the 1890s or 1960s, to change public opinion and force government to make new laws or change existing ones.

Barack Obama has introduced a quite different, third sort of revolution. He seeks to enact change that both the majority of Americans and their representatives oppose. And he tries to do it by bypassing Congress through executive orders and presidential memoranda of dubious legality.

Take so-called climate change. Even when Obama enjoyed a Democrat-controlled Congress, he could not ram through unpopular cap-and-trade legislation. Now he promises to reduce carbon emissions through executive orders. He just signed a climate-change “accord” with China, bypassing the U.S. Senate, which by law must approve treaties with foreign powers.

Polls show that a majority of Americans oppose amnesties and want immigration laws enforced. The 2014 midterm elections were a reminder of those realities. No matter. Obama just did what for six years he warned was illegal: bypass immigration law and grant millions exemptions from enforcement through what he once called “a pen and a phone.”

For over a half-century, both Democratic and Republican administrations and Congresses have excluded Cuba from normal U.S. relations. The Castro regime once hosted nuclear missiles pointed at the U.S. It sent expeditionary forces around the globe to spread Communism. It executed opponents, and it still locks up tens of thousands of political prisoners. It drove more than a million refugees to U.S. shores.

Obama knew there was neither popular nor congressional support to reestablish normal ties, especially given that the elderly dictators the Castro brothers are soon to pass on. The traditional props for Cuba’s failed Cuban economy – Russia and Venezuela – now have failed economies of their own.

Easing up on Cuba makes about as much sense as if Reagan had given up on the Cold War in 1981, on the principle that prior opposition to Communism for over a half-century had failed to collapse the tottering Soviet Union.

Obama is said to feel liberated in his revolutionary mode, without worry of either midterm elections or his own reelection. He promises in his “fourth quarter” to enact more executive orders that will radically transform America, despite potential opposition from voters and the Congress.

In part the Obama revolution is linguistic. Words have been reinvented to mask unpleasant reality. Executive orders are “presidential memoranda,” to disguise their ubiquity. Costly Obamacare is an “Affordable Care Act.” Treaties are mere “accords” that do not need to be ratified by the Senate. Deportations are redefined to create a false sense that immigration law is enforced. Terrorism is disassociated from its Islamic roots through euphemisms like “man-caused disaster.”

In part the Obama revolution is bureaucratic. Old agencies are reinvented for new progressive missions. The NASA director promised to pursue Muslim outreach. The IRS went after political opponents. The actions of Immigration and Customs Enforcement are selective, and predicated on politics that are deemed favorable to the long-term Obama agenda. Whether the Department of Justice under Eric Holder intervened in a case was predicated on race, class, and gender criteria rather than just the legal merits.

In part the Obama revolution is a war to divvy up the nation by race, class, and gender. Differences are all stoked through various made-up wars. Incendiary presidential advisers like Al Sharpton, inflammatory rhetoric such “nation of cowards” and “punish our enemies,” and presidential commentary on controversies such as the Trayvon Martin or Michael Brown cases inflame and divide.

After six years of Obama’s tenure, the president’s approval rating is just above 40 percent. He has lost more congressional seats during his administration than has any president in over a half-century. His party is in shambles, with historic midterm losses in state legislatures and governorships.

Obama's promised new legislation — gun control, climate change, Obamacare — was either rejected by Congress or passed but found to be both unpopular and nearly unworkable. Positive changes — such as lower gas prices brought on by new American oil and gas discoveries and innovative new methods of extraction — came despite, not because of, Obama.

Yet the president presses on with his unpopular agenda, believing, as did Napoleon, that he alone is the revolution — intent to ignore popular opinion, the rule of law, and Congress. He assumes that his mastery of the teleprompter and iconic status as the first black president exempt him from congressional censure or outright public revolt.

In the next two years, we will see presidential overreach that we have not witnessed in modern memory.

Victor Davis Hanson is a classicist and historian at the Hoover Institution, Stanford University, and the author, most recently, of The Savior Generals.

USA Today

Constitution's horrible, no good, very bad year

President Obama governs by executive fiat, defacto legislation and ignores separation of powers

by William A. Jacobson

As 2014 comes to a close, it's worth considering the Obama administration legacy as we head into 2015.

Certainly, there were scandals. The IRS played [hide and seek](#) with documents regarding improper targeting of conservative and Tea Party groups.

The response to the Ebola outbreak was clumsy, and helped induce panic. Our foreign policy is in tatters.

Yet the most long-lasting damage may be the Obama administration's cavalier attitude towards constitutional separation of powers.

Three areas of the Obama administration going it alone stand out: Immigration, Obamacare and the environment. Immigration is perhaps the most dramatic example.

Legalizing and eventually providing a path to citizenship for the estimated 10-12 million illegal immigrants is a [top administration priority](#). But that priority hit a [roadblock](#) in the form of the Republican-controlled House of Representatives, and soon, Senate. Out of frustration, Obama has taken [unilateral action](#) to evade the immigration laws.

Prior to 2014, the administration already had imposed [non-repatriation policies](#) at the border, and established the "[mini-dream](#)" policy, [precluding](#) deportation of people who were brought to the country illegally as minors and met certain other criteria. These policies, however, only applied to a relatively small portion of the total illegal immigrant population. So more was needed, and that "more" would not be coming from Congress.

Accordingly, soon after the 2014 midterm elections, Obama announced executive action to extend legalization for [up to 5 million more](#) immigrants, focusing on those who were in the country illegally but whose children were U.S. citizens by virtue of their birth here. Nearly two dozen times in the past Obama had [stated publicly](#) that he could not constitutionally undertake such actions, but he did it anyway.

This immigration end-run creates a class of people who effectively are exempt from the immigration laws, without Congress ever having recognized such an exemption. It is not prosecutorial discretion but a usurpation of legislative power.

There also have been dozens of [unilateral actions](#) as to Obamacare legislative requirements, including individual and employer mandate delays, and waivers of certain fees for unions. Of particular note, the IRS passed rules allowing purchasers on the federal exchanges to obtain subsidies the legislation reserves for state exchanges.

This issue was of sufficient importance that the Supreme Court [unexpectedly agreed](#) to hear the case without there even being a split in the circuits. These changes were undertaken not as a proper exercise of discretion as to how best to implement the law as written, but to push much of the pain of the law beyond the 2014 elections.

As to the environment, EPA regulatory authority has been used expansively to [scale-back](#) the coal industry and shutter coal burning power plants. Those regulations have [cost Democrats politically](#) in states like West Virginia and Kentucky, but the damage to the coal industry may be irreversible.

Further, the administration has moved to implement national [carbon-emission reductions](#) even though Congress has not approved such a national reworking of our energy policy. Even *The New York Times* [notes](#) that President Obama "could leave office with the most aggressive, far-reaching environmental legacy of any occupant of the White House. Yet it is very possible that not a single major environmental law will have passed during his two terms in Washington."

The exploitation of environmental regulatory authority not to implement laws, but to create a regulatory equivalent of legislation, is an abuse of executive discretion. At every level, the Obama administration has signaled that going it alone is the only way to get things done.

But that is not how our constitutional system is set up. The Framers understood the threat of an overreaching executive who wants to be king not president.

Midterm election [exit polls](#) confirm [other polling](#) showing trust in government near historic lows. Dissatisfaction with government is the [top non-economic](#) public concern.

The Obama administration's relentless expansion of executive power through extra-constitutional means only further fuels the public's distrust of government. If 2014 was a referendum on Obama, 2016 may be a referendum on whether the public wants the federal government, particularly the president, to live within constitutional boundaries.

Will our next president be a king, queen or a constitutionally-limited president? That is the question for 2016.

William A. Jacobson is clinical professor at Cornell Law School and publisher of [Legal Insurrection Blog](#).

WSJ

[The Clean Power Plan Is Unconstitutional](#)

The EPA acts as though it has the legislative authority to re-engineer the nation's electric generating system and power grid. It does not.

by Laurence H. Tribe

As a law professor, I taught the nation's first environmental law class 45 years ago. As a lawyer, I have supported countless environmental causes. And as a father and grandfather, I want to leave the Earth in better shape than when I arrived.

Nonetheless, I recently filed [comments](#) with the Environmental Protection Agency urging the agency to withdraw its Clean Power Plan, a regulatory proposal to reduce carbon emissions from the nation's electric power plants. In my view, coping with climate change is a vital end, but it does not justify using unconstitutional means.

Although my comments opposing the EPA's proposal were joined by a major coal producer, they reflect my professional conclusions as an independent legal scholar. I say only what I believe, whether I do so pro bono, or in this case having been retained by others. After studying the only legal basis offered for the EPA's proposed rule, I concluded that the agency is asserting executive power far beyond its lawful authority.

The Clean Power Plan would set a carbon dioxide emission target for every state, and the EPA would command each state, within roughly a year, to come up with a package of laws to meet that target. If the agency approves the package, the state would then have to impose those laws on electric utilities and the public.

The agency would effectively dictate the energy mix used in each state and leave the state with essentially no choice in implementing its plan. But Supreme Court precedent settled over two decades ago in *New York v. United States* (1992) and reaffirmed by a 7-2 vote as recently as 2012 in *NFIB v. Sebelius*, the ObamaCare decision, holds that such federal commandeering of state governments defeats political accountability and violates principles of federalism that are basic to our constitutional order.



Appalachian Electric Power's coal-fired Big Sandy Power Plant, Cattlesburg, Ky

Even more fundamentally, the EPA, like every administrative agency, is constitutionally forbidden to exercise powers Congress never delegated to it in the first place. The brute fact is that the Obama administration failed to get climate legislation through Congress. Yet the EPA is acting as though it has the legislative authority anyway to re-engineer the nation's electric generating system and power grid. It does not.

To justify the Clean Power Plan, the EPA has brazenly rewritten the history of an obscure section of the 1970 Clean Air Act. The EPA cites Section 111 of the Clean Air Act as authority for its proposal. In reality, this part of the law expressly says that it may not be used to regulate power plants where, as is the case in this situation, those plants are already being regulated as Congress contemplated under another part of the law, Section 112—one involving hazardous pollutants.

Last spring, the Supreme Court read the statute in precisely that way in *Utility Air Regulatory Group v. EPA*. The EPA acknowledges that the Clean Air Act “appears by its terms to preclude” its proposal. That is an understatement. And the problem can't be dismissed as a quirk in the statute. The language at issue has been a feature of the Clean Air Act for decades. That's why, in 2008 (*New Jersey v. EPA*), the D.C. Circuit struck down a far less ambitious EPA rule under exactly the same statutory constraint involved here. Today the agency is again circumventing the checks Congress deliberately built into the Clean Air Act and distorting it to justify a wide-ranging carbon rule in a way Congress never intended or authorized.

Frustration with congressional inaction cannot justify throwing the Constitution overboard to rescue this lawless EPA proposal—especially when the EPA itself, through Senate testimony by its administrator, Gina McCarthy, has touted its proposal as “an investment opportunity” that isn't really “about pollution control” at all.

Some defend the EPA's power grab on the grounds that it has the potential of averting global disaster. They remind us that, to save the Union during the Civil War, Lincoln was willing to suspend habeas corpus without the congressional authorization the Constitution requires. Today, with the benefit of hindsight, even Lincoln's decision looks more like an overreaction—akin to the Alien and Sedition Acts and the internment of Japanese Americans after Pearl Harbor—than a genuinely necessary response to an existential crisis.

Justice Robert H. Jackson —Nuremberg prosecutor and among our greatest defenders of constitutionalism and the rule of law—joined the Supreme Court's decision denying President Harry Truman the authority to seize steel mills during the Korean conflict without the congressional authorization the Constitution required. Truman justified his shortcut by invoking national security, citing the need to prevent labor strife from disrupting the war effort.

In *Youngstown Sheet & Tube Co. v. Sawyer* (1952), Justice Jackson said no. He warned of losing sight of “the balanced power structure of our Republic” and reaffirmed that “ours is a government of laws, not of men.” We should heed his words today.

Mr. Tribe is a professor of constitutional law at Harvard Law School and a University Professor at Harvard University. He was retained by [Peabody Energy](#) to provide an independent analysis of the proposed EPA rule.

Examiner

Can GOP stop Obama's 'Year of Action' sequel?

by Byron York

Give Barack Obama credit for keeping his promise. "This is going to be a year of action," the president pledged last January. And indeed, with a series of unilateral executive actions in the last few months of the year, he made it so.

Now, as a new year arrives, the job for the new Republican majority on Capitol Hill is to keep Obama in check as he strives to bypass lawmakers and make 2015 another year of (unilateral) action.

Obama's original promise was entirely understandable. He entered 2013 fresh from a solid re-election victory, determined to score legislative wins on gun control, immigration, spending, and other knotty issues. It all ended in disappointment. As 2014 dawned, Obama promised — to Republicans, threatened — to take a new path.

He did, by using executive fiat to confer quasi-legal status on millions of illegal immigrants, to reshape relations with Cuba, and to make a climate deal with China, among other actions. As 2015 arrives, Obama and his Democratic supporters are drawing one key lesson from the experience: take executive action, make it broad and far-reaching, and do it sooner rather than later.

For example, Obama famously delayed his immigration action until after the midterm elections. The Democratic candidates he sought to protect lost anyway. Some of the president's supporters argue that putting the action off actually made things worse by discouraging Hispanic support at the polls. Don't look for Obama to opt for delay again.

In a new interview with National Public Radio, the president denied that he feels "liberated" by the election, in the sense that he can now do what he wants without worrying about shielding House and Senate Democrats from political damage. But he made it pretty clear that, liberated or not, he is going to take executive action and, at the same time, do his best to stymie Republican initiatives.

"I haven't used the veto pen very often since I've been in office," Obama told NPR. "Now, I suspect there are going to be some times where I've got to pull that pen out. And I'm going to defend gains that we've made in healthcare; I'm going to defend gains that we've made on the environment and clean air and clean water."

Indeed, the standard for overriding a presidential veto — a two-thirds vote in House and Senate — could become the only limit Obama observes in the next couple of years. For example, Obama takes executive action X. Republican lawmakers, along with some moderate Democrats, oppose X. They pass a bill repealing X with a 60-vote, filibuster-proof majority in the Senate. Obama vetoes the bill, preserving his executive action. At that point, opponents would have to muster 67 votes to override the veto. That's a very, very tough hill to climb. As long as Obama can get 34 Democrats to support him in the Senate, his executive action will stand.

Another way of putting it is that Obama will be able to do anything at least 34 Senate Democrats will let him get away with.

The president might put that standard to a very tough test over the issue of terrorist detainees at Guantanamo Bay. For years now, large bipartisan majorities of Congress have voted to forbid

Obama from transferring any Gitmo inmates to the United States, or even to prepare a place for them here.

Now the president appears to be readying a plan by which he will release dozens of prisoners to other countries, reducing the population of Guantanamo to perhaps 50 or 60 hard-core cases. Then he will say to Congress: It's just too expensive to keep Gitmo open for such a small number of inmates. Let's transfer them to a supermax prison in the United States.

Congress undoubtedly will reject Obama's proposal. And then what? Will Obama feel emboldened enough to go around Congress and dare lawmakers to do something about it? Would 34 Democrats go along with him? The resulting fight could become a template for Obama's remaining time in office.

In his NPR interview, the president looked back on his unilateral actions of the past year and promised more. "I said at the beginning of this year that 2014 would be a breakthrough year," Obama said. "And it was a bumpy path."

With Republicans now in control of House and Senate, and Obama determined to push his executive authority to its limit and beyond, the bumps could be just beginning.





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EXODUS

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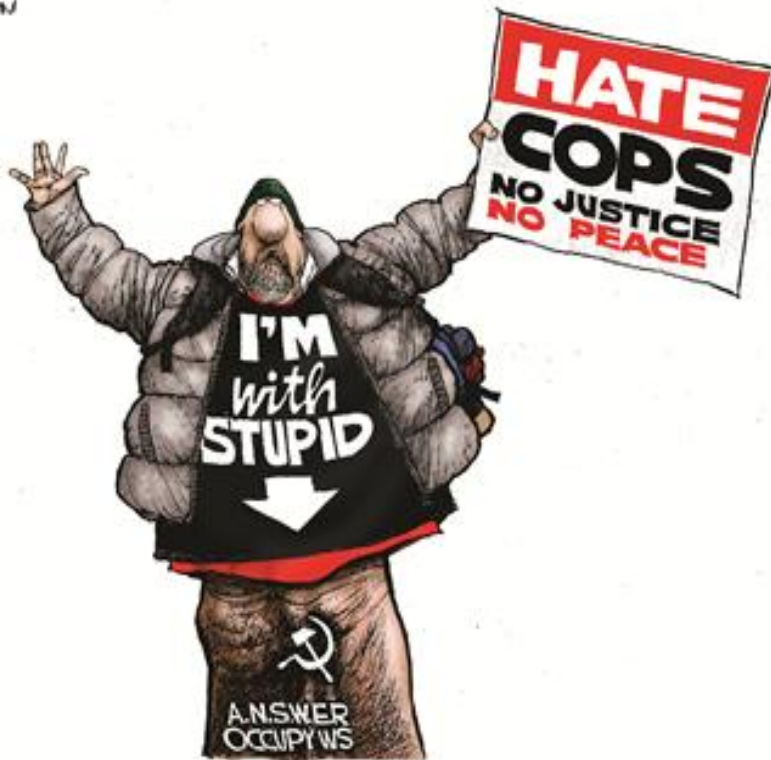
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