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MEMORANDUM

FROM: Penn Hill Group
DATE: November 5, 2014
SUBJECT: 2014 Midterm Election and Federal Education Policy

The midterm elections were on Tuesday, November 4 with all 435 House seats and 36 Senate seats in play. This memo includes a broad look at the election results, an analysis of how the results will affect politics and policy in the lame-duck session and the 114th Congress, a summary of changes in Administration leadership, House and Senate Leadership, and committee rosters and leadership, and an overview of the FY 2015 appropriations process and the current status of major education and job training pending reauthorizations. These dynamics will shift as the lame-duck session plays out, the FY 2015 budget is resolved and leadership positions are decided, and as such, we will provide an updated version of this memo at the start of the new Congress in January.

ELECTION RESULTS

<u>House</u>		<u>Senate</u>		
Republicans	Democrats	Democrats	Republicans	Independent
243	180	44	52	2
<i>*12 House Races Undecided</i>		<i>*2 Senate Races Undecided</i>		

In the House, Republicans have expanded their majority with at least 243 Members (Republicans controlled the House 233-199 with 3 vacancies going into the election). Currently, Democrats have maintained 180 seats with the outcome of 12 races still too close to call.

In the Senate, Republicans took the majority with at least 52 Senators, while Democrats maintained 44 seats, plus two Independents who are expected to caucus with Democrats. Democrats controlled the Senate 55-45 going into the election. The Alaska race is still too close to call and there will be a runoff in Louisiana in December.

ELECTION ANALYSIS

While the midterm elections were clearly a big win for Republicans, and a big loss for Senate Majority Leader Harry Reid (D-NV) and Senate Democrats generally, it will take some time for Members to return to Washington and work their way through the final impact of this most recent wave election. Having experienced changes in party control of Congress several times in the past as staff members of both parties, we know only to expect the unexpected in the coming days. There will be lots of rumors, lots of rhetoric, and lots of fits and starts as a larger, emboldened House Majority, a new and larger-than-expected Senate Majority, and a White

House set back on its heels by the election results decide how to work with one another. It won't be easy, and it won't be pretty.

That said, here is where our attention will be focused as we head into the lame-duck session and the 114th Congress:

HOW LAME IS THE LAME-DUCK?

Congress comes back after Veteran's Day, and the first order of business will be to handle the administrative chores of organizing for the next Congress: electing leaders, choosing committees, selecting offices, etc. These actions will consume the Hill for the next few weeks.

There are two major legislative items facing this Congress, which still has Democratic control of the Senate: finalizing FY 2015 appropriations and dealing with a significant backlog of Presidential nominees. In addition, for those focused on education policy, there are two pending reauthorizations – the Child Care and Development Block Grant Act (CCDBG), which is scheduled for a vote the first week Congress is back, and the Education Sciences Reform Act (ESRA), which could also be considered in the lame-duck session.

Budget. On the budget, there are a variety of options that range from simply passing a long-term continuing resolution (CR) that keeps the budget on auto-pilot for the coming year and holds funding at current levels, to a short-term CR that puts this issue to the next (GOP-controlled) Congress, to passing an omnibus appropriations bill that makes specific choices on program funding levels that carry forward into the next year, to some combination of an appropriations bill with specific funding levels for certain agencies and programs and a CR for others.

The Penn Hill Group Take. Congress rarely passes a straight CR with no changes and this year is not likely to be the exception. Additional military spending will come up either in an omnibus or CR approach (or a supplemental bill early in the new year), due to various foreign crises. We think the leaders of both parties would like to settle funding for all of FY 2015 and will at least make an attempt to pass an omnibus bill that hews closely to current agreed upon spending caps. The one exception to this may be additional defense spending depending if it is classified as "emergency spending" that is not subject to caps. Ultimately, the question is whether or not Senate Republicans like Sen. Ted Cruz (R-TX) and emboldened House conservatives will allow anything of substance to go forward while the Democrats still control Congress. Ultimately, we believe there are too many procedural and political hurdles to passing an omnibus bill and we think it is more likely that Congress will leave town passing a short-term CR that punts this issue to next spring.

Nominees. President Obama has a number of nominees pending before the Senate – including a number of key education nominees. If they are not confirmed this Congress, it will likely be well into next year before they have any chance to be considered, further hampering the Administration's ability to govern on a variety of issues, large and small.

The Penn Hill Group Take. Majority Leader Reid significantly altered the nominations process when he changed the rules last year to theoretically make it easier to confirm the Administration's nominees. This change was a major factor in the increase in partisan debate between the parties. In fact, while it may have made it easier to deal with high-profile positions, it has slowed down the process for everyone else as Republicans dig in their heels and insist on regular order.



That said, when it comes to nominations the key is judges. If the Administration can cut a deal with Senate Republicans on judges, that may open up the log jam on other nominees. There may be Republicans who are willing to make a deal, but the question is if the Cruz-wing will allow it. Our best guess is no. We believe the odds are not very high that many nominations will make it through during the lame-duck session. As a result, we believe the Administration will find other ways to appoint people to key positions, such as bringing nominees on as consultants before they are confirmed.

Other issues: Can ESRA and CCDBG make it through? For those interested in education research and child care, there is still some unfinished business as both ESRA and CCDBG reauthorizations are pending in the Senate for final consideration. The ESRA bill has been agreed to by both the leaders of the House and Senate, as well as by the Administration, and must pass procedural hurdles in the Senate and then be sent to the House for consideration before going to the President for signature. The CCDBG bill has already passed the House and needs only to clear the Senate before obtaining the President's signature. In theory, both bills have been tied together by Senate education committee Chairman Tom Harkin (D-IA) in attempt to bring them both to the Senate floor, but he is facing pressure from Sen. Pat Toomey (R-PA) who is pushing to add stronger background check legislation to the CCDBG bill. Sen. Harkin also may also come up against Republicans who are interested in adding stronger privacy protections to the bill, as well as opposition by some Republicans who don't think anything should be passed while the Democrats control the Senate.

The Penn Hill Group Take: Final passage of both of these bills comes down to how much focus Sen. Harkin puts on doing the leg work to pass them before heading off into retirement; and, whether Sen. Lamar Alexander (R-TN) is willing to help clear the decks of possible GOP amendments and opposition and agree on a process to quickly get this done in the Senate. For Sen. Alexander, he must weigh whether it's worth using any chits on bills that are not his top priority versus his desire to eliminate these relatively non-controversial issues from his agenda next year. While it could go either way, we would put a thumb on the side of the scale that favors the Senate passing one or both of these bills before adjourning.

WILL THIS BE THE MCCONNELL, CRUZ, or KIRK SENATE?

With this win, Republicans could not be more thrilled with their political place in the country right now. That said, how will they govern? Senate (and House) Leaders are counseling moderation: not over-promising, setting achievable goals and working with the Democrats when possible. Will that be enough for Sen. Ted Cruz (R-TX) and his Tea Party allies in the House and Senate? Will there ever be a way to accommodate them?

Furthermore, do not forget that the next election, including a Presidential election, is *only* two years away. This time, however, the tables will be turned and it will be the Republican Party with far more exposure in terms of the number of Senate seats they will be defending. Senators like Mark Kirk from Illinois, a state overwhelmingly carried by President Obama, will be facing re-election in prominently Democratic states and certainly will not want to vote on every item on the agenda favored by Sen. Cruz. They will protest to their party leadership, whose very positions now depend on maintaining a majority and keeping Republican seats in blue states.

The Penn Hill Group Take. It will be messy, but it comes down to likely incoming Majority Leader Mitch McConnell (R-KY). McConnell has a history of working to move legislation through the process and with his election behind him, is likely to return to this focus. Expect him to allow more votes for both sides. During a press conference today, McConnell stated that he plans to



“get the Senate back to normal,” and that “we’re going to pass legislation, some of which [Obama] may not like, but we’re going to function.”

ARE THINGS REALLY GOING TO CHANGE?

The press and punditry is full of talk about repudiation of the President and congressional Democrats. But with the President still in office and able to veto whatever he doesn’t like from Congress, is anything really going to get done?

The Penn Hill Group Take. Change in partisan control happens more and more frequently nowadays in Congress, and the fact is, big changes in how the actual chambers function, regardless of party control, rarely happen. We expect the same here. The single biggest change in the Senate will be the fact that hearings and oversight activities will no longer be controlled by Senate Democrats. For example, for education-related hearings this means no more back-to-back hearings on the for-profit and student loan industries, and more oversight of the U.S. Department of Education. In terms of passing legislation such as reauthorizations of the Higher Education Act (HEA) and the Elementary and Secondary Education Act (ESEA), the fact remains that while Republicans will have more of a chance to press their priorities, they will still need the support of the Administration and congressional Democrats (especially in the Senate) to get anything signed into law.

SHOW ME THE MONEY

With Republicans in control, does that mean less spending?

The Penn Hill Group Take. While the budget caps for domestic programs are not likely to be increased by much, if any, by Congress, expect the GOP to press for more spending on defense. This will likely open the door for negotiations with the Administration and congressional Democrats for a bit of an increase in domestic spending. We wouldn’t be surprised if this happens for future years. In addition, the President is not likely to be totally shut out of the appropriations process in terms of getting at least some of his education priorities funded. Presidents of both parties have a long history of getting money for at least a few of their top programs, and we expect the same will be true for President Obama.

PROCESS, PROCESS, PROCESS

Process in Washington nowadays is policy. A more open process in the Senate could lead to more bills passing, and more issues being debated. A more active appropriations process could lead to more legislative riders on a variety of key issues being addressed during budget debates. Finally, the President has lots of procedural avenues to make policy progress when he is stymied by Congress: executive orders, regulations, guidance and various other means. This President has expressed a willingness to take these actions and is likely to continue to do so.

The Penn Hill Group Take. Expect a more open Senate that will debate more issues, which means more chances for both sides to press their priorities. The same hurdles on the Senate floor will continue to exist, however, so cooperation between the parties will be required to accomplish anything. Also expect the GOP to press to get things done in the appropriations process and to use the budget as leverage to accomplish some of their policy priorities; they won’t win on everything, but they will on some key issues. Finally, expect the Administration to continue to charge ahead and take executive action on a whole host of issues, but don’t be



surprised if they scale back the scope and breadth of some of their proposals due to the strong beating they took at the polls.

CAN OBAMA TAKE A PAGE FROM THE CLINTON PLAYBOOK?

President Clinton also took a big loss at the polls during midterm elections, but after taking some time to recover, he proved to be a master at dealing with a Congress held by the opposing party. Can President Obama?

The Penn Hill Group Take. At this point, it is uncertain. To date, his advisors have not sought to work with Congress, and he is likely to face difficulties with *both* Republicans and Democrats who are unhappy with his Congressional outreach efforts as he heads into his last two years in office.

PRIORITIES, PRIORITIES, PRIORITIES

During the last election cycle, the focus of both sides in contested elections was on how different each candidate was from the President to varying degrees, rather than a focus on a policy agenda going forward. In the coming months, the newly-empowered GOP leadership will have to make some tough decisions on which issues to make priorities. For the education community, the question is: where do we fit in?

The Penn Hill Group Take. We doubt that education issues will be on the top of the new Congressional agenda, but they could find their way onto a second tier of issues. In terms of reauthorization bills, it boils down to Senate action. The House is poised to move on an ESEA reauthorization that more or less starts from where they left off after passing a bill last year. They could also move an HEA reauthorization before the year is done. But can the Senate? It seems that the only way either reauthorization is passed beyond the committee stage – if they remain the second tier issues we think they are to the leadership – is if they are part of a comprehensive, bipartisan agreement that the Administration and key outside groups are at least somewhat party to.

That being the case, we believe education issues will certainly come up as part of other bills, especially appropriations (or in the still somewhat unlikely event of a reconciliation bill). Educating funding, and riders dealing with issues ranging from the gainful employment regulation to the college ratings system to Common Core State Standards and to privacy in K-12 may well first be addressed in that context before any reauthorization bill makes it to the finish line.

LEADERSHIP IN THE ADMINISTRATION, CONGRESS, AND HOUSE AND SENATE COMMITTEES

- The President and the Administration – In an Administration more willing to push the limits of executive authority in education policy than any in history, the questions of who fills key policy slots at the White House and the Education Department, will have a critical impact on education policy throughout the nation.

Current Secretary Arne Duncan is likely to remain as Secretary of Education throughout the final two years of the Obama Administration, and it is also likely that Labor Secretary Thomas Perez will remain in place if he is not tapped to be the next U.S. Attorney General. However, many of the key positions immediately below the Secretary and other



positions impacting education policy have already begun to change hands. Ted Mitchell has taken over in the top higher education position as Under Secretary after Martha Kanter left at the beginning of 2014. Jim Shelton, Deputy Secretary of Education, will step down from his position at the end of 2014. Institute of Education Sciences Director John Easton stepped down from his position in the fall of this year. Robert Gordon has been nominated by the Administration to serve as Assistant Secretary for Planning, Evaluation and Policy Development and Ericka Miller has been nominated as Assistant Secretary for Postsecondary Education, although neither has been confirmed by the Senate. Gordon has already started working at the Department in an advisory role, and Miller is expected to follow suit in the coming weeks.

- Congress

- Leadership – Speaker of the House John Boehner (R-OH) is expected to retain his position after winning his re-election race. Rep. Eric Cantor (R-VA), the Majority Leader for much of the 113th Congress, lost his primary race earlier this year and then retired. Rep. Kevin McCarthy (R-CA) was chosen as the new Majority Leader and is also expected to retain his position. We expect the House Republican Conference and Democratic Caucus to choose their leadership teams sometime this month. Nancy Pelosi (D-CA) and Steny Hoyer (D-MD) are likely to remain in their current positions of Minority Leader and Minority Whip respectively.

On the Senate side, Sen. Mitch McConnell (R-KY) is expected to take over as Majority Leader, and leadership elections for Republicans may happen as early as next week. Sen. Harry Reid (D-NV) is expected to be elected Minority Leader at the start of the new Congress.

- Committees – There will be a significant amount of change on the Committees that deal with education and workforce issues, the full extent of which we will not know until early next year. We expect the House committee leadership selection process to begin this month. The Senate committee posts will be selected later this year and/or early next year.
- House Education Committee – On the House Committee on Education and the Workforce, Rep. John Kline (R-MN) will likely continue as Chairman, although he will need a waiver from House Republican Conference Rules as he is running up against his term limit for leadership of that committee. Current Senior Democrat George Miller (D-CA) is retiring at the end of the year and Rep. Bobby Scott (D-VA) is expected to take over as Ranking Member.

If the make-up of the committee remains the same, the committee will likely need to fill two Republican seats and five Democratic seats in the new Congress. Two Republican Members of the committee are retiring (Reps. Buck McKeon (R-CA) and Thomas Petri (R-WI)), but the remainder of Republican Members were re-elected. The committee will lose five Democrats: Senior Democrat George Miller (D-CA), Rep. Carolyn McCarthy (D-NY), and Rep. Rush Holt (D-NJ) are retiring. Rep. John Tierney (D-MA) lost his primary election earlier this year, and Rep. Tim Bishop (D-NY) lost during the general election. It is important to note that with the larger GOP majority in the House in the 114th Congress, the committee

ratios could change with the number of Democrats shrinking and the number of Republicans on the committee increasing.

While we do not know for certain who will serve as subcommittee chairs, we expect Rep. Virginia Foxx (R-NC) to stay as chair of the Subcommittee on Higher Education and Workforce Training, The other current chairs are Rep. Todd Rokita (R-IN) as chair of the Subcommittee on Early Childhood, Elementary, and Secondary Education; Rep. Tim Walberg (R-MI) as chair of the Subcommittee on Workforce Protections, and Rep. David Roe (R-TN) as chair of the Subcommittee on Health, Employment, Labor, and Pensions, but there is a possibility of some change in these three chair positions.

The lineup for Ranking Members could change: Rep. David Loebsack (D-IA) is current Ranking Member for early childhood and Rep. Ruben Hinojosa (D-TX) is Ranking Member for the higher education subcommittee, but current Ranking Members Rep. Joe Courtney (D-CT) (Workforce Protections) and Rep. John Tierney (D-MA) (Health, Employment, Labor, and Pensions) will both no longer serve on the Committee.

Below are the election outcomes of the current Members of the House Education and the Workforce Committee:

Member	Party	State	Status
Kline, John	R	MN	Re-elected
Petri, Thomas E.	R	WI	Retiring
McKeon, Buck	R	CA	Retiring
Wilson, Joe	R	SC	Re-elected
Foxx, Virginia	R	NC	Re-elected
Price, Tom	R	GA	Re-elected
Marchant, Kenny	R	TX	Re-elected
Hunter, Duncan	R	CA	Re-elected
Roe, David P.	R	TN	Re-elected
Thompson, Glenn	R	PA	Re-elected
Walberg, Tim	R	MI	Re-elected
Salmon, Matt	R	AZ	Re-elected
Guthrie, Brett	R	KY	Re-elected
DesJarlais, Scott	R	TN	Re-elected
Rokita, Todd	R	IN	Re-elected
Bucshon, Larry	R	IN	Re-elected
Barletta, Lou	R	PA	Re-elected
Heck, Joseph	R	NV	Re-elected
Kelly, Mike	R	PA	Re-elected
Brooks, Susan	R	IN	Re-elected
Hudson, Richard	R	NC	Re-elected
Messer, Luke	R	IN	Re-elected
Byrne, Bradley	R	AL	Re-elected

Member	Party	State	Status
Miller, George	D	CA	Retiring
Scott, Robert C.	D	VA	Re-elected
Hinojosa, Ruben	D	TX	Re-elected
McCarthy, Carolyn	D	NY	Retiring
Tierney, John F.	D	MA	Lost primary election
Holt, Rush D.	D	NJ	Retiring
Davis, Susan A.	D	CA	Re-elected
Grijalva, Raul M.	D	AZ	Re-elected
Bishop, Timothy H.	D	NY	Lost election
Loeb sack, Dave	D	IA	Re-elected
Courtney, Joe	D	CT	Re-elected
Polis, Jared	D	CO	Re-elected
Sablan, Gregorio	D	Del. MP	Re-elected
Wilson, Frederica	D	FL	Re-elected
Bonamici, Suzanne	D	OR	Re-elected
Pocan, Mark	D	WA	Re-elected
Takano, Mark	D	CA	Re-elected

- House Appropriations – The biggest change on the House Appropriations Labor, Health and Human Services, and Education Subcommittee is that current Chairman Jack Kingston (R-GA) is retiring after this year, having lost a bid to represent Georgia in the Senate.

Below are the election outcomes of the current Members of the House Labor/HHS/Education Appropriations Subcommittee:

Member	Party	State	Status
Kingston, Jack	R	GA	Retiring
Womack, Steve	R	AR	Re-elected
Fleischmann, Chuck	R	TN	Re-elected
Joyce, David	R	OH	Re-elected
Harris, Andy	R	MD	Re-elected
Roby, Martha	R	AL	Re-elected
Stewart, Chris	R	UT	Re-elected

DeLauro, Rosa	D	CT	Re-elected
Lowey, Nita	D	NY	Re-elected
Roybal-Allard, Lucille	D	CA	Re-elected
Lee, Barbara	D	CA	Re-elected
Honda, Mike	D	CA	Race still undecided

- Senate HELP Committee – The Senate education committee will undergo changes in the new Congress. Current Chairman Tom Harkin (D-IA) is retiring after this year, and Sen. Patty Murray (D-WA) is expected to take on the Ranking

Member role as the committee switches to Republican control. The make-up of the committee could also switch, with Republicans having more seats on the committee, and Democrats losing some seats due to the switch in Senate control.

While it is expected that current Ranking Member Lamar Alexander (R-TN) will take over as chairman of the committee, it's important to note that Sen. Michael Enzi (R-WY) is eligible to become chairman, although he may pass and allow Sen. Alexander to assume leadership of the committee.

Below are the election outcomes of the current Members of the Senate Health, Education, Labor and Pensions (HELP) Committee:

<u>Member</u>	<u>Party</u>	<u>State</u>	<u>Status</u>
Harkin, Tom	D	IA	Retiring
Mikulski, Barbara	D	MD	*
Murray, Patty	D	WA	*
Sanders, Bernard	I	VT	*
Casey, Robert	D	PA	*
Hagan, Kay	D	NC	Lost election
Franken, Al	D	MN	Re-elected
Bennet, Michael	D	CO	*
Whitehouse, Sheldon	D	RI	*
Baldwin, Tammy	D	WI	*
Murphy, Christopher	D	CT	*
Warren, Elizabeth	D	MA	*

Alexander, Lamar	R	TN	Re-elected
Enzi, Michael	R	WY	Re-elected
Burr, Richard	R	NC	*
Isakson, Johnny	R	GA	*
Paul, Rand	R	KY	*
Hatch, Orrin G.	R	UT	*
Roberts, Pat	R	KS	Re-elected
Murkowski, Lisa	R	AK	*
Kirk, Mark	R	IL	*
Scott, Tim	R	SC	Re-elected

** No election this cycle*

- Senate Appropriations – On the Senate Appropriations Committee, current Chairman of the Subcommittee on Labor/HHS/Education Tom Harkin (D-IA) is retiring and Sen. Patty Murray (D-WA) may take over as Ranking Member as the committee switches to Republican control. Sen. Jerry Moran (R-KS), current Ranking Member, could be the next chairman of the subcommittee.

Below are the election outcomes of the current Members of the Senate Labor/HHS/Education Subcommittee:

Member	Party	State	Status
Harkin, Tom	D	IA	Retiring
Murray, Patty	D	WA	*
Landrieu, Mary	D	LA	Race undecided: Dec. runoff
Durbin, Richard	D	IL	Re-elected
Reed, Jack	D	RI	Re-elected
Pryor, Mark	D	AR	Lost election
Mikulski, Barbara	D	MD	*
Tester, Jon	D	MT	*
Shaheen, Jeanne	D	NH	Re-elected
Merkley, Jeff	D	OR	Re-elected

Moran, Jerry	R	KS	*
Shelby, Richard	R	AL	*
Alexander, Lamar	R	TN	Re-elected
Graham, Lindsay	R	SC	Re-elected
Kirk, Mark	R	IL	*
Johanns, Mike	R	NE	Retiring
Boozman, John	R	AR	*

** No election this cycle*

STATUS OF APPROPRIATIONS AND EDUCATION LEGISLATION

FY 2015 Appropriations – Before leaving for the elections, Congress passed, and President Obama signed into law, a continuing resolution (CR) keeping the federal government operating through December 11 of this year. This was necessary as Congress had not passed any of the 12 annual appropriations bills.

Congress is still operating under the appropriations caps reached as part of the Murray/Ryan budget bill passed in January of this year. This bill set defense and nondefense discretionary spending caps for FY 2014 and FY 2015, with the FY 2015 caps only marginally higher than the FY 2014 limits. Unless Congress seeks to change these caps, the overall level of spending for these categories for FY 2015 is set. Appropriating spending above these caps, unless designated as “emergency spending” or without further changes to law, would trigger sequestration by the Executive Branch.

Congress must determine how and if 2015 appropriations will be finalized before the end of the year. As briefly discussed at the beginning of this memo, options could include:

- an omnibus appropriations bill that includes program by program funding levels for all programs across all agencies of the government;
- a CR extending the December 11 date of the existing resolution for a full year or shorter time period; or

- some hybrid of these two approaches, passing one bill that provides program by program appropriations levels for some agencies and funding other agencies through a CR for other agencies.

One example of the hybrid approach could be to pass program by program appropriations levels for Defense and Homeland Security related functions while extending federal spending authority through a CR for other agencies.

Based on the results of the election, each of these scenarios are possible. Current chairs of the House and Senate Appropriations Committees (Rep. Rodgers (R-KY) and Sen. Mikulski (D-MD)) have both stated publicly their goal is to pass an omnibus appropriations bill for FY 2015. However, as we stated at the beginning of this memo, the most likely outcome is a short-term CR that puts off a final FY 2015 determination of spending levels until sometime early next year.

Legislation – Below is a review of key education and job training legislation that may be considered during the 114th Congress:

Authorization Expiration	Legislation
FY 2020	<ul style="list-style-type: none"> • Workforce Investment Act (WIA) • Adult Education and Family Literacy Act • Rehabilitation Act
FY 2016	<ul style="list-style-type: none"> • Museum and Library Services Act
FY 2014	<ul style="list-style-type: none"> • Higher Education Act
FY 2013	<ul style="list-style-type: none"> • America COMPETES Reauthorization Act of 2010
FY 2012	<ul style="list-style-type: none"> • Carl D. Perkins Career and Technical Education Act • Head Start Act • Native American Programs Act
FY 2011	<ul style="list-style-type: none"> • Older Americans Act • Title II of the Higher Education Act (note: rest of HEA expires in FY 2014)
FY 2010	<ul style="list-style-type: none"> • Assistive Technology Act • Child Nutrition Act, which includes the Richard B. Russell National School Lunch Act • Individuals with Disabilities Education Act (IDEA) (note: Part B Grants to States is permanently authorized) • Welfare Reform, through the Temporary Assistance for Needy Families (TANF)
FY 2009	<ul style="list-style-type: none"> • Special Olympics Sport and Empowerment Act
FY 2008	<ul style="list-style-type: none"> • Abandoned Infants Assistance Act • Child Abuse Prevention and Treatment Act (CAPTA) • Education Sciences Reform Act (Institute for Education Sciences) • Family Violence Prevention and Services Act • National Assessment of Educational Progress (NAEP) Authorization Act
FY 2007	<ul style="list-style-type: none"> • Developmental Disabilities Assistance and Bill of Rights Act • Elementary and Secondary Education Act (ESEA) “NCLB” • Juvenile Justice and Delinquency Prevention Act



FY 2003	<ul style="list-style-type: none"> • Community Services Block Grant (CSBG) Act
FY 2002	<ul style="list-style-type: none"> • Child Care and Development Block Grant (CCDBG) Act
FY 1996	<ul style="list-style-type: none"> • National Environmental Education Act (NEEA)
FY 1993	<ul style="list-style-type: none"> • National Foundation on the Arts and Humanities Act

ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA) – ESEA, which was passed in 1965 as a part of the “War on Poverty,” was last authorized in 2001, when Congress passed the No Child Left Behind Act (NCLB).

- The House passed H.R. 5, the Student Success Act (a comprehensive reauthorization of ESEA) by a vote of 221-207 on July 19, 2013.
- The House passed H.R. 10, the Success and Opportunity through Quality Charter Schools Act by a vote of 360-45 on May 9, 2014. This bill essentially pulled the charter provisions from H.R. 5 in an attempt to at least move forward on an aspect of that legislation which has broad bi-partisan support. A similar stand-alone charter schools bill was introduced in the Senate (S.2304, the Expanding Opportunity through Quality Charter Schools Act), but no action has been taken to date by the Senate HELP Committee.
- The Senate HELP Committee reported S. 1094, the Strengthening America’s Schools Act (a comprehensive reauthorization of ESEA) by a vote of 12-10 on June 12, 2013.

Outlook for ESEA

Despite the progress of reauthorization early in this Congress, there has been virtually no discussion of realistically moving legislation during this past year. We expect Sen. Alexander, in his new role as Chair of the Senate HELP Committee to make a strong initial push to move an ESEA reauthorization bill, largely modeled off of his ESEA legislation offered during Senate HELP committee consideration of S. 1094 last year. We also expect a strong push in the House early in the next Congress to at least revisit their bill. To the extent the Obama Administration continues to sit back on reauthorization and instead focus on ESEA flexibility waivers, the challenge will be all the more difficult.

HIGHER EDUCATION ACT (HEA) – The authorization for HEA technically expires this year (except for the teacher preparation provisions under Title II which expired in FY 2011). However, the lack of authorization does not impact funding.

- Chairman Harkin (D-IA) of the Senate HELP Committee and Chairman Kline (R-MN) of the House Education and the Workforce Committee continue to express strong interest in at least introducing HEA reauthorization legislation this Congress. While to date neither the House nor Senate has introduced a reauthorization proposal, both have begun to draft bills which in the case of Chairman Harkin, has included a detailed “discussion draft” released in August. The draft touches on a range of issues including access, affordability and accountability, as well as a focus on increasing the scrutiny of for-profit institutions of higher education.



- This year, a bipartisan group of Senators led by Sen. Alexander (R-TN), the Ranking Member of the HELP committee, and Sen. Bennet (D-CO), established a taskforce on higher education to look at regulatory burdens and to produce recommendations for reauthorization. This effort is being staffed through the American Council on Education (ACE) and includes a wide variety of higher education representatives. They are expected to release a report at the end of this year.
- Meanwhile, the U.S. Department of Education (ED) has continued to move ahead to expand higher education regulations.
 - Gainful Employment – On October 31, ED released its final gainful employment regulations, impacting for-profit institutions as well as other programs at non-profit and public institutions.
 - Program Integrity – On May 20, 2014, ED completed a series of negotiated rulemaking sessions on a wide range of issues, including cash management of Title IV funds (including the use of debit cards), state authorization for distance education programs, the definition of adverse credit under Parent PLUS loans, and clock-to-credit-hour conversion. Consensus on these issues was not reached, which means ED can move forward separately and will likely issue NPRM's on a least one of these issues later this year for comment. The Department did publish final regulation on Parent PLUS loans in October with a tentative March 2015 implementation date.
 - College Rating System – Last year, President Obama released a series of proposals related to higher education, including a proposal to use outcomes measures to guide federal student aid awards and funding to colleges. This proposal is predicated on the development of a new college scorecard/rating system which was to be unveiled this spring. However, ED announced that initial details of the plan will not be released until later this year. Many in Congress have been skeptical of the proposal, as have institutions concerned with how the ED would construct a fair measure of outcomes to drive funding.
 - First in the World – The President was successful in securing a new source of funding at ED to promote innovation in higher education. The recently opened “First in the World Competition” provides \$75 million in grants focused on college access and completion.

Outlook for HEA

While time has essentially run out for this Congress to move forward on a HEA reauthorization, the current efforts and work that will continue over the next several months will likely result in action early next year. Chairman Harkin's retirement will likely decrease the intensity of the debate on for-profit institutions.

EARLY CHILDHOOD EDUCATION – President Obama's FY 2015 budget request would provide:

- Preschool for All – \$1.3 billion in mandatory funding for the “Preschool for All” program to support grants to states for the implementation of high-quality preschool programs that



are aligned with kindergarten-through-12th-grade elementary and secondary education systems.

- Funds would be used to improve outcomes for children through enhancing the quality of existing preschool programs and expanding the number and availability of high-quality preschool programs.
- Preschool Development Grants – \$500 million for the “Preschool Development Grants” program to support grants to States to carry out the activities needed to ensure that every State willing to commit to expanding preschool access has the high-quality programs required to successfully serve four-year-old children.
 - Preschool Development Grants would address fundamental needs like facility creation and workforce development, as well as quality improvement efforts and the scale-up of proven preschool models.
 - The Consolidated Appropriations Act of 2014 included a down payment on the President's vision to expand early childhood education by providing \$250 million for Preschool Development Grants.

Congressional Action – Sen. Harkin (D-IA) and Rep. Miller (D-CA) have introduced legislation (the Strong Start for America's Children Act) that is based on the President's budget request and that would provide funding support to states for children from birth through age four, with an emphasis on three- and four-year-olds.

- The Senate HELP Committee reported S. 1697, the Strong Start for America's Children Act, on May 14, 2014 by a vote 12-10.

Outlook for Early Childhood Education Programming

While there is no chance that the Strong Start for America's Children Act will be passed and signed into law this Congress, there will likely be funding provided to the Department of Education for FY 2015 for the Preschool Development Grants program. (For FY 2014, \$250 million was provided for the program through appropriations with state applications due by October 14, 2014).

EDUCATION SCIENCES REFORM ACT (ESRA) – ESRA authorizes the principal education research, statistics, and evaluation activities of the Department of Education through the Institute of Education Sciences (IES).

- The House Committee on Education and the Workforce crafted a bipartisan bill (H.R. 4366, the Strengthening Education through Research Act) earlier this year which successfully passed the House by voice vote on May 8, 2014.
- The Senate Committee on Health, Education, Labor and Pensions passed their own version of H.R. 4366 in September.

Outlook for ESRA

ESRA reauthorization is one of the two education policy bills that have a solid chance of being signed into law during the lame-duck session.



CARL D. PERKINS CAREER AND TECHNICAL EDUCATION ACT (CTE) – CTE authorizes activities related to strengthening and improving access to career and technical education programs administered by secondary schools, community colleges and other institutions.

- The Administration has released a blueprint for a reauthorized CTE that would transform career and technical education and usher in a new era of rigorous, relevant, and results-driven CTE programs. Here are some of the main principles of the blueprint:
 - Competitive grants – The existing structure of formula grants from the Department of Education to states would be maintained, but the distribution of funds to the local level would shift from formula to competitive grants.
 - Joint Applications – Secondary school districts and community colleges would no longer receive separate funds; instead, the competitive grants would be made to joint local educational agency (LEA)-institution of higher education (IHE) applicants for programs that span secondary and postsecondary education.
 - Standardized Performance Indicators – Performance data elements and definitions would be standardized to provide greater state-by-state comparisons.
 - In-Demand Occupations – States and localities would be required to determine what in-demand occupations exist in their area and use CTE funds to focus on these occupations.
 - Innovation Pot – A portion of CTE funding would be withheld at the national level to operate an initiative that would be similar to the Investing in Innovation program. Secondary school districts, community colleges and nonprofits would be eligible to compete for funding.

Outlook for CTE

This legislation is generally less partisan than other bills under the jurisdiction of the House and Senate education committees. The current authorization for CTE ended in 2012. The House and Senate Committees have continued to express interest in crafting a reauthorization bill during this Congress. No final action on CTE is expected in the lame-duck session.

COMPETES ACT

- The America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act (COMPETES Act) covers a wide range of activities under various federal agencies and offices that support programs and activities in physical sciences and engineering research and in science, technology, engineering, and mathematics (STEM) education, among other things.
- The House Science Committee has crafted its version of the COMPETES Act reauthorization, (renamed the Frontiers in Innovation, Research, Science, and Technology (FIRST) Act of 2014). At the end of May, the Committee marked up the legislation along party lines, with the hope of moving it to the House Floor in the near future. The Senate Committee on Commerce, Science and Transportation has held hearings to discuss issues surrounding reauthorization but no stand-alone reauthorization bill has been introduced to date.

