

2010 Midterm Elections: Implications for Research and Higher Education

What Happened?

As anticipated, Republicans took back the majority in the House of Representatives and made considerable gains in the Senate on November 2. Although a number of races are still too close to call, Republicans will pick up between 64 and 66 seats in the House, at least 25 more than the 39 they needed to reclaim control of the chamber for the first time since 2006. Republicans won approximately 10 more seats than the 55 expected by most political forecasters, even defeating several powerful Democratic members such as Armed Services Committee Chairman Ike Skelton (D-MO), Budget Committee Chairman John Spratt (D-SC), and Transportation and Infrastructure Chairman James Oberstar (D-MN). In the Senate, Republicans did not win the ten seats needed for a majority, but significantly cut into the Democratic advantage in the upper chamber, claiming at least six Democratic seats.

Widespread Republican gains had been forecast by political handicappers for months amid rising public anger over the economy, jobs, and the deficit. Voters directed their anger towards the party in power and in the process dealt a blow to the agenda of President Obama.

What Does it Mean?

With a Republican-controlled House and a narrow Democratic majority in the Senate, much of the 112th Congress will likely be consumed by partisan gridlock. Republican Leader John Boehner (R-OH), who is in line to become Speaker of the House when the new Congress is sworn-in this January, has proposed reducing federal non-defense domestic discretionary spending to fiscal year (FY) 2008 levels, and many conservative candidates advocate for even further reductions. The rest of the House agenda is likely to be driven by the concerns of the business and finance communities, including a push to “repeal and replace” parts of the healthcare reform bill, decrease regulations, and increase oversight of the Administration through a series of hearings and investigations.

Despite retaining a slim majority, Senate Democrats will be hard-pressed to garner the 60 votes necessary to overcome a filibuster of any legislation. Having experienced the difficulty of this task with a caucus of 59, expect Majority Leader Harry Reid (D-NV), who himself narrowly survived a tight reelection contest, to be more selective about bringing legislation to the floor. While the research and education communities are not dependent on the passage of new legislation -- with the exception of appropriations -- the function of the federal government depends on some cooperation to move new initiatives forward and pass routine bills.

The 111th Congress will return for a “lame duck” session in mid-November to consider key legislation, including an extension of the Bush-era tax cuts, completion of the FY 2011 appropriations process, and possible ratification of the new Strategic Arms Reduction Treaty (START). Even in the lame duck, Democrats will have difficulty passing legislation, as Republican Senate winner Mark Kirk (R-IL) will be seated immediately¹, reducing the Democratic majority to 58.

With this in mind, it is likely that the current continuing resolution (CR) which keeps the government running at FY 2010 levels through December 3rd will be extended into 2011. The fate of Congressionally-directed projects in the FY 2011 bills also remains unknown, as House Republicans adopted a year-long moratorium on earmarks and may push to strip Democratic projects, especially those championed by retiring or defeated members. The next Congress may also extend the current CR for an entire year if it cannot come to a resolution, a move that would also result in the exclusion of earmarks and congressionally designated programmatic increases.

A Congress that is likely to be gridlocked and largely concerned with fiscal responsibility will force the research and education communities to be more strategic in advocacy efforts, aggressive in their recruitment of new champions, and willing to accept a series of small victories in place of large initiatives. Opportunities to advocate on behalf of community priorities and influence policy in key areas of interest will arise as Congress works on the few big ticket items which could pass with bipartisan support, including the transportation authorization (highway) bill, reauthorization of the Elementary and Secondary Education Act, and the annual defense authorization bill. Individual institutions and the research and education communities must be prepared to capitalize on these limited opportunities and be willing to emphasize certain priorities over others as Congress considers how to allocate limited resources during a constrained budgetary environment.

¹ As the winner of a special election for President Obama’s Senate seat, Mr. Kirk can be seated immediately rather than having to wait until January.

Appendix: Changes to Congressional Committees

Appropriations Committees

Before the 112th Congress convenes in January, the lame duck Congress must address the FY 2011 appropriations bills. The entire federal government is currently funded under a Continuing Resolution (CR) at mostly the FY 2010 enacted levels (excluding Recovery Act funding) through December 3. At least one extension of the CR will be needed as the end-game strategy is devised by the current Congress. The Democrats have positioned themselves to try to enact an omnibus appropriations bill, but with the significant Republican gains in the House of Representatives and the Senate, a more likely scenario is the extension of the CR into next year so that the new Congress can write the final chapter on the FY 2011 appropriations process.

The new Congress is expected to focus on reducing federal spending and tackling federal deficits now in excess of \$1 trillion annually. The pending FY 2011 appropriations bills written by the House and Senate Appropriations Committees treat agencies and programs important to the research and education community relatively well. The new Congress can rewrite the pending bills at reduced funding levels; pass the existing bills with a formula to reduce overall spending, such as with across-the-board reductions; or continue to fund the government by CR at the FY 2010 level with increases for only a few key initiatives. If this latter scenario occurs, funding increases proposed by agencies important to the research community might be in danger despite broad bipartisan support. Under an extended CR, Congressionally-directed spending (more commonly called earmarks) in the pending FY 2011 bills would not be funded. Either way, pending earmarks for retiring or defeated members could be removed when the FY 2011 appropriations process is finalized.

The strengthened Republican numbers in Congress are also likely to affect the approach to reining in federal spending. The Administration and Secretary of Defense Robert Gates are poised to propose significant reductions in defense spending. The departure of many strong Appropriations Committee supporters of the Defense Department offered the opportunity for a critical review of the existing defense strategy and funding; however, the return of Republicans to the majority in the House may derail that effort, continuing the spending squeeze on domestic discretionary programs.

The significant changes to both the House and Senate Appropriations Committees signal the loss of long-time champions for research and education programs. Two steadfast supporters of the National Institutes of Health (NIH) will not be returning to Congress due to retirement (Rep. Dave Obey (D-WI)), or defeat in a primary (Senator Arlen Specter (D-PA)). Rep. Obey serves as Chairman of the full House Appropriations Committee and of the Labor, Health and Human Services and Education (LHHS) Subcommittee, which funds NIH. Senator Specter switched from Republican to Democrat in the hopes of keeping his Senate seat, sacrificing his Ranking Member position on the Senate LHHS Appropriations Subcommittee; however, he has continued to be a strong advocate for increased NIH funding. Senator Tom Harkin (D-IA), who chairs the Senate LHHS Subcommittee, is the remaining NIH advocate of this trio.

Rep. Jerry Lewis (R-CA) is expected to secure a waiver from Republican term limits on serving as chairs or ranking members and take the chairmanship of the full House Appropriations Committee. To solidify his bid to retain the top spot, Rep. Lewis recently called for an extension of the House Republican self-imposed ban on congressional earmarks. Rep. Harold Rogers (R-KY), who is third in seniority behind Rep. Bill Young (R-FL), has been rumored as a possible challenger to Rep. Lewis for the chairmanship, but Rep. Lewis is well positioned to become Chairman. Rep. Young is expected to take the Chair of the Defense Appropriations Subcommittee.

Current Ranking Member of the Commerce, Justice, and Science Subcommittee (CJS) and longtime research champion Frank Wolf (R-VA) is poised to become Chair of the CJS Subcommittee, which oversees funding for the National Science Foundation, National Oceanic and Atmospheric Administration, and National Aeronautics and Space Administration. He will replace current Chair Alan Mollohan (D-WV), another research champion, who was defeated in a primary. Rep. Wolf has indicated that he will hold hearings on the importance of competitiveness and innovation. In addition to Rep. Mollohan, six other Democratic appropriators were defeated in their re-election bids. They are Chet Edwards (D-TX), Ciro Rodriguez (D-TX), Allen Boyd (D-FL), Lincoln Davis (D-TN), John Salazar (D-CO), and Patrick Murphy (D-PA).

No changes are expected at the top of the Senate Appropriations Committee. Senator Daniel Inouye (D-HI) was handily re-elected and is secure in the chairmanship. Senator Thad Cochran (R-MI) is expected to continue as Ranking Member. The at-risk Democrat on the Committee, Senator Patty Murray (D-WA), current Chair of the Transportation and Housing and Urban Development Subcommittee, has a slight lead in her race for re-election, which is currently too close to call. In addition, Senator Byron Dorgan (D-ND), Chair of the Energy and Water Development Subcommittee, is retiring, leaving an opening at the helm of the Subcommittee. There will be a significant change in the Senate Appropriations Committee membership, as nearly half of the Republicans serving on the Committee are retiring or have been defeated in their re-election bids. These departures will result in new leadership on Subcommittees that fund federal research agencies. Republican vacancies will occur on the Agriculture, Energy-Water, Homeland Security, LHHS, State/Foreign Operations, and Transportation and Housing and Urban Development Subcommittees.

Senate Health, Education, Labor, and Pensions (HELP) Committee

With Democrats retaining a majority in the Senate, Senator Tom Harkin (D-IA) is expected to retain his chairmanship on the Senate Health, Education, Labor, and Pensions (HELP) Committee. Looking forward, the Committee is expected to continue efforts towards the reauthorization of the Elementary and Secondary Education Act (ESEA/No Child Left Behind) during the 112th Congress. In the 111th Congress, both the Senate and House held a series of hearings to lay the groundwork for ESEA reauthorization, but no legislation was introduced. Reauthorization of ESEA continues to be a priority for the Obama Administration, but it is unclear how much the Republicans will be willing to support the Administration's priorities. The Committee, and Chairman Harkin in particular, will likely continue to place a priority on addressing issues of program integrity and abuses of federal financial aid programs. Over the

past year, Senator Harkin held a series of increasingly partisan hearings regarding abuse of the federal student aid system by for-profit institutions. Minority members, including Ranking Member Michael Enzi (R-WY), became frustrated with the majority's focus solely on the for-profits, and will continue to push for inclusion of the non-profits during any future hearings or legislation.

There is expected to be a reshuffling of Committee membership, as several major education supporters will not be returning to the Committee due to retirement or loss in an election. Senators Christopher Dodd (D-CT) and Judd Gregg (R-NH), both of whom championed higher education causes, will vacate their positions on the Committee. In addition, Senator Sherrod Brown (D-OH) recently gave up his seat on the HELP Committee to join the Committee on Appropriations. The winners of three Senate races have yet to be determined, and all three incumbents sit on the HELP Committee. It is not yet clear whether Senators Patty Murray (D-WA) and Lisa Murkowski (R-AK) will retain their seats or not.

Senators Lamar Alexander (R-TN), Al Franken (D-MN), and John McCain (R-AZ) are expected to continue their active roles on the Committee as well. Alexander, a former Governor and university president, led the charge in past years against increased reporting requirements for universities and has been a leading advocate for research and education.

During the last Congress, Senate Majority Leader Harry Reid (D-NV) and Majority Whip Dick Durbin (D-IL) placed a priority on the Development, Relief and Education for Alien Minors (DREAM) Act, which would allow pathways to citizenship for young, undocumented immigrants of good standing who enroll in postsecondary education or join the military. However, with a divided Congress there may not be the will to advance this legislation next year.

House Education and Labor Committee

Under a newly garnered Republican majority, George Miller (D-CA), the current Chairman of the House Education and Labor Committee, is expected to become the Ranking Member and John Kline (R-MN), the current Ranking Member, is expected to become Chairman. Rep. Kline succeeded Rep. Howard "Buck" McKeon (R-CA), who left the Education and Labor Committee to become the Ranking Member on the House Committee on Armed Services. Speaker-elect John Boehner (R-OH) was Chair of the Education and Labor Committee before Rep. McKeon. Both Reps. McKeon and Boehner supported for-profit student loan lenders and resisted efforts to expand the federal direct student loan program through legislation that was enacted earlier this year. In the 112th Congress, Republicans on the Committee are expected to advance new legislation which would block the Obama Administration's efforts to increase oversight on for-profit institutions through proposed rules on "gainful employment." Like the Senate HELP Committee, Education and Labor is expected to examine ESEA reauthorization, but is unlikely to support many of the Administration's priorities, including authorization of new programs such as Race to the Top, Promise Neighborhoods, and Investing in Innovation (i3) funds. These programs have been funded, but are not yet authorized.

In an effort to reduce the federal deficit, the House may also seriously examine the structure of the popular Pell Grant program. This program has suffered several funding shortfalls in previous

years equaling billions of dollars. The Republican majority will most likely rein in spending on this program and may examine how to restructure the program to limit future spending shortfalls by reducing the maximum amount of the grant, or restructuring income eligibility requirements.

On the Republican side, several supporters of higher education will not be returning to the Committee due to retirement or loss in elections. This includes Rep. Vern Ehlers (R-MI), a retiring Member who has been a tireless supporter of research universities; Rep. Pete Hoekstra (R-MI); and Rep. Michael Castle (R-DE), a moderate Republican who was a leading advocate for stem cell research and education issues. However, several active members will be returning, including Rep. Cathy McMorris Rodgers (R-WA), who has been a supporter of the Perkins Loan program and is expected to continue to rise within the Committee; Rep. Thomas Petri (R-WI), a strong supporter of student loan and grant programs; Rep. Tim Bishop (D-NY), a supporter of nonprofit higher education; and Rep. Dave Loebsack (D-IA), a champion for the federal student aid programs.

House Energy and Commerce Committee

The House Committee on Energy and Commerce maintains principal responsibility for legislative oversight relating to biomedical research, telecommunications, consumer protection, food and drug safety, public health, air quality and environmental health, the supply and delivery of energy, and interstate and foreign commerce in general. This jurisdiction extends over five Cabinet-level departments and seven independent agencies including the Department of Energy, Department of Health and Human Services, and Department of Transportation, Federal Trade Commission, Food and Drug Administration, and the Federal Communications Commission. In the 111th Congress, Democrats held a 36-23 advantage in the Committee on Energy and Commerce. There will be many new Republican Members added to the Committee with several Democrats cut, as it is anticipated that Republicans will seek to institute a similar majority.

There is uncertainty about who will now chair the Committee on Energy and Commerce. Current Ranking Member Joe Barton (R-TX) chaired the Committee on Energy and Commerce during the 108th and 109th Congresses and is publicly campaigning to receive a waiver from the Republican-imposed rule that limits committee chairs to three terms. However, many observers expect that he will not receive it due to his poor relationship with likely Speaker of the House John Boehner (R-OH), and his gaffe during the Gulf oil spill hearings when he apologized to the BP leadership. If the Republican leadership does not grant Rep. Barton the waiver, chairmanship of this high profile panel is expected to be a battle between Rep. Fred Upton of Michigan, Rep. Cliff Stearns of Florida, and Rep. John Shimkus of Illinois, with Rep. Upton as the likely frontrunner. Rep. Henry Waxman (D-CA), the current Chair of Energy and Commerce, likely will serve as Ranking Member in the 112th Congress.

Given the Committee chairmanship uncertainty, it is also unknown who will chair the subcommittees. If he does not assume chairmanship of the full Energy and Commerce Committee, Rep. Shimkus, current Ranking Member of the Subcommittee on Health, likely will be interested in chairing the Subcommittee, which has oversight of the National Institutes of Health (NIH) and likely will be investigating the impact of the health care reform law. Current

Chair Rep. Frank Pallone (D-NJ), is expected to continue as ranking Democrat on this Subcommittee.

Some reports indicate that if Rep. Barton is denied chairmanship of the full Committee, he may be offered the chairmanship of the Subcommittee on Oversight and Investigations, which would provide him a platform to investigate Obama Administration policies ranging from energy initiatives to air pollution rules. This Subcommittee has also conducted several hearings on intramural conflicts of interest at NIH. However, to take over as Chair of this Subcommittee, Rep. Barton would need to step over current Subcommittee Ranking Member and physician Rep. Michael Burgess (R-TX) who is expected to want to assume control of the panel. With the retirement of Rep. Bart Stupak (D-MI), who currently chairs the Subcommittee on Oversight and Investigations, it is uncertain who will be the ranking Democrat on the Subcommittee, but Reps. Edward Markey (D-MA) and Diana DeGette (D-CO) are likely in the running.

Another possibility is that Rep. Barton could chair the Energy and Environment Subcommittee. However, Republican leadership may want to install a closer ally such as Reps. Stearns or Shimkus. It is anticipated that Republicans will use the Energy and Environment Subcommittee to scrutinize the Obama Administration's energy and environmental policies. Another possibility to appease Rep. Barton is to grant him "Chairman Emeritus" status of the full Committee, which is what longtime chair Rep. John Dingell (D-MI) was named by Democratic leadership when he was ousted by Rep. Waxman as chair in 2008.