

## OVERVIEW OF THE FEDERAL POLICY LANDSCAPE

Updated September 18, 2012

**Budget and Appropriations** – Before the end of the 2012 calendar year, Congress must address the following issues:

- Appropriations – Congressional leaders recently announced that Congress will consider a 6 month “continuing resolution” (CR) that will fund the federal government through March 2013 when the House and Senate return in September from the August recess. This action became necessary since none of the FY 2013 Appropriations bills have cleared the Senate at this point. As part of this announcement, the leaders stated that the CR package that will move through the House and Senate will be funded at the level agreed to for FY 2013 in the Budget Control Act. This level was set at \$1.047 trillion for FY 2013, \$4 billion over the FY 2012 enacted level of \$1.043 trillion. Among the provisions of the version of the CR that passed the House that would impact education are:
  - A **.06% increase (6/10ths of a percent) increase above the FY 2012 levels** of funding for nearly every discretionary program – including Department of Education programs.
  - An extension of the provision included in a CR at the end of 2010 that permitted teachers who were participating in alternative certification programs to be considered highly qualified teachers under ESEA. This provision would be extended through the end of the 2013-2014 school year. In addition, new reporting requirements are added that require the Department of Education to submit a report on the extent to which students with disabilities, English Language learners, and students in rural areas and from low income families in each State and local educational agency are being taught by such teachers. This report is due by December 31, 2013.
- Sequestration – Since the super committee failed to strike a deal on deficit reduction, the Budget Control Act passed in August 2011 calls for automatic spending cuts (sequestration) starting on January 2, 2013 that will reduce the deficit by \$1.2 trillion over nine years (generally, those cuts would be divided evenly between defense and nondefense spending). There will likely be an effort among Republicans and Democrats in Congress to diminish the impact of sequestration before the end of the year. If that fails, there is a chance that Congress will choose to delay sequestration by a number of months to provide some additional time to seek a solution to the cuts.
  - On July 20, Secretary Duncan sent a letter to Chief State School Officers that said sequestration would not be felt until the 2013-2014 school year.
  - On July 25, Sen. Harkin (D-IA) released a report “Under Threat: Sequestration’s Impact on Nondefense Jobs and Services” that outlined the impact of cuts to various nondefense programs.
  - The Administration recently released the report required by the Sequestration Transparency Act of 2012 that provides further information on the impact of budget sequestration. The report states that there will be an **8.2% cut to non-defense discretionary programs, and a 7.6% cut to non-defense mandatory programs**. For the most part, these cuts would be made across the board to education programs, with the exception of Pell which is exempt from sequestration cuts in FY 2013.
- Tax Cuts – The “Bush era” tax cuts expire in 2012. In general, Republicans want to extend all of the Bush era tax cuts. President Obama wants to extend the tax cuts for all brackets except for individuals who make \$200,000 and families that make \$250,000 per year. In addition, Congress will likely seek to fix the alternative minimum tax (AMT) for an additional year.
- Other Expirations – The payroll tax rate holiday, federal unemployment benefits, and reimbursement rates for physicians who accept Medicare (Doc Fix) expire in 2012. It is likely that some combination of these issues will be debated before the end of the year.

- **Debt Limit** – It is possible that the government will reach its debt limit before the end of 2012. If the debt limit is reached, Congress will likely work to reach agreement on another debt limit expansion (that will also include reductions in spending).

**Reauthorization of ESEA** – The Senate HELP Committee reported a comprehensive bill to reauthorize ESEA on October 20, 2011 by a bipartisan vote of 15-7. Supporters of the bill included Chairman Harkin (D-IA), Ranking Member Enzi (R-WY), Senator Alexander (R-TN), Senator Kirk (R-IL), as well as all of the Committee Democrats. The bill is currently awaiting floor consideration; though it is not likely to be scheduled for a vote this year (especially since Chairman Harkin gave a speech on the Senate floor saying he would not be inclined to support moving a bill through the Senate unless the House also produced a bipartisan bill – which does not seem possible this year).

The House Committee on Education and the Workforce has chosen to follow a more piecemeal strategy, breaking reauthorization of ESEA into 5 separate bills and moving them individually through the Committee and on to the floor. These bills include:

1. A bill focused on charter schools which passed the full House by an overwhelmingly bipartisan margin);
2. A bill which would eliminate many of the individual small programs currently authorized under ESEA (reported by the House Committee on Education and the Workforce on a partisan basis and awaiting floor action);
3. A bill focused on increased transferability and flexibility (reported by the House Committee on Education and the Workforce on a partisan basis and awaiting floor action);
4. The Student Success Act (essentially the Title I program and its accountability provisions; reported by the House Committee on Education and the Workforce on a partisan basis and awaiting floor action); and
5. The Encouraging Innovation and Effective Teacher Act (the remaining ESEA programs, most notably teacher professional development/evaluation and a large locally-driven block grant that consolidates most of the remaining programs; reported by the House Committee on Education and the Workforce on a partisan basis and awaiting floor action).

At this point it is highly unlikely that either the House or Senate will be able to produce a comprehensive reauthorization bill that will be able to be signed into law by the President this year.

**ESEA Waivers** – The Administration has begun approving waivers for states that basically end many of the central tenants of the No Child Left Behind (NCLB) Act, including the notion of “Adequate Yearly Progress” (AYP); the current timeline to have all students proficient by 2014; and the identification of schools in need of improvement, corrective action, and restructuring (including the corresponding requirements that have gone along with such identification such as school choice and free tutoring).

As of August 31, 2012, **34 states (including the District of Columbia) have been granted waivers.**

Arizona*	Georgia*	Michigan*	New York	South Dakota*
Arkansas*	Indiana	Minnesota*	North Carolina	Tennessee
Colorado*	Kansas	Mississippi*	Ohio	Utah
Connecticut	Kentucky	Missouri*	Oklahoma	Virginia
Delaware	Louisiana	Nevada*	Oregon	Washington*
District of Columbia*	Maryland*	New Jersey	Rhode Island*	Wisconsin*
Florida	Massachusetts	New Mexico	South Carolina*	

\* These states did not select the optional 21st CCLC program waiver.



The Department of Education announced that seven more states have applied for NCLB flexibility through the Department's waiver process. Those states are Alabama, Alaska, Hawaii, Maine, New Hampshire, North Dakota, West Virginia, and Puerto Rico and the Bureau of Indian Education.

- According to the Department, the 11 states (plus the Bureau of Indian Education and Puerto Rico) with outstanding requests for waivers include Alabama, Alaska, California, Hawaii, Idaho, Illinois, Iowa, Maine, New Hampshire, North Dakota, West Virginia.
- The 6 states that have not yet requested a waiver include Montana, Nebraska, Pennsylvania, Texas, Vermont (request withdrawn), and Wyoming. Texas announced last week that the state will apply for an NCLB waiver, but it's not presently likely to meet the requirements of the Department's waiver process.

**Race to the Top** – For FY 2012, Congress provided \$550 million overall for RTTT. In April, the Department announced that \$133 million will be available for RTTT Early Learning Challenge Fund grants – Colorado, Illinois, New Mexico, Oregon and Wisconsin will be eligible to compete.

On August 12, 2012, the Department of Education released the application and final requirements for the 2012 Race to the Top District (RTT-D) program – a nearly \$400 million competition that invites school districts to create plans for individualized classroom instruction aimed at closing achievement gaps and preparing each student for college and career.

The final 2012 program criteria invites applications from districts or groups of districts serving at least 2,000 students with 40% or more qualifying for free or reduced price lunch. Districts will choose to apply for funding to support learning strategies that personalize education in all or a set of schools, within specific grade levels, or select subjects.

Eligibility will be determined by a district's demonstrated commitment to RTT's four core reform areas and awards will range from \$5 million to \$40 million, depending on the population of students served through the plan.

Applications are due by October 30, 2012 and the Department of Education will award grants before the end of the calendar year.

**House and Senate FY 2013 Appropriations** – The Senate Appropriations Committee reported their FY 2013 Labor/HHS/Education appropriations bill on June 14. It is not expected that the bill will be considered on the Senate floor or completed prior to the election. The House Subcommittee on Labor/HHS/Education reported their bill to the Full Appropriations Committee on July 18 (at this point it is not clear as to when the bill will be considered by the Full Committee). In the end of the day, it is very likely that the final Labor/HHS/Education appropriations bill will be considered as part of a consolidated appropriations bill (omnibus) some time before the end of the calendar year.