



ASSOCIATION OF UNIVERSITY CENTERS ON DISABILITIES
RESEARCH, EDUCATION, SERVICE

Analysis of the 2010 Elections

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The November 2 elections resulted in a major political shift on Capitol Hill that is certain to impact disability policy and programs over the next two years. Pulling from several Capitol Hill news reports, AUCD provides a summary analysis of the impact these changes may have on disability funding and other legislative priorities. Republicans had a net gain of about 60 seats, giving them a majority in the House (239-190 with 6 undecided) and further narrowing the Democratic majority in the Senate (now 54-46). There are over 80 new Members of Congress that will need to be educated on disability issues. With each party controlling one house of Congress, neither party has a strong enough majority to dictate the legislative agenda.

Bipartisan compromise will be even more essential in what likely will be an increasingly partisan climate. Some analysts speculate that Congress will not be able to move anything that is not “must pass” legislation because both parties are already gearing up for the 2012 elections and therefore have every incentive to stick to their party lines. A more diverse Republican caucus could also pose some difficulty; new conservative members are likely to push the Republican leadership to vote on matters – such as an earmark moratorium – that would likely divide rather than unite the party.

Many of the elected Republicans campaigned on proposals to reduce some government spending to FY 2008 levels, extend all of the 2001 and 2003 tax cuts that are estimated to cost \$700 billion, repeal the newly enacted Affordable Care Act or withhold funding for its implementation, and focus on oversight of outlays of the 2009 stimulus law (ARRA). These and similar goals will affect a number of AUCD’s major policy goals.

Budget and Appropriations

Both Republican and Democratic voters repeatedly named the economy as the key issue in polling leading up to the 2010 midterms. In fact, four of the six key components of the Republican “Pledge to America” have a direct impact on federal spending—one would establish a hard cap on new discretionary spending. However, placing a hard cap on discretionary spending (about a third of the \$3.8 trillion federal budget) will not balance the budget. Mandatory spending (i.e., Medicare and Social Security) accounts for more than 55 percent of federal expenditures. Still, Rep. John Boehner (R-OH), who is likely to become Speaker of the House, has already suggested cutting discretionary spending back to FY 2008 levels. There have also been discussions of a rescission package that would cut up to \$100 billion in funds from existing programs. In addition, the likely Chairman of the House Budget

Committee, Rep. Paul Ryan (R-WI), is a deficit hawk and not afraid to propose bold cuts in spending. The proposals coming out of the Fiscal Commission will likely impact policy decisions related to cutting both discretionary and entitlement spending.

In regards to appropriations, the most immediate question is how the Lame Duck Congress will finish the FY 2011 annual appropriations bills. Staffs of House and Senate Appropriations Committees have made considerable progress developing conference agreements to complete work on an omnibus appropriations bill that would wrap all 12 annual bills into one; however, it is unclear if the Senate Democratic leadership can round up enough votes to pass the package. If they do not pass an omnibus bill, the Congress could pass either another short-term continuing resolution (CR) into February and let the new Congress deal with it; or it could pass a year-long CR at FY 2010 levels – an option that would be very detrimental to AUCD and other disability programs that stood to receive increases.

It is expected that the Republican-controlled House will continue to flat fund or cut programs within the annual appropriations bills in FY 2012. It will be up to the Democratic-controlled Senate with its power to filibuster and the President with veto power to help shape and negotiate final appropriations bills.

There could be as many as 17 new members on the House Appropriations Committee with several members losing their seats or retiring. The committee ratio will also change to represent the new Republican Majority. Most notably, David Obey (WI), the former chairman, has retired. The new chairman will likely be Rep. Jerry Lewis (R-CA) (if a current committee term limit rule is waived). If a waiver is not granted, Rep. Hal Rogers (R-KY) is next in line to assume the chairmanship. Rep. Norm Dicks (D-WA) is next in line as ranking member of the committee.

It is unclear who will take the helm of the Labor-HHS-Education Subcommittee for the Republicans. Rep. Bill Young (R-FL), John Culberson (R-TX) and Ander Crenshaw (R-FL) are all mentioned. Either Rep. Nita Lowey (D-NY) or Rosa DeLauro (D-CT) is predicted to fill the ranking minority spot.

On the Senate side, there will also be several new members of the Appropriations Committee; however the Chairmanships of the full Committee and L-HHS-ED Subcommittee are not likely to change. Sen. Daniel Inouye (D-HI) will remain chair of the full committee and Sen. Tom Harkin will continue to chair the L-HHS-ED Subcommittee.

Education

The 112th Congress is likely to actively debate education funding and policy, and the Administration's priorities continue to include reauthorization of the Elementary and Secondary Education Act ("No Child Left Behind"). The prospects for passing a law may be dim, but education policy is an area that has seen significant compromise in the past. Rep. John Kline (R-MN) is likely to replace George Miller (D-CA) as Chairman of the House Education and Labor Committee, but Miller will likely remain as the ranking member. The presumed new Speaker, Rep. John Boehner (R-OH) previously held the chairmanship and is likely to play an active role in shaping the work of the committee. In the Senate, long-time disability advocate Tom Harkin (D-IA) will continue as Chairman of the Health, Education, Labor and Pensions

Committee. Republican Senators Michael Enzi (WY) and Lamar Alexander (TN) will likely see an increase in negotiating power due to their new allies in the House.

It was hoped that the Keeping All Students Safe Act (H.R. 4247, S. 3895), a bipartisan bill that would establish federal minimum standards to limit the use of restraint and seclusion in schools, would be considered in the lame duck session. However, it now looks unlikely, given that there is not a clear bipartisan consensus on the policy in the Senate. That means that this bill will need to be reintroduced in the new Congress and it could be difficult to move given the new political realities. The bill's Democratic champion, Sen. Christopher Dodd (D-CT) is retiring. Therefore, a new democratic cosponsor must be identified. The bill's Republican cosponsor, Richard Burr (R-NC), has committed to trying to include the bill as part of an ESEA reauthorization bill or as a standalone measure if necessary. A bill was passed by the House last March, but 64 of the 262 Representatives who voted in its favor have been replaced. Additionally, prospective Chairman Kline was not supportive of the bill. Passing the bill is likely to be an uphill climb.

Health

The Affordable Care Act will continue to be the target of criticism and repeal attempts in the 112th Congress. Many of the newly-elected Republicans campaigned on its repeal, and although reversing the entire law is probably not realistic, there will likely be numerous attempts to repeal portions of it. The Affordable Care Act also included extensive authorizations for appropriations that are necessary for its implementation; Republicans have vowed to "defund" or not provide funding for large portions of the law and even use some of its mandatory funds, like the Prevention and Public Health Fund, to offset other spending measures. However, with a Democratic majority in the Senate and the President's ability to sustain a veto, sweeping changes appear unlikely.

The annual Labor-HHS appropriations bill will likely become a legislative opportunity to amend health reform, and it is expected that a number of committees with jurisdiction over health care will hold numerous oversight hearings on health reform implementation. Issues will include implementation obstacles; the impact on the insurance industry, businesses and consumers; the individual mandate; and the cost and cost-effectiveness of the law. The Medicare physician payment formula (Sustainable Growth Rate) will continue to be a major issue and Republicans will likely want to address medical malpractice reform. The Congress may also address the controversial issue of federal funding for embryonic stem cell research.

Other

Other legislative priorities, such as the Autism Treatment Acceleration Act and the Training, the Research for Autism Improvement Nationwide Act, and the Achieving a Better Life Experience Act, will have to be reintroduced in the new Congress.