Fall 2012 Congressional Session and Election Forecast

With both political party conventions complete and with sixty days to Election Day, the 2012 presidential and congressional races are in full swing. With Democrats and Republicans divergent in their respective desires to make additional investments to spur economic growth and cut federal spending to reduce the debt and deficit, Congress is expected when it returns to session next week to delay most of the critical decisions which must be made in the coming months until after the election. The November elections will shape the political environment in which research organizations must advocate for their priorities over the next several years. With this in mind, this forecast 1) provides an update on what’s ahead for the fall congressional session and the issues at stake and 2) provides an update on the forthcoming elections and what they will mean for the research and education community.

Fall Congressional Session and Impact on Federal Spending

- Congress will be in session beginning the week of September 10th for approximately seven to nine days in September before leaving to campaign until the election.

- The legislation most likely to be enacted by Congress in September is a six-month Continuing Resolution (CR) to fund the entire federal government beginning October 1st. The outcome of the election in the fall will be highly determinative as to whether Congress considers a full year CR for FY 2013.

- While the current appropriations bills and their respective policy guidance will have no standing in the new Congress, they should represent a point of departure for discussions when Congress takes up appropriations early next year.

- Other major pending legislation, such as the Farm Bill, a cybersecurity bill, and legislation to prevent cuts to physicians in 2013 under the sustainable growth rate formula, will likely be delayed until a “lame duck” session in November and December after the election.

- Without a new law, a sequestration of nearly all government spending is scheduled to take effect on January 2nd 2013. Many believe that Congress will not allow the drastic cuts (7-11 percent for many programs and 2 percent for payments to Medicare providers) to be implemented and the cuts will instead be postponed for consideration by the new Congress in spring 2013.

- Bush-era tax cuts are set to expire December 31st. The House favors extension of the cuts for all taxpayers while the Senate version limits the extension to income under $200,000 for individuals and $250,000 for joint filers. A possible postponement of the resolution into the next Congress may set the stage for comprehensive tax reform.

Appropriations Bills

The specter of an across-the-board reduction, or sequester, in discretionary spending in early January 2013 looms large over the annual congressional spending process. The chance of any appropriations bills being enacted into law before the election in November is minute. The most likely activity during the few days which
Congress is in session in September is agreement on a Continuing Resolution (CR) to keep the entire federal government operating for six months through March 31, 2013.

The agreement to seek a six-month CR comes in spite of significant progress on the annual appropriations bills. There is continued bipartisan support for research agencies and education programs, which are largely recommended for slight increases or are sustained at about the current levels in the pending appropriations bills. The House and Senate Appropriations Committees have both approved 11 of the 12 fiscal year (FY) 2013 spending bills, with the House passing six bills. Senate action has been delayed in large part due to the decision by the House leadership to draft its versions of the bills to an overall spending level $19 billion below the FY 2013 level agreed to last year in the Budget Control Act (BCA/debt limit agreement). While the pending appropriations bills will have no standing in the new Congress, they should represent a point of departure for discussions when Congress takes up the appropriations early next year.

Sequestration
Absent any new legislation from Congress between now and the end of the year, in January 2013, the White House will implement a budget sequestration of approximately $109 billion against most defense and non-defense discretionary spending for FY 2013, as well as some mandatory spending reductions. This could result in 7-11 percent reductions [2% in Medicare provider payments] in most programs of interest to the research, academic, and health communities. In July, Congress overwhelmingly passed legislation (H.R. 5872, the Sequestration Transparency Act of 2012), requiring the Administration to provide a detailed analysis of what the sequester would mean by “program, project, and activity.” That analysis is due to be submitted to Congress by September 14.

The significant level of potential spending cuts is so severe that many believe Congress will not allow sequestration to take place. One option would be to postpone the sequester, much as is being done for the annual appropriations bills, until the new Congress when the debate on federal spending, deficit reduction, and taxes will be rejoined. Other options being considered include a reduction in sequestration through partial offsets from other programs, efforts by Republicans to stop the sequestration for defense spending only, or permitting the sequestration to occur before retroactively reversing the cuts.

Tax Cuts
Prior to leaving for the August recess, both the House and the Senate reiterated their positions on the Bush-era tax cuts, which expire on December 31st. The tax issue is the largest obstacle to negotiating a post-election deficit reduction package in November. Given the short period for a lame duck session, delaying action to the new Congress might be the most logical course. A possible avenue forward is the growing consensus among some Republicans that the next Congress should undertake comprehensive tax reform. Any major tax discussion will include closer examinations of tax preferences for non-profit organizations as well as preferences specific to university philanthropy, education, business, and finance functions.

Sustainable Growth Rate Formula
Congress must act before the end of the year to prevent a 27 percent cut in Medicare reimbursements to physicians as a result of the sustainable growth rate formula (SGR). Since 2001, physicians have been spared cuts from the SGR through temporary patches that prevented the cuts from taking effect. However, over the last few years, legislation to temporarily prevent these cuts has become more contentious as the cost associated with the short-term patches has increased. As in previous years Congress will likely look to other health care provider payments to offset the cost of the patch. Previous considerations to offset the patch included cuts to hospital outpatient departments.
The Election and its Possible Impacts for Research and Education

- Both candidates have stated strong support for research funding. Regardless who wins the presidency, the fate of research funding will mostly be impacted by larger budget pressures and a continued focus on deficit reduction and sequestration.

- With respect to funding for university research, in a second term, the Obama Administration will likely continue focus on commercialization, manufacturing, and applied research. A Romney Administration would focus more exclusively on basic research, especially in areas of energy, health and national security.

- Obama and Romney’s views on higher education policy are widely divergent. Romney supports for-profit education, favors private bank participation in the federal student loan program, and a restructuring of the Pell Grant program. The Obama Administration can be expected to continue to focus on reducing college costs, supporting the Pell Grant program, Race to the Top and Investing in Innovation (I3) programs.

- Obama and Romney have both stressed the need for further entitlement reforms in healthcare spending; however, their views differ on the degree and best approach. Romney is expected to build on his running mate Congressman Ryan’s budget to shift government Medicare from a defined benefit model to premium support for private insurance. President Obama is expected to continue to build on existing Medicare policy and the reforms in the Affordable Care Act, with reductions through market basket updates and long established programs such as Indirect Medical Education.

- With respect to Congress, the biggest change for the research and education community will be in changes in congressional committee leadership but the impact will be less than following the 2010 election. The House will likely remain with a Republican majority. Control of the Senate will be determined by a number of competitive races across the country. Regardless of the outcome in the Senate, it will remain closely divided, requiring consensus approaches for legislation but reflecting the majority party’s platform in major debates on budget and tax reform.

Expected Outcome of the Elections

President
Both President Obama and Republican nominee Mitt Romney are traversing the country hoping to convince the small percentage of independent and undecided voters that theirs is the right vision for America. Facing stubbornly high unemployment and continually sluggish economic growth, President Obama appears vulnerable, especially against a Republican candidate whose main selling point is a successful business career. However, questions about Governor Romney’s tax returns, what some experts have described as an inability to “connect” with voters, and economic conditions in swing states that may be better than those in the rest of the country have given President Obama a small lead in polls at this point.

According to the RealClearPolitics tracking average, which aggregates polls from different outlets, the President is in a statistical tie with Governor Romney in national polls as of September 5th. However, political forecaster Nate Silver of the New York Times gives President Obama a 77.3 percent chance of prevailing as of September [1]

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The outcome in key swing states including Florida, Virginia, Ohio, Colorado, Iowa, Wisconsin, and North Carolina will likely determine the presidency.

**U.S. House of Representatives – Expected Republican**

In the House of Representatives, Democrats would need to pick up 25 seats to regain control from the Republican majority. Many pundits expect Democrats to pick up a few seats following the historic Republican wave in 2010, but it is unlikely that the House will change hands. Republicans were able to shore up many of the seats they won in swing districts through the redistricting process, which they controlled in most states due to their significant gains in governor’s mansions and state legislatures in the 2010 elections.

**U.S. Senate – Toss Up**

On the Senate side, Republicans were in a strong position to add the four seats needed to gain the majority, given that Democrats are defending many vulnerable seats that they gained in the wave election of 2006. However, a series of unexpected retirements, campaign statements, and incumbent primary defeats have clouded the picture, making control of the Senate a toss-up. Following these developments, control of the Senate is likely to turn on races now regarded as toss-ups in Massachusetts, Montana, and Virginia, as well as competitive races in Nevada, Missouri, Wisconsin, Connecticut, Florida, North Dakota, Michigan, Ohio, Hawaii, New Mexico, and Indiana. Many pundits are forecasting a 51-49 Senate in either direction or a 50-50 tie.

With Republicans expected to maintain control of the House, the Senate will be critical to determining the balance of power next year.

*See Appendix below for details on specific congressional committee changes of interest to the research, health, and education communities.*

**Impact on Issues of Interest to the Research and Higher Education Community**

Research and education issues will remain prominent no matter who occupies the White House next year. However, under either Administration, research funding will be impacted by larger budget pressures resulting from a continued focus on deficit reduction and the form and foci of federal research investments will vary considerably based on the outcome of the election. Information on both candidates’ attitudes towards relevant issues follows.

**Research**

*Obama*

- President Obama is expected to continue to invest in research and education as part of a campaign to “win the future,” with an emphasis on commercialization and manufacturing as drivers of job creation and economic growth.
- Many of the applied and multidisciplinary research initiatives which have been hallmarks of the Obama Administration are expected to remain in place. The degree to which universities have been the intended recipients of many of President Obama’s signature research initiatives is debatable, but it is clear that he views research and education as central to the country’s economic future.

*Romney*

- Despite tough rhetoric on the need to reduce federal spending and reduce the debt and deficit, Governor Romney and his staff emphasize that he understands the importance of federal investment in basic research and would keep it robust. The Governor’s domestic policy staff recently pointed to [http://fivethirtyeight.blogs.nytimes.com/](http://fivethirtyeight.blogs.nytimes.com/)
energy, health, and national security as priority areas in which a Romney Administration would support fundamental, precompetitive research.

- However, Romney’s and Ryan’s budget plans would reduce federal spending on domestic discretionary accounts, thus shrinking the overall pot from which research is funded and increasing pressure every year to justify the expenditure.
- Another key difference from the Obama Administration would be reduced federal support for applied research; a function Governor Romney has said is best left to the private sector.

**Education**

**Obama**

- President Obama’s Administration would continue to push for expanded regulations and rules to encourage transparency and limit abuse of Title IV federal student aid programs. These efforts, like the recently introduced federal “shopping sheet” for financial aid, would likely be incorporated into the next Higher Education Act reauthorization, scheduled for 2013.
- The Administration would continue Race to the Top, I3, and the Promise Neighborhood program, while seeking authorization for these signature programs in the Elementary and Secondary Education Act (ESEA).
- President Obama would continue to support funding for the Pell Grant program. The program is expecting another large shortfall in fiscal year (FY) 2014, and it is unclear how the Administration would pay for that shortfall.

**Romney**

- Governor Romney has been an outspoken supporter of for-profit education, calling for-profit institutions innovative and necessary for workforce training.
- A Romney Administration would seek to stop many of the regulatory and oversight efforts being undertaken, including the proposed gainful employment and program integrity rules.
- Governor Romney has also stated that he would end the Direct Loan program and allow privates banks to participate again in the federal student loan program.
- Governor Romney has spoken out in support of student aid; however, his Administration would aim to restructure the Pell Grant program. While he has not released details, Governor Romney would likely shrink the program through changes in eligibility and limit future increases for the maximum grant. Rep. Ryan’s FY 2013 budget proposal calls for similar changes to Pell to put it on a path to “sustainable funding” and limit future growth in the program.
- In contrast to higher education policy, President Obama and Governor Romney embrace many of the same policy initiatives in K-12 education, including incentivized teacher pay and charter schools. However, under a Romney Administration, funding for encouraging states and local school districts to implement these policy initiatives would be severely limited.
- Governor Romney would likely end the Race to the Top and Investing in Innovation (I3) programs that President Obama used to incentivize states to make policy changes.

**Visas and Immigration**

**Obama**

- The Obama Administration recently issued an executive order on “deferred action” for immigrants who arrived illegally in the U.S. at a young age and have completed school or military service.
- In a second term, the Obama Administration will continue to push for changes in visa policies to support STEM education.
Governor Romney has stated that he will ask Congress to raise the cap on visas for highly skilled workers and grant permanent residency to foreign students who receive an advanced STEM degree. This is similar to proposals contained in the bipartisan Startup Act, currently being considered by Congress.

A Romney Administration is unlikely to support a DREAM Act, may revoke the Obama Executive Order for “deferred action” for U.S. education undocumented immigrants, and could support parts of the Republican platform which suggests that federal funding may be restricted for states which provide in state tuition to illegal immigrants.

What Does it All Mean for Research and Higher Education?

The election outcome will determine the policy agenda for next two to four years and establish the climate in which universities and other research institutions must advocate for their federal interests. Barring a substantial change in the races, President Obama’s reelection would lead to a continuation of the status quo, with a Republican-controlled House, and possibly a Republican-controlled Senate, demanding cuts to federal spending and blocking passage of other Administration priorities. Alternatively, President Romney would likely face a Republican-controlled House and a closely-divided Senate that would allow him to make some progress on Republican priorities such as cutting taxes, reducing federal spending, and repealing parts of healthcare reform. Neither party will have anywhere near the 60 votes required to overcome a filibuster in the Senate, leaving little chance that either side will be able to enact a sweeping partisan agenda.

Regardless of who wins the elections, the debt and related issues like tax reform are likely to continue to be central to their agenda. While research and education remain popular on Capitol Hill, the competition for discretionary dollars will become increasingly fierce as overall spending is further constrained. With this in mind, the research community will have to continue to refine its case for federal investments in this area even as other programs are cut. Although impossible to speculate on all contingencies, the community will be able to play slightly more offense if President Obama is reelected and Democrats retain the Senate but be forced to vigorously defend current funding in some areas if Republicans take control. No matter the outcome, the size and complexity of the anticipated presidential and congressional agendas for 2013 make it imperative that the research and education community continues to pursue novel, targeted advocacy efforts designed to protect key priorities at a time when there stand to be more losers than winners.
Appendix: Changes in Congressional Committee Leadership

The research and education community was hit hard by retirements and defeats among congressional champions in 2010. While numerous Members of Congress have announced their retirements, been defeated in primaries, or decided to run for other office this year, far fewer are among the community’s strongest supporters on Capitol Hill. The biggest change possible from congressional elections would be for the Senate to switch to a Republican majority.

Noteworthy changes include:

**Senate Appropriations Committee**
Senator Kay Bailey Hutchison (R-TX), a longtime appropriator and the current Ranking Member of the Commerce-Justice-Science (CJS) Appropriations Subcommittee, is not running for reelection. While there will be considerable reshuffling in the top spots on the Appropriations Committee, Sen. Hutchison’s absence will leave a void among Republican science advocates. She is a particularly strong champion of the National Aeronautics and Space Administration (NASA). There will also be turnover from Committee Democrats, with Sens. Herb Kohl (D-WI, Chairman of the Agricultural and Rural Development Subcommittee) and Ben Nelson (D-NE) retiring and Sens. John Tester (D-MT) and Sherrod Brown (D-OH) locked in competitive reelection battles.

**House Appropriations Committee**
Two former Committee chairmen, Rep. Norm Dicks (D-WA), the top Democrat on both the full Committee and the Defense Subcommittee, and Rep. Jerry Lewis (R-CA), are retiring after 18 and 17 terms respectively. Among less senior Republicans, Ohioans Steve LaTourette and Steve Austria are retiring while Reps. Denny Rehberg (MT) and Jeff Flake (AZ) are running for Senate. Democrats John Olver (MA) and Steve Rothman (NJ) will not be back due to redistricting while Rep. Maurice Hinchey (D-NY) will retire. These absences will open up new spots on the Committee, although Appropriations seats are not as coveted as they once were due to the overall focus on cutting spending and the ban on earmarking.

**Senate Commerce, Science, and Transportation Committee**
The Senate Commerce Committee is responsible for oversight of federal science agencies including the National Science Foundation (NSF), National Oceanic and Atmospheric Administration (NOAA), and NASA. The Committee will lose two of its most senior Republicans in Senator Hutchison (Ranking Member) and Senator Snowe. Equally significant, Senator Jim DeMint (R-SC), a conservative and one of the leading figures in the national Tea Party movement, is in line to take over as the top Republican on the Committee. This will result in significant changes to the Committee’s agenda and outlook on science should Republicans win control of the Senate and Sen. DeMint become chairman. While none of the Committee’s Democrats are retiring, Sens. Bill Nelson (D-FL) and Claire McCaskill (D-MO) face difficult reelection battles.3

**House Science, Space, and Technology Committee**
The House Science Committee will see some turnover. Three senior Democrats are retiring, including Reps. Jerry Costello (IL), Lynn Woolsey (CA), and Brad Miller (NC). Technology and Innovation Subcommittee Chairman Ben Quayle (R-AZ) lost his primary while Rep. Todd Akin (R-MO) is not running for reelection to instead challenge Senator Claire McCaskill (D-MO) for her seat. The Committee is also in danger of losing two Republican moderates who face difficult reelections: Rep. Roscoe Bartlett (R-MD) and Rep. Judy Biggert (R-IL), a

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strong champion of the Department of Energy Office of Science. Rep. Biggert’s seat in a newly-drawn district is currently rated a toss-up by the *Cook Political Report.*

**Senate Finance Committee**

Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) are expected to remain in their leadership positions in the 113th Congress. Senator Hatch is up for reelection this year, but after surviving a tough primary, he is expected to easily win the general election. While the Committee’s top leadership is expected to remain the same, several members are retiring, which will result in significant Committee turnover in the next Congress. Retirees include Senators Kent Conrad (D-ND), Olympia Snowe (R-ME), and Ben Nelson (D-NE). Subcommittee on Energy, Natural Resources, and Infrastructure Chairman Jeff Bingaman (D-NM) is also retiring, leaving the top position on the Subcommittee vacant and the possibility of current Senate Commerce Committee Chairman Sen. Jay Rockefeller (D-WV) assuming the post.

**House Ways and Means Committee**

If Republicans maintain control of the House of Representatives, Ways and Means Chairman, Dave Camp (R-MI), is expected to remain in the top position on the Committee. However, due to term limits, the 113th Congress will be the last two years Representative Camp is eligible to serve as Chairman. Chairman Camp has emphasized his commitment to fundamental tax reform before his position expires in two years, but immediately following the election, one of his first orders of business will be to extend the current tax rates. Ranking Member Sander Levin (D-MI), who took over leadership when Representative Charlie Rangel (D-NY) stepped down in 2010, is currently running for reelection in the newly redrawn 9th district in Michigan. Representative Wally Herger, (R-CA) Chairman of the Health Subcommittee and second ranking on the full Committee, is retiring at the end of his current term, leaving the top Republican position on the Subcommittee vacant and the direction for future issues such as graduate medical education unclear.

**Others**

Other retiring Members’ whose absences could impact the research community include Senate Homeland Security and Governmental Affairs Committee (HSGAC) Chairman Joe Lieberman (I-CT), Senate Energy and Natural Resources Committee (ENR) Chairman Jeff Bingaman (D-NM), and Senate Budget Committee Chairman Kent Conrad (D-ND). HSGAC and ENR each have jurisdiction over pressing national issues, such as cybersecurity and energy respectively, which include significant research components. The Budget Committee chairman will play an influential role in future debates over spending and deficit reduction policies. Sen. Bingaman, who led efforts to pass and reauthorize the America COMPETES Act, is also a champion for basic research.

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