During 2012, a confluence of circumstances stalled meaningful progress on reauthorization of the Elementary and Secondary Education Act (ESEA). Now 11 years old and 5 years overdue for reauthorization, the No Child Left Behind Act (NCLB), the most recent iteration of ESEA, is widely viewed as flawed.

Although both the House and Senate education committees passed ESEA bills in the 112th Congress, election-year politics and extreme partisanship on fiscal issues consumed both time on the congressional calendar and political goodwill, leaving the respective legislative approaches to die at year’s end.

To provide relief to states in lieu of congressional action on ESEA, the Obama administration has taken unprecedented steps to provide states with flexibility from the most onerous provisions of NCLB through waivers issued by the U.S. Secretary of Education. The waivers provide some temporary relief from some of the most challenging NCLB requirements but are not the optimal process for effecting federal policy change, which should be subject to a deliberative policymaking process.

Senate Health, Education, Labor and Pensions Committee Chairman Tom Harkin (D-IA) led his committee to pass a bipartisan ESEA reauthorization bill in October 2011, but he was not able to secure the 60 votes needed to bring the bill to the Senate floor for debate. And, under the leadership of Chairman John Kline (R-MN), the House Committee on Education and the Workforce passed a series of bills to reauthorize ESEA in 2012, giving states much greater discretion in determining their accountability systems and school improvement methods.

The approaches taken by the two committees are significantly different: The House bills give states great leeway in the use of federal funds, eliminate more than 40 individual grant programs, eliminate the highly qualified teacher requirement, and eliminate the School Improvement Grant program. The Senate bill requires states to adopt college- and career-readiness standards and provides funding for a well-rounded education.

But many education experts believed there were enough similarities for the bills to move forward to joint House and Senate discussions. Both House and Senate approaches eliminate student achievement targets and the adequate yearly progress requirements in the current law, and both maintain annual testing in reading and math.

The House education committee will continue to be led by Congressman John Kline (R-MN), with several new faces on both sides of the aisle serving on the committee. We are likely to see the same, or very similar, ESEA legislation emerge if and when the committee addresses it.

Sen. Harkin will remain as Health, Education, Labor and Pensions Committee chairman in the 113th Congress, although Sen. Mike Enzi (R-WY) will not be returning as the committee’s top-ranking Republican because of term limits set by the Republican caucus. That position will be taken by Sen. Lamar Alexander,
former U.S. Secretary of Education and governor of Tennessee. Given Sen. Alexander’s deep involvement in education policy, we expect him to have great influence on any ESEA reauthorization bill that comes before the committee in 2013.

Both the House and Senate education committees have full agendas in the coming congressional session. Not only is ESEA up for renewal, but they must also address the expiring authorizations of the Individuals with Disabilities Education Act (IDEA), the Higher Education Act, Head Start, the Workforce Investment Act, the Child Care Development Block Grant, Perkins Career Technical Education program, and the Education Sciences Reform Act.

Any action on ESEA reauthorization will need to be bipartisan, administration-supported, and fueled by public demand.

**OBAMA ADMINISTRATION WAIVERS**

With Congress failing to make progress on reauthorizing ESEA, and with educators increasingly anxious about the looming 100 percent student proficiency deadline in 2013–14, the Obama administration decided to offer states waivers from this and other select NCLB requirements in exchange for the states’ commitment to implementing a separate set of administration-backed reforms.

The flexibility plan grants states relief from NCLB’s 100 percent student proficiency deadline and from specific sanctions for schools identified as needing improvement. To date, all but 5 states (Montana, Nebraska, Pennsylvania, Texas, and Wyoming) have applied for waivers, and 34 states and the District of Columbia have received them.

Although U.S. Secretary of Education Arne Duncan has said publicly that the department considers ESEA reauthorization a high priority, the waivers have reduced the urgency from the field for reauthorization, and there has been little apparent political pressure from the White House to spur Congressional action. Some observers believe that the administration would rather give waiver-induced reforms time to prove that they are successful before reauthorizing ESEA.
FY13 AND SEQUESTRATION
The Senate and House, on New Year’s Eve and New Year’s Day respectively, passed legislation to resolve the fiscal cliff’s tax problems, but the legislators did not reverse sequestration. Negotiators agreed to merely delay the effect of sequestration to March 1, 2013, and slightly reduced the amount of cuts that government programs would face at that time.

For education, sequestration remains the most significant funding issue for FY13. Unless Congress acts to stop it, sequestration will trigger a 5.9 percent, automatic, across-the-board cut to discretionary domestic funding in March 2013. This translates to about a $3 billion cut in education funds, including reductions to Title I, IDEA, Teacher Incentive Grants, School Improvements Grants, and Perkins Career Technical Education. (See the chart on page 14 for a sample of program cuts.)

Even though sequestration will be triggered on March 1, 2013, cuts to most education programs will occur four months later, in July 2013, and affect the 2013–14 school year. At that time, every district and school that receives federal funding will suffer significant budget reductions.

The partisan nature of last year’s political battles resulted, once again, in Congress’s inability to pass even 1 of the 12 regular FY13 appropriations bills. Thus, the federal government is currently funded at last year’s levels through the end of March 2013 under a continuing resolution. An omnibus spending bill is still a viable option to fund the remainder of FY13, as appropriations committee staff work to craft a package that would be acceptable to both sides.

If lawmakers are not able to resolve their differences, a second continuing resolution will most likely be adopted to fund government programs through September 2013, the end of the fiscal year. These negotiations will be heavily influenced by the fate of the fiscal cliff.

FY12
The omnibus spending package that Congress approved to fund the government for FY12 maintained spending for most federal education programs at FY11 levels, with a slight increase in Title I, which received $14.5 billion in funding, and special education, which received $11.6 billion. These figures represent relatively small increases of $60 million (0.4 percent) and $100 million (0.8 percent), respectively.

The omnibus package completely eliminated funding for history, civics, economics, foreign languages, and technology. Physical education, arts in education, 21st century learning centers, and school counseling received funding similar to FY11 levels.

The Obama administration’s favored programs, all of which are competitive grant programs and not traditional formula grants—Race to the Top, Investing in Innovation, School Improvement Grants, and Promise Neighborhoods—received funding as well.
**FUNDING FOR COLLEGE, CAREER, AND CITIZENSHIP EDUCATION**

One positive consequence of passing a continuing resolution to fund the government for the current fiscal year is that the programs funded last year—such as Arts in Education, Elementary and Secondary School Counseling, and the Carol M. White Physical Education Program—continued to be funded this year and at the same levels.

Unfortunately, this also means that programs that either did not receive funds or had their funding eliminated in the past two years—including Civics Education, Teaching American History, Excellence in Economic Education, the Foreign Language Assistance Program, Mental Health, and Safe and Drug-Free Schools—were not given a chance to have their funding restored for FY13.

Given the current fiscal climate, it’s unlikely that funding for these programs will be restored through the appropriations process. All of these programs, 40 individual grant programs in total, were also eliminated in the House education committee’s ESEA reauthorization package. If the Senate education committee proposes an ESEA reauthorization similar to its 2012 bill, it would likely support these areas, but this would still be subject to negotiation between the Senate and House to reach a final consensus on ESEA language.

**Sample of Education Program Funding**

<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>FY11</th>
<th>FY12</th>
<th>PROJECTED POST-SEQUESTER FUNDING</th>
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</thead>
<tbody>
<tr>
<td>TITLE I</td>
<td>$14.5 billion</td>
<td>$14.5 billion</td>
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<td>IDEA</td>
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<td>PERKINS/CTE</td>
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<td>TEACHER-QUALITY STATE GRANTS</td>
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<td>21ST CENTURY COMMUNITY LEARNING CENTERS</td>
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<td>$1.0 billion</td>
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<tr>
<td>TEACHING AMERICAN HISTORY</td>
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