

News

The Changed Landscape

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WASHINGTON -- Yes, it was only one house of Congress, and Senate leaders and the White House have already vowed to stop the program cutbacks and political statements in the budget legislation passed by the Republican-controlled House of Representatives from becoming law. But lest anyone doubted that November's election significantly altered the landscape for federal higher education policy making, Saturday's passage of the 2011 continuing budget resolution -- and the debate over it -- provided strong evidence that things have changed.

The most obvious sign of a new world order came in the form of the sharp cuts that [the House-passed legislation](#) (H.R. 1) would make in a slew of programs across the federal government -- to deeper levels than the House's Republican leaders initially sought to go, but to which they were pressured by fiscal conservatives, including many in the new crop of freshman lawmakers.

The targets include [many programs important to higher education](#): major ones like Pell Grants first and foremost (to the tune of a roughly 15 percent cut in the maximum grant) and scientific research (hundreds of millions from the National Institutes of Health and the National Science Foundation), and smaller ones like the U.S. Institute of Peace (see related article).

Because House budget cutters have focused their slashing on non-defense discretionary programs, and education, labor and health programs make up a large portion of that part of the federal budget, such programs would be disproportionately affected by the legislation.

Perhaps the biggest impact of the changeover in Congress, however, can be seen in the extent to which House leaders sought to use their budgetary authority to challenge the policy priorities of the Obama administration and the Democrats who have controlled the legislative branch in recent years. The continuing resolution's cutbacks on money for Planned Parenthood (an attack on perceived public support for abortion) and funds to carry out the new health care law [dominated the national headlines](#) along these lines.

But for higher education, the sea change was most evident in [the strikingly lopsided vote](#) for an amendment that would [block the U.S. Education Department](#) from using any of its fiscal 2011 funds to carry out its proposed regulation requiring for-profit college and other vocational programs to ensure that their students are prepared for ["gainful employment."](#)

The surprise came not in the fact that the Republican-controlled House backed the measure, since many GOP lawmakers have been critical of the Obama Education Department's regulation of for-profit colleges since 2009, and had promised to use any and all tactics at their disposal to stop it. Republicans have an almost 50-seat majority in the House, so their ability to pass just about any legislation they wish is assured for the next two years.

But the greater threat to the Education Department's approach may exist in the surprisingly strong support among House Democrats, [58 of whom](#) (out of a total of 193) endorsed the prohibition on the use of 2011 funds to implement or enforce the gainful employment rules, and in the wishy-washy language used even by some Democrats who voted against the amendment.

The Democratic support (which included backing from former Speaker of the House Nancy Pelosi) helped the measure pass by a vote of 289 to 136, and while some in the party strongly expressed their support for the Education Department's regulatory approach, other leading Democrats offered lukewarm endorsements.

Representative George Miller, the Californian who headed the House education committee when Democrats controlled the House, expressed concern that too many students are leaving for-profit colleges with heavy student loan debt and inadequate educations to show for it. But he focused his comments on discouraging Congress from intervening in the regulatory process now, "in the middle of the game," rather than waiting to see the ultimate form of the gainful employment rules.

"Let the department continue to work on the regulation," Miller argued on the House floor. "If it doesn't work, ... if this hurts the schools

... I suspect we'll all join to make sure this doesn't go through." That's far short of a ringing endorsement from one of the House's leading Democrats.

The lopsided nature of the House vote heartened representatives of for-profit colleges. Harris N. Miller, president of the Association of Private Sector Colleges and Universities, said in an interview that the vote offered proof that lawmakers did not believe the Education Department's approach to gainful employment was "salvageable." Rather than "tinker" with its existing proposal, he said, the agency should "start with a clean slate of paper" to develop "fair rules of the road to protect students and taxpayers."

Supporters of the Education Department's toughened regulation of for-profit colleges (like [Campus Progress](#) and the [Institute for College Access and Success](#)) said in the wake of the House vote that they will look to the Senate to defend the agency's approach.

And to be sure, the picture looks different in the Senate, which is still in Democratic hands and where leaders in the party (especially [Senators Tom Harkin](#) and [Richard Durbin](#)) have been much more critical of for-profit colleges and much more supportive of the Obama administration's regulatory strategy on gainful employment. The chairman of the Senate appropriations committee, Hawaii's Daniel Inouye, has [sharply criticized](#) the House spending measure and promised that his chamber would take a radically different approach. Obama administration officials, too, panned the House budget measure and [reiterated their threat](#) of a veto.

Failure to reach agreement on legislation to fund the government by March 4 (when current funding expires) could lead to a federal shutdown, a prospect that most observers agree is not in the interest of leaders of either party (though some Republican freshmen may relish the prospect).

What is likely to ensue, then, is a process that involves lots of horse trading among House Republicans, Senate leaders, and the White House over what stays in and what drops out of an eventual 2011 budget measure. All of the players are likely to insist on some top priorities and to be forced to accept the inclusion of some things they don't like (but prefer to other, more odious provisions).

One can imagine a scenario, for instance, in which the Obama administration, desperate to protect the maximum Pell Grant and fend off the House's proposed cut in the financial aid program, could swallow the restriction on the gainful employment regulations. Though it is also possible, of course, that House Republicans, if forced to choose, would rather stop the Environmental Protection Agency from regulating on fossil fuels than stop the Education Department from cracking down on for-profit higher education.

— [Doug Lederman](#)