

ESEA Past, Present and Future?

Adapted from a NASTID Conference session - February 2015



1965

- *April 11, 1965*: Elementary and Secondary Education Act
- *July 30, 1965*: Social Security Act of 1965 - including Medicaid and Medicare
- *August 6, 1965*: Voting Rights Act
- *August 10, 1965*: Housing and Urban Development Act of 1965
- *September 29, 1965*: National Foundation on the Arts and the Humanities Act
- *October 3, 1965*: Immigration and Nationality Act of 1965
- *October 20, 1965*: Motor Vehicle Air Pollution Control Act
- *October 22, 1965*: Highway Beautification Act
- *November 8, 1965*: Higher Education Act
- *November 8, 1965*: Vocational Rehabilitation Act



<https://Secretary Duncan>



History



- Early years: 3 year authorizations; rules , SNS
- 1978 -SW introduced
- Reagan years: some regulation changes but pull outs still prevalent in Chapter 1
- 1988 - beginning of academic achievement discussions, program improvements
- 1994 - Improving America's Schools Act - math and reading standards and accountability foundation; 50% SW
- 2001 - No Child Left Behind
- 2015 - ?

ESEA Flexibility

- 2009 - bottom 5% - ARRA funds
- 2010 - SIG - Blueprint for Reauthorization
- 2011 - Flexibility

Legislative Update

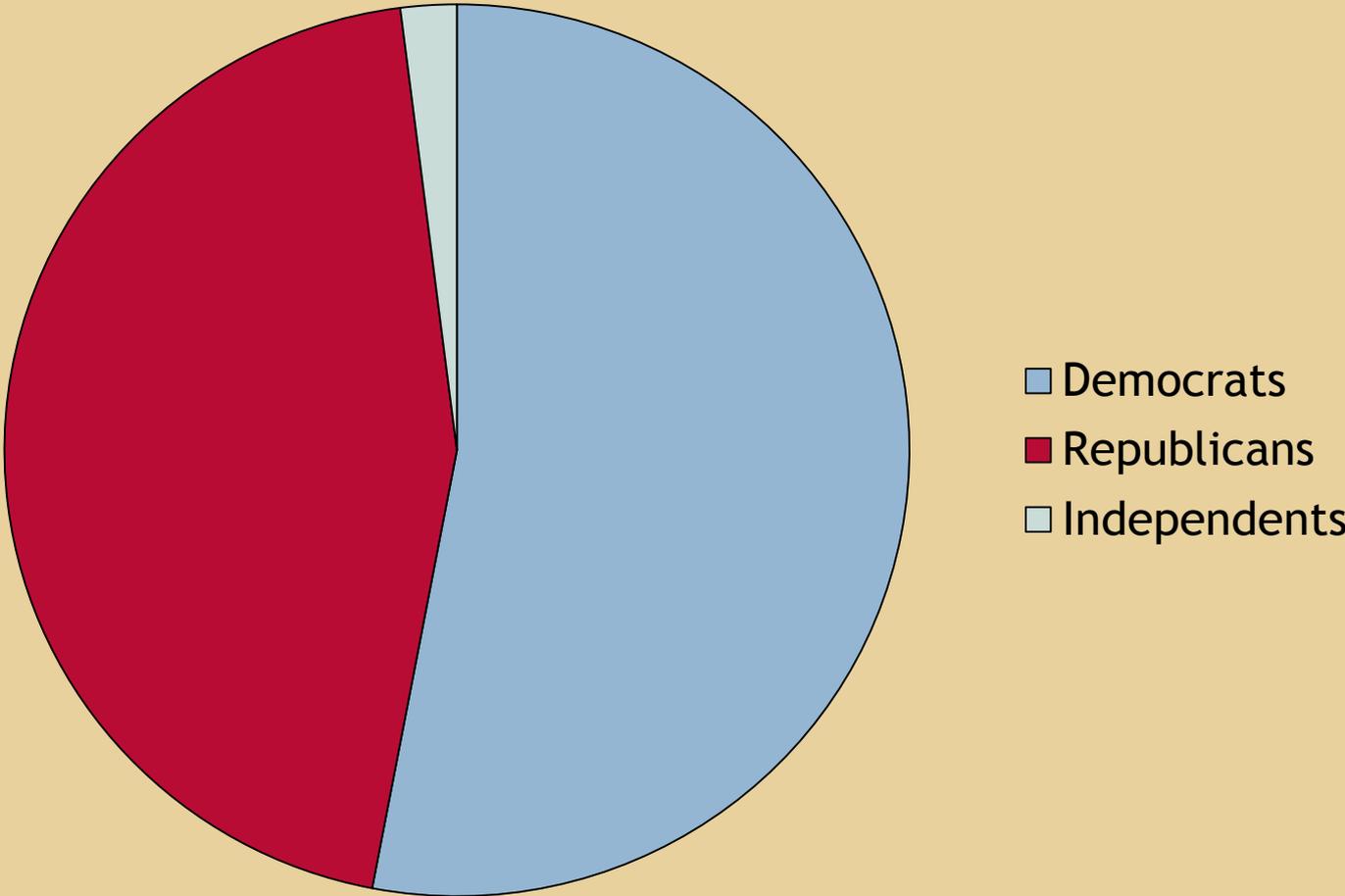




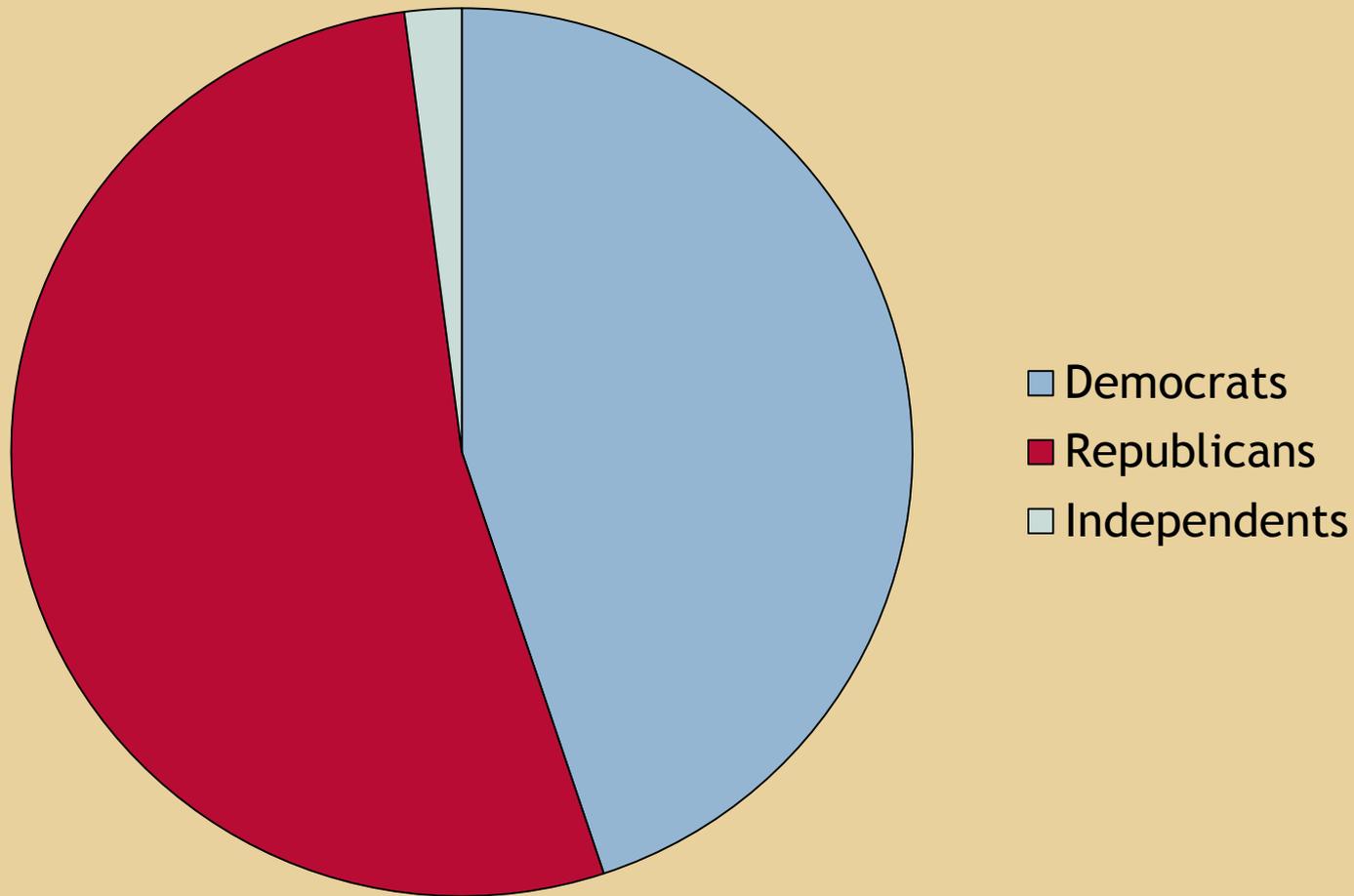
Who's in the new Congress?



Senate: 113th Congress



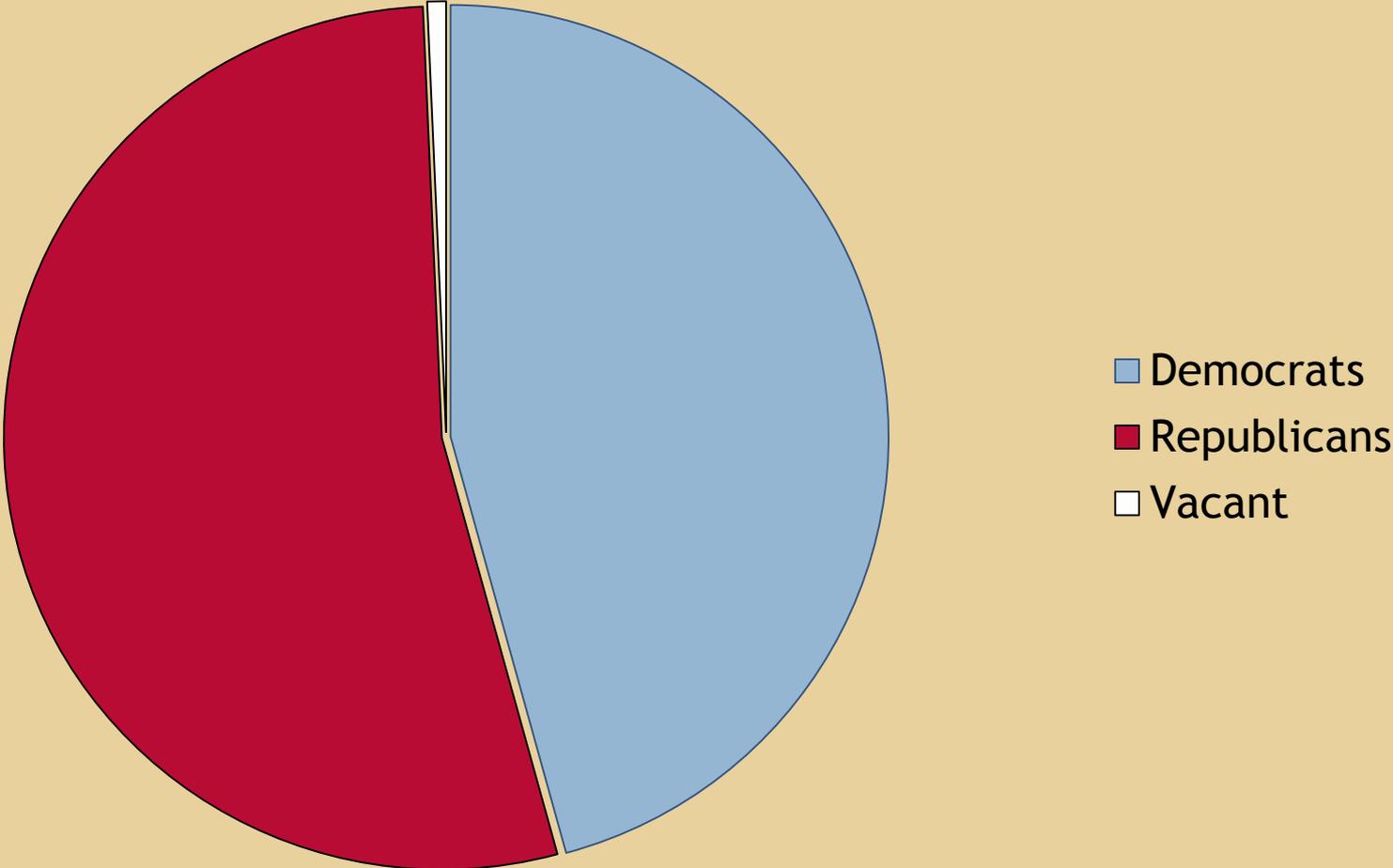
Senate: 114th Congress



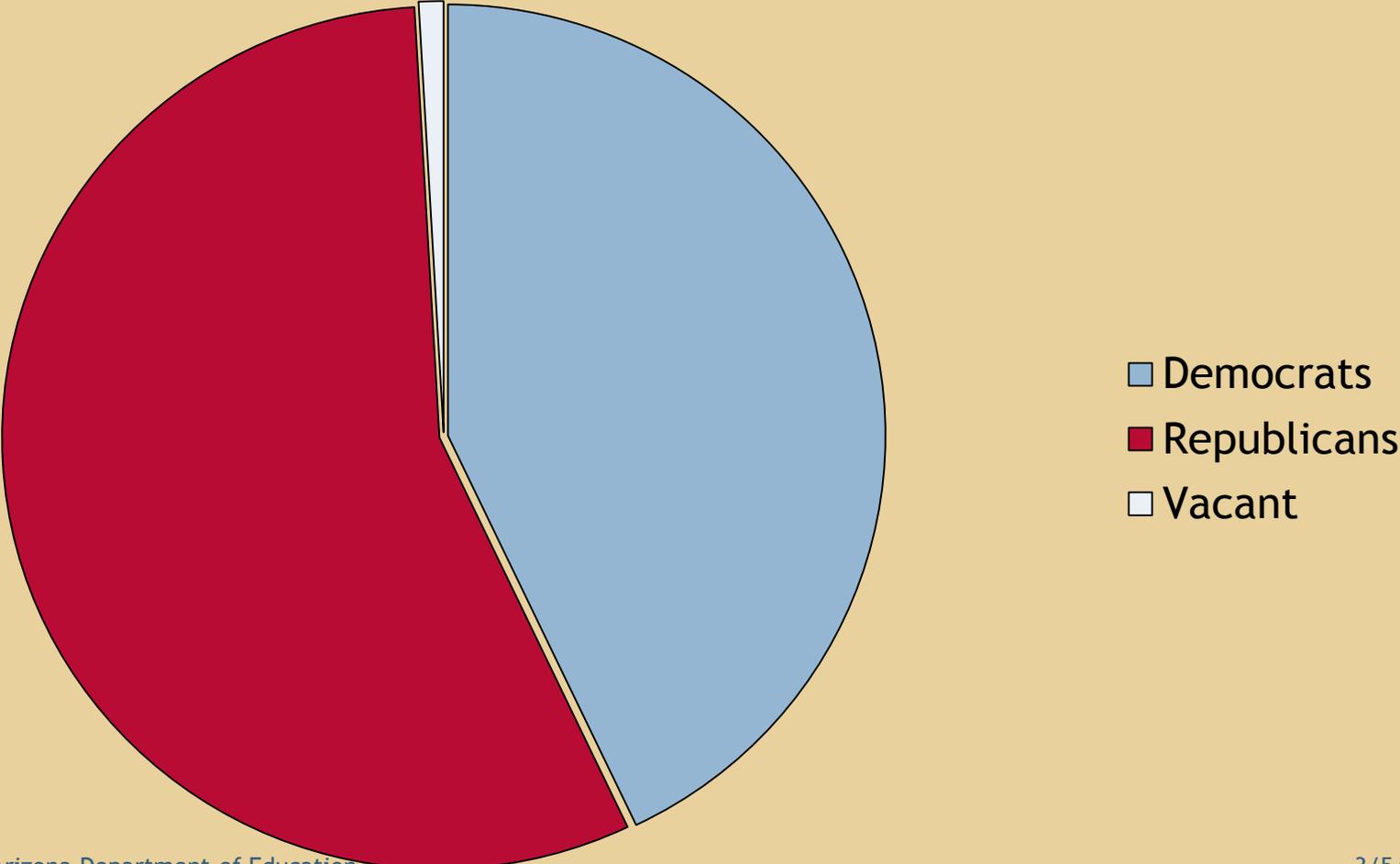
Why does it matter?

- With Republicans in control of both chambers, stronger negotiating position against President on:
 - Repeal/replacement of health care law
 - Immigration
 - Federal funding generally
 - Education
 - Including: gainful employment/for-profit colleges, student loans/aid, ESEA, charters, etc.
- BUT Senate already a highly contentious body where some procedures require 60+ votes
 - 54 votes is not a “filibuster-proof” majority
 - The “pizza party” rule

House: 113th Congress



House: 114th Congress



Why does it matter?

- Continued partisanship between and within parties (especially between Republicans)
- Straight majority still most important in House (but some efforts require 2/3)



New Committee Makeup

- Senate Committee on Health, Education, Labor, and Pensions
 - New Chairman: **Lamar Alexander (R-TN)**
 - Former U.S. Secretary of Education, Governor, college president
 - Focus on HEA reauthorization, FAFSA simplification, reducing higher ed regulations
 - ESEA reauthorization is “top priority”
 - New Ranking Member: **Patty Murray (D-WA)**
 - Focus on early education
 - Possible action on waivers?
 - 2 New Republican members (Democrats lots 2 slots)

New Committee Makeup

- House Committee on Education and the Workforce
 - Rep. John Kline (R-MN) remains Chairman
 - Focus on ESEA reauthorization, charter schools
 - Wants to reauthorize HEA
 - New Ranking Member is Rep. Bobby Scott (D-VA)
 - Focus on school discipline, boosting minority achievement
 - 8 New Republican members (4 new Democrats replacing retirees)



Republican Identity Crisis?



The Failed Boehner Rebellion

- Incumbent House Speaker John Boehner (R-OH) expected to win re-election
 - But far-right conservatives wanted to replace him
 - In vote, 25 Republicans did not vote to re-elect Boehner
 - But dissidents could not agree who to vote for instead
- Following failed rebellion, Boehner exacts retribution
 - Members kicked off House Rules Committee
 - Member removed as primary sponsor of energy legislation
- What does this mean?
 - Attempt to steer conservatives back toward middle in order to create legislation that can pass Senate, get President's signature

McConnell's Warning: Don't Be "Scary"

- Needs to pass moderate legislation to ensure Democratic support and President's signature
- Wants moderates to vote Republican in 2016
- "I don't want the American people to think that if they add a Republican president to a Republican Congress, that's going to be a scary outcome. I want the American people to be comfortable with the fact that the Republican House and Senate is a responsible, right-of-center, governing majority."





What's Next?



The Boehner/McConnell Plan



- Joint op-ed from November lists priorities as:
 - Simplify tax code
 - Reduce spending by revising entitlement programs and other drivers of debt
 - Legal reforms, including medical malpractice
 - Regulatory Reforms
 - Making major rules contingent on Congressional approval, reducing agency expenses
 - **Education reform**

What are education priorities?

- Reform federal involvement in education through:
 - Expanding charter school access
 - Reducing college costs
 - FAST Act reintroduced on 2nd day of new Congress
 - Reforming K-12 education by: (mostly part of H.R. 10)
 - Revamping teacher evaluations
 - Giving States/districts more control over use of federal funds
 - Increasing school choice options

Also on the agenda

- Approve the Keystone XL Pipeline
- Changes to health care law:
 - Repealing the medical device tax
 - Changing “full-time” definition to 40-hour work week
 - Repealing individual mandate
- Immigration reform



FY 2016 Appropriations

- What to look for:
 - Republican-controlled Congress looks to flex muscles
 - Pressure to trim federal spending overall
 - **Sequestration returns!**
 - End of Murray-Ryan spending caps agreement means more wrangling on whether to keep existing sequester or change it
 - Republican push to eliminate sequestration on Defense spending, which would push more cuts to non-defense side

FY 2016 Appropriations

- Likely Outcomes
 - Debate pushes toward (or through!) end of FY 2015
 - No more discretionary grant programs that offer “blank checks” to ED
 - Almost certain to have small cuts to spending “caps”
 - Which means lower appropriations across the board
 - Possible there will be larger cuts to overall non-defense cap
 - And need to look for additional money within Labor-HHS-ED appropriations to cover new costs
 - Possibly leading to increased cuts

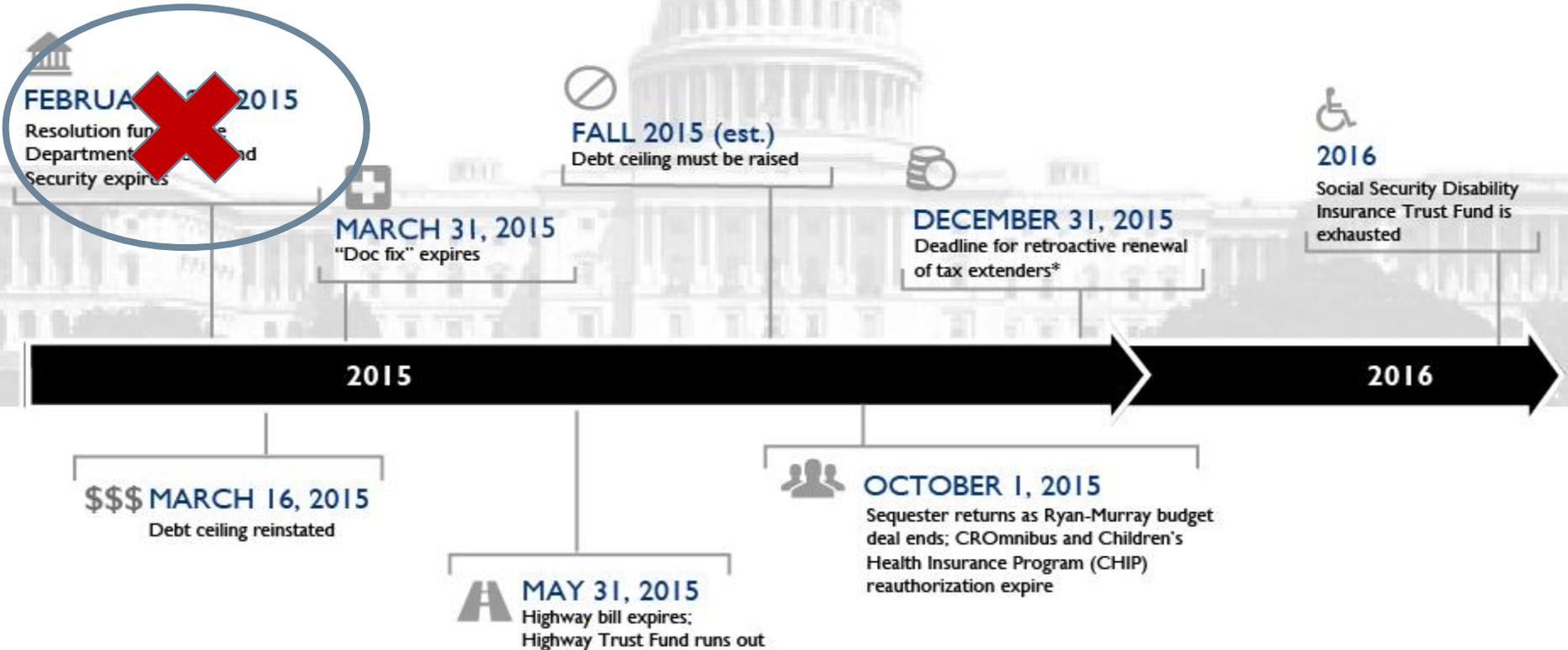
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How they're going to get it done





Impending “Fiscal Speed Bumps” 2015 - 2016



*The tax extenders officially expire at the end of 2014, but can be restored retroactively until this point.

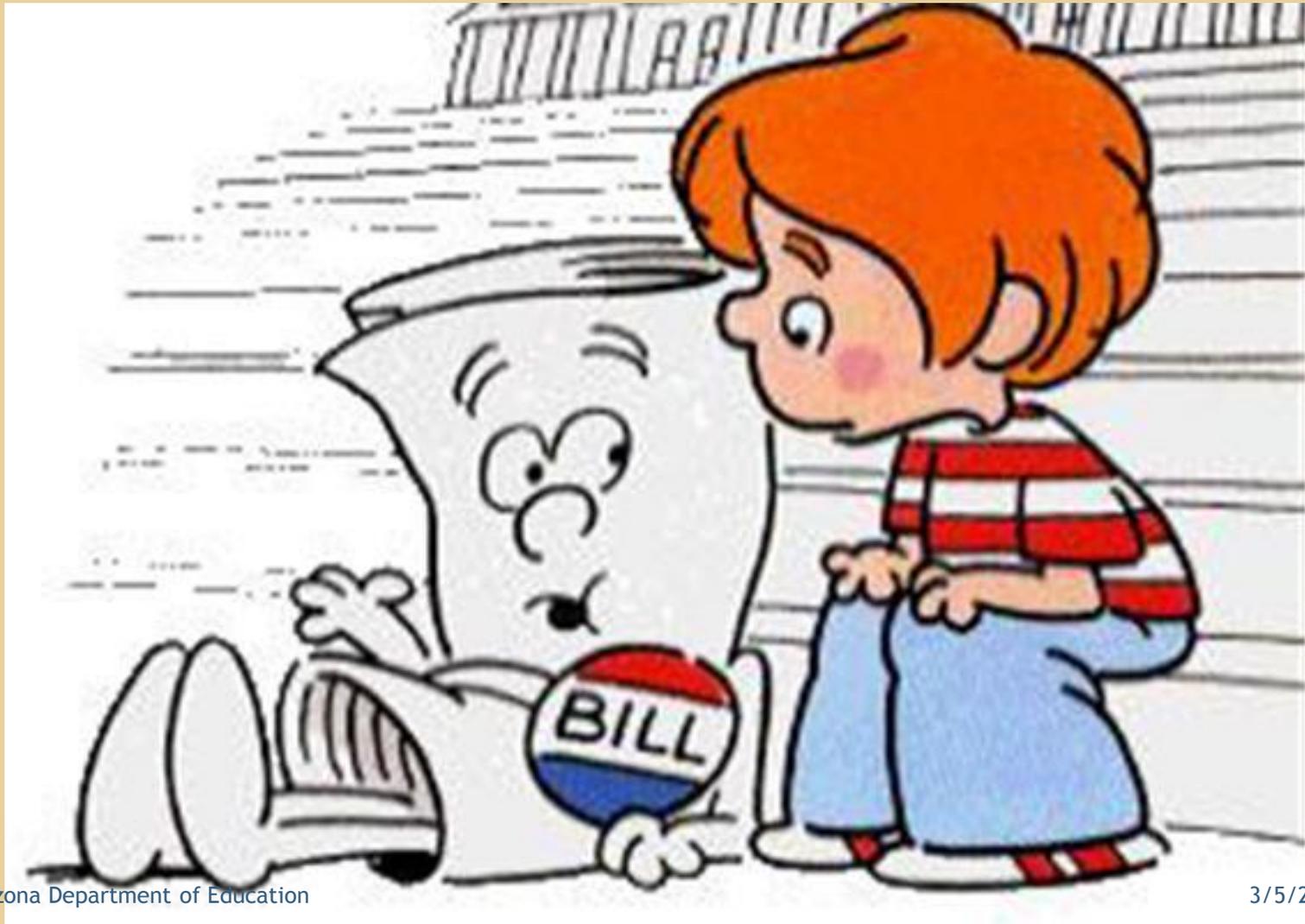
Other hurdles:



- Veto threats from President
 - So far: **Keystone XL**, healthcare modifications
 - Need 2/3 majority to overcome
- Short-term fixes on big problems mean constant crisis situation
 - E.g. debt ceiling
- Conflicts between parties
- **Conflicts within parties**

- Result: non-critical legislation gets no “air time”

The Alternative Process



The Alternative Process

- Pre-Conference committees allow bills to bypass normal legislative process
 - Pro: bypasses potential pitfalls of Committee/amendment, meaning legislation actually moves
- Final compromise bills pass with broad bipartisan support after limited debate
 - Cons: less opportunity for input, only works with some legislation
- Lesson: substantive legislation is now most effectively passed through extra-legislative process

The Alternative Process

- How far can Congress take this?
 - IDEA reform - NO
 - Focus is on funding, and that makes a bill more contentious
 - ESEA Reauthorization - NO
 - Depends on building consensus between Democrats, Republicans
 - Will changes be significant/ structural?
 - Will there be changes to funding formula?
 - HEA - Maybe
 - Depends on consensus, scope of changes
 - Perkins - Maybe
 - Depends on consensus, scope of changes

Bending the Rules



- Follows on heels of “nuclear option” rule change by Sen. Harry Reid (D-NV) in November 2013
- Republican majority may make some rule changes to make it easier for them to pass legislation

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Where does education fit in?



Priorities

- Overall in Congress, **education not a top priority**
 - Focus is on:
 - “must-pass” legislation
 - Appropriations
 - debt ceiling
 - Farm Bill
 - Vote-generating legislation
 - Obamacare repeals
 - Keystone pipeline

Priorities

- But for House/Senate Committees, ESEA is reauthorization priority #1
 - Chairman Alexander says he wants to have a bill through Committee ~~by end of February~~
 - Discussion draft released mid-January
 - Hearings began in mid-January
 - During floor debate on FAFSA simplification, Alexander says this will happen as soon as ESEA is done
 - Chairman Kline says he wants a bill ~~on House floor by March~~
 - Would require bill debate in February
 - But not starting from scratch on House side - likely will use 2013 House bill as starting point (H.R. 5: Student Success Act)

Contents of ESEA Reauthorization

- What's Out
 - AYP
 - Instead: States design and implement plans for intervention and improvement
 - Race to the Top
 - Instead: focus on formula funding (and budget-cutting)
 - Investing in Innovation: ditto
 - Requirement to adopt specific college- and career-ready standards
 - Instead: leaves standards and assessments up to States
 - Teacher evaluations
 - Opposition from far-right conservatives AND liberal Democrats
 - Instead: focus on State licensure/training/PD



Contents of ESEA Reauthorization

- What's In
 - Title I money, formula
 - **Portability**
 - Supplement, not supplant
 - Charter school grants
 - And focus on States with laws more open to charters
 - Requirement to have **some kind of standards and assessments**
 - Requirement to have **some kind of school ratings/intervention**
 - **Limitation on Secretarial waiver**, decision-making authority



Contents of ESEA Reauthorization

- What's up in the air?
 - Level of federal involvement overall
 - especially in interventions, school ratings
 - Annual testing in grades 3-8
 - And science assessments
 - Also: requirement to take grade-level assessments
 - Comparability
 - Unlikely: closing comparability loophole
 - Likely: comparability as written
 - Survival of small competitive grant programs

To reauthorize?

■ Hurdles

■ Busy House/Senate schedule

- Will there be time?

■ Democratic opposition

■ From Democrats in Congress

- Lack of bipartisan cooperation in drafting?
- Disagreements over assessments/accountability?

■ From President/administration

- Concerns about “walking back” accountability
- President has no fears of issuing veto threat

■ Republican opposition

- Sen. Tim Scott (R-SC): won't vote for a bill if they've given up too much to Democrats



Half-measures?

- If ESEA reauthorization is not passed:
 - ESEA waivers continue into next Congress
 - Congress may pass smaller stand-alone bills, including:
 - Success and Opportunity through Quality Charter Schools Act (H.R. 10)
 - Strengthening Education Through Research Act (H.R. 4366)

Other Education Priorities



- WIA Reauthorization: DONE
- Child Care and Development Block Grant: DONE

IDEA

- No action to date
- Focus is on “full funding” of existing federal obligation
 - “Full funding” = 40% of excess cost of educating students with disabilities
 - Harkin bill would gradually bring up funding levels to full federal commitment
 - But these initiatives stall because of cost
- Extremely unlikely to move before ESEA

Perkins

- Carl D. Perkins Career and Technical Education Act originally due for reauthorization in 2012
- Bill introduced in Senate in June 2014
 - Sen. Tim Kaine (D-VA) and Sen. Rob Portman (R-OH)
 - Would reauthorize, promote alignment with other programs, workforce needs
- Some information sessions, one “field hearing” by House CTE caucus in October 2014
- No significant action to date

Child Nutrition

- Healthy, Hunger-Free Kids Act Expires September 30, 2015
 - Law and regulations continue to be controversial because of new nutrition standards for school meals
 - School Nutrition Association lobbying hard for weakened standards/restrictions
 - Administration vowed to veto appropriations bills that weakened standards in FY 2015
 - Congressional Republicans say standards are costly, wasteful
 - **Will be big fight in summer 2015!**



Prospects in a Nutshell



The Good

- Congress controlled by one party means legislation moves through with more frequency and speed - in theory
- Strong commitment from everyone (House, Senate, administration) to reauthorize ESEA

The Bad

- Lots of other “must-pass” items on the calendar ahead of ESEA/other education bills

The Ugly

- Continued partisanship makes it difficult to find common ground
- Controversial issues and legislation will slow down legislative process
- Filibuster and veto threats continue to make it difficult to find common ground

The Latest

- HR 5 stalled - “not conservative enough”
- Senate - restart?
- Administration reactions/incentives

