



December Federal Report

2008

Congress

In spite of January 2009 standing as the marker of the third largest recession in the history of the nation, the Senate has gone into recess as of this week, and the House has announced its members will be in their districts until after the new year. However, full adjournment of the session, known as “sine die,” is not in order.

The Senate may hold several non-voting sessions over the next three weeks, as well as members returning in case of emergencies or the need to obviate last minute appointments by the current administration.

The 111th Congress will be sworn in on January 6, 2009. Four days of votes are on the official schedule for that week of January, three days the week thereafter, two the following week and another two during the week of the presidential inauguration, which is on January 20.

Congressional Leadership: Californians increase in leading roles

Following the recent election cycle, Senate Democrats picked up seven new members and now number 56, with 41 Republicans, 2 Independents and 1 seat still undecided. Democrats in the House increased by 22 for a total of 257, and House Republicans number 178.

There was little change for California’s Congressional delegation, with no U.S. Senate races, only two open House seats, and all 51 standing incumbents reelected. With a more than 96% return rate, the delegation will have more seniority in the House in 2009. In the San Diego-area open seat, Duncan Hunter, Jr. won election to replace his father in Congress. Representative Tom McClintock bested Democrat Charlie Brown by only 562 votes in the 4th Congressional District.

House Speaker Pelosi and Senators **Feinstein** and **Boxer** continue their prominence, with Senator Feinstein just being named Chair of the Senate Intelligence Committee, while continuing her membership on the Budget Committee and Senator Boxer continuing to chair the Environment and Public Works Committee, which oversees climate change, environment and transportation matters. California now claims the leadership territory in energy issues.



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As an ally of Speaker Pelosi, Representative **Henry Waxman** from Los Angeles, unexpectedly unseated the most senior member of the House, Michigan Democratic Representative John Dingell, in a 137-122 vote, to become chair of the House Energy and Commerce Committee. (As a side bar, his former COS, Phil Schiliro, was named to head the Administration's Congressional relations efforts in the role of Assistant to the President for Legislative Affairs.)

Having opted to withdraw his name from consideration to serve as U.S. Trade Representative in the Administration, California Representative **Xavier Becerra** from Los Angeles was recently named Vice Chair of the Democratic Caucus for the 111 Congress in a 9th term of office. Becerra also serves as a senior member of the House Committee on Ways and Means, was its first Latino and is the only member from Southern California on the committee.

The House Republican Conference selected Representative **Darrell Issa** from Vista to serve as the Ranking Republican Member for the House Oversight and Government Reform Committee (OGR), the House's chief investigative committee. He had served as the Ranking Member of the Oversight and Government Reform Subcommittee on Domestic Policy.

This week, **Hilda Solis**, Democrat/CA, was named as Secretary of Labor. It had been rumored that **George Miller**, the Chair of House Education and Labor Committee, might be the potential head of the Labor Agency, but insiders note he has a lot of investment in the NCLB reauthorization and wants to shepherd it through Congress, believing the K-12 program needs a lot of "recalibration."

Bob Filner remains the Chair of the Veterans Committee in the House.

Barbara Lee was named **Chairwoman** of the **Congressional Black Caucus** this month, giving the Oakland Democrat a high-profile platform to push her priorities, from increasing funding for HIV/AIDS to pushing for a speedy withdrawal of U.S. troops from Iraq. As chairwoman during the 111th Congress that starts in January, Lee will take a lead role in pushing the agenda of the 43-member **caucus** — known by its acronym, CBC — which has historically been among the more powerful voting blocs in the House, with immense influence over legislation, appropriations and even presidential appointments.

Mike Honda was re-elected **Chairman of the Congressional Asian Pacific American Caucus (CAPAC)** for the 111th Congress, as Caucus members reaffirmed their commitment to representing the Asian American and Pacific Islander (AAPI) community in Congress. There are currently 15.5 million Asian Americans and Pacific Islanders (AAPIs) in the U.S. — one of the fastest growing minority groups in the country, according to the Census Bureau. In 2050, 33.4 million Asian Americans are projected in the U.S., comprising 8% of the total population by that year. Approximately one-quarter of the foreign-born population is from Asia, and the Asian-born population has one of the highest citizenship rates. The Caucus' top priorities include immigration reform, economy, healthcare, and equity for Filipino WWII veterans.



Administration

Federal Education Secretary

On Tuesday, President-elect Barack Obama announced **Arne Duncan**, the head of the Chicago school system, as U.S. Secretary for Education, noting: “In just seven years, he’s boosted elementary test scores here in Chicago from 38 percent of students meeting the standards to 67 percent. The dropout rate has gone down every year he’s been in charge...On a key standardized test, Obama said, “the gains of Chicago students have been twice as big as those for students in the rest of the state.”

Duncan graduated magna cum laude from Harvard University in 1987, majoring in sociology. He was co-captain of Harvard’s basketball team and was named a first team Academic All-American. From 1987-1991, Mr. Duncan played professional basketball in Australia, where he also worked with children who were wards of the state.

Duncan returned to Chicago in 1992 to direct the Ariel Education Initiative, which seeks to create outstanding educational opportunities for inner-city children on the City’s South Side. In 1998, he joined the Chicago Public Schools.

In June 2001, Mayor Richard M. Daley named Duncan Chief Executive Officer of the Chicago Public Schools.

Duncan currently serves on the Boards of the Ariel Education Initiative, Chicago Cares, The Children’s Center, the Golden Apple Foundation, the Illinois Council Against Handgun Violence, Jobs for America’s Graduates, Junior Achievement, the National Association of Basketball Coaches’ Foundation, Renaissance Schools Fund, Scholarship Chicago and the South Side YMCA.

He also serves on the Board of Overseers for Harvard College and the Visiting Committees for Harvard University’s Graduate School of Education and the University of Chicago’s School of Social Service Administration. He was a fellow in the Leadership Greater Chicago’s class of 1995, and a member of the Aspen Institute’s Henry Crown Fellowship Program, Class of 2002. He has received honorary degrees from the Illinois Institute of Technology, Lake Forest College and National Louis University.

In 2006, the City Club of Chicago named Duncan Citizen of the Year.

Linda Darling Hammond will most likely play the initial role that current Secretary Margaret Spellings had in the first term of the Bush presidency while Rod Paige was secretary – presidential advisor on the White House staff.



Role of Education

The primary legacy issue for President-elect Obama will be established in his first 100 days of office, with the economy as the first stage focus and most likely to command this time period. The second stage is rumored to be NCLB and possibly immigration, thus opening doors for the Dream Act, which will probably emerge as at least a “stand alone” bill. President-elect Obama trumpeted it during his campaign, and Senator Durbin of Illinois has been a foremost supporter.

Additionally, the President-elect is contemplating the American Opportunity Tax Credit, which will combine the Hope and Lifetime Learning programs at \$4,000 annually with a service component of up to 100 hours in its current draft stage.

The President-elect is reported to be additionally supportive of community college partnerships, new AA degrees, increasing the maximum Pell to \$5,100, workforce skills in high demand areas, math/science education and teacher candidates, and a focus on transfer.

Budget

Economic Stimulus Package

States have lost \$30 billion in revenue in the current recession. The stimulus package is currently tagged at \$750 billion, however the final package could conceivably reach a trillion dollars after all is said and done. The first level of the economic stimulus package will go out at approximately \$200 billion in the first round, with approximately \$500 billion in the second round.

Although some congressional members’ offices -- such as that of Representative Harry Reid preferring to address higher education through nationally developed proposals that will distribute monies to states according to enrollment and population -- are not pursuing institutions’ requests for inclusion in the package, *all districts should be inquiring about their local congressperson’s disposition in this matter – particularly those who are sitting on fiscal committees-- and in a timely manner*, as the speculation is that the President may sign a stimulus package his first day in office.



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ACCT and AACC issued a joint economic recovery and stimulus proposal this week to President–Elect Barack Obama’s Transition team. The package was endorsed by 43 state community college systems and associations and contains the following three key areas:

- **Maintenance of College Access and Affordability**
\$3 billion to retire the entire current estimated shortfall.
Increase in Pell Grant maximum by \$700.
- **Enhancement of Community College Infrastructure**
\$5 billion to assist community colleges to address growing facilities and infrastructure needs.
- **Preparation for High Paying and High Demand Jobs**
\$1.5 billion to help community colleges fund job training programs to train the workers in such key areas as advanced technology, energy and health care.

NASULGC also announced its economic stimulus platform for higher education this week, supporting:

- a 15 percent increase in the maximum Pell Grant to \$5100 (current is \$4,371);
- a doubling of the Student Education Opportunity Grants;
- a Higher Education Infrastructure Block Grant for both two-year and four-year institutions that requires projects submitted be “shovel ready” to repair, renovate or construct academic facilities (athletic, recreational and revenue-producing facilities are explicitly excluded) – designating a 90-day time-period for funding to campuses and a 90-day time-period for campuses to act. The money will be distributed among segments based on enrollment and population. No state would receive less than ½ of 1 percent of the available funds and be allocated by the state’s governor between public and private institutions – equitable distribution of funds will be made among community colleges, state colleges and public research universities in the public domain. Priority will go to sustainability projects, energy efficient buildings or other “green” buildings and projects reflecting state or regional economic priorities. There is no provision for a legislative role in the process; and,
- an enhancement of the federal student loan program by creating flexibility on annual loan limits; extending the grace period that precedes the onset of loan repayment from six months to nine months and ensuring student borrowers who are delinquent on their payments are provided immediate assistance by the Department of Education in accessing the repayment option most appropriate to their financial circumstances.



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NASULGC also proposes approximately \$6 billion investment in scientific capital, both physical and human. Please go to the following web site for full detail:

<https://www.nasulgc.org/NetCommunity/Page.aspx?pid=183&srcid=-2F>

Additionally, House appropriators considering a stimulus package heard from higher education regarding the need for increases in Pell Grants and more money for states to support higher education.

The Student Aid Alliance promoted a \$500 increase in Pell Grant maximum as a means of stimulating the economy and filling the gap between average tuition costs at public 4-year institutions and current Pell maximum and also requesting funding to cover 08-09 Pell shortfall. It noted that increasing the maximum Pell Grant to \$5,300 would cover 80 percent of the average tuition and fees of a public four-year institution, helping more than 5 million Americans make the choice between unemployment or re-training and between dropping out of college or continuing their education. The current maximum is \$4,371.

In addition, the letter asks Congress to provide \$3.4 billion to fully pay off the Pell Grant shortfall — \$5.9 billion. The Department of Education estimates a 9 to 10 percent increase in Pell applicants this year, compared to a 1 to 2 percent increase during stable economic times, and precipitated the shortfall. The Department advises the almost \$6 billion will be needed to erase a shortfall in FY2007-08 and FY2008-09 and meet the FY2010 demand.

Budget Reminder: The FY 2009 budget continuing resolution appropriated \$2.5 billion to help make up the difference in the shortfall. This is probably too low an estimate, as changes in current law present an unknown factor. The measure also includes specific language forbidding the Federal Department of Education from addressing an expected increase in aid applications (and the accompanying Pell funding) by decreasing any Pell award during the course of the continuing resolution. It also includes the following:

- **Hope, Lifetime Learning tax credits and tuition deduction:** The tuition deduction has expired, and it, along with Hope and the Lifetime Learning tax credits, is expected to be consolidated into a single, partially refundable credit, in keeping with prior House Labor and Education Committee discussions with student-aid experts this past May. The Government Accountability Office testified that one in five tax filers who are eligible for the benefits fail to claim them, and more than one-quarter fail to file for the maximum amount.
- **TRIO, Gear Up, LEAP (Leveraging Education Assistance Programs); Perkins Loans and Supplemental Educational Opportunity Grants (SEOG)** are restored with flat funding.



- **Title VII–B of the Higher Education Act** is provided \$15 million for colleges and universities located within areas impacted by presidential–declared natural disasters.

Student-aid programs will continue to operate at current spending levels through March in the resolution, and all the major players’ radar continues to be focused on student financial aid.

A major priority of the field in the coming 111th Congressional session will focus on transitioning from merit–based funding to need–based funding for campuses.

Reauthorizations

Workforce Investment Act (WIA)

Most of the recent focus has been on how to tackle the WIA as part of the stimulus package. Labor is devising a change in the workforce infrastructure, focusing on wholesale changes, such as One–Stop Centers.

AACC is urging Congress to provide community colleges a more central role in the provision of training services to WIA participants, noting: “Community colleges are the closest thing this country has to a national network of ubiquitous, low cost and high quality training providers, and the WIA legislation should reflect that.” AACC is targeting the following priority issues for community colleges in WIA reauthorization:

Training Capacity

- Place a greater emphasis on providing training.
- Eliminate the mandatory “sequence of services” that has exacerbated this problem
- Consider other measures to increase training, such as a minimum percentage requirement for training expenditures.
- Couple the increase with direct support for the development of additional training capacity at community colleges.



- Authorize the Community-Based Job Training Grants (CBJTGs), which were created in 2004 in response to this capacity crunch.
- Provide local boards greater flexibility to utilize training contracts, especially with low-tuition training providers such as community colleges.
- Streamline WIA funding at the regional and local level, to ensure the proper mix between assisting participant access to training and the development of training capacity.

Trainer Eligibility

- Deem public institutions of higher education as automatically eligible as training providers.

Workforce Boards

- Include community college representation in state and national workforce planning

Infrastructure

- Provide a line-item authorization for directly supporting the infrastructure of the federal workforce development system.

Adult Basic Education

- Add “transition to postsecondary education and training” to the purposes of the act and the definition of adult education, and clarify throughout the act that transition programs can and should be funded with adult education funds.
- Require consultation between the eligible state agency under the Adult Education Act and other key WIA stakeholders, including the state community college system, both in the development of the state plan and in the awarding of grants or contracts to eligible providers.
- Include a measure of the total number of people served by the adult education system who make the transition to postsecondary education and training in the performance accountability system.
- Require eligible agencies to consider, when deciding on local grants and contracts, whether grantees offer postsecondary transition programs, with give special consideration to programs that are administered by an institution of higher education or take place on the campus of an institution of higher education.



Innovation

- Create a new national program that would nurture and disseminate innovative approaches bridging the current gap between adult basic education and postsecondary education and training.

Entrepreneurship

- Allow training dollars to be used for entrepreneurial programs.
- Remove any obstacles to using WIA resources, in tandem with economic development and other resources, to support entrepreneurial incubators and similar initiatives.
- Increase coordination with the Small Business Administration and other sources of federal support for entrepreneurs.

Labor Exchange Information

- Integrate the effective use of services such as the public–private Jobs Central to more efficiently and effectively match applicants with jobs and help providers understand local labor markets better so they can design relevant training opportunities that lead to real jobs. Effective use of these systems would help move unemployment insurance recipients into jobs more quickly and help to identify those in need of more services.

HEA Reauthorization (HEOA)

The next step in the process for implementation of the Higher Education Opportunity Act of 2008 (**P.L. 110-315**), is the publishing of a Dear Colleague Letter by the Department which will provide a summary of each provision of the HEOA. However, affected parties are responsible for taking the steps necessary to comply by the effective dates established by the HEOA. The provisions of the HEOA are effective upon enactment unless otherwise noted in the law. Potentially affected parties should review the legislation immediately to determine the proper measures they must take to comply. Updates will be provided at: <http://www.ed.gov/policy/highered/leg/hea08/index.html>

Aside from unfunded programs and innumerable new regulations, certain issues are percolating. AACC is concerned that simplification of the Student Application for Student Financial Aid may not be the answer and that the field may need to delve more to the heart of the problem, i.e. staffing levels and student aid issues.



During negotiations for reauthorization, Congress was very clear about reducing costs, not paying for books! However, costs remain a problem. The national field is moving toward having state legislatures place restrictions on increases.

Webb Post 9/11 GI Bill

It is expected that the reauthorization of the GI Bill will provide an increase of 25 percent in this student population across community college campuses, nationally. Higher education is becoming increasingly more alert to regulations being developed within the VA, to be made applicable as of August 2009. Higher education entities are developing recommendations in an attempt to harmonize the regulatory culture with the culture of education in this matter and provide a more efficient and effective distribution of funding for students. National groups are proposing changes in two main areas:

- Online courses – allow greater flexibility; provide controls; require enrollment on campus for 50 percent of the time; and,
- Funding – allow tuition to be sent to campuses.

Congress views this reauthorization as very generous and will most likely not pursue more funding. Should it do so, most sources indicate the first call will be on health issues, not education.

Federal Department of Education

FERPA

Last week, the U.S. Department of Education published final regulations in its Federal Register to clarify and provide greater flexibility for colleges regarding disclosures of information from students' education records in order to address threats to the health or safety of students or other individuals. Draft regulations had been published on March 24 in response to the shootings at Virginia Tech and the June 2007, "Report to the President on Issues Raised by the Virginia Tech Tragedy," written after U.S. Secretary of Education Margaret Spellings, U.S. Secretary of Health and Human Services Mike Leavitt and former U.S. Attorney General Alberto Gonzalez conducted a listening tour across the nation and concluded that especially with regard to the parents of college students, more guidance was necessary.



As an example, the new regulations state explicitly that in the case of a health or safety emergency, a college can disclose information about students without their permission. While the rules require some justification for such release, they make clear that the protections on student privacy are not absolute. Further highlights include:

The complete final regulations may be found on the Federal Register web site at:

Higher Education Data

The National Center for Public Policy and Higher Education recently released “Measuring Up 2008,” its biennial national and state-by-state report card on higher education. Performance is evaluated, compared, and graded in six areas: preparation for college, participation, affordability, completion, benefits, and learning. In assessing progress in these areas, the report card also places the performance of American higher education in a global perspective by incorporating international comparisons wherever possible. Go to:

Excelencia Fact Book Publication: The Condition of Latinos in Education

Excelencia in Education released its “Fact Book” this week. It contains statistics and information on Hispanic’s experiences in all levels of education from early childhood education through graduate school. According to the Fact Book, Hispanics have lower levels of education attainment than other groups – 13-percent of Hispanics had earned a B.A. in 2007 compared with 32 percent of whites, and 19 percent of blacks. Four to 5 year old Hispanic children have lower average mathematics and language test scores than white, black or Asian children, and Latino students are most likely to be enrolled in highly segregated schools; in 2005-2006, 55 percent of Hispanic students attended schools where 75 percent or more of all students in attendance were minority students, compared to 3 percent of white students, 31 percent of API students and 50 percent of black students. And, while Hispanic students represent 20 percent of all public school students in the United States, only 5 percent of public school teachers are Hispanic.

The Fact Book also provides statistics on community colleges, and colleges and universities that enroll and award degrees to Latinos. Of the top 25 community colleges enrolling Latinos, 15 are California community colleges; of the top 25 four-year colleges and universities enrolling Latinos, 6 are California colleges and universities; of the top 25 institutions awarding associates degrees to Latinos, 9 are California institutions; and of the top 25 institutions awarding BA degrees to Latinos, 8 are California institutions. Go to: <http://www.edexcelencia.org>.



Pew Report: *Latino Workers in the Ongoing Recession: 2007 to 2008* by Rakesh Kochhar

In a report released on December 15, the Pew Hispanic Center found a 1.1 percent decrease in the number of Latino immigrants in the labor force compared to a year ago. The absolute number of immigrant Latinos in the labor force did increase by 150,000 in the same time period, but this represents a smaller increase in absolute numbers than has been seen previously. Latino immigrants make up approximately 8 percent of the total U.S. labor force, but the report reveals that the unemployment rate of Latino immigrants is about 6.4 percent, compared to a 6.1 percent unemployment rate for the total U.S. workforce. The unemployment rate for all native-born Hispanics, however, is 9.6 percent.

The author finds, however, that it is not possible to conclude from these data whether or not some of the foreign-born Latinos who left the labor force have returned to their countries of origin. The growth in the immigrant Latino population has leveled off in recent years, he states, but it is not clear whether this has been due to an increased outflow of migrants.

Public Policy Institute of California: *Will There Be Enough College Graduates?*

The Public Policy Institute of California released *California's Future Workforce* this month. It concludes that California's need for college-educated workers is outpacing the state's ability to produce them, and the gap is expected to widen in the future.

Four in 10 (41%) California workers will need a bachelor's degree to meet the state's projected economic demand in the year 2025 if current trends continue, but changes in the workforce make this an unlikely outcome. Although the percentage of college-educated workers has increased significantly in recent years — from 28 percent in 1990 to 34 percent in 2006 — the report predicts that growth will slow for two primary reasons: (1) California workers who are now age 50 to 64 have the highest levels of education of any age group in the state and they will reach retirement age by 2025 and (2) Latinos, a group with low levels of education, make up a growing share of the state's workers. They made up 29 percent of the working-age population in 2006 and will make up 40 percent by 2020. Just 7 percent of Latinos had a bachelor's degree in 1990, a percentage that increased to 10 percent in 2006 and is projected to reach only 12 percent in 2020.



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The report found that at the same time as the growth in college-educated workers slows, the supply of workers with a high school diploma or less is projected to exceed economic demand. It states: “Lower wages and fewer job opportunities for these workers, and higher wages for college-educated workers as demand for their skills increases. The growing mismatch between the needs of the economy and the education levels of the workforce is likely to put pressure on state social programs, increase economic inequality, and limit the path of the state’s economic growth.” Go to: www.ppic.org.

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