INSIDE THIS ISSUE

3 Overview of the 2014 Election
4 Impact on the Obama Administration
4 2014 Lame-Duck Session in Congress
5 Outlook for the 114th Congress
7 2015 Policy Agenda in Washington
12 In the Federal Agencies
15 Impact on State Legislatures
16 2015 Policy Agenda in the States
18 Results of Ballot Initiatives/Referenda/Questions
19 2014 Electoral Charts/Maps

Founded in 1948, the Society for Human Resource Management (SHRM) is the world’s largest HR membership organization devoted to human resource management. Representing more than 275,000 members in over 160 countries, the Society is the leading provider of resources to serve the needs of HR professionals and advance the professional practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates. Visit us at shrm.org.

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“You elected us to focus on your jobs, not ours. And in the coming weeks and months, I am looking forward to reaching out and working with leaders of both parties to meet the challenges we can only solve together.”

President Barack Obama at a press conference—November 5, 2014

“It’s time for government to start getting results and implementing solutions to the challenges facing our country, starting with our still-struggling economy.”

Speaker of the House John Boehner in a statement released on Election Night—November 4, 2014

“Just because we have a two-party system doesn’t mean we have to be in perpetual conflict. I think I’ve shown that to be true at critical times in the past. I hope that the president gives me the chance to show it again.”

Senate Majority Leader of the 114th Congress Mitch McConnell’s victory speech—November 4, 2014
Déjà vu – Could it be 2010 again?

• On the national front, voters expressed continuing anxiety over the state of the economy and registered their displeasure with a dysfunctional government and President Obama’s leadership. The result was another Democrat “shellacking” (President Obama’s term) similar to the one voters delivered back in 2010 when the GOP captured control of the House. Democratic losses in the House and Senate, however, are below the historic average suffered by President Obama’s six predecessors during midterm elections occurring in a president’s second term. This time, the Senate fell to Republican control—and this will have major implications on the public policy agenda before the 114th Congress as the president begins his last two years in office.

• On Election Night, Republicans rode a wave of voter discontent that resulted in their gaining control of the Senate, adding seats to their majority in the House of Representatives, and capturing four Democratic-held governorships.

• Democrats had more seats up for re-election in the U.S. Senate in this cycle than Republicans and incumbent (and moderate) Senate Democrats suffered defeats in Alaska, Arkansas, Colorado and North Carolina. The Democrats also failed to hold onto open seats in Iowa, Montana, South Dakota and West Virginia and lost another seat when the incumbent failed to win a December 6 runoff in Louisiana. The GOP survived hotly contested Senate races in Kansas, Kentucky and Georgia, while executing tough campaigns against incumbent Democratic senators in New Hampshire and Virginia.

• Republicans added over a dozen seats to their nearly 60 percent majority in the House of Representatives, giving them their largest majority in that chamber since 1928. The GOP also won big on the state level, capturing four Democratic held governorships—and wrestling control of 11 chambers in legislatures across the country. They also lost two governorships; one to a Democrat in Pennsylvania and the other to an Independent in Alaska.

• Voters overwhelmingly approved ballot initiatives designed to increase the minimum wage in five states, legalize marijuana in two states and the District of Columbia, and require employers in Massachusetts to provide up to five days of sick leave to their employees.
Overview of the 2014 Election

The 2014 midterm elections yielded major gains for Republicans at both the federal and state levels. When the 114th Congress convenes in January, the GOP will hold majorities in both the U.S. Senate and U.S. House of Representatives, guaranteeing complete control of the policy agenda in Congress for the last two years of the Obama presidency.

On Election Night, Republicans captured eight Senate seats previously held by Democrats and won another when they topped an incumbent in a runoff election in Louisiana earlier this month. Republicans also added over a dozen seats to their majority in the House, attaining a level of control in that chamber that the party has not seen since 1928. In the states, the GOP expanded its grasp on party control by capturing four previously held Democratic governorships and adding over 300 more seats to the GOP column when state legislatures convene across the country in 2015.

These gains by the GOP at both the federal and state levels will likely have a significant impact on President Obama’s last two years in office, particularly his ability to set the policy agenda in Washington. Exit polling confirmed that voters were driven to the polls mostly by their continued concerns about the economy and their distaste for a dysfunctional government in Washington.

The 2014 results will also have a major impact on the shape and direction of HR issues brought before Congress. For example, SHRM predicts that Democratic proposals on such topics as the Paycheck Fairness Act, increases in the federal minimum wage, and the Healthy Families Act are all but certain to be dead in the 114th Congress. However, Republican leaders in both the House and Senate have signaled a strong interest in addressing these important workplace issues and are exploring alternative approaches to workplace flexibility, compensation equity and other workforce proposals. There will also be new efforts to repeal and amend the Patient Protection and Affordable Care Act (PPACA), as well as consideration of comprehensive tax reform packages.

Republicans will also focus even more intently on executive branch activities, particularly executive orders and regulations proposed by President Obama. These include his recently announced executive order on immigration, proposed regulatory actions on the Fair Labor Standards Act overtime requirements and recent changes to employment practices of federal contractors.

Turning to state elections, Republicans captured at least four Democratic-controlled governorships, including three in the reliably “blue” states of Maryland, Massachusetts and President Obama’s home state of Illinois. They also padded their majorities in state legislatures by wrestling control of a number of chambers away from Democrats in Colorado, Maine, Massachusetts, West Virginia, Nevada, New Hampshire, Minnesota, New York and Washington. As a result, in 2015 they will control both chambers in 30 legislatures across the country, while Democrats will control just 11 (8 remain split and Nebraska is unicameral).

Look for these majorities to pursue a host of state workplace policies ranging from
tax reform, restricting employer access to social media passwords, unemployment insurance reform, and continued consideration of legislation guaranteeing the rights of employees to bring firearms to work if they are stored in a locked vehicle.

Impact on the Obama Administration

President Obama and the Democrats suffered a second midterm defeat on November 4 that was reminiscent of the 2010 midterm results. Acknowledging this fact during a news conference the day after the elections, the president noted, “The American people ... expect us to focus on their ambitions and not ours. They want us to get the job done. All of us in both parties have a responsibility to address that sentiment.”

He validated the economic insecurity Americans are feeling and the lingering effects of the recession, particularly on the middle class. He also reiterated his commitment to advancing comprehensive immigration reform, but pledged “to move forward before the end of the year” with his plans to issue an executive order addressing the immigration-related issues that he has the authority to address absent congressional action.

Looking toward his last two years in office, President Obama noted, “My job over the next couple of years is to do some practical, concrete things as much as possible with Congress.” He later added, “If it’s not possible with Congress, then on my own.”

There are members of Congress who have a different view on President Obama moving on these issues unilaterally. In particular, in a joint editorial published in the Wall Street Journal two days after the election, Speaker of the House John Boehner (R-OH) and Senate Minority (soon-to-be Majority) Leader Mitch McConnell (R-KY) wrote, “Looking ahead to the next Congress, we will honor the voters’ trust by focusing, first, on jobs and the economy. Among other things, that means a renewed effort to debate and vote on the many bills that passed the Republican-led House in recent years with bipartisan support, but were never brought to a vote by the Democratic Senate majority.” They continued, “it also means renewing our commitment to repeal ObamaCare, which is hurting the job market along with America’s health care.”

Over the next two years, the relationship between President Obama and Congress is certain to be contentious and it’s questionable whether both parties can agree on how to move legislation in 114th Congress. But Speaker Boehner and soon-to-be Senate Majority Leader McConnell in 2015 appear ready to take up the challenge when they concluded their Wall Street Journal op-ed by noting, “The skeptics say nothing will be accomplished in the next two years. As elected servants of the people, we will make it our job to prove the skeptics wrong.”

2014 Lame-Duck Session in Congress

When the 113th Congress returned to Washington on November 12 for its “lame-duck” session, over 50 of the 535 senators and representatives returning to the Capitol had either suffered defeat on November 4 or previously announced their plans to retire and leave Washington at the end of the year. As a result, the outlook for this session (like most lame-duck sessions) is uncertain.

Scheduled to last into December, the session could follow one of three paths. One option is that the session may end up being a long, drawn-out affair peppered
throughout with partisan politics and political sniping. A second possibility is that the session will be abbreviated and will focus only on must-pass policy issues that Congress left hanging when it recessed for the elections. A third scenario is that the session could result in an effort to “clear the decks” of outstanding, noncontroversial issues as well as must-pass legislation such as enacting a FY 2015 budget, providing an extension of the debt ceiling limit and extending certain expiring tax provisions in an attempt to start with a clean legislative slate in 2015.

At a minimum, a list of must-pass issues that require attention during the lame-duck session includes the following:

- Approval of a stopgap funding bill for the federal government will be necessary because current funding expires on December 11. SHRM continues to urge lawmakers to not include in any final funding bill language that would bar federal contractors who have violated the Fair Labor Standards Act from bidding on future government contracts.
- Action must be taken on renewing a vast array of tax breaks and benefits that either have already expired or are set to expire at midnight on December 31. Known as “tax extenders,” these measures include the child tax credit, a tax credit for research and development, and other treasured tax breaks for various parts of the economy.
- On the foreign policy front, the Senate has yet to pass the National Defense Authorization Act for 2015; a bill that authorizes government spending for defense purposes and includes such contentious issues as continued detention policies at Guantanamo Bay and the president’s authority to wage limited war against the so-called Islamic State under the War Powers Act.
- Action will also be attempted on a series of Obama cabinet and judicial appointments. Notably, Lauren McFerran was confirmed by the Senate to be a member of the National Labor Relations Board by a vote of 54-40. Under current Senate nomination rules, McFerran can be confirmed with a simple majority, which is easier to accomplish in the lame-duck Democratic-controlled Senate.

Outlook for the 114th Congress

Strong Republican gains in the Senate will now ensure their ability to set the political agenda on Capitol Hill, but the GOP is still short of the necessary 60 votes needed in the Senate to obtain “cloture,” to limit debate and secure a final vote on legislation. Without the help of at least six or seven other members of the Senate (either from moderate Democrats or Independent members), Republicans could encounter the same parliamentary roadblocks that Democrats encountered in trying to move their agenda through the Senate the past six years—thus possibly guaranteeing two more years of political gridlock.

House of Representatives

When the 114th Congress convenes in January, John Boehner will be sworn in as Speaker of the House. Boehner, who has represented the 8th District of Ohio for 24 years, is in his 12th term and has served as Speaker since the GOP took control of the House in the 2010 midterm elections. Kevin McCarthy, now a five-term veteran of the House representing the 23rd District of California, will serve as Majority Leader, and Steve Scalise, a four-term member representing the 1st District of Louisiana, will serve as House Majority Whip.

On the Democratic side, current Minority Leader Nancy Pelosi (D-CA) will continue as Minority Leader. Current Minority Whip Steny Hoyer (D-MD) and Minority Policy chair James Clyburn (D-SC), both of whom won re-election on November 4, will return to those posts.

In the key workplace committee in the House, Rep. John Kline (R-MN) will remain the chairman of the House Education & the Workforce Committee. Kline received a waiver of the three-term limit so he could remain chairman, leaving Rep. Virginia Foxx (R-NC) as the next Republican member in the line of succession. The current ranking Democrat on the committee, George Miller (D-CA), is retiring from Congress this year, which places the top Democratic spot on the
committee in play. Rep. Bobby Scott (D-VA) will take over as the committee’s top Democrat.

Among other Republican chairs of committees addressing issues of interest to HR professionals is Paul Ryan (R-WI), former chair of the House Budget Committee, who will take the helm in 2015 of the House Ways and Means Committee, which has jurisdiction over employee benefits, health care reform and tax policy.

Robert W. Goodlatte (R-VA), a member of the House for over 20 years and an immigration attorney by profession, will again chair the Judiciary Committee, which has jurisdiction over the federal judiciary and immigration reform legislation. Likely to serve again as the ranking minority member of the committee is John Conyers (D-MI).

Other House members who will again play key committee and leadership roles during the 114th Congress include:

- Cathy McMorris Rogers (R-WA), who will serve as House Republican Conference chair and will play a leading role on workplace flexibility issues.
- Fred Upton (R-MI), who will return as chair of the Energy and Commerce Committee overseeing health care issues.
- Harold Rogers (R-KY), as chairman of the House Appropriations Committee that funds the federal agencies.

**Senate**

With the victories over Democratic incumbents in Alaska, Arkansas, Colorado, Louisiana and North Carolina, and the pick-up of open seats formerly held by Democrats in Iowa, Montana, South Dakota and West Virginia, Republicans are positioned to move their policy agenda forward during President Obama’s last two years in office. Democrats suffered a net loss of eight seats on Election Night and lost another in Louisiana that was previously held by incumbent Democrat Senator Mary Landrieu, who was defeated by Republican challenger Bill Cassidy in a runoff on December 6. But Democrats still hold a cloture-proof minority of 44 seats (along with two Independents, Senators Bernie Sanders of Vermont and Angus King of Maine, who caucused with them in the 113th Congress).

The Senate is poised to welcome a dozen new members in 2015. Mitch McConnell (R-KY) will be the Majority Leader in 2015, and John Cornyn (R-TX) will be Senate Majority Whip. John Barrasso (R-WY) and John Thune (R-SD) will serve as Republican Policy Committee and Conference chairs, respectively. On the Democratic side of the aisle, Harry Reid (D-NV), the current Majority Leader, will become Minority Leader, along with Dick Durbin (D-IL) as Minority Whip and Charles E. Schumer (D-NY) as Democratic Policy Committee chair.

As for the committees with jurisdiction over workplace issues, Lamar Alexander (R-TN), who is serving his second term in the Senate, will return as chairman of the Health, Education, Labor and Pensions (HELP) Committee. Patty Murray (D-WA) will move to the ranking Democrat position on the committee, which again will serve as the initial battleground for numerous HR policy proposals likely to surface in the 114th Congress.

Orrin Hatch (R-UT) will chair the Senate Finance Committee, which has jurisdiction over health care,
tax and pension issues, while Ron Wyden (D-OR) will serve as the ranking Democrat. Charles Grassley (R-IA) will chair the Senate Judiciary Committee, which oversees all judicial matters, including the confirmation of Supreme Court justices, and also has jurisdiction over immigration reform legislation. The ranking member will be Patrick Leahy (D-VT).

Other members of the Senate likely to play key roles in addressing major HR initiatives include:

- Marco Rubio (R-FL) and Robert Menendez (D-NJ), on immigration reform legislation.
- Pat Roberts (R-KS) and Debbie Stabenow (D-MI), on health care matters.
- Johnny Isakson (R-GA) and Barbara Mikulski (D-MD), on retirement security and workplace flexibility proposals.

2015 Policy Agenda in Washington

With the loss of the Senate and now an even smaller minority in the House, Democrats will be on the defensive for most of the next two years leading up to the 2016 presidential election. However, the powers of the presidency, particularly its bully pulpit and the constitutional right to issue executive orders and to veto legislation, still trump that of the majority Republicans will have in Congress in deciding which legislative proposals become law in Washington.

At this point, it’s difficult to assess how well the two parties will work together during the 114th Congress, but below is SHRM’s assessment of what may happen during the 114th Congress on issues of interest to HR professionals:

Labor and Employment

A new Republican-controlled Congress means re-energized interest and oversight of the executive branch on labor and employment issues. While recent congressional actions to address Obama administration workplace rules and decisions have stalled on Capitol Hill due to a divided Congress, the Republican majorities in the new Congress may provide additional opportunities for committee oversight and legislative efforts to overturn rules and regulations deemed to negatively impact the workplace, including federal contractors.

Debarment of Employers with FLSA Violations:

Recently, certain members of Congress have aimed legislation at federal contractors with Fair Labor Standards Act (FLSA) violations. Specifically, Rep. Keith Ellison (D-MN) offered amendments to multiple House appropriations bills that would prevent organizations with even a single FLSA violation in the past five years from being awarded federal contracts.

Outlook: The Ellison amendment, which faced little congressional debate or scrutiny while it was being considered in Congress, was added to several Fiscal Year 2015 appropriations bills in the House earlier this year, but not in the Senate. The lame-duck Congress will need to finalize an omnibus spending bill to keep the federal government funded and operating beyond December 11, 2014. SHRM is working diligently to remove the Ellison amendment from any final spending bill. Debarment legislation similar to the FLSA debarment proposal is less likely to advance in the 114th Congress.

SHRM Position: SHRM strongly opposes the Ellison amendment because it circumvents already established procurement and debarment procedures, and penalties called for by the amendment would unfairly prevent a significant number of employers from competing for federal contracts.

National Labor Relations Board Actions:

The National Labor Relations Board (NLRB) continues to pursue a highly active agenda with significant implications for employers across most industries and sectors. As a result, legislation was introduced to address certain NLRB actions such as the “quick election” rule (also known as the “ambush rule”), which would significantly reduce the time between a union representation petition’s filing and the election.

Outlook: Similar to other proposals to address NLRB rules and decisions, legislation to overturn the “quick election” rule stalled in the 113th Congress. However, a Republican-controlled 114th Congress will allow for
renewed oversight over the NLRB and its decisions. The new Congress will likely consider legislation to address NLRB rules and decisions that have a negative impact on the workplace, but it will still need to overcome certain Democratic opposition in the form of a Senate filibuster and veto threat from President Obama.

**SHRM Position:** SHRM believes in the fundamental right—guaranteed by the NLRA—of every employee to make an informed, private choice about whether or not to join a union. This choice should be free from coercion, threats or intimidation from employers or unions and must be made in a voluntary manner. Furthermore, the Society believes that employees should have a reasonable period of time to weigh the costs and benefits of organizing a union in their workplace. Unfortunately, SHRM believes that the proposed ambush rule fundamentally alters the workplace and limits employer free speech during union-organizing campaigns.

**Equal Employment Opportunity Commission Transparency:** While Congress recognizes the vital importance of the Equal Employment Opportunity Commission (EEOC) to protect employees from workplace discrimination, the agency has come under scrutiny for its litigation tactics and lack of transparency in its administrative actions. In the 113th Congress, legislation was introduced to require more transparency around EEOC activities and to direct the agency to improve its engagement with employers to resolve complaints.

**Outlook:** Congressional scrutiny of EEOC activities is expected to continue in the 114th Congress. In addition, policymakers are likely to pursue legislation that provides more transparency, accountability and certainty for employers and employees.

**SHRM Position:** SHRM supports public policy efforts to prohibit workplace discrimination and supports legislation to address greater EEOC transparency and oversight of the agency’s litigation efforts.

**Compensation Equity:** The Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 prohibit gender-based discrimination in the workforce by requiring equal pay for equal work. Depending on performance and seniority, jobs that have the same functions, similar working conditions and that require substantially equal skill must be compensated equally. While gender-based disparities occur, debate continues on whether those instances are attributable to discrimination or legitimate pay practices or other workplace dynamics.

To address the pay issue, some members of Congress have advanced the Paycheck Fairness Act, which would significantly limit the factors employers can consider in making pay and benefits decisions. In addition, the bill would shift the burden of proof to the employer in discrimination claims, enable the Equal Employment Opportunity Commission to collect pay data from employers, and lift the caps on compensatory or punitive damages for pay discrimination violations.

**Outlook:** The Paycheck Fairness Act and other measures to make it easier for plaintiffs to challenge employer pay practices are unlikely to advance in a Republican-controlled Congress. However, Republican leaders in Congress are exploring alternative approaches to address the compensation equity issue that could gain traction in the 114th Congress. SHRM will continue to show leadership on this important issue through continued dialogue with policymakers on both sides of the aisle about compensation equity.

**SHRM Position:** SHRM has a proud record of working to end gender discrimination in the workplace and believes that any intentional misconduct against an employee should be resolved promptly. However, SHRM has opposed any effort to limit employer flexibility to reward employees using legitimate pay practices and to make public employer pay data. On those grounds, SHRM is opposed to the Paycheck Fairness Act.

**Sexual Orientation and Gender Identity Non-discrimination:** Currently, federal laws such as the Civil Rights Act of 1964, Equal Pay Act, Age Discrimination in Employment Act and Americans with Disabilities Act protect employees from discrimination in the workplace on the basis of race, national origin,
sex, religion, disability, pregnancy and age. However, there is no federal statute that prohibits discrimination in employment based on sexual orientation or gender identity. Members of Congress from both parties have proposed the Employment Non-Discrimination Act (ENDA) to prohibit that discrimination. In the 113th Congress, the Senate passed the ENDA legislation but the House did not take up the legislation.

**Outlook:** While ENDA is not typically a legislative priority for Republicans, the new Congress could pass a version of the bill that creates protected employment classes on the basis of both sexual orientation and gender identity similar to the president’s recent executive order extending such protections to employees of federal contractors.

**SHRM Position:** SHRM believes that employment decisions should be made on the basis of qualifications for a job, not on non-job-related characteristics, including sexual orientation and gender identity. SHRM supports public policy efforts to ban workplace discrimination based on sexual orientation or gender identity. SHRM believes any such legislation should be narrowly drafted to avoid unintended consequences for employers and employees.

**Workplace Flexibility**

In June 2014, President Obama hosted a White House Summit on Working Families, providing another opportunity for the administration to elevate workplace flexibility as a key public policy issue for families, employers and employees. Congressional interest in these issues also continues to grow as both Republicans and Democrats court the support of women and working families by focusing on workplace flexibility proposals. SHRM is widely recognized as a leader in the employer community on these issues. In particular, SHRM’s joint initiative with the Families and Work Institute, *When Work Works*, is aimed at educating employers on the value of effective and flexible workplaces. In recognition of our efforts, SHRM was invited to testify at several congressional hearings held on this issue in the 113th Congress—a trend that is likely to continue.

**Family and Medical Leave Act:** The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 workweeks of unpaid leave in a 12-month period in certain situations, such as an employee’s serious health condition or the birth or adoption of a child. The regulations implementing the FMLA have resulted in administrative and compliance challenges for HR professionals, particularly when intermittent leave is needed for an episodic medical condition. At the same time, lawmakers have continued to explore proposals to expand the statute by increasing leave eligibility, covering more employers and requiring some of the leave to be paid. For example, the Family and Medical Insurance Leave (FAMILY) Act, a bill to create a paid family leave insurance program similar to the California Family Rights Act, was introduced during the 113th Congress.

**Outlook:** While various expansions to the FMLA are likely to be reintroduced in the 114th Congress, Republican control of the House and Senate means FMLA expansion legislation will continue to be stymied in the new Congress.

**SHRM Position:** SHRM supports the spirit and intent of the FMLA and believes that clarified implementing regulations would help reduce administrative and compliance problems experienced by employers and HR professionals, especially challenges around episodic leave. Given current challenges with the implementing regulations, SHRM opposes expansions of the FMLA at this time.

**Paid Sick Leave:** In recent years, lawmakers at both the state and federal levels have proposed a range of legislative initiatives that would mandate employers to provide paid sick leave.

**Outlook:** During the 113th Congress, the Healthy Families Act, legislation that would require employers with 15 or more full-time employees to provide up to seven days of paid sick leave annually, was reintroduced but failed to gain any traction. Given Republican majorities in both the House and Senate, efforts to advance this measure in the 114th Congress will be difficult.
SHRM Position: SHRM believes that the United States must have a 21st-century workplace flexibility policy that meets the needs of both employers and employees. As opposed to a one-size-fits-all government mandate on all employers, we support a new approach that reflects diverse employee needs and preferences, as well as differences among work environments, representation, industries and organizational size. Such a policy should support employees in meeting their work and life obligations and, at the same time, provide certainty, predictability and stability to employers.

SHRM generally opposes government mandates on employee benefits or leave requirements because they hinder flexible, innovative approaches to meeting employees’ needs.

Other Workplace Flexibility Proposals: The national conversation on work and life issues continues to gain momentum as the workplace continues to evolve. As such, policymakers are likely to explore additional legislative proposals, beyond social insurance and leave mandates, to help employees meet their work and life needs. These proposals focus on allowing for compensatory time off in the private sector and giving workers the “right to request” a flexible work arrangement.

Outlook: In 2013, the House of Representatives passed H.R. 1406, the Working Families Flexibility Act, to allow private-sector employers the option of offering compensatory time off (comp time) to nonexempt employees for overtime hours worked, but the Senate did not consider the measure. Republicans have already signaled that comp time will be included in their labor agenda in the new Congress. Given the Republican majorities in both chambers, it is unlikely “right to request” initiatives will advance in the 114th Congress.

SHRM Position: SHRM believes that private-sector employees should be afforded the same flexibility that public-sector employees have in choosing between compensatory time or overtime pay. SHRM strongly supports voluntary comp time proposals to give private employers an additional workplace flexibility option to assist employees in meeting their work and family obligations. SHRM generally opposes “right to request” proposals that limit employer flexibility in establishing flexible work arrangements by prescribing a rigid and cumbersome process for evaluating workplace flexibility requests.

Tax and Benefits
Tax Reform: The issue of tax reform continues to be a key component in the ongoing debate about how to revitalize and stabilize the U.S. economy. Reforming the tax code will certainly have implications for both businesses and individuals. For example, eliminating tax incentives could negatively affect an employer’s ability to offer a comprehensive benefits package, including a retirement plan, to its employees. These changes could also act as a barrier to employees saving for retirement. As HR professionals are keenly aware, in this competitive economy, offering an attractive benefits package is a key factor in recruiting and retaining a talented workforce. Because employee benefits enjoy a tax-free status and account for the largest annual loss in revenue to the federal treasury, it is likely tax reform discussions will involve an examination of employer-sponsored fringe benefits, including retirements plans, health care benefits and educational assistance programs.

Outlook: Both parties have identified reforming the tax code as a policy area where the Republican leadership and President Obama might be able to work together in the new Congress. Because of employer-sponsored fringe benefits’ tax-deferred status, it is anticipated that public policy efforts to reform the tax code as a means of lowering the national debt could involve a close examination of such benefits, including retirement and health care plans. Several of the reform proposals discussed during the 113th Congress would have far-reaching consequences for the HR profession, and these previous proposals could gain traction in the new Congress.

Additionally, a Republican changing of the guard on both the Senate Finance Committee and the House Ways and Means Committee could have a significant impact on adding to the growing tax reform momentum. As noted earlier, Sen. Orrin Hatch (R-UT) will chair the Senate Finance Committee. It is unclear, however, whether the likely House Ways and Means
Committee chairman, Paul Ryan (R-WI), will possess the same desire as his predecessor to accomplish tax reform. In addition, the overall composition of these two powerful tax-writing committees will be vitally important, as tax expertise is critical when taking on the daunting task of reforming the tax code.

**SHRM Position:** SHRM believes that every American worker should be afforded the opportunity to save for their own retirement. The government should facilitate and encourage voluntary employer-sponsored plans as well as individual retirement savings through consistent tax incentives and simplified regulations. Retirement is a shared responsibility between individuals and government. Individuals have the primary responsibility to evaluate their retirement needs, and to plan and save accordingly. Government has the responsibility to provide Social Security benefits and keep the trust fund solvent as a safety net of basic, guaranteed income. Continuing the current tax treatment of retirement plans, along with incentives such as an employer match, automatic enrollment and auto-escalation, are essential to employees in ensuring a financially sound retirement.

**Immigration Reform**

President Obama, in keeping with his pledge to “fix as much of our immigration system” through executive order absent congressional action, did just that on November 20 when he issued his long-anticipated executive action to address issues pertaining to the nation’s undocumented population. In brief, the President’s action will allow upwards of four million undocumented immigrants who have lived in the United States for at least five years to apply for a program that protects them from deportation, and also allowing those with no criminal record to work legally in the United States. Given the complexity of immigration issues, it is unlikely that Congress will move forward to enact comprehensive immigration reform in the next two years, but it will certainly scrutinize any actions the Administration takes in implementing the President’s executive order. It may also consider more focused, rifle shot approaches to address concerns with border security and a legal workforce.

For example, the recent crisis of unaccompanied minors at the southern U.S. border is likely to create an impetus for congressional action to address concerns of border security and a legal workforce. Additional targeted measures that may be considered by the 114th Congress include a mandate for employers to use an electronic employment eligibility verification system known as E-Verify, as well as efforts to address the need of employers to access and retain highly educated foreign talent.

**Outlook:** Passage of a comprehensive immigration reform bill is very unlikely given the current economic and political environment. However, the outcome of the election and the dynamics surrounding the 2016 presidential contest suggest that targeted forms of immigration legislation are more likely to gain consideration during the 114th Congress. Areas of focus will likely be on border security, worksite enforcement, and future flows of highly-skilled, educated and agricultural workers.

**SHRM and Council Position:** SHRM and its strategic affiliate, the Council for Global Immigration (the Council), support building a 21st-century U.S. workforce that can compete in an increasingly complex and interconnected world. To support this goal, the U.S. must fix its broken immigration system. Specifically, SHRM and the Council advocate in support of reforming our immigration system so that it supports American employers in their efforts to manage, recruit, hire and transfer global employees, and providing employers with an improved, entirely electronic employment verification system to ensure that they are hiring a legal workforce.

**Health Care Reform**

Four years after enactment, implementation of the Patient Protection and Affordable Care Act (PPACA) continues. Implementation of the law’s requirements remain challenging due to the complexity of the law, delays in effective dates of certain provisions and coverage requirements. While the individual and employer coverage requirements and state exchange provisions are already in effect, the 40 percent tax on employers that provide high-cost benefits through an
employer-sponsored group health plan, known as the “Cadillac Tax,” takes effect in 2018 when the PPACA is scheduled to be fully implemented.

**Outlook:** While some in the new Republican-controlled Congress will continue calls for repeal of the PPACA, a full repeal of the law is unlikely. Rather, the 114th Congress is likely to consider more-modest changes to the statute. Legislation to modify the definition of a “full-time” employee for purposes of the health care coverage requirement will likely see action, especially since this proposal passed in the House, with SHRM’s support, during the 113th Congress. Policymakers may also offer proposals to repeal, delay or alter the “Cadillac Tax.” Lastly, Congress may need to consider measures to address specific health care reform implementation issues that continue to arise.

**SHRM Position:** SHRM remains supportive of public policy measures that lower health care costs and improve access to high-quality and affordable coverage, while strengthening and improving the employer-based health care system. SHRM supports efforts to define a full-time employee, for purposes of health care coverage under the PPACA, as one who averages 40 hours of service per week.

**In the Federal Agencies**

Leading up to the midterm elections, President Obama has made good on his promise to act on his policy priorities through executive action and regulatory proposals. On issues affecting the workplace, he has been particularly active, issuing executive orders, presidential memoranda and proposed regulations on key issues including compensation data collection, setting standards for “integrity and business ethics” in the federal contracting process, and the Department of Labor’s overhaul of overtime regulations under the FLSA.

Having a Republican majority in both houses of Congress will not affect the administration’s pursuit of executive actions. It will, however, ensure that Congress will take a more proactive role in trying to slow down, amend or prevent the administration’s actions through committee oversight hearings and potential legislative actions. For example, Republicans in Congress are likely to use their majority power through the appropriations process to block the implementation of rules they don’t like by attaching provisions (known as “riders”) to appropriations bills that the president can’t veto without forcing a government shutdown. Congressional Republicans may also use the Congressional Review Act to overrule a federal regulation. For additional information about legislative actions in reaction to the regulatory agenda, please refer to the policy agenda section of this document.

**U.S. Department of Labor (DOL)**

Under the leadership of Secretary Thomas Perez, the DOL has been actively involved in pursuing workplace reforms. Current regulatory efforts, detailed below, are underway to “modernize” the overtime regulations, increase the oversight and requirements for federal contractors, and further the administration’s objectives on pay equity. Seeing these proposed rulemakings to completion is likely to keep the administration busy through the rest of the term, but other regulatory issues remain on the agenda. This includes “right to know” rules which, if proposed, would require employers to inform employees of their status as an employee or independent contractor and how their pay is computed.

**Changes to the Overtime Regulations:** Through a presidential memorandum focused on “updating and modernizing” the Fair Labor Standards Act’s (FLSA) overtime regulations, President Obama directed the DOL to review the regulations regarding exemptions from the Act’s overtime requirement, particularly for executive, administrative and professional employees. Potential changes are likely to include an increase to the salary basis level, currently $455 a week. Other changes could amend the primary duties test, moving instead toward a percentage test that may result in employees losing their exempt status. SHRM chairs the Partnership to Protect Workplace Opportunity, an employer community coalition tracking and responding to potential changes to the overtime regulations. SHRM has also been an active participant in DOL listening sessions on the potential impact changes in
the overtime exemptions could have in the workplace. A proposed rule is likely to be issued early next year.

**SHRM Position:** The FLSA was enacted toward the end of the Great Depression and reflects the realities of the industrial workplace of the 1930s, not the workplace of the 21st century. Yet attempts to modernize the FLSA overtime regulations must ensure the applicability of the regulations across industries. Enacting significant changes to the primary duties test would further complicate an already challenging set of regulations for employers, particularly small employers and employers in industries where managers often conduct exempt and nonexempt work concurrently. In addition, limiting exemptions could curtail workplace flexibility offerings provided to employees.

**Additional Regulatory Action Anticipated in 2014:** SHRM also anticipates that the DOL may issue its “Persuader” rule in final form before the end of the year. The Labor-Management Reporting Disclosure Act of 1959 (LMRDA), requires employers to report on interactions with outside counsel or labor consultants that help persuade employees to exercise or not exercise their right to organize and bargain collectively. The law includes an “advice” exemption that allows employers to seek the counsel of attorneys and labor law consultants to help them comply with the law.

The Persuader rule is controversial because it effectively writes the advice exception out of the statute. In addition, legal groups have expressed concerns that the rule disrupts attorney-client privilege and may discourage employers from seeking legal assistance during union organizing campaigns. SHRM submitted comments on the proposed rule in 2011 and the rule has been on hold ever since. The current regulatory agenda, however, lists a December 2014 deadline for the final rule.

**Executive Order on Fair Pay and Safe Workplaces:** At its core, this executive order, also known as the Blacklisting Executive Order, requires most prospective federal contractors and subcontractors to report violations of 14 different federal labor laws and equivalent state laws when bidding on a federal contract. Each agency will designate a senior official as a Labor Compliance Advisor to help assess whether a contractor’s actions indicate a lack of integrity or business ethics that makes them unsuitable to receive a federal contract. The Federal Acquisition Regulatory council (FAR) will issue regulations implementing the executive order in conjunction with the DOL, which will draft guidance on the standards necessary to meet a “lack of business integrity or business ethics.” Regulations are expected to be proposed by the end of the year, with implementation of a final rule occurring in 2016.

**Office of Federal Contract Compliance Programs (OFCCP) within DOL**

The administration has been particularly active in its effort to overhaul the rules, requirements and standards applied to employers that are also federal contractors. After finalizing new anti-discrimination and affirmative action rules for individuals with disabilities and protected veterans, the administration turned its attention to a series of executive orders to raise the minimum wage for federal contractors, prohibit discrimination on the basis of sexual orientation and gender identity, and prohibit retaliation for discussion of compensation information. Another executive order, titled “Fair Pay and Safe Workplaces,” called for a complete rewrite of the rules on how companies seek federal contracts. In addition, OFCCP issued a proposed rule implementing the president’s memorandum on “Advancing Pay Equality through Compensation Data Collection.”

**Presidential Memorandum on Advancing Pay Equality Through Compensation Data Collection:** The OFCCP extended the date to January 2015 for stakeholder input on its proposed rule requiring federal contractors to submit an annual “Equal Pay report” to the agency containing data on total number
of workers, wages paid and hours worked by EEO-1 category. The agency plans to use this information to direct its enforcement resources toward entities whose data suggest potential pay violations and to identify and analyze industry trends.

**SHRM Position:** SHRM supports nondiscrimination in compensation and believes that compensation decisions should be based on an individual’s qualifications and ability to perform a job, not on characteristics that have no bearing on job performance. SHRM plans to submit comments to the OFCCP questioning whether the data collected is useful to identify industry trends, exhorting the government to protect employers’ sensitive and proprietary information from inappropriate disclosure, and calling for a limited pilot study conducted by an independent organization to determine whether this data collection is useful for the purposes identified by the agency.

**National Labor Relations Board (NLRB)**

The NLRB has adopted an active stance on many issues by reaching into nonunion workplaces with a focus on employer social media policies, and by seeking to overturn established case law in order to broaden the definition of joint employer, ease the establishment of micro-unions, and prohibit employers from establishing policies governing employee use of employer-owned communications. The Board is also seeking to change the rules governing union elections in the workplace. Although the Supreme Court’s decision in *Noel Canning v. NLRB* invalidated hundreds of cases, causing disruption to the Board’s processing, the Board is expected to continue pursuing its interpretation of the National Labor Relations Act’s application to the workplace. The lame-duck Congress will seek to confirm chief labor counsel to the Senate HELP Committee Lauren McFerran to the NLRB. McFerran was nominated by President Obama to replace Nancy Schiffer, whose term expires in December.

**Proposed Rule on Union Representation Procedures:** The NLRB’s rule to change union election procedures, commonly known as the “Ambush Election rule,” is expected in final form before the end of 2014. Among other procedural changes, the proposed rule would require a pre-election hearing to be held within seven days of the filing of a petition and would require employers to provide union organizers with identity and contact information for all eligible employees. The combined effect of changes in the proposed rule would drastically alter the existing election process in favor of unions by greatly limiting communication between employers and employees about the general disadvantages of unionization or about a specific union attempting to organize the workplace.

**SHRM Position:** SHRM believes in the fundamental right—guaranteed by the National Labor Relations Act—of every employee to make an informed, private choice about whether or not to join a union. This choice should be an informed process that is free from coercion, threats or intimidation from employers or unions and must be made in a voluntary manner. SHRM believes that the NLRB’s proposed rule fundamentally alters the existing election process and creates an imbalanced approach that limits employer free speech during union-organizing campaigns. SHRM joined a group of concerned employer groups to challenge the rule in court when it was first announced, and we anticipate a similar legal challenge to the final rule when published.

**Equal Employment Opportunity Commission (EEOC)**

The EEOC has undergone a recent leadership change with former chair Jackie Berrien’s term ending in July 2014 and President Obama’s appointment of Jenny Yang as the new chair of the Commission in September. Congress will attempt to fill the agency’s one open slot before the end of the year, allowing the Commission to return to full strength and rulemaking focus. Most recently, the EEOC issued new guidance on pregnancy accommodation but has been relatively quiet on other issues that are known to be of interest to the Commission. These include rules regarding employee incentives for participation in wellness programs; revisiting the issue of “leave” as a reasonable accommodation under the Americans with Disabilities Act; and issues regarding harassment, equal pay and nondiscrimination based on gender identity.
SHRM Position: SHRM has advocated the HR profession’s perspective on a host of issues before the EEOC this year. This includes testifying on employer use of social media in hiring and other workplace applications. SHRM has also taken an active role by filing amicus briefs in court cases challenging EEOC litigation tactics. Most recently, SHRM filed an amicus brief in the U.S. Supreme Court case *Mach Mining v. EEOC*, which will be heard in the Court’s 2014 term. SHRM’s amicus brief argues that the EEOC mandatory duty to conciliate with employers should be enforceable in court.

Other Regulatory/Executive Order Actions

Health Care Reform: Federal agencies will continue to issue health care reform regulations in 2015 and beyond to implement the health care law. Specific to employers, we anticipate guidance and regulations regarding the excise tax, which will be in effect in 2018. The Departments of Treasury, Labor, and Health and Human Services continue to develop rules implementing the PPACA. President Obama would veto any bill that significantly alters the law, which is now covering millions of Americans, during his remaining two years in the White House.

SHRM Position: SHRM’s primary concern with the implementing regulations for health care reform is to ensure that the rules are workable in today’s workplace and provide appropriate flexibility for organizations of different sizes. Information on PPACA implementing regulations is available on SHRM’s “Health Care Reform Resource Page” at www.shrm.org/healthcare.

Immigration: As previously noted, President Obama issued his administrative action related to immigration on November 20. This executive order addresses issues involving a segment of the undocumented population living in the United States, as well as their ability (if they meet certain criteria) to legally work in this country. The administration is also finalizing a rule that will grant work authorization to some H-4 spouses of H-1B visas holders, as well as guidance aimed at clarifying the “specialized knowledge” requirements for L-1B visas.

SHRM Position: SHRM supports administrative solutions to provide better access to highly educated foreign national talent, an entirely electronic employment eligibility verification system operated by the federal government that provides employers with certainty that new employees are authorized to work, and improved efficiencies in immigration processing. We strongly support the extension of employment authorization for H-4 spouses and encourage a sensible, fair and consistent approach to L-1B adjudications.

Impact on State Legislatures

The Republican wave was also prevalent in state races—particularly at the gubernatorial level. Leading up to Election Day, several incumbent GOP governors in key 2016 presidential election battleground states found themselves fighting for their political lives. However, once the votes were tallied on Election Night, all but two in Pennsylvania and Alaska prevailed, and the party captured Democratic-held governorships in Arkansas, Maryland, Massachusetts and President Obama’s home state of Illinois.

Republicans also picked up over 300 seats in state legislatures across the country. Some of the more cherished prizes captured on Election Night by the GOP included control of the Maine Senate, the West Virginia House and Senate, the Nevada Assembly and Senate, the New Hampshire House, the New York Senate, the New Mexico House, and the Washington Senate.

Looking at the makeup of state legislatures that will be sworn into office early in 2015, Republicans will control both chambers in 30 state legislatures to the Democrats’ 13, 31 governorships to the Democrats’ 18 (assuming Vermont’s legislature ratifies the popular vote winner on Election Night to be the state’s next governor), and control over 4,100 of the nearly 7,400 legislative seats in the country.
California

Turning to the country’s most populous state, Democratic Governor Jerry Brown easily won his re-election bid against his Republican opponent, Neel Kashkari, by a 59 percent to 41 percent margin. Governor Brown’s re-election was really never in doubt, since he was usually ahead of Kashkari in the polls leading up to the election by at least 20 percentage points. The bigger news in California is that the Democrats failed to hold their supermajority in the Assembly or win back a supermajority in the Senate.

Prior to the election, the Democrats had over a two-thirds majority in the Assembly but were two seats short in the Senate. Holding a supermajority in both chambers while also holding the governor’s office would have allowed Democrats to raise taxes and place constitutional amendments on the ballot without any support from Republicans. Instead, they will now need to garner some Republican support should they want to pass any measure that requires a two-thirds vote in each chamber. In addition to the governor’s race, Democrats also fared well in all seven other statewide constitutional officer races.

While legislation can’t officially be introduced until after the legislators are sworn in on December 1, it is expected that workplace bills that failed to pass in the last legislative session will be reintroduced early in the upcoming 2015-16 session. One bill in particular is the SHRM-supported workplace flexibility legislation that would allow private employees and employers to establish an alternative work schedule. Assembly Member Brian Jones (R-71, Santee) sponsored the bill last year and has indicated that he will be introducing the bill again this session. He and his staff have already requested the assistance of SHRM and the CalSHRM State Council to help move the bill forward in the legislative process. Other potential workplace-related bills that SHRM will be tracking and advocating on include a bill to allow employees to file liens on an employer’s real or personal property based on wage claims, a bill to increase the minimum wage in California, and other workplace flexibility bills.

Given the strong interest in workplace-related bills by the Democratic majority, it is essential that the voice of HR continue to be heard in California through SHRM’s presence in Sacramento and our Advocacy Team members in California. SHRM, in collaboration with the CalSHRM State Council, will continue to advocate on behalf of the HR profession in this bellwether state for workplace policy.

2015 Policy Agenda in the States

While President Obama’s low popularity among voters was a clear strain on Democratic candidates across the country, state-level races tended to be more of a referendum on incumbents and their political ideology rather than on the president. The GOP, which had controlled 30 governorships going into the November elections, captured big wins in the predominantly Democratic states of Massachusetts, Maryland and Illinois, while also picking up the previously-held Democratic seat in Arkansas.

Republicans suffered two governorship losses on Election Night in Pennsylvania and Alaska, where the incumbent governor lost a tight re-election fight with an Independent challenger. But Republicans expanded their grasp on state legislatures throughout the South, in Middle America and along the Rocky Mountains. Democrats maintained control in most of the Northeast and West coasts, and prevailed in their battle to keep the Kentucky House and the Iowa Senate.

Paid Leave

Proponents of paid leave legislation had a good Election Night, with nearly 60 percent of the voters casting ballots in Massachusetts in support of an initiative to require employers in the Commonwealth to provide up to five days of paid or unpaid leave to their employees on July 1, 2015. This development, coupled with the passage of a similar bill in California this summer, brings to five the number of states supporting some form of paid sick leave mandate (the others are Connecticut, Washington and Rhode Island). Other Democratic-controlled states in the Northeast and Pacific Coast regions may soon follow suit.
Localities have also been active in advancing paid leave mandates for employees. To date, over a dozen major municipalities have passed such ordinances, with San Francisco; Newark, New Jersey; Philadelphia; Seattle; New York City; and Washington, D.C., leading the way. On the flip side of this debate, nearly a dozen states throughout the South and the Midwest have enacted bills pre-empting cities and localities in their states from enacting paid leave ordinances.

**Outlook:** The likelihood for any comprehensive paid leave legislation making its way through the 114th Congress is remote. Thus, look for other states (particularly those in the Northeast and the West) and other major localities to consider this type of legislation. GOP-controlled states are likely to embrace efforts at pre-empting such actions in cities and localities.

**SHRM Position:** SHRM believe that the United States must have 21st century workplace flexibility policy that meets the needs of both employers and employees. Rather than a one-size-fits-all state or federal mandate requiring paid leave, policy proposals should accommodate various work environments, employee representation, industries and organizational size.

**Social Media Passwords**

A growing trend on the state level is the enactment of legislation prohibiting employers from asking job applicants or current employees for access to their social media passwords. Since Maryland was the first state in 2012 to embrace this prohibition, nearly 20 states have followed suit, with California, Louisiana, New Hampshire, Oklahoma, Rhode Island, Tennessee, Wisconsin and Maine (study only) enacting laws this year. In brief, these efforts provide an outright ban on employers requesting social media passwords, with limited exceptions for cases involving internal workplace investigations of theft and/or alleged instances of workplace harassment and/or violence.

**Outlook:** This issue is not a partisan workplace issue, given that both GOP- and Democratic-dominated state governments have enacted these laws in the past few years, and SHRM anticipates more of these types of bills to be enacted into law in 2015.

**SHRM Position:** SHRM believes there are only limited reasons why an employer would need access to a candidate’s or employee’s password-protected social media site. For example, in the context of a workplace investigation of an allegation of sexual harassment or employee misconduct, access to such information may be necessary. For this reason, SHRM opposes an outright ban to such information and has advocated for limited exceptions to allow for investigations of workplace misconduct.

**Background Checks**

One of the most ambitious legislative thrusts on the state level since 2010 has been legislation restricting the use of credit checks by employers in the hiring process. Washington was the first state to enact such legislation in 2007. Since then, 10 others have followed suit by enacting similar restrictions on the use of credit checks in the hiring process or when considering promotions within an organization.

In brief, the legislation would limit the use of credit checks in the employment process for specific job categories, such as senior management, positions working in the banking and financial industries, and federal contractors. Proponents of this legislation contend that due to the economic downturn of 2009, Americans who either experienced job loss and/or were hurt financially by the downturn in the housing market suffered greatly, which negatively impacted their credit reports.

In addition, more than 60 municipalities across the country, and over a dozen states, have expanded these restrictions to include eliminating questions about past criminal convictions on job application forms (also known as “ban the box”).

**Outlook:** In 2014, nearly 20 states and the District of Columbia considered credit check legislation, and we expect that trend to continue in 2015. In recent years, SHRM has testified on this issue, as well as on criminal background checks, before Congress, at the Equal Employment Opportunity Commission, before the U.S. Commission on Civil Rights and in the Maryland State Legislature. SHRM has maintained
throughout this debate that background checks (which may include credit histories) are one of the few sources of information available to employers to assess a candidate’s qualifications for a specific position. We expect both issues to be debated again in 2015 at both the state and local levels.

**SHRM Position:** SHRM and its members have a long tradition of promoting equal employment opportunity practices for all individuals. Employment decisions should be made on the basis of qualifications – education, training, professional experience, demonstrated competence – not on factors with no bearing on the ability to perform job-related duties. However, employers’ ability to conduct background checks for employment purposes helps keep the workplace free of physical, financial, economic and personal identity threats to employees and general public.

**Weapons in the Workplace**

Fewer and fewer states in the U.S. now allow employers to decide whether or not to restrict employees from bringing weapons onto company property.

In a classic constitutional battle pitting property rights against the right to bear arms, 22 legislatures across the country (particularly in the South, the Midwest and the Rocky Mountain states) have enacted laws that prohibit employers from enforcing no-weapons policies in their workplaces, particularly for concealed permit holders. This trend is expected to continue in 2015.

**Outlook:** Legal restrictions against employers enforcing no-weapons policies are here to stay in many states. HR practitioners need to be cognizant of the fact that weapons on company property may exist, and they should be prepared to respond accordingly.

**SHRM Position:** SHRM opposes any restrictions on the right of individual employers to determine their own worksite policies regarding weapons on company property (including parking lots). SHRM’s position in no way involves the broader issues of gun control or gun ownership.

**Results of Ballot Initiatives/Referenda/Questions**

Voters in 41 states and the District of Columbia were asked to decide the fate of 147 ballot measures on November 4. Issues ranged from gun rights, to increasing the minimum wage, to legalizing the private use and cultivation of marijuana, to mandating employers to provide paid and unpaid leave to employees.

Following is a brief summary of how some of the key HR-related initiatives fared on Election Day 2014:

- **Increasing the Minimum Wage:** Voters in Alaska, Arkansas, Illinois, Nebraska and South Dakota passed ballot initiatives to raise the minimum wage in their respective states, effective January 1, 2015. That brings to 30 the number of states that have adopted a minimum wage for their state above the federal level of $7.25 per hour.

- **Legalizing the Private Use and Cultivation of Marijuana:** Voters in Alaska, Oregon and the District of Columbia overwhelmingly supported initiatives guaranteeing the right of individuals to legally grow and use marijuana in their respective state/city. This trend, particularly how to control the influence of this legal product on employees while at work, is shaping up to be an emerging issue for HR practitioners.

- **Paid/Unpaid Leave:** Nearly 60 percent of the voters casting ballots in Massachusetts supported requiring employers in the Commonwealth to provide up to five days of paid or unpaid leave to their employees on July 1. This brings to five the number of states that have adopted some form of paid leave for public and private employees, along with over a dozen major municipalities across the country that have adopted similar ordinances.
**Republicans Win Solid Majority in Senate**

**Control of the 113th Senate (2012-2014)**
- Democratic: 53
- Republican: 45
- Independents: 2
- Total Seats: 100

**Control of the 114th Senate (2014-2016)**
- Democratic: 44
- Republican: 54
- Independents: 2
- Total Seats: 100

**Analysis**
- Having won most of this year’s competitive races, Republicans secured at least 53 Senate seats on election night, flipping the Senate from blue to red.
- An additional GOP win in Louisiana was announced on December 6, 2014.
- Since Republicans expanded their majority to 54 seats, they will have an easier time passing legislation in the Senate because they will need fewer Democratic defections to overcome filibusters (which require a 60-vote supermajority).


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**Republicans Win Record Majority in House**

**Control of the 113th House (2012-2014)**
- Democratic: 199
- Republican: 233
- Vacancies: 3
- Total Seats: 435

**Control of the 114th House (2014-2016)**
- Democratic: 188
- Republican: 245
- Undecided: 1
- Total Seats: 435

**Analysis**
- Republicans won a total of at least 246 seats in the House, their largest majority since 1928.
- An expanded GOP majority in the House means that Speaker Boehner will have an easier time passing legislation in the House without Democratic support, and Republicans will also have an easier time holding on to their majority in future elections.

* Refers to AZ-2 race, in recount as of 12/8/2014.

Republicans Extend Gubernatorial Advantage

Map of State Governors by Party

- Democrats: 17
- Republicans: 31
- Independents: 1
- Undecided: 1

*Race not called as of 1 PM 11/17

Analysis
- While Republicans already controlled most governors’ mansions prior to 2014 elections, gains in Arkansas, Illinois, Maryland, and Massachusetts added to the GOP’s sizeable majority of governorships.
- Legislative activity at the state level has taken on increased importance in recent years due to gridlock at the federal level; as such, increased GOP control of governorships nationwide could give Republicans additional leverage to achieve policy goals at the state level.


GOP Controls Majority of State Legislatures, Governorships

Party Control of State Legislatures and Governorships Following 2014 Midterm Elections

- Democrats: 6
- Republicans: 22
- Split: 17
- Undecided: 2

Analysis
- The GOP holds full control of legislatures and governorships in 22 states.
- Dems hold full control in 6 states.
- Seventeen states have divided state governments, with one party controlling the legislature (or two parties splitting control of the legislature) and another party in the governor’s mansion.

* Nebraska has a unicameral, nonpartisan legislature and a GOP governor.

Source: National Journal Research, National Conference of State Legislatures.
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In January 2015, a new Congress will convene in Washington, D.C. Lawmakers will consider policy changes to existing workplace laws and establish new regulations that will impact employers across the country. The 2015 SHRM Employment Law & Legislative Conference will give you the information you need to understand the complex legal landscape that affects your business.

**Monday, March 23**

**WELCOME BREAKFAST & WASHINGTON OUTLOOK FEATURING MICHAEL P. AITKEN**

Vice President of Government Affairs, SHRM

The Washington Outlook: The Impact of the 114th Congress on HR’s Public Policy Agenda

**Tuesday, March 24**

**BREAKFAST & GENERAL SESSION FEATURING SALLIE KRAWCHECK**

Owner, Ellevate

Leadership Lessons Learned from Working with Financial Services CEOs in the Best and Toughest of Times

**CLOSING GENERAL SESSION FEATURING DAN ABRAMS**

Legal Analyst for ABC News; CEO, Abrams Research; and Founder/Publisher, Mediate.com

On the Law and In the News

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