

Washington Update April 27, 2018

Dear Colleagues:

Congress left town today headed for a week long recess next week. This would be a great time to visit with your Senators and Representatives when they are at home. Remember, it's an election year, so they are most attentive to constituents!

1. Package to Repeal Funding Looms

Congress passed the FY 2018 spending bill last month much to the delight of the education community. The bill rejects the Trump choice proposals and includes important education funding which the Trump Administration sought to cut. When President Trump signed the spending bill, he did it reluctantly, noting there was too much extraneous spending in the bill and no funding for the wall on the border of Mexico, which he had prioritized. President Trump is following up with the development of a "recission" package – a provision which he will submit to Congress in the next few weeks calling for cuts in program spending. While it was originally thought that the package would focus on cuts from the FY 2018 bill of up to \$60 billion, the latest information is that it may focus on "unobligated" funds in existing accounts of around \$25 billion.

It is unknown which programs will be targeted and whether or not any will be from education. If education spending is on the list, the most likely target is the approximately \$8 billion surplus in the Pell Grant program. This surplus is an essential mechanism for ensuring that all eligible students have access to these grants for low income college attendees.

Pushback from Capitol Hill on the idea of recissions from the FY 2018 spending bill was fast and furious. Both Republican and Democratic leaders offered little appetite for revisiting a bill that was hard to come by in the first place. "My attitude is, your word is your bond," said House Appropriations Chair Rodney Frelinghuysen (R-NJ). Senate Majority Leader Mitch McConnell (R-KY) noted that President Trump "and his people were involved in the negotiation; they agreed to it and he signed the bill." In addition, the FY 2019 appropriations process is already underway and a re-visitation of last year's numbers would throw the process into chaos, just as Members head into an election year.

Recissions are authorized by the Impoundment Control Act of 1974. According to a report by the Government Accounting Office, 1,178 recissions totaling over \$76 billion have been requested in the last 44 years. Of those, about 33%, or \$25 billion, have been accepted by Congress.

The proposal will likely be submitted to Congress the second week of May. The Congress then has 45 days to respond to the request. During that 45 day period, the Administration can “impound” or freeze the funding included in the rescission package. This means that none of those dollars would be available for distribution. Such impoundment could throw chaos into programs like Pell Grants, as students would not be certain of their scholarship funds for the Fall 2018 semester.

If the Congress does not act before the 45 day deadline, the President must release the funding. The President cannot propose the same rescission package a second time. Advocates, including educators, are beginning to weigh in opposing a rescission package.

Summary of Recission process:

<https://static1.squarespace.com/static/55c4b954e4b0f8108cbd0423/t/5adf6fa01ae6cf1c7fa59f71/1524592547920/ndd-ica-one-pager.pdf>

GAO report on recissions: <https://www.gao.gov/products/GAO-10-320T>

See: <https://www.reuters.com/article/us-usa-fiscal-congress/u-s-congress-girds-for-fight-over-expected-trump-spending-cuts-idUSKBN1HW2BG>

2. FY 2019 Appropriations Process Under Way Early

Deeply aware of what is at stake in the November, 2018 elections, Republican and Democratic Congressional leaders are eager to quickly move next year’s funding bills and avoid high stakes votes on big spending packages like the one recently passed. In a rare bi-partisan love fest this week the Senate Rules and Administration Committee gave themselves a bi-partisan round of applause for agreeing that individual appropriations bills should come to the Senate floor and be available for amendments. Committee members discussed securing a commitment from all Senators to skip the 60 vote threshold traditionally used to filibuster spending bills and move right into a series of amendments. Sen. Durbin (D-IL) noted “Think about it. Twelve appropriations bills coming to the floor subject to debate and amendments? It’ll be like the Senate of old. Let’s pick an appropriations bill, put some training wheels on it, and head to the floor and see how this works. “

On the House side Republicans have agreed to bring forward a set of uncontroversial spending bills for floor votes. Those bills are likely to be Military Construction/VA; Legislative Branch and Energy-Water. On the other side of the Capitol the Senate

appears to be moving first on the same set of bills. The goal, according to Speaker Ryan, is to bring each of the 12 spending bills to the floor for a vote.

There have been numerous efforts over recent years to return to “regular order” – consideration of each of the 12 spending bills through the legislative process – subcommittee to committee to floor. Yet it has been years since this has happened, and the Labor/HHS/Education spending bill remains about the most controversial one – partly because it is so big, but also because it includes programs that are frequently targeted by fiscal hawks wanting to cut government spending and often attracts controversial riders related to hot button issues like abortion. Stay tuned and we shall see if Congress can translate this early bi-partisan enthusiasm into bi-partisan action. Regrettably, I’m not putting any money on it.

3. Voucher Proposals Target Defense Reauthorization Bill and Military Families

Voucher advocates are continuing their efforts to utilize federal dollars to support private schools even though the proposals from the Trump Administration have been rejected to date. The new move would take funding from the \$1.3 billion Impact Aid program and direct it to fund a voucher program for children of military families. Impact Aid is a program established to provide funding to school districts which are located in tax-exempt areas that include large tracts of federal land, such as military bases, national parks and Native American Reservations. The rationale is that such districts are deprived of local taxes that would otherwise be available for education since the federal land is tax-exempt. Currently about 1300 school districts receive funding that supports over 11 million students. Historically the program has enjoyed broad bi-partisan support.

Bills have been introduced in both the House – HR 5199 – and the Senate – S 2517 – which would transfer a significant portion of Impact Aid funds into a voucher scheme for military families. The House bill is led by Rep. Jim Banks (R-IN) and the Senate bill by Sen. Ben Sasse (R-NB); both bills have gathered a number of Republican co-sponsors. The bills are slated to be added to the legislation which reauthorizes the Defense Department – the National Defense Authorization Act -- which may be marked up in Committee in early May.

The bills would allow funds to be used by military parents to pay for private schools, home schooling and other school expenses. The bills include language indicating that there is no requirement for non-discrimination on the basis of religion, ability, disability or sexual orientation. Eligible parents would receive either \$2500 or \$4500 a year (depending on if they are “highly impacted”), however the average tuition for private school is \$10,000, leaving most eligible parents to make up the difference if they can.

The bills are promoted by the Heritage Foundation, EDChoice and ALEC (American Legislative Exchange Council). The bills have generated significant opposition by multiple military connected organizations, including the Military Coalition which represents 32 organizations and over 5.5 million members of the armed services and their families. Sec. DeVos has supported vouchers for military connected students, but has not specifically endorsed these bills. Republican Chair of the Labor/HHS/Education Appropriations Subcommittee, Rep. Tom Cole (R-OK) is a champion of Impact Aid and unlikely to support this re-direction of funds from the program.

All 17 Democrats on the House Committee on Education and the Workforce and all 24 Democrats on the House Armed Services Committee signed a letter indicating their opposition to the bill. They note “Any proposal that would send public resources to private schools is opposed by the Democratic caucus and could potentially derail any NDAA (National Defense Authorization Act) bill that contains such a measure.” Multiple education organizations have also voiced their opposition.

https://www.washingtonpost.com/news/answer-sheet/wp/2018/03/22/congressional-legislation-seeks-to-fund-school-vouchers-for-military-families-despite-major-opposition-from-military-families/?noredirect=on&utm_term=.76074e0c02ed

<http://democrats-edworkforce.house.gov/imo/media/doc/2018-04-23%20NDAA%20Impact%20Letter.pdf>

4. Civil Rights: New Data Collection Reinforces Inequities as Department of Education Cuts back on Complaint Investigation

New civil rights data released this week from the Department of Education confirm that disparities in discipline for students of color and students with disabilities continue and in some cases have grown larger. For example:

- Black children account for 19% of preschool students and make up 43% of one or more out-of-school suspensions. Nearly 1500 preschoolers received corporal punishment.
- Students with disabilities account for 12% of all students, yet 28% of those referred to law enforcement or arrested.
- Students lost over 11 million days of learning due to out-of-school suspensions, and black students account for more than 5 million of those days, or 45%.

These new data arrive as Sec. DeVos is seeking to delay the implementation of regulations intended to address disproportionality in special education and roll back a number of anti-discrimination policies, including those intended to address the very

discrepancies documents in the new data. DeVos has also revamped processes in the Office of Civil Rights dismissing over 600 of complaints from a Michigan-based disability rights advocate regarding inaccessible websites. The new process will cut back on “mass filers” in order to make the process more efficient, the Department explained.

See: <https://www.ed.gov/news/press-releases/us-department-education-releases-2015-16-civil-rights-data-collection>

See: <https://www.nytimes.com/2018/04/20/us/politics/devos-education-department-civil-rights.html>

5. New Resources for Educators

- **Learning Policy Institute** is out with **Diversifying the Teaching Profession: How to Recruit and Retain Teachers of Color**
<https://learningpolicyinstitute.org/product/diversifying-teaching-profession-report>
- **The Education Commission of the States** is out with **50 State Comparison: School Leader Certification and Preparation Programs** See:
<https://www.ecs.org/50-state-comparison-school-leader-certification-and-preparation-programs/>
- **The Centers for Disease Control** is out with new data indicating that the incidence of **autism** has increased from 1 in 68 8 year olds to 1 in 59 8 year olds. However, variation is significant by state, race and gender.
<https://www.cdc.gov/ncbddd/autism/data.html>

Make sure your voice is heard during this election year. We want to be “at the table, not on the menu!” Wishing you a glorious spring weekend! See you on twitter @janewestdc

Best,

Jane