

Washington Update December 1, 2017

Dear Colleagues:

As promised, this week was a roller coaster in Congress. With the tax reform bill thumping toward Senate passage, the spending and budget stalemate threatening a government shutdown and the Higher Education Act reauthorization process underway, education advocates are busy indeed.

1. Tax Reform Progresses in Senate – Education Advocates Trying to Stop a Train that has Left the Station

This week the Senate Budget Committee adopted, on a 12-11 partisan vote, the Tax Cuts and Job Act (TCJA) – the tax reform bill. At this writing, the bill is being debated on the the Senate floor and final passage could come today. A strategy offered by Republicans who are concerned about exploding the debt with this bill – which would trigger an automatic slow down in tax cuts if economic growth assumed by the bill does not occur – was rejected by the Senate parliamentarian last night. Some Republicans who are concerned about the exploding deficit, such as Sen. Bob Corker (R-TN), are calling time out. But the speeding train seems to be rolling fast.

If the bill goes through it will require program cuts to be made – on the chopping block will be Medicare, Medicaid, IDEA and others. There are multiple provisions in both the House and Senate bills would mean cuts for education. Higher education could lose deductions for student loan interest, experience new taxes on graduate tuition benefits and some endowments and experience shrinkage in charitable deductions because of loss of tax provisions. The elimination of the SALT provisions could significantly lower funding states and locals have available for public education across the board.

At a hearing in the House yesterday, the highly respected director of the National Institutes of Health, Francis Collins, issued a cautionary warning about the bill, noting that anything that diminishes the talent of the next generation joining the workforce is concerning. Margaret Spellings, former Sec. of Education under George W. Bush and current president of the University of North Carolina system said that the tax bill would be a “self-inflicted setback in the national effort to build a more competitive, better educated citizenry.” Sec. of Education Betsy DeVos said she is encouraged by GOP efforts to fix the nation’s broken tax system.

When and if the Senate passes the tax bill they will head to conference with the House where they will need to compromise on differing provisions to finalize a bill for the President’s signature. Education advocates across the board will continue to oppose the

many provisions in the bill which will harm education and set the table for deep cuts in the future.

<https://www.insidehighered.com/news/2017/11/30/how-senate-and-house-tax-bills-would-hit-higher-education>

2. December 8 Deadline to Avoid Government Shutdown Looms

December 8 marks the end of the Continuing Resolution – the temporary funding bill passed because Congress was unable to come to a one year spending agreement by Sept. 30. Congress must act by Dec. 8 in order to avoid a government shutdown and keep funding for all federal agencies flowing. Two of the key complicating factors are: 1) budget caps in place for defense and non-defense spending must be raised in order for the funding bills currently on the table to be adopted and 2) Democrats are insisting on addressing DACA (Deferred Action for Childhood Arrivals) by enacting some version of the DREAM Act as part of the deal. Any funding bills must pick up at least 8 Democrats in the Senate in order to pass; so the stakes are high and each side is calculating its leverage daily.

The current strategy seems to be to pass yet another short term continuing resolution that runs through December 22 and use those two weeks before the holidays to come to agreement on new spending caps for defense and non-defense spending. Then another short term continuing resolution would be passed through January or February giving appropriations committees time to finalize their bills and adjust them to be in line with the new budget caps. At any rate, what is on the table is a possible government shutdown if compromises cannot be secured.

Over 80 education and related organizations sent a letter to the Hill this week urging an agreement on new budget caps which would ensure that education spending receives its fair share.

Letter urging new budget caps:

https://secure.aacte.org/apps/rl/res_get.php?fid=3644&ref=rl

3. Higher Education Act Reauthorization on a Roll

This week House Republicans unveiled their partisan proposal to reauthorize the Higher Education Act while the Senate HELP Committee worked to keep a bipartisan face on reauthorization in a hearing on simplifying the student aid application process. The House Committee on Education and the Workforce, led by Rep. Virginia Foxx (NC) has

indicated that she may mark up this bill in Committee as soon as Dec. 7. Sen. Alexander (R-TN), chair of the Senate HELP Committee, announced that he would like to see a Senate version of reauthorization move through his Committee in the first quarter of 2018.

Rep. Foxx's bill, HR 4508, the PROSPER Act (Promoting Real Opportunity, Success, and Prosperity through Education Reform Act), was cosponsored by Rep. Brett Guthrie (R-KY) upon introduction. In a press release they noted that the bill is designed to meet the needs of today's students and provide flexibility to innovate for tomorrow's workforce.

Some key losses in the bill – with a focus on teacher education:

- Eliminates three key loan forgiveness programs used by teacher candidates, including the public service loan forgiveness program and loan forgiveness for teachers who go into high need fields;
- Eliminates TEACH grants which provide tuition for teacher candidates in high need fields;
- Eliminates Title II, the teacher education title, which authorizes the Teacher Quality Partnership Grants and multiple data collection and accountability provisions;

What is new in the bill:

- Consolidation of student aid into three programs: one grant, one loan and one work-study program;
- Easing requirements for for-profit institutions, such as elimination of the 90/10 rule;
- Creation of a new Title II program: "Expanding Access to In-Demand Apprenticeships" a new \$183 million program for partnerships between business and higher education leading to "high-wage, high-skill and high demand careers."

Education advocates will be scrutinizing the 542 page bill over the next several days and issuing statements. Democrats were not a part of developing the bill and will likely be coming up with their own proposal.

House Republican Higher Ed Bill:

<https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=402157>

Senate HELP Committee hearing: https://www.help.senate.gov/hearings/reauthorizing-the-higher-education-act_examining-proposals-to-simplify-the-free-application-for-federal-student-aid-fafsa

4. Senate HELP Committee Hearing on the Confirmation of Two Education Nominees on Dec. 5; New Head of the Institute of Education Sciences Nominated

The Senate HELP Committee will hold a confirmation hearing on Dec. 5 for two important nominees at the Department of Education; Kenneth Marcus of Leesburg, VA is nominated to be Assistant Secretary for Civil Rights and Johnny Collett of Georgetown, KY is nominated to be Assistant Secretary for Special Education and Rehabilitative Services. The hearing will be live-streamed.

In addition, the White House announced the intention to nominate Mark Schneider to serve as director of the Institute of Education Sciences. Schneider is currently vice president and fellow at the American Institutes for Research and served as commissioner of the National Center for Education Statistics under President George W. Bush.

Watch hearing live Dec. 5 at 10 AM: <https://www.help.senate.gov/hearings/department-of-education-and-department-of-labor-nominations>

More on Kenneth Marcus: <https://www.insidehighered.com/news/2017/10/30/many-groups-are-reserving-judgment-trumps-pick-head-office-civil-rights-exception>

More on Johnny Collett: <http://blogs.edweek.org/edweek/speced/>

<http://www.air.org/person/mark-s-schneider>

5. Sec. DeVos Considering Revisions to Discipline Guidance; US Commission on Civil Rights Forum on Disparate Impact of Student Discipline Policies

In 2014, the Obama Administration adopted guidelines intended to address the systemic problem of low-income, minority students and students with disabilities facing disparate treatment in terms of discipline – in particular out-of-school suspension and expulsion. Last week Sec. DeVos met with a group of teachers and parents who made the case that such policies can keep dangerous children in school and cause a disruptive school environment. Sec. DeVos has indicated that she is looking closely at this guidance.

Rep. Bobby Scott (D-VA), lead Democrat on the House Education and Workforce Committee, noted that school discipline policy must consider the deeply rooted inequities, including pervasive racial bias that disproportionately harm students of color and contribute to the school-to-prison pipeline.

Several education and civil rights organizations have coalesced to support the continuation of the school discipline guidance, organizing an “In Class, Not Cuffs” campaign. On December 8 at 9 am the US Commission on Civil Rights will hold a hearing in Washington on equity and discipline policies. Speakers have not yet been

announced. The inequitable impact of student discipline policies on students with disabilities will be a focus.

<https://www.politico.com/newsletters/morning-education/2017/11/17/obamas-school-discipline-guidelines-next-to-go-027074>

US Commission on Civil Rights: <http://www.usccr.gov/>

For “In Class, Not Cuffs” see: <http://mobilize4change.org/14iXcfk> and <https://e4e.org/inclassnotcuffs>

6. New Resources for Educators

- **The Center on Budget and Policy Priorities issued “A Punishing Decade for School Funding”** The report indicates that in 2015 29 states provided less total school funding per student than they did in 2008 when the recession kicked in.

See: <https://www.cbpp.org/research/state-budget-and-tax/a-punishing-decade-for-school-funding>

- **The Government Accounting Office released an analysis titled “Private School Choice: Federal Actions Needed to Ensure Parents are Notified about Changes in Rights for Students with Disabilities.”** GAO examined 27 voucher and education savings account programs in 14 states and DC during 2016-17. They found no more than half of all schools participating in voucher type programs mention students with disabilities anywhere on their website, including in admissions, services and academics. GAO found that over 80% of students enrolled in private choice programs designed for students with disabilities were enrolled in programs that provided either no information or inaccurate information about the loss of IDEA rights. Sec. of Education Betsy DeVos noted that parents’ choice to enroll their children in private school may “outweigh any rights conferred by IDEA or services provided by public schools.” GAO recommended an amendment to IDEA requiring states to notify parents about changes in special education rights if a parent moves a child with disability from public to private school.

See: <https://www.gao.gov/products/GAO-18-94>

- **Politico reported “How Washington Winks at Violent Discipline of Special Needs Kids”** which documents continued horrific seclusion and restraint procedures in schools with faulty data collection at the Department of Education and lacking federal oversight.

<https://www.politico.com/magazine/story/2017/11/29/department-education-violent-discipline-special-needs-children-215881>

7. ICYMI –42nd Anniversary of IDEA

Lost in the cavalcade of policy action this week was the 42nd Anniversary of IDEA on Nov. 29. There were no big events or statements from the White House as there have been in the past, though Rep. Bobby Scott (D-VA) did issue a statement. Stopping to take stock of how far we have come is hard to do in these challenging times. But maybe it can help us gain some equilibrium. Forty two years of zero reject and full participation of students with disabilities in public education remains something to celebrate. Just for a moment, let's focus on our progress.

Okay, that's over. Back to work. ☺

Have a great weekend. See you on twitter @janewestdc

Best,

Jane