

LEGISLATIVE ALERT

COABE Contact Network

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COABE Government Relations Report

As you know, Congress is supposed to consider 12 individual appropriations bills each year. Each bill is supposed to be written by an Appropriations Subcommittee, which is responsible for a particular subject area or subject areas (the Labor-HHS-Education-Independent Agencies bill has several subject areas, as the name implies). Thus, the Appropriations Committee is responsible for funding the government's entire discretionary budget each year. While their power has been eroded over the last several decades, Appropriators still wield significant power (Subcommittee Chairs are occasionally still referred to as Cardinals and collectively as The College of Cardinals.)

Completing work on Appropriations bills on time is part of what Members of Congress mean when they talk about a return to "regular order." But, regular order is increasingly elusive. This year, only one Appropriations bill was signed into law before the fiscal year expired.

So, instead of regular order, the Congress passed a Continuing Resolution on September 28 and left town to campaign for re-election. It will reconvene in November and resolving this funding situation is its highest priority.

The CR which passed the Senate (72-26) and the House (342-85) will expire on December 9 and is in effect for only the first nine weeks of the new fiscal year. The bill provides funding at an annualized level of \$1,066.7 billion – \$3 billion below the FY 2017 discretionary spending cap – and includes money to combat the Zika virus and flood relief for Louisiana. A separate deal will provide funds to address the drinking water crisis in Flint, Michigan.

Usually, a CR extends funding at the same level from one year to the next. But, because of a series of policy choices and arcane budget rules, just extending last year's spending levels would break the non-defense discretionary and defense caps put in place last year. To make up the difference, the CR includes a \$5 billion across-the-board cut of .496 percent and other cuts and changes to get back under the cap.

This cut does not have a significant impact on most education programs because they are forward funded. However, five programs could feel the cut immediately because they get 2017 funding on October 1: Impact Aid (\$6.5 million), Title I (\$74 million), IDEA (\$59.1 million), teacher state grants (\$11.7 million), and career and technical state grants (\$5.5 million).

The Department of Education will reduce grants to these five programs by applying the across-the-board cut to the total amount appropriated last year. If the eventual yearlong funding bill for 2017 does not contain the across the board cut, ED would restore the cuts. In the case of Perkins career and technical state grants where all the advance funding is obligated on October 1, 32 of the 54 states got reduced grants. The others did not because the cut would have dropped them below the funding floor in the Act).

Now the focus is on the lame duck session and how Congress does its work. Since everyone agrees that it will not do "regular order" and consider all remaining bills on their own, the options are a yearlong CR, an Omnibus bill that packages all the bills into one enormous product, or several so-called "mini-buses" which include fewer bills and which are easier for members to digest.

There is also a possibility, opposed by the Education community, that health-related policy riders could prevent consideration of the Labor-HHS-ED bill, and result in a CR just for this bill.

An Omnibus bill packages several bills but each bill includes decisions made by the Appropriators: some programs are increased, others cut, and still others frozen. In a CR funding is extended from last year to this but, as a rule, no programs are increased and any cuts are applied across-the-board. Appropriators hate Continuing Resolutions because they negate all of their work and decision-making.

The Congressional leadership will determine how work on the funding the government moves ahead.

Other legislation:

On Tuesday, September 13, the U.S. House of Representatives passed H.R. 5587, the Strengthening CTE for the 21st Century Act, by a vote of 405 to 5. Attention now turns to Senate activity, where the Health, Education, Labor and Pensions Committee continues to work on the bill.

The Senate had been scheduled to mark up a CTE bill, but the session was postponed when the draft bill ran into a flurry of opposition. The draft bill included language supported by Chairman Lamar Alexander that would have significantly limited the Secretary of Education's authority prohibitions that could be placed on the Secretary related to program oversight.

Alexander has been involved in a long-running dispute with the Department of Education over implementation of ESSA and his antipathy toward the Department has spilled over into Perkins.

Nevertheless. Committee leaders continue to discuss options for moving the bill, possibly in the lame duck session after the election.

The Adult Education community continues to work on a package of amendments that would make explicit the relationship between Perkins and Adult Ed.

During COABE Hill Day, members of the Arizona delegation met with Rep. Kyrsten Sinema (D-9th District) who represents Phoenix. Rep. Sinema is working on a bill called "The Prep for Success Act," which would authorize \$2 billion for the Department of Labor to make grants to states and territories to help individuals obtain the skills necessary to transition into postsecondary education and employment. Providers of Adult Education under Title II of WIOA are eligible recipients if such activities are provided in combination with occupational skills training. We will track the progress of this bill.